

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

In the Matter of Transfer Application) PRELIMINARY DETERMINATION
T-11002, Marion County) PROPOSING APPROVAL OF AN
) ADDITIONAL POINT OF
) APPROPRIATION

Authority

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. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

GARY AND HEIDI VACHTER
PO BOX 119
ST. PAUL, OR 97137

Findings of Fact

Background

1. On January 6, 2010, GARY AND HEIDI VACHTER filed an application for an additional point of appropriation under Certificate 85817. The Department assigned the application number T-11002.

2. The right to be transferred is as follows:

Certificate: 85817 in the name of GARY D. AND HEIDI VACHTER (perfected under Permit G-12081)

Use: IRRIGATION of 116.56 ACRES

Priority Date: JANUARY 22, 1992

Rate: 600.0 GALLONS PER MINUTE (1.337 CUBIC FEET 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 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.

Period of Use: MARCH 1 THROUGH OCTOBER 31

Source: ONE WELL within the CHAMPOEG CREEK BASIN

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.

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	2 W	WM	5	SE NE	2475 FEET SOUTH AND 270 FEET WEST FROM THE NE CORNER OF SECTION 5

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	2 W	WM	4	NE NW	38	5.9
5 S	2 W	WM	4	NW NW	38	12.7
5 S	2 W	WM	4	NW NW	66	0.1
5 S	2 W	WM	4	SW NW	38	33.0
5 S	2 W	WM	4	SE NW	38	4.4
5 S	2 W	WM	4	NE SW	38	0.06
5 S	2 W	WM	5	NE NE	38	13.7
5 S	2 W	WM	5	NE NE	66	1.0
5 S	2 W	WM	5	NW NE	66	0.23
5 S	2 W	WM	5	NW NE	38	2.37
5 S	2 W	WM	5	SW NE	38	6.2
5 S	2 W	WM	5	SE NE	38	36.9
					Total	116.56

- Certificate 85817 lists the well as being within the Champoeg Creek Basin, the well is actually within the West Champoeg Creek Basin.
- Transfer Application T-11002 proposes an additional point of appropriation approximately 0.48 miles from the existing point of appropriation located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	2 W	WM	4	SW NE	2600 FEET SOUTH AND 2300 FEET EAST FROM THE NW CORNER OF SECTION 4

- Notice of the application for transfer was published on January 19, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On August 5, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11002 to the applicant. The draft Preliminary Determination set forth a deadline of September 7, 2010, for the applicants to respond. The applicants 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.

Transfer Review Criteria (OAR 690-380-4010)

- 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. Certificate 85817 was issued on October 2, 2009.

8. 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-11002.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

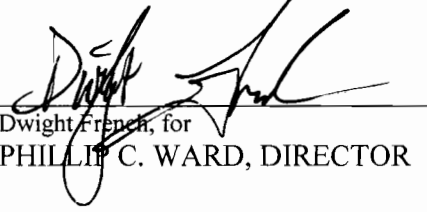
The additional point of appropriation proposed in Transfer Application T-11002 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-11002 is approved, the final order will include the following:

1. *The additional point of appropriation proposed in Transfer Application T-11002 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 85817 and any related decree.*
3. *Water right certificate 85817 is cancelled.*
4. *The quantity of water diverted at the additional point of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*
5. *The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.*
6. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
7. *The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2012**. 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.*

8. *When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 19 day of November, 2010.


Dwight French, for
PHILLIP C. WARD, DIRECTOR

This Preliminary Determination was prepared by Teri Hranac. If you have questions about the information in this document, you may reach me at 503-986-0881 or Teri.K.Hranac@wrд.state.or.us.

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.