

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-13350, Lane County)	CHANGE FROM A SURFACE WATER
)	POINT OF DIVERSION TO
)	GROUNDWATER POINTS OF
)	APPROPRIATION

Authority

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish 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. Oregon Administrative Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

SHAUNDELE LEATHERBERRY
215 HILEMAN LANE
EUGENE, OR 97404

Applicant

SHIRLEY RADECKI
1199 N TERRY ST #382
EUGENE, OR 97402

Findings of Fact

1. On January 16, 2020, SHAUNDELE LEATHERBERRY and SHIRLEY RADECKI filed an application to change from a surface water point of diversion to groundwater points of appropriation under Certificate 21006. The Department assigned the application number T-13350.
2. Notice of the application for transfer was published on January 28, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 22, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13350 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of November 23, 2020, for the applicants to respond. The applicants 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.

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.

4. On December 23, 2020, the Department issued a Preliminary Determination proposing to approve Transfer T-13350 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 December 29, 2020, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

Certificate: 21006 in the name of CHRIS S. CHRISTIANSON (perfected under Permit S-20251)

Use: IRRIGATION of 10.6 ACRES

Priority Date: MARCH 12, 1951

Quantity: 0.142 CUBIC FOOT PER SECOND

Rate/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: A SLOUGH, which is a channel of WILLAMETTE RIVER, a tributary of WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC
16 S	4 W	WM	36	SW NW	42

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
16 S	4 W	WM	36	SW NW	42	5.5
16 S	4 W	WM	36	SE NW	42	4.0
16 S	4 W	WM	36	NE SW	42	0.5
16 S	4 W	WM	36	NW SW	42	0.6
Total						10.6

6. The Department received information from the applicant that better describes the location of the authorized point of diversion for Certificate 21006 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	4 W	WM	36	SW NW	POD 1 - SOUTH 45° 6' 16" EAST, 940.2 FEET FROM THE NE CORNER OF THE W1/2 OF DLC 42

7. Transfer Application T-13350 proposes to change from a surface water point of diversion to two groundwater points of appropriation (wells) as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximated distance from original point of diversion in feet (ft.)
16 S	4 W	WM	36	SW NW	POA 1 – SOUTH 22° 29 MINUTES 56 SECONDS EAST, 1069.6 FEET FROM THE NE CORNER OF THE W1/2 OF G. MAUPIN DLC 42	800.5 ft.
16 S	4 W	WM	36	SW NW	POA 2 – SOUTH 1° 17 MINUTES 11 SECONDS EAST, 1144.9 FEET FROM THE NE CORNER OF THE W1/2 OF G. MAUPIN DLC 42	413.3 ft.

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

8. 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.
9. 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-13350.
10. The proposed points of appropriation meet the requirements of ORS 540.531 and OAR 690-380-2130(2).
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.
13. All other application requirements are met.

Conclusions of Law

The change from a surface water point of diversion to groundwater points of appropriation proposed in Transfer Application T-13350 is consistent with the requirements of ORS 540.505 to 540.580, OAR 690-380-2130 and OAR 690-380-5000.

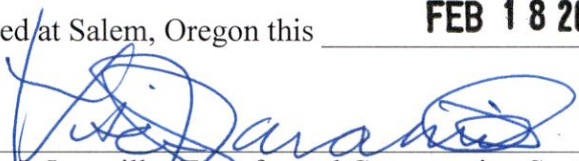
Now, therefore, it is ORDERED:

1. The change from a surface water point of diversion to groundwater points of appropriation proposed in Transfer Application T-13350 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 21006 and any related decree.

3. Water right Certificate 21006 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The quantity of water diverted at the new points of appropriation (POA 1 and POA 2), shall not exceed the quantity of water lawfully available at the original point of diversion (POD 1).
5. The wells from which the water is taken under this right shall be constructed so that the use of the wells will affect the surface water source similarly to the use of the original authorized point of diversion.
6. The use of water under this right shall be subject to regulation consistent with other water rights from the surface water source and to all other applicable conditions and restrictions that existed at the original point of diversion.
7. 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 appropriation.
 - 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.
8. All applicable restrictions that existed at the original point of diversion shall apply to the proposed wells.
9. The original date of priority shall be retained. However, if within five years after approving the transfer, the Department finds that the transfer results in substantial interference with existing groundwater rights that would not have occurred in the absence of the transfer, the proposed well shall be subordinate to any existing right injured by the transferred water right.
10. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2022**. 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 change and full beneficial use of the water.

11. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this **FEB 18 2021**,



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M BYLER, DIRECTOR
Oregon Water Resources Department

Mailing date: **FEB 19 2021**