

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

In the Matter of Transfer Application            ) FINAL ORDER  
T-13279, Deschutes County                    ) APPROVING A CHANGE IN POINT OF  
  ) APPROPRIATION AND CHANGES IN  
  ) PLACES OF USE

**Authority**

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

**Applicant**

RANDY AND LAURA SHEPARD  
PO BOX 1087  
SISTERS, OR 97759

**Findings of Fact**

1. On October 29, 2019, RANDY AND LAURA SHEPARD filed an application to change the point of appropriation and place of use under Certificate 94453 and to change the place of use under Certificate 87232. The Department assigned the application number T-13279.
2. Notice of the application for transfer was published on November 5, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 11, 2020, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13279 13279to the applicants. The draft Preliminary Determination cover letter set forth a deadline of July 13, 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.
4. On August 26, 2020, the Department issued a Preliminary Determination proposing to approve Transfer T-13279 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 September 1, 2020, and in the Bend Bulletin newspaper on August 29, 2020 and September 5, 2020 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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 first right to be transferred is as follows:

**Certificate:** 94453 in the name of PATRICK DRENNEN; FRANCES DRENNEN  
(perfected under Permit G-12549)

**Use:** IRRIGATION of 2.0 ACRES

**Priority Date:** AUGUST 11, 1993

**Rate:** 0.025 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, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Period of Use:** March 1 through October 31

**Source:** A WELL in the DESCHUTES RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	11 E	WM	19	NW NE	665 FEET SOUTH AND 908 FEET EAST FROM THE N1/4 CORNER OF SECTION 19

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	11 E	WM	19	NW NE	2.0

6. Transfer Application T-13279 proposes to move the authorized point of appropriation approximately 3.8 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	11 E	WM	7	SE NE	POA 2 - 806.78 FEET NORTH AND 941.7 FEET WEST FROM THE E1/4 CORNER OF SECTION 7

7. Transfer Application T-13279 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	11 E	WM	7	SE NE	2.0

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

**Certificate:** 87232 in the name of CATHLEEN WARNER (perfected under Permit G-12549)

**Use:** IRRIGATION of 0.31 ACRE

**Priority Date:** AUGUST 11, 1993

**Rate:** 0.004 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, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Period of Use:** March 1 through October 31

**Source:** A WELL in the DESCHUTES RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	11 E	WM	7	SE NE	806.78 FEET NORTH AND 941.7 FEET WEST FROM THE E1/4 CORNER OF SECTION 7

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	11 E	WM	7	SE NE	0.31

9. Transfer Application T-13279 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	11 E	WM	7	SE NE	0.31

**Transfer Review Criteria (OAR 690-380-4010)**

10. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
11. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-13279.
12. The proposed changes would not result in enlargement of the rights.
13. The proposed changes would not result in injury to other water rights.
14. All other application requirements are met.

**Conclusions of Law**

The change in point of appropriation and change in place of use under Certificate 94453 and the change in place of use under Certificate 87232 proposed in Transfer Application T-13279 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

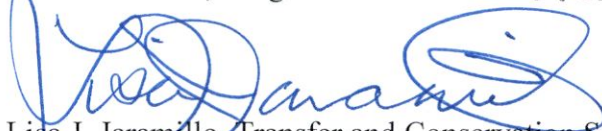
**Now, therefore, it is ORDERED:**

1. The change in point of appropriation and change in place of use under Certificate 94453 and the change in place of use under Certificate 87232 proposed in Transfer Application T-13279 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 Certificates 94453 and 87232 and any related decree.
3. Water right Certificate 94453 is cancelled.
4. Water right Certificate 87232 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.

5. Under Water right Certificate 94453, The quantity of water diverted at the new point of appropriation (POA 2), shall not exceed the quantity of water lawfully available at the original point of appropriation.
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 appropriation (new and existing).
  - 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 devices; provided however, where the meter or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
7. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
8. The former places of use of the transferred right shall no longer receive water under the rights.
9. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2021**. 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.
10. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated in Salem, Oregon on

OCT 27 2020



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

Mailing Date: OCT 28 2020