

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-13025, Yamhill County)	PROPOSING APPROVAL OF A
)	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.

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.
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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. 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

7. 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

8. 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

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

IRRIGATION							
Twtp	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

10. 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)]

11. 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.
12. 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.
13. The proposed changes would not result in enlargement of the right.
14. The proposed changes would not result in injury to other water rights.
15. All other application requirements are met.

Determination and Proposed Action

The change in point of diversion and change in place of use proposed in Transfer Application T-13025 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-13025 is approved, the final order will include the following:

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.*

Dated in Salem, Oregon on JUN 10 2019 ,



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

This Preliminary Determination was prepared by Corey Courchane. If you have questions about the information in this document, you may reach me at 503-986-0825 or corey.a.courchane@oregon.gov

Protests should be addressed to the attention of Water Rights Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.

Notice Regarding Service Members: Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>



Oregon

Kate Brown, Governor

Water Resources Department

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June 10, 2019

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

SUBJECT: Water Right Transfer Application T-13025

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13025. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication and in the Yamhill Valley News Register, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the last date of newspaper publication.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me, at corey.a.courchane@oregon.gov or (503) 986-0825, if I may be of assistance.

Sincerely,

Corey Courchane
Transfer Specialist
Transfer and Conservation Section

cc: T-13025
Joel M. Plahn, District 16 Watermaster (*via e-mail*)
Zach Christensen, Agent for the applicant (*via e-mail*)

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