

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING OF A CHANGE
T-13844, Lane County	)	FROM A SURFACE WATER POINT OF
	)	DIVERSION TO A GROUNDWATER POINT
	)	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. Additional findings and conditions are required for surface water point of diversion to groundwater point of appropriation transfers pursuant to ORS 540.531 and OAR 690-380-2130.

**Applicant**

JEFFREY A. LYONS  
PO BOX 146  
EAST BURKE, VT 05832

**Findings of Fact**

1. On October 14, 2021, JEFFREY A. LYONS filed an application to change from a surface water point of diversion to a groundwater point of appropriation under Certificate 95393. The Department assigned the application number T-13844.
2. Notice of the application for transfer was published on October 19, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 24, 2022, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13844 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 24, 2022, 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.

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 July 11, 2022, the agent for the applicant requested the completion date of October 1, 2025 because of equipment supply chain issues, recent medical procedures, residing out of state, and the costs to complete the change. The Department granted the longer time for completion per OAR 690-380-5140 (3).
5. On August 8, 2022, the Department issued a Preliminary Determination proposing to approve Transfer Application T-13844 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice August 9, 2022, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
6. The right to be transferred is as follows:

**Certificate:** 95393 in the name of CHRIS S. CHRISTIANSON (perfected under Permit S-20251)

**Use:** IRRIGATION of 5.7 ACRES

**Priority Date:** MARCH 12, 1951

**Rate:** 0.076 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:** 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	5.7

7. The Department received information from the applicant that better describes the location of the authorized point of diversion for Certificate 95393 as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
16 S	4 W	WM	36	SW NW	42	994 FEET SOUTH 21° EAST FROM THE NE CORNER OF THE W1/2 OF G. MAUPIN DLC 42

8. Transfer Application T-13844 proposes to change from a surface water point of diversion to a well located approximately 500 feet NW of the original point of diversion as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
16 S	4 W	WM	36	SW NW	42	619 FEET SOUTH 3° EAST FROM THE NE CORNER OF THE W1/2 OF G. MAUPIN DLC 42

**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-13844.
11. The proposed well meets the requirements of ORS 540.531. Estimated stream depletion to the Willamette River, using a range of aquifer parameter values likely representative of the aquifer material the proposed groundwater POD is producing from, is likely to be greater than 50% of the pumping rate after 10 days of pumping. Therefore, there is a preponderance of evidence that the proposed change will affect surface water similarly, as defined in OAR 690-380-2130
12. The proposed change would not result in enlargement of the right.
13. The proposed change would not result in injury to other water rights.
14. All other application requirements are met.

**Conclusions of Law**

The change from a surface water point of diversion to a groundwater point of appropriation proposed in Transfer Application T-13844 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-2130 and 690-380-5000.

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

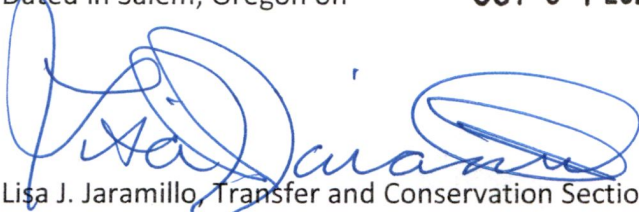
1. The change from a surface water point of diversion to a groundwater point of appropriation proposed in Transfer Application T-13844 are approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 95393 and any related decree.
3. Water right Certificate 95393 is cancelled.

4. The quantity of water diverted at the new point of appropriation, shall not exceed the quantity of water lawfully available at the original point of diversion.
5. The well from which water is taken under the right shall be constructed so that the use of the well 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. If, within five years after approval of the transfer, the Department finds that the transfer results in substantial or undue interference with an existing groundwater right due to use of the well, that would not have occurred in the absence of the transfer, the new point of appropriation shall be subordinate to the existing right injured by the transfer.
8. The original point of diversion of surface water shall not be retained as an additional or supplemental point of diversion under the transferred portion of the right. However, if within five years after approval of the transfer, the Department receives a transfer application to return to the last authorized surface water point of diversion, the application shall be approved.
9. 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.
10. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2025**. 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 in Salem, Oregon on

**OCT 0 4 2022**



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
DOUGLAS E. WOODCOCK, ACTING DIRECTOR  
Oregon Water Resources Department

Mailing date: **OCT 0 5 2022**