

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

In the Matter of Transfer Application                    )     FINAL ORDER  
T-10671, Marion County                                 )     APPROVING A PERMANENT  
  )     DISTRICT TRANSFER AND PARTIAL  
  )     DIMINISHMENT OF A WATER RIGHT

**Authority**

ORS 540.505 to 540.580 establishes the process in which a district may submit a request to transfer a water right within district boundaries. OAR Chapter 690, Division 385 implements the statutes and provides the Department’s procedures and criteria for evaluating district transfer applications.

**Applicant**

Santiam Water Control District  
284 East Water Street  
Stayton, Oregon 97383

**Findings of Fact**

**Background**

1. On July 11, 2008, Santiam Water Control District filed a district transfer application to permanently change the place of use under Certificates 68663 and 68665. The Department assigned the application number T-10671.

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

**Certificate:** 68665 in the name of Santiam Water Control District (confirmed by North Santiam River, Supplemental Findings, 1985, Marion Co.)

**Use:** Irrigation of 15.2 acres

**Priority Date:** May 14, 1909

**Rate:** 0.19 cubic foot per second

**Source:** North Santiam River, tributary to the Santiam River

**Authorized Point of Diversion:**

| Twp | Rng | Mer | Sec | Q-Q   | GLot | Measured Distances  |
|-----|-----|-----|-----|-------|------|---|
| 9 S | 1 W | WM  | 11  | SW SE | 2    | 1800 feet South and 2830 feet East from the W¼ Corner of Section 11 |

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.

**Authorized Place of Use:**

| IRRIGATION |     |     |     |       |       |               |
|------------|-----|-----|-----|-------|-------|---------------|
| Twp        | Rng | Mer | Sec | Q-Q   | Acres | Name          |
| 8 S        | 2 W | WM  | 32  | NE SW | 15.2  | Mumper, Jerry |

3. Transfer Application T-10671 proposes to change the place of use of the right to:

| IRRIGATION |     |     |     |       |       |               |
|------------|-----|-----|-----|-------|-------|---------------|
| Twp        | Rng | Mer | Sec | Q-Q   | Acres | Name          |
| 9 S        | 2 W | WM  | 3   | NW NW | 15.2  | Smith, Steven |

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

**Certificate:** 68663 in the name of Santiam Water Control District (perfected under Permit E-82)

**Use:** Irrigation of 46.0 acres

**Priority Date:** May 14, 1909

**Rate:** 0.57 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, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) for each acre irrigated, and 3.5 acre-feet for each acre irrigated during the irrigation season of each year.

**Source:** North Santiam River, tributary to the Santiam River

**Authorized Point of Diversion:**

| Twp | Rng | Mer | Sec | Q-Q   | GLot | Measured Distances  |
|-----|-----|-----|-----|-------|------|---|
| 9 S | 1 W | WM  | 11  | SW SE | 2    | 1800 feet South and 2830 feet East from the W¼ Corner of Section 11 |

**Authorized Place of Use:**

| IRRIGATION |     |     |     |       |       |                     |
|------------|-----|-----|-----|-------|-------|---------------------|
| Twp        | Rng | Mer | Sec | Q-Q   | Acres | Name                |
| 8 S        | 2 W | WM  | 34  | NE NE | 21.0  | Scofield, Ernestine |
| 8 S        | 2 W | WM  | 34  | SE NE | 25.0  | Scofield, Ernestine |

5. Transfer Application T-10671 proposes to change the place of use of the right to:

| IRRIGATION |     |     |     |       |       |                         |
|------------|-----|-----|-----|-------|-------|-------------------------|
| Twp        | Rng | Mer | Sec | Q-Q   | Acres | Name                    |
| 8 S        | 2 W | WM  | 35  | NW NE | 11.9  | Jacob, Irvin            |
| 8 S        | 2 W | WM  | 35  | SW NE | 12.1  | Jacob, Irvin            |
| 9 S        | 2 W | WM  | 13  | NW NE | 0.2   | Fulton, James and Betty |
| 9 S        | 2 W | WM  | 13  | NW SW | 0.3   | Porter, Thomas          |
| 9 S        | 2 W | WM  | 27  | SW SW | 13.2  | Biewend, Robert         |
| 9 S        | 2 W | WM  | 28  | SW SE | 3.5   | Cellucci, Gene          |
| 9 S        | 2 W | WM  | 34  | NW NW | 4.8   | Biewend, Robert         |

6. Notice of the application for transfer was published on July 22, 2008, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

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

7. The district permanent transfer application satisfies the criteria of OAR 690-385-4000, contains the information required under OAR 690-385-2000, and includes maps meeting the requirements of OAR 690-385-2200.
8. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
9. The proposed changes would not result in enlargement of the rights.
10. The proposed changes would not result in injury to other water rights.

**Partial Diminution of a Water Right**

11. Receiving landowners Robert and Kelley Biewend submitted an affidavit requesting diminishment of the following water right from primary irrigation to supplemental irrigation:

**Certificate:** 68675 in the name of Kent and Kevin Doerfler (perfected under Permit S-27664)

**Use:** Irrigation of 16.2 acres

**Priority Date:** October 16, 1961

**Rate:** 0.2 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, is limited to a diversion of 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 for each acre irrigated during the irrigation season of each year.

**Source:** Marion Creek, tributary to the North Santiam River

**Authorized Point of Diversion:**

| Twp | Rng | Mer | Sec | Q-Q   | DLC | Measured Distances  |
|-----|-----|-----|-----|-------|-----|---|
| 9 S | 2 W | WM  | 28  | NW SE | 58  | 780 feet South and 2160 feet West from the NW Corner of Chamness DLC 59 |

**Authorized Place of Use:**

| IRRIGATION |     |     |     |       |     |       |
|------------|-----|-----|-----|-------|-----|-------|
| Twp        | Rng | Mer | Sec | Q-Q   | DLC | Acres |
| 9 S        | 2 W | WM  | 27  | SW SW | 59  | 12.7  |
| 9 S        | 2 W | WM  | 34  | NW NW | 59  | 3.5   |

**Conclusions of Law**

The changes in place of use proposed in Transfer Application T-10671 appear to be consistent with the requirements of ORS 540.574(3) and OAR 690-380-5000.

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

1. The changes in place of use proposed in Transfer Application T-10671 are approved.
2. The portion of the water right evidenced by Certificate 68675 described in Finding No. 11 is diminished from primary irrigation to supplemental irrigation.
3. 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 Certificates 68663 and 68665, and any related decree.
4. The former places of use of the transferred rights shall no longer receive water under the rights.
5. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2010**. A Claim of Beneficial Use prepared by a Certified Water Rights 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.
6. Certificate 68675 is cancelled. Certificate 85500 will be issued describing that portion of the right **not** diminished by this order.
7. Certificates 68663 and 68665 are modified. The Department will issue superseding certificates describing the water rights when it is determined that it is necessary for record keeping.
8. Water Right Certificate 85499 is issued to confirm the right described by Certificate 68675 diminished by this order.

Dated at Salem, Oregon this 24<sup>th</sup> day of April 2009.

  
Phillip C. Ward, Director 

Mailing date: APR 29 2009