

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12879, Clackamas County)	PROPOSING APPROVAL OF A
)	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.

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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4. 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

5. 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)

6. 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.
7. 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.

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

Determination and Proposed Action

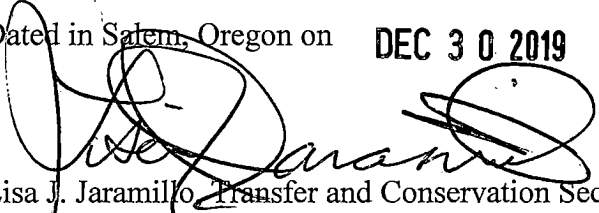
The change in point of appropriation proposed in Transfer Application T-12879 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-12879 is approved, the final order will include the following:

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 **DEC 30 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 servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free number.



Oregon
Kate Brown, Governor

Water Resources Department
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(503) 986-0900
Fax (503) 986-0904

December ~~30~~, 2019

RAY GANNON
3491 BROOKLAKE RD NE
SALEM, OR 97303

SUBJECT: Water Right Transfer Application T-12879

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12879. 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 Woodburn Independent 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-12879
Joel M. Plahn, District 16 Watermaster *(via e-mail)*
Doann Hamilton, Agent for the applicant *(via e-mail)*

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