

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-13025, Yamhill County)	CHANGE IN POINT OF DIVERSION
)	AND PLACE OF USE

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

CHRISTENSEN FARMS LLC
ATTN: DON CHRISTENSEN
17215 SW CHRISTENSEN RD
MCMINNVILLE, OR 97128

Findings of Fact

1. On September 13, 2018, CHRISTENSEN FARMS LLC, ATTN: DON CHRISTENSEN filed an application to change the point of diversion and to change the place of use under Certificate 20321. The Department assigned the application number T-13025.
2. Notice of the application for transfer was published on September 18, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 8, 2018, the Department contacted the applicant by written correspondence to notify the applicant of a deficiency in the application. The Department requested that the deficiency be resolved by November 6, 2018.
4. On October 17, 2018, the applicant submitted additional information to accompany the Land Use Form, resolving the deficiency.

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. On March 27, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13025 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 25, 2019, 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. On June 10, 2019, the Department issued a Preliminary Determination proposing to approve Transfer T-13025 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 June 11, 2019, and in the Yamhill Valley News Register newspaper on June 14, and 21, 2019 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

Certificate: 20321 in the name of S. V. AND M. K. DRAGOO (perfected under Permit S-11432)
Use: IRRIGATION of 30.9 ACRES
Priority Date: OCTOBER 1, 1934
Rate: 0.39 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 conform to such reasonable rotation system as may be ordered by the proper state officer.
Source: SOUTH YAMHILL RIVER, a tributary of WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
5 S	5 W	WM	14	SW NE

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	5 W	WM	14	SW NE	22.0
5 S	5 W	WM	14	SE NW	8.9
Total					30.9

8. The Department received information from the applicant that better describes the location of the authorized point of diversion for Certificate 20321 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	5 W	WM	14	SW NE	1840 FEET SOUTH AND 1760 FEET WEST FROM THE NE CORNER OF SECTION 14

9. Transfer Application T-13025 proposes to move the authorized point of diversion approximately 0.8 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	5 W	WM	11	SE SE	58	100 FEET NORTH AND 1270 FEET WEST FROM THE SE CORNER OF SECTION 11

10. Transfer Application T-13025 also proposes to change the place of use of the right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
5 S	5 W	WM	14	NE NE	1		2.70
5 S	5 W	WM	14	NW NE		48	15.00
5 S	5 W	WM	14	SW NE		48	2.40
5 S	5 W	WM	14	SE NE	2		0.10
5 S	5 W	WM	14	NE NW		48	9.10
5 S	5 W	WM	14	SE NW		48	1.60
Total							30.9

11. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

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

12. 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.
13. 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-13025.
14. The proposed changes would not result in enlargement of the right.
15. The proposed changes would not result in injury to other water rights.
16. All other application requirements are met.

Conclusions of Law

The change in point of diversion and change in place of use proposed in Transfer Application T-13025 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

2025 03 14

Now, therefore, it is ORDERED:

1. The change in point of diversion and change in place of use proposed in Transfer Application T-13025 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 20321 and any related decree.
3. Water right Certificate 20321 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 point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
5. Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.
6. The former place of use of the transferred right shall no longer receive water under the right.
7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2020**. 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.
8. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Issued in Salem, Oregon on JUL 24 2019,



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

Mailing date: JUL 25 2019