

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12485, Marion County)	PROPOSING APPROVAL OF A
)	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
12374 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.
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.

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.
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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. 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

12. 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

13. 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)

14. 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.
15. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.
16. The proposed changes will not result in enlargement of the right.
17. The proposed changes as conditioned will not result in injury to other water rights.
18. All other application requirements are met.

Determination and Proposed Action

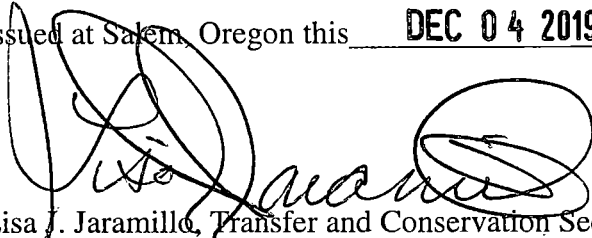
The change from a surface water point of diversion to a groundwater point of appropriation and change in place of use proposed in Transfer Application T-12485 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-12485 is approved, the final order will include the following:

- 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.

Issued at Salem, Oregon this DEC 04 2019.


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

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.

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

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Fax (503) 986-0904

December 4, 2019

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

SUBJECT: Water Right Transfer Application T-12485

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12485. 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 and in the Stayton Mail newspaper, 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 last date of newspaper publication.

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.

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

Sincerely,

Corey Courchane
Transfer Specialist
Transfer and Conservation Section

cc: T-12485
Joel M. Plahn, District 16 Watermaster (*via e-mail*)
William E. McGill, Agent for the applicant (*via e-mail*)
GWM Trucking, LLC/George W. Meyer, Receiving Landowner (*via e-mail*)

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