

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-10099, Clackamas County	)	PROPOSING APPROVAL OF AN
	)	ADDITIONAL POINT OF
	)	APPROPRIATION AND PLACE OF
	)	USE

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

SEAN KEYS
9755 SW BARNES ROAD, SUITE 210
PORTLAND, OR 97225

Findings of Fact

1. On February 21, 2006, Sean Keys filed an application to transfer the place of use, and add an additional point of appropriation under Certificate 40642. The Department assigned the application number T-10099. Revisions to the application and map were submitted May 25 and 30, 2006.

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

Certificate: 40642 in the name of V. L. NASH (perfected under Permit G-4916)

Use: IRRIGATION of 17.0 ACRES

Priority Date: AUGUST 17, 1971

Rate: 0.085 CUBIC FOOT PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre per year

Source: A WELL in the NEWLAND CREEK BASIN

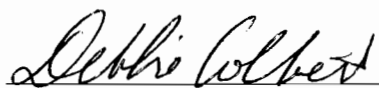
Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
3 S	1 E	WM	8	NE NE	*850 FEET SOUTH AND 1100 FEET WEST FROM THE NE CORNER OF SECTION 8

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.
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1. Upon the issuance of a final order approving Transfer Application T-10099, water right Certificate 40642 will be cancelled. A new certificate will be issued describing that portion of the right not involved in this transfer.
2. The right to 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 40642 and any related decree.
3. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
4. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2008**. 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.
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. The former place of use of the transferred water shall no longer receive water as part of this right.
7. Prior to diverting water at the new point of appropriation, the water user shall install and maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water appropriated. 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.
8. When satisfactory proof of the completed changes is received, a new certificate confirming the portion of the right transferred will be issued.

Dated at Salem, Oregon this 23rd day of October, 2006.


Phillip C. Ward, Director

This draft Preliminary Determination was prepared by a Reimbursement Authority contractor. If you have questions about the information in this document, you may reach Dorothy Pedersen at 503-986-0890 or Dorothy.I.Pedersen@wrdd.state.or.us.

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Salem, OR 97301-1271.

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	1 E	WM	8	NE NE	12.8
3 S	1 E	WM	8	NW NE	3.1
3 S	1 E	WM	8	SW NE	0.3
3 S	1 E	WM	8	SE NE	0.8

3. *A field survey found the location of the authorized well to actually be 809 feet south and 1081 feet west from the NE corner of Section 8.
4. Application T-10099 proposes to add an authorized point of appropriation approximately 280 feet east from the existing point of appropriation, located as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
3 S	1 E	WM	8	NE NE	809 FEET SOUTH AND 801 FEET WEST FROM THE NE CORNER OF SECTION 8

5. Application T-10099 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	1 E	WM	8	SE NE	13.3
3 S	1 E	WM	8	SW NE	1.3
3 S	1 E	WM	8	NW SE	0.2
3 S	1 E	WM	8	NE SE	2.2

6. Notice of the application for transfer was published on February 28, 2006, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
7. Water has been used within the last five years according to the terms and conditions of the right, and no evidence is available 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 is present.
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.

Determination and Proposed Action

The changes in place of use and an additional point of appropriation proposed in application T-10099 appear to be consistent with the requirements of ORS 537.705, 540.505 to 540.580, and OAR 690-380-5000, and will be approved provided that protests are not filed pursuant to OAR 690-380-4030.

If approved, the change and subsequent use of water shall be subject to the following conditions: