

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A
T-12485, Marion County	)	CHANGE FROM SURFACE WATER
	)	POINT OF DIVERSION TO A
	)	GROUNDWATER POINT OF
	)	APPROPRIATION AND A CHANGE IN
	)	PLACE OF USE

**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**

Brent Stevenson  
Santiam Water Control District  
284 E. Water St.  
Stayton, OR 97383

**Receiving landowner**

GWM Trucking, LLC  
George W. Meyer  
13274 Marlatt Rd. S.  
Jefferson, OR. 97352

**Findings of Fact**

1. On September 22, 2016, Brent Stevenson for Santiam Water Control District (SWCD) filed an application to change from a surface water point of diversion to a groundwater point of appropriation and a change in place of use under Certificate 68663. The Department assigned the application number T-12485.
2. GWM Trucking, LLC. George W. Meyer is the receiving landowner who will be responsible for completion of the changes.
3. Notice of the application for transfer was published on October 4, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

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 February 5, 2018, the applicant submitted a revised application, requesting an additional point of diversion and a change in place of use under Certificate 68663.
5. On May 8, 2019, the applicant submitted a revised application, reverting back to the original request for change in surface water point of diversion to a groundwater point of appropriation and a change in place of use under Certificate 68663.
6. On May 14, 2019, the Department contacted the applicant by written correspondence to notify the applicant and the applicant's agent of the deficiencies in the application. The Department requested that the deficiencies be resolved by June 12, 2019.
7. On July 17, and July 25, 2019, the applicant submitted a revised Table 2 and evidence of use supporting documentation, resolving the deficiencies.
8. On August 16, 2019, the applicant's agent submitted a revised Table 1 and Table 2, clarifying the request to be a change from a surface water point of diversion to a groundwater point of appropriation, rather than an additional point of diversion, which is not consistent with OAR 690-380-2130(7), in that the original point of diversion of surface water shall not be retained as an additional or supplemental point of diversion.
9. After proof of completion, any water right certificate issued to confirm the changes to Certificate 68663 under Transfer T-12485 is to remain in the name of the Santiam Water Control District.
10. On August 16, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12485 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 16, 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.
11. On December 4, 2019, the Department issued a Preliminary Determination proposing to approve Transfer T-12485 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 10, 2019, and in the Stayton Mail newspaper on December 11 and 18, 2019 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
12. The portion of the 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 56.83 ACRES

**Priority Date:** MAY 14, 1909

**Rate:** 0.71 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) and 3.5

acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** NORTH SANTIAM RIVER, a tributary of 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	SWCD POD - 1800 FEET SOUTH AND 2830 FEET EAST FROM THE W1/4 CORNER OF SECTION 11

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax lot	Acres
8 S	2 W	WM	25	SW SE	7500	0.33
9 S	1 W	WM	6	SW SW	2000	0.60
9 S	2 W	WM	4	NW NW	800	5.90
9 S	2 W	WM	4	NW NW	600	5.10
9 S	2 W	WM	24	SE NE	2000	6.70
9 S	2 W	WM	24	NW SE	400D	0.40
9 S	2 W	WM	27	SE NE	500	37.80
Total:						56.83

13. Transfer Application T-12485 proposes to change from a surface water point of diversion to a groundwater point of appropriation approximately 27 river miles downstream from the existing point of diversion to:

Twp	Rng	Mer	Sec	Q-Q	Tax lot	Measured Distances
9 S	3 W	WM	30	NE SW	1000	SWCD APOD - 132 FEET NORTH AND 2046 FEET WEST FROM THE SE CORNER OF J. PITCHETT DLC 46

14. Transfer Application T-12485 also proposes to change the place of use of the right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
9 S	3 W	WM	30	NW NE		46	3.60
9 S	3 W	WM	30	SW NE		46	3.60
9 S	3 W	WM	30	NE NW		46	9.70
9 S	3 W	WM	30	NW NW		46	6.50
9 S	3 W	WM	30	SW NW		46	22.00
9 S	3 W	WM	30	SW NW	4		3.00
9 S	3 W	WM	30	SE NW		46	7.68
9 S	4 W	WM	25	SE NE	4		0.75
Total:							56.83

**Transfer Review Criteria (OAR 690-380-4010)**

15. Water has been used within the last five years prior to submittal of Transfer Application T-12485 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.

16. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.
17. The proposed changes will not result in enlargement of the right.
18. The proposed changes as conditioned will not result in injury to other water rights.
19. All other application requirements are met.

### **Conclusions of Law**

The change from a surface water point of diversion to a groundwater point of appropriation and change in place of use proposed in Transfer Application T-12485 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 from a surface water point of diversion to a groundwater point of appropriation and change in place of use proposed in Transfer Application T-12485 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 68663 and any related decree.
3. Water right Certificate 68663 is modified. A superseding confirming-remaining water right certificate in the name of the Santiam Water Control District will be issued when the Department determines it is necessary for record keeping.
4. The quantity of water diverted at the new point of appropriation (SWCD APOD), shall not exceed the quantity of water lawfully available at the original point of diversion (SWCD POD).
5. Water shall be acquired from the same water source as the original 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. The original point of diversion of surface water shall not be retained as an additional or supplemental point of diversion under the transferred portion of the right. However, if within five years after approval of the transfer, the Department receives a transfer application to return to the last authorized surface water point of diversion, the application shall be approved.
8. 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.

9. The former place of use of the transferred right shall no longer receive water under the right.
10. 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 changes and full beneficial use of the water.
11. Water right certificate 68663 is modified. After satisfactory proof of completion has been determined by the Department, a superseding confirming-remaining water right certificate in the name of the Santiam Water Control District will be issued when the Department determines it is necessary for record keeping.

**JAN 22 2020**

Issued at Salem, Oregon this \_\_\_\_\_.



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

Mailing date:           **JAN 23 2020**