

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

In the Matter of Ground Water	)	PRELIMINARY DETERMINATION
Registration Modification Application	)	PROPOSING TO APPROVE
T-11143, Marion County	)	RECOGNITION OF MODIFICATION IN
	)	POINT OF APPROPRIATION, AND
	)	REDESCRIPTION OF REGISTRATION

**Authority**

ORS 537.610, 537.705 and 540.505 to 540.580 establish the process in which the holder of a certificate of registration may submit a request for recognition of modifications to the place of use, character of use or point of appropriation under a ground water certificate of registration.

OAR Chapter 690, Divisions 382 and 380 implement the statutes and provide the Department's procedures and criteria for evaluating ground water registration modification applications.

**Applicant**

TWILA M. WETTSTEIN TRUST  
9533 YERGEN ROAD NE  
AURORA, OR 97002

**Findings of Fact**

**Background**

1. On October 13, 2010, TWILA M. WETTSTEIN TRUST filed a ground water registration modification application to modify the point of appropriation under Registration Application GR 2687 (Certificate of Registration GR-2545). The Department assigned the application number T-11143.
2. On October 13, 2010, Registration Application GR 2687 (Certificate of Registration GR-2545) was assigned from HERSCHEL R. DRIEVER to TWILA M. WETTSTEIN TRUST.
3. On February 28, 2011, the applicant's agent submitted amended pages for the proposed points of appropriation and the place of use to correct scrivener's errors in the original application to correspond with the maps.

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. Registration Application GR 2687 (Certificate of Registration GR-2545) was originally filed with the Department on August 11, 1958, along with a hand drawn map depicting the claimed place of use as 81.0 acres located as follows:

Original Description of Place of Use under Registration Application GR-2687 (Certificate of Registration GR-2545)					
Twp	Rng	Mer	Sec	¼ ¼	Acres
4 S	1 W	WM	7	SW SW	7.2
4 S	1 W	WM	18	NW NW	15.0
4 S	2 W	WM	12	SE SE	23.0
4 S	2 W	WM	13	NE NE	32.8
4 S	2 W	WM	13	NW NE	3.0
<b>TOTAL:</b>					<b>81.0</b>

5. On May 13, 1965, an application for a new permit (Application G-3106) was filed with the Department by Herschel Driever requesting irrigation of 68.8 acres of the same land as was claimed under Registration Application GR-2687 (Certificate of Registration GR-2545). Based on the Department's investigation and survey in October 1966, the Department issued Certificate 34687 for the lands as depicted below.

Original Description of Place of Use under Application G-2902						Place of Use under Certificate 34687							
Twp	Rng	Mer	Sec	¼ ¼	Acres	Twp	Rng	Mer	Sec	¼ ¼	Acres		
4 S	1 W	WM	7	SW SW	8.5	4 S	1 W	WM	7	SW SW	12.0		
4 S	1 W	WM	18	NW NW	4.0	4 S	1 W	WM	18	NW NW	4.1		
4 S	2 W	WM	12	SW SE	0.3	4 S	2 W	WM	12	SW SE	--		
4 S	2 W	WM	12	SE SE	22.5	4 S	2 W	WM	12	SE SE	22.6		
4 S	2 W	WM	13	NE NE	30.5	4 S	2 W	WM	13	NE NE	30.1		
4 S	2 W	WM	13	NW NE	3.0	4 S	2 W	WM	13	NW NE	---		
<b>TOTAL:</b>						<b>68.8</b>	<b>TOTAL:</b>						<b>68.8</b>

6. The Department's investigation and survey in 1966, clearly shows that the original claimed place of use under Registration Application GR-2687 (Certificate of Registration GR-2545) was mapped incorrectly. The CWRE prepared map for this transfer shows the place of use is in a different location relative to the quarter-quarter section boundaries and the DLC lines. Based on the Department's 1966 final proof survey for Certificate 34687 and the CWRE map, the lands appear to be shifted in an easterly direction from the map prepared for Registration Application GR-2687 (Certificate of Registration GR-2545).

