



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

June 20, 2014

VIA E-MAIL

SLEGERS FARMS, INC.
ARIE SLEGERS, PRESIDENT
18345 SE NICHOLS ROAD
DAYTON, OR 97114

SUBJECT: Water Right Transfer Application T-11559

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11559. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication and in the McMinnville News Register newspaper, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the last date of newspaper publication.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me at Tracy.L.Fox@wr.d.state.or.us or 503 986-0827 if I may be of assistance.

Sincerely,

Ms. Tracy Fox
Transfer Specialist
Transfer and Conservation Section

cc: T-11559
District 16 Watermaster (*via e-mail*)
Nancy East-Smith, CWRE#79225 and Agent for the applicant (*via e-mail*)

enclosure

5. On March 27, 2014, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11559 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 30, 2014, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

6. The portion of the right to be transferred is as follows:

Certificate: 39103 in the name of GRAY AND COMPANY (perfected under Permit G-3154)
Use: IRRIGATION of 53.8 ACRES
Priority Date: JANUARY 31, 1966
Rate: 0.67 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to 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; provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.
Source: A WELL, tributary of WILLAMETTE RIVER

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	3 W	WM	34	SW NW	60	WELL 1: 20 FEET SOUTH AND 1630 FEET EAST FROM THE SW CORNER OF DLC 51

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	33	SE SE	60	16.6
4 S	3 W	WM	34	NW SW	60	12.2
4 S	3 W	WM	34	SW SW	60	25.0

7. Transfer Application T-11559 proposes to change the place of use of the right to:

DAIRY BARN USES					
Twp	Rng	Mer	Sec	Q-Q	DLC
4 S	3 W	WM	34	NE SW	60
4 S	3 W	WM	34	NW SW	60
4 S	3 W	WM	34	SW SW	60
4 S	3 W	WM	34	SE SW	60

8. Transfer Application T-11559 proposes to change the character of use to dairy barn uses.

Transfer Review Criteria [OAR 690-380-4010(2)]

9. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
10. 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-11559.
11. The *Oregon Crop Water Use and Irrigation Requirements* report (Oregon State University, Extension Miscellaneous 8530) shows that the maximum quantity of water for beneficial use in the Willamette Valley area is 2.2 acre/feet per acre (apples).
12. The proposed change in character of use from irrigation to dairy use would result in enlargement of the right, unless conditioned to limit the rate of diversion under the right to 0.67 cubic foot per second and further limit the total volume of water being diverted under the right at 118.3 acre feet (53.8 acres X 2.2 acre feet/acre) during the irrigation season of March 1 to October 31.
13. The proposed changes, as conditioned, would not result in enlargement of the right.
14. The proposed changes, as conditioned, would not result in injury to other water right.

Partial Cancellation of a Water Right

On March 28, 2013, an affidavit certifying that a portion of a water right has been abandoned and requesting cancellation of the right was received from ARIE SLEGERS, SLEGERS FARMS INC. The right to be cancelled is as follows:

Certificate: 65623 in the name of SLEGERS FARMS INC. (perfected under Permit S-41510)
Use: PRIMARY IRRIGATION OF 9.4 ACRES AND SUPPLEMENTAL IRRIGATION OF 6.0 ACRES
Priority Date: APRIL 26, 1977
Rate: 3.6 ACRE FEET
Limit/Duty: The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of 2.5 acre feet (or its equivalent) for each acre irrigated during the irrigation season of each year. The right shall be limited to any deficiency in the available supply of any prior right for the same land and shall not exceed the limitation allowed herein.
Source: SLEGERS SEWAGE LAGOON CONSTRUCTED UNDER PERMIT R-6572, tributary of the WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	3 W	WM	34	NW SW	60	2450 FEET NORTH AND 1300 FEET EAST FROM THE SW CORNER OF SECTION 34

Authorized Place of Use to be Cancelled:

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	NW SW	60	0.5
4 S	3 W	WM	34	SE SW	60	4.2
4 S	3 W	WM	34	SW SW	60	4.2

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	34	NE SW	60	2.3
4 S	3 W	WM	34	NW SW	60	3.7

Partial Diminution of a Water Right

On March 28, 2013, the Department received an Affidavit for the Partial Diminution of a Water Right Certificate from ARIE SLEGERS, SLEGERS FARMS INC. The affidavit is contingent upon the approval of a transfer for Water Right 37662, Transfer T-11558. The right to be diminished is as follows:

- Certificate:** 65623 in the name of SLEGERS FARMS INC. (perfected under Permit S-41510)
- Use:** PRIMARY IRRIGATION OF 14.5 ACRES
- Priority Date:** APRIL 26, 1977
- Volume Limit:** 3.4 ACRE FEET STORED WATER ONLY
- Limit/Duty:** The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of 2.5 acre feet (or its equivalent) for each acre irrigated during the irrigation season of each year. The right shall be limited to any deficiency in the available supply of any prior right for the same land and shall not exceed the limitation allowed herein.
- Source:** SLEGERS SEWAGE LAGOON CONSTRUCTED UNDER PERMIT R-6572, tributary of the WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	3 W	WM	34	NW SW	60	2450 FEET NORTH AND 1300 FEET EAST FROM THE SW CORNER OF SECTION 34

Authorized Place of Use to be Diminished:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	34	SW SW	60	7.5
4 S	3 W	WM	34	SE SW	60	7.0

Determination and Proposed Action

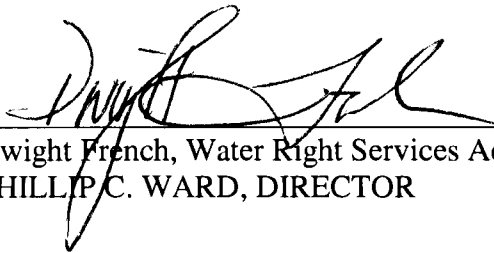
The changes in place of use and character of use proposed in Transfer Application T-11559 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000; the abandoned portion of the right should be cancelled and the voluntarily diminished portion of the right should be diminished. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved and the abandoned portion of the right will be cancelled and the portion of the right will be diminished.

If Transfer Application T-11559 is approved, the final order will include the following:

1. *The changes in place of use and character of use proposed in Transfer Application T-11559 are approved.*
2. *The portion of water right evidenced by Water Right Certificate 65623 that has been abandoned is cancelled. The portion of Water Right Certificate 65623 for irrigation of 14.5 acres has been diminished from primary irrigation to a right for supplemental irrigation.*
3. *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 Certificates 39103 and 65623 and any related decree.*
4. *Water right certificates 39103 and 65623 are cancelled. New certificates will be issued describing that portion of the rights not affected by this transfer, cancellation and diminution.*
5. *The amount of water used for the proposed dairy use shall be limited to a rate of diversion of 0.67 cubic foot per second and shall not exceed a total volume diverted of 118.3 acre feet during the irrigation season, March 1 to October 31, of each year.*
6. *Water use measurement conditions:*
 - a. ***Before water use may begin** under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion.*
 - b. *The water user shall maintain the meter or measuring device in good working order.*
 - c. *The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.*

7. *The former place of use of the transferred right shall no longer receive water under the right.*
8. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2015**. A Claim of Beneficial Use prepared by a Certified Water Right 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.*
9. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 20 day of June, 2014.



Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

This Preliminary Determination was prepared by Tracy Fox. If you have questions about the information in this document, you may reach me at 503 986-0827 or Tracy.L.Fox@ wrd.state.or.us.

Protests should be addressed to the Water Rights Services Division, Oregon Water Resources Department, 725 Summer Street, Suite A, Salem, OR 97301-1266.