

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-12879, Clackamas County) CHANGE IN POINT OF
) APPROPRIATION

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

RAY GANNON
3491 BROOKLAKE RD NE
SALEM, OR 97303

Findings of Fact

1. On March 27, 2018, RAY GANNON filed an application to change the point of appropriation under Certificate 93512. The Department assigned the application number T-12879.
2. Notice of the application for transfer was published on April 3, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 17, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12879 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of November 18, 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.

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 December 30, 2019, the Department issued a Preliminary Determination proposing to approve Transfer T-12879 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 December 31, 2019, and in the Woodburn Independent newspaper on January 8 and 15, 2020 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

Certificate: 93512 in the name of RAY NEUSCHWANDER and RAY GANNON
(perfected under Permit G-15646)

Use: NURSERY USE on 33.1 ACRES

Priority Date: JULY 25, 2001

Rate: 0.17 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water used for nursery use is limited to a maximum of 5.0 acre feet per acre and a diversion of 0.15 cubic foot per second per acre. For irrigation of containerized nursery plants, the amount of water diverted is limited to one fortieth of one cubic foot per second and 5.0 acre feet per acre per year. For irrigation of in-ground nursery plants the amount of water diverted is limited to one eightieth of one cubic foot per second and 2.5 acre feet per acre per year. The use of water for nursery use may be made any time, during the period of allowed use specified above, that the use is beneficial. For irrigation of any other crop, the amount of water diverted is limited to one eightieth of one cubic foot per second and 2.5 acre feet per acre during the irrigation season of each year.

Period of Use: YEAR-ROUND

Source: A WELL in BEAR CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
4 S	1 E	WM	32	SE NW	2	WELL 2 - 50 FEET NORTH AND 50 FEET WEST FROM THE C1/4 CORNER OF SECTION 32

Authorized Place of Use:

NURSERY USE						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 S	1 E	WM	32	SE NW	2	14.4
4 S	1 E	WM	32	NE SW		18.7
Total						33.1

6. Transfer Application T-12879 proposes to move the authorized point of appropriation approximately 0.4 mile south from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	1 E	WM	32	SE SW	WELL 2 (CERTIFICATE 86986) - 720 FEET NORTH FROM THE S1/4 CORNER OF SECTION 32

Transfer Review Criteria (OAR 690-380-4010)

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-12879.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.
11. All other application requirements are met.

Conclusions of Law

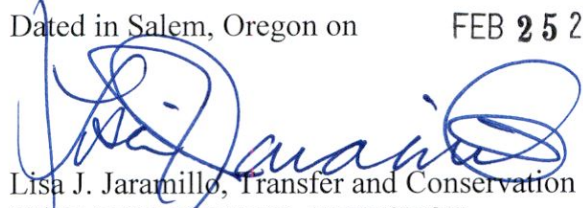
The change in point of appropriation proposed in Transfer Application T-12879 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in point of appropriation proposed in Transfer Application T-12879 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 93512 and any related decree.
3. Water right Certificate 93512 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 appropriation (Well 2 – Certificate 86986), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 2).
5. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
6. 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 change and full beneficial use of the water.

7. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated in Salem, Oregon on FEB 25 2020



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