

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

In the Matter of Transfer Application	)	FINAL ORDER
T-12250, Polk County	)	APPROVING A CHANGE IN POINT
	)	OF DIVERSION AND A CHANGE IN
	)	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**

ZACH CHRISTENSEN  
16201 SW CHRISTENSEN RD  
MCMINNVILLE, OR 97128  
christensenfarms@landdb.com

**Findings of Fact**

1. On January 19, 2016, ZACH CHRISTENSEN filed an application to change the point of diversion and change the place of use under Certificate 45563. The Department assigned the application number T-12250.
2. Notice of the application for transfer was published on January 26, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On April 6, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12250 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 27, 2017, for the applicant to respond. The applicant requested the completion date be extended to October 1, 2019 and for the Department to 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 May 16, 2017, the Department issued a Preliminary Determination proposing to approve Transfer Application T-12250 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 on May 23, 2017 and in the McMinnville News-Register newspaper on May 19 and 26, 2018, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.

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

**Certificate:** 45563 in the name of WESLEY E. SHENK (perfected under Permit S-36310)  
**Use:** IRRIGATION OF 26.5 ACRES  
**Priority Date:** JUNE 25, 1971  
**Rate:** 0.18 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 to the YAMHILL RIVER

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	7 W	WM	9	NE SW		POD #1 - 2010 FEET NORTH AND 1380 FEET EAST FROM THE SW CORNER OF SECTION 9
6 S	7 W	WM	16	NW NE	45	POD #2 - 510 FEET SOUTH AND 3380 FEET EAST FROM THE SW CORNER OF SECTION 9

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	7 W	WM	16	NW NE	46	16.0
6 S	7 W	WM	16	SW NE	46	10.5
Total						26.5

6. Transfer Application T-12250 proposes to move the authorized point of diversion approximately 10.6 miles from POD #1 and 10.4 miles from POD #2 downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	5 W	WM	31	SE SE	56	1310 FEET NORTH AND 420 FEET WEST FROM THE SE CORNER OF SECTION 31



7. Transfer Application T-12250 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	5 W	WM	31	SW NE	55	2.3
5 S	5 W	WM	31	SE NE	56	7.2
5 S	5 W	WM	31	NE SE	56	14.3
5 S	5 W	WM	31	NW SE	55	0.3
5 S	5 W	WM	32	NW SW	56	2.4
Total						26.5

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 diversion structure and ditch 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-12250.
11. The proposed changes would not result in enlargement of the right.
12. The proposed changes 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-12250 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

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

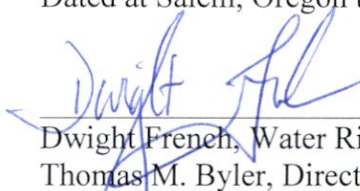
1. The change in point of diversion and change in place of use proposed in Transfer Application T-12250 are approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 45563 and any related decree.
3. Water right Certificate 45563 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(s) of diversion.

5. 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.

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, 2019**. 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.

Dated at Salem, Oregon this **AUG 14 2018**,

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

Mailing date: **AUG 15 2018**.