

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-11876, Polk and Yamhill County)	CHANGE IN POINT OF DIVERSION
)	AND PLACE OF USE

Authority

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, 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

ZACH CHRISTENSEN
17215 SW CHRISTENSEN ROAD
MCMINNVILLE, OR 97128

Findings of Fact

1. On August 15, 2014, ZACH CHRISTENSEN filed an application to change the point of diversion and to change the place of use under Certificate 62271. The Department assigned the application number T-11876.
2. Notice of the application for transfer was published on August 19, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On December 16, 2014, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11876 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of January 14, 2015, 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.
4. On January 6, 2015, the Department issued a Preliminary Determination proposing to approve Transfer T-11876 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 January 13, 2015, and in the McMinnville News-Register newspaper on January 13 and 20, 2015 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.

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.

5. The right to be transferred is as follows:

Certificate: 62271 in the name of SHENKS DAIRY (perfected under Permit S-42925)
Use: IRRIGATION of 100.0 ACRES
Priority Date: MARCH 3, 1978
Rate: 0.8 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.
Source: SOUTH YAMHILL RIVER, tributary of YAMHILL RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	7 W	WM	16	SE NE	46	120 FEET NORTH AND 700 FEET WEST FROM THE E1/4 CORNER OF SECTION 16

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	7 W	WM	16	SW NE	46	14.4
6 S	7 W	WM	16	SE NE	46	6.1
6 S	7 W	WM	16	NE SW	46	1.6
6 S	7 W	WM	16	NE SE	46	27.4
6 S	7 W	WM	16	NW SE	46	37.1
6 S	7 W	WM	16	SW SE	46	7.6
6 S	7 W	WM	16	SE SE	46	5.8
Total						100.0

6. Transfer Application T-11876 proposes to move the authorized point of diversion approximately 14.7 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	5 W	WM	33	SW SW	570 FEET NORTH AND 710 FEET EAST FROM THE SW CORNER OF SECTION 33

7. Transfer Application T-11876 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	5 W	WM	33	NE NW	38.0
5 S	5 W	WM	33	SE NW	39.0
5 S	5 W	WM	33	NE SW	23.0
Total					100.0

8. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost-share funds.

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-11876.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.

Conclusions of Law

The change in point of diversion and change in place of use proposed in Transfer Application T-11876 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in point of diversion and change in place of use proposed in Transfer Application T-11876 are 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 62271 and any related decree.
3. Water right Certificate 62271 is cancelled.
4. The quantity of water diverted at the new point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
5. 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 (new and existing).
 - b) The water user shall maintain the meters or measuring devices in good working order.
 - c) The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

6. Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.

The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

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, 2016**. 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, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 30 day of March, 2015.



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing date: MAR 31 2015