



5. On December 22, 2015, the Department issued a Preliminary Determination proposing to approve Transfer Application T-12006 and sent 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 29, 2015, and in the Lebanon Express newspaper on December 30, 2015, and January 6, 2016, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
6. The portion of the right to be transferred is as follows:

**Certificate:** 64160 in the name of WAYNE D. BOSWELL (perfected under Permit S-44386)  
**Use:** IRRIGATING 9.1 ACRES  
**Priority Date:** AUGUST 20, 1979  
**Rate:** 0.11 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 SANTIAM RIVER, a tributary of the SANTIAM RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
12 S	1 W	WM	29	NW NE	57	240 FEET SOUTH AND 500 FEET EAST FROM THE N1/4 CORNER OF SECTION 29

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
12 S	1 W	WM	29	NW NE	53	0.2
12 S	1 W	WM	29	SW NE	53	2.9
12 S	1 W	WM	29	NW SE	53	6.0
Total:						9.1

7. Certificate 64160 does not specify the irrigation season, however the Santiam and South Santiam Rivers Decree establishes the irrigation season for the area as April 1 through September 30.
8. Transfer Application T-12006 proposes to move the authorized point of diversion approximately 3750 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
12 S	1 W	WM	19	SE SE	39	1170 FEET NORTH AND 290 FEET WEST FROM THE SE CORNER OF SECTION 19

9. Transfer Application T-12006 also proposes to change the place of use of the right to:

NURSERY USES						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
12 S	1 W	WM	19	SE SE	39	6.1

NURSERY USES						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
12 S	1 W	WM	30	NE NE	39	3.0

10. Transfer Application T-12006 proposes to change the character of use to nursery.
11. 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)]***

12. 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.
13. 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-12006.
14. In order to prevent enlargement of the right, the use of water for nursery use, shall be limited to a rate of diversion of 0.11 cfs a duty of 2.5 acre-feet per acre and shall not exceed a total quantity of 22.75 acre-feet during the time period of April 1 through September 30 of each year.
15. The proposed changes, as conditioned, would not result in enlargement of the right.
16. The proposed changes would not result in injury to other water rights.

**Conclusions of Law**

The change in point of diversion, change in place of use and change in character of use proposed in Transfer Application T-12006 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

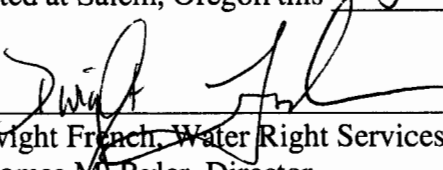
**Now, therefore, it is ORDERED:**

1. The change in point of diversion, change in place of use and change in character of use proposed in Transfer Application T-12006 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 64160 and any related decree.
3. Water right Certificate 64160 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 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 use of water for nursery use, under the right described by Certificate 64160, shall be limited to a rate of diversion of 0.11 cfs a duty of 2.5 acre-feet per acre and shall not exceed a total quantity of 22.75 acre-feet during the time period of April 1 through September 30 of each year.
7. The former place of use of the transferred right shall no longer receive water under the right.
8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2017**. 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.
9. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 8 day of February, 2016.

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

Mailing Date: FEB 17 2016