

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

In the Matter of Transfer Application        )  
T-11139, Deschutes County                 )  
  )  
  )  
  )  
  )

PRELIMINARY DETERMINATION  
PROPOSING APPROVAL OF  
CHANGES IN POINT OF  
APPROPRIATION AND PLACE OF  
USE

**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**

JERRY AND DONNA BALDOCK  
17573 SE FORKED HORN DRIVE  
SISTERS, OR 97759

**Findings of Fact**

**Background**

1. On October 4, 2010, JERRY AND DONNA BALDOCK filed an application to change the point of appropriation and to change the place of use under Certificate 82932. The Department assigned the application number T-11139.
2. With the transfer application, the applicants submitted a Consent by Deeded Landowner form signed by the owner of the property to which the water right is appurtenant.
3. The portion of the right to be transferred is as follows:

**Certificate:** 82932 in the name of CATHLEEN WARNER (perfected under Permit G-12549)  
**Use:** IRRIGATION of 2.0 ACRES  
**Priority Date:** AUGUST 11, 1993  
**Rate:** 0.025 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 for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0

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.

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

**Period of Use:** March 1 through October 31

**Source:** A WELL within the DESCHUTES RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	11 E	WM	7	SE NE	806.78 FEET NORTH AND 941.70 FEET WEST FROM THE EAST 1/4 CORNER OF SECTION 7

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	11 E	WM	7	SE NE	2.0

4. Transfer Application T-11139 proposes to move the authorized point of appropriation approximately 4 miles north from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	11 E	WM	19	NE NE	248 FEET SOUTH AND 975 FEET WEST FROM THE NE CORNER OF SECTION 19

5. Transfer Application T-11139 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	11 E	WM	19	NE NE	2.0

6. Notice of the application for transfer was published on October 12, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. On January 7, 2011, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11139 and mailed a copy to the applicants. The draft Preliminary Determination cover letter set forth a deadline of February 7, 2011, 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 applicants are authorized to pursue the transfer.

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

8. 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.

9. 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-11139.
10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.

### **Determination and Proposed Action**


The change in point of appropriation and change in place of use proposed in Transfer Application T-11139 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 application T-11139 is approved, the final order will include the following:*

1. *The change in point of appropriation and change in place of use proposed in application T-11139 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 82932 and any related decree.*
3. *Water right certificate 82932 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, 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. *Water use measurement conditions:*
  - a. *Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of appropriation.*
  - b. *The water user shall maintain the meters or measuring devices in good working order.*
  - c. *The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
6. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
7. *The former place of use of the transferred right shall no longer receive water under the right.*

8. *The approved changes 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 changes and full beneficial use of the water.*
9. *When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 12 day of January 2011.

  
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@wrđ.state.or.us](mailto:Teri.K.Hranac@wrđ.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.