

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of Transfer Application) FINAL ORDER APPROVING AN
T-10070, Yamhill County) ADDITIONAL POINT OF
) APPROPRIATION

Authority

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

Applicant

SLEGERS, INC.
18345 SE NICHOLS ROAD
DAYTON, OREGON 97114

Findings of Fact

Background

1. On January 19, 2006, Slegers, Inc., filed an application for an additional point of appropriation under Certificate 40162. The Department assigned the application number T-10070.
2. The right to be transferred is as follows:

Certificate: 40162 in the name of ALLEN AND ANDREW NICHOLS (perfected under Permit G-3553)
Use: IRRIGATION OF 117.4 ACRES
Priority Date: JANUARY 9, 1967
Rate: 1.47 CUBIC FEET PER SECOND (CFS)
Limit/Duty: ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year.
Source: A WELL in the WILLAMETTE RIVER BASIN

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	3 W	WM	34	NE SE	60	860 FEET NORTH AND 1490 FEET WEST FROM THE EASTERLY SE CORNER OF DLC 60.

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	34	NE SW	60	0.5
4 S	3 W	WM	34	SE SW	60	0.5
4 S	3 W	WM	34	NE SE	60	20.4
4 S	3 W	WM	34	NW SE	60	16.4
4 S	3 W	WM	34	SW SE	60	32.8
4 S	3 W	WM	34	SE SE	60	20.0
4 S	3 W	WM	35	NW SW	60	21.2
4 S	3 W	WM	35	SW SW	60	5.6

3. Transfer Application T-10070 proposes an additional point of appropriation approximately 4350 feet from the existing point of appropriation located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	3 W	WM	35	NE NW	200 FEET SOUTH AND 2600 FEET EAST FROM THE NW CORNER OF SECTION 35.

4. Notice of the application for transfer was published on January 24, 2006, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. On January 19, 2006, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10070 to the applicant. The cover letter for the draft Preliminary Determination set forth a deadline of October 23, 2008, for the applicant to respond. The applicant provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
6. On October 31, 2008, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10070 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on November 4, 2008, and in the News-Register newspaper on November 8, 15, and 22, 2008, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.

Transfer Review Criteria (OAR 690-380-4010)

7. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
8. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-10070.

9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.


Conclusions of Law

The additional point of appropriation proposed in Transfer Application T-10070 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The additional point of appropriation proposed in Transfer Application T-10070 is approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 40162, and any related decree.
3. Water Right Certificate 40162 is cancelled.
4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
5. The quantity of water diverted at the additional point of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
6. Prior to diverting water, the water user shall install an in-line flow meter or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain and operate the measuring device as required by the Department.
7. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2010**. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
8. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 23rd day of December 2008.


Phillip C. Ward, Director

Mailing date JAN 02 2009