

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

In the Matter of Transfer Application            )  
T-13350, Lane County                            )  
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PRELIMINARY DETERMINATION  
PROPOSING APPROVAL OF A  
CHANGE FROM A SURFACE WATER  
POINT OF DIVERSION TO  
GROUNDWATER POINTS 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.

**Applicant**

SHAUNDELE LEATHERBERRY  
215 HILEMAN LANE  
EUGENE, OR 97404

**Applicant**

SHIRLEY RADECKI  
1199 N TERRY ST #382  
EUGENE, OR 97402

**Findings of Fact**

1. On January 16, 2020, SHAUNDELE LEATHERBERRY and SHIRLEY RODECKI filed an application to change from a surface water point of diversion to groundwater points of appropriation under Certificate 21006. The Department assigned the application number T-13350.
2. Notice of the application for transfer was published on January 28, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 22, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13350 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of November 23, 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.

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.

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

**Certificate:** 21006 in the name of CHRIS S. CHRISTIANSON (perfected under Permit S-20251)  
**Use:** IRRIGATION of 10.6 ACRES  
**Priority Date:** MARCH 12, 1951  
**Quantity:** 0.142 CUBIC FOOT PER SECOND  
**Rate/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	5.5
16 S	4 W	WM	36	SE NW	42	4.0
16 S	4 W	WM	36	NE SW	42	0.5
16 S	4 W	WM	36	NW SW	42	0.6
Total						10.6

5. The Department received information from the applicant that better describes the location of the authorized point of diversion for Certificate 21006 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	4 W	WM	36	SW NW	POD 1 - SOUTH 45° 6' 16" EAST, 940.2 FEET FROM THE NE CORNER OF THE W1/2 OF DLC 42

6. Transfer Application T-13350 proposes to change from a surface water point of diversion to two groundwater points of appropriation (wells) as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximated distance from original point of diversion in feet (ft.)
16 S	4 W	WM	36	SW NW	POA 1 - SOUTH 22° 29 MINUTES 56 SECONDS EAST, 1069.6 FEET FROM THE NE CORNER OF THE W1/2 OF G. MAUPIN DLC 42	800.5 ft.
16 S	4 W	WM	36	SW NW	POA 2 - SOUTH 1° 17 MINUTES 11 SECONDS EAST, 1144.9 FEET FROM THE NE CORNER OF THE W1/2 OF G. MAUPIN DLC 42	413.3 ft.

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

7. 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.
8. 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-13350.
9. The proposed points of appropriation meet the requirements of ORS 540.531 and OAR 690-380-2130(2).
10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.
12. All other application requirements are met.

**Determination and Proposed Action**

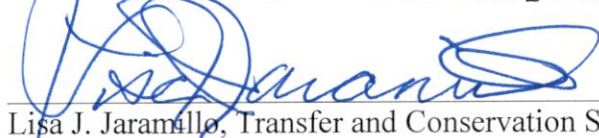
The change from a surface water point of diversion to groundwater points of appropriation proposed in Transfer Application T-13350 appears to be consistent with the requirements of ORS 540.505 to 540.580, OAR 690-380-2130 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

*If Transfer Application T-13350 is approved, the final order will include the following:*

1. *The change from a surface water point of diversion to groundwater points of appropriation proposed in Transfer Application T-13350 is 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 21006 and any related decree.*
3. *Water right Certificate 21006 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 points of appropriation (POA 1 and POA 2), shall not exceed the quantity of water lawfully available at the original point of diversion (POD 1).*
5. *The wells from which the water is taken under this right shall be constructed so that the use of the wells 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. *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.*
8. *All applicable restrictions that existed at the original point of diversion shall apply to the proposed wells.*
9. *The original date of priority shall be retained. However, if within five years after approving the transfer, the Department finds that the transfer results in substantial interference with existing groundwater rights that would not have occurred in the absence of the transfer, the proposed well shall be subordinate to any existing right injured by the transferred water right.*
10. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2022**. 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 at Salem, Oregon this DEC 23 2020,



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](mailto: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.*

**IMPORTANT:** Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above.

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**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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Salem, OR 97301

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December 23, 2020

SHAUNDELE LEATHERBERRY  
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SHIRLEY RADECKI  
1199 N TERRY ST #382  
EUGENE, OR 97402

SUBJECT: Water Right Transfer Application T-13350

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13350. 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, 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 Department's notice.

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.

**IMPORTANT:** Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Corey Courchane". The signature is fluid and cursive, with a long horizontal stroke at the end.

Corey Courchane  
Transfer Specialist  
Transfer and Conservation Section

cc: T-13350  
Lanaya F. Blakely, District 2 Watermaster (*via e-mail*)

encs