7. The following table describes the place of use description in existing Registration Application GR-2687 (Certificate of Registration GR-2545) and a proposed redescription based on the findings above:

Original Description of Place of Use under Registration Application GR-2687 (Certificate of Registration GR-2545)						Proposed Redescription of Place of Use					
Twp	Rng	Mer	Sec	¼ ¼	Acres	Twp	Rng	Mer	Sec	¼ ¼	Acres
4 S	1 W	WM	7	SW SW	7.2	4 S	1 W	WM	7	SW SW	12.0
4 S	1 W	WM	18	NW NW	15.0	4 S	1 W	WM	18	NW NW	16.3
4 S	2 W	WM	12	SE SE	23.0	4 S	2 W	WM	12	SE SE	22.6
4 S	2 W	WM	13	NE NE	32.8	4 S	2 W	WM	13	NE NE	30.1
4 S	2 W	WM	13	NW NE	3.0	--	--	--	--	--	--
<b>TOTAL:</b>					<b>81.0</b>	<b>TOTAL:</b>					<b>81.0</b>

8. The portion of the ground water registration to be modified based on the redescription above is as follows:

**Registration:** Application GR-2687 (Certificate of Registration GR-2545), in the name of HERSCHEL R. DRIEVER (*assigned to TWILA M. WETTSTEIN TRUST*)

**Use:** IRRIGATION of 77.9 ACRES

**Tentative**

**Priority Date:** JUNE 8, 1952

**Quantity:** 0.386 CUBIC FOOT PER SECOND (173.11 GALLONS PER MINUTE)

**Source:** A WELL within the YERGEN CREEK BASIN

**Original Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	1 W	WM	18	NW NW	660 FEET SOUTH AND 265 FEET EAST FROM NW CORNER OF SECTION 18

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	1 W	WM	7	SW SW	75	12.0
4 S	1 W	WM	18	NW NW	75	13.2
4 S	2 W	WM	12	SE SE	46	22.6
4 S	2 W	WM	13	NE NE	46	30.1
Total						77.9

9. Groundwater Registration Application GR-2687 (Certificate of Registration GR-2545) lists the point of diversion as described in Finding of Fact #8. The Certified Water Right Examiner indicates that the point of appropriation is located in a different location based on the cadastral plat maps and final proof survey for Certificate 34687. Based on the best available information, the point of appropriation for Groundwater Registration Application GR-2687 (Certificate of Registration GR-2545) is as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	1 W	WM	18	NW NW	550 FEET SOUTH AND 510 FEET EAST FROM THE NW CORNER OF SECTION 18

10. Groundwater Registration Modification Application T-11143 proposes to modify the location of the original point of appropriation to 3 points of appropriation located approximately 495 to 805 feet northwesterly from the original well as redescribed above to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	13	NE NE	46	PROPOSED WELL 1 (MARI 1152) - 2880 FEET NORTH AND 910 FEET WEST FROM THE SE CORNER OF DLC 75
4 S	2 W	WM	13	NE NE	46	PROPOSED WELL 2 - 2840 FEET NORTH AND 870 FEET WEST FROM THE SE CORNER OF DLC 75
4 S	1 W	WM	18	NW NW	75	PROPOSED WELL 3 - 2730 FEET NORTH AND 600 FEET WEST FROM THE SE CORNER OF DLC 75

11. Notice of the application for ground water registration modification was published on October 19, 2010, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
12. On March 3, 2011, the Department mailed a copy of the draft Preliminary Determination proposing to approve Ground Water Registration Modification T-11143 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 4, 2011, for the applicant to respond. The applicant requested the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the modification.

***Review Criteria for Ground Water Registration Modification Applications [OAR 690-382-0700(2)]***

13. The proposed modification would not result in enlargement of the ground water registration.

14. The proposed modification would not result in a state Scenic Waterway not receiving previously available water during periods in which streamflows are less than the quantities determined by the Department to be necessary to meet the requirements of ORS 390.835.
15. The proposed modification would not result in injury to other water rights.

### **Determination and Proposed Action**

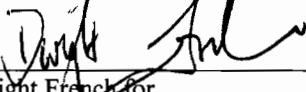
The modification in point of appropriation proposed in Ground Water Registration Modification T-11143 appears to be consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000. If protests are not filed pursuant to OAR 690-382-0900, the application will be recognized.

*If Ground Water Registration Modification Application T-11143 is recognized, the final order will include the following:*

1. *The modification to Registration Application GR-2687 (Certificate of Registration GR-2545) proposed in Ground Water Registration Modification Application T-11143 is recognized. Recognition of the modification shall not be construed as a final determination of the right to appropriate ground water under the certificate of registration or modification. Such a determination will occur in an adjudication proceeding under ORS 537.670 to 537.695.*
2. *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 Registration Application GR-2687 (Certificate of Registration GR-2545) and any related decree.*
3. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
4. *Water shall no longer be appropriated from the original point of appropriation for the portion of the ground water certificate of registration affected by this transfer.*
5. *The quantity of water diverted at the new points 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.*

6. *Prior to diverting water at the new points of appropriation, the water user shall install and maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water appropriated. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.*

Dated at Salem, Oregon this 11 day of March 2011.

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

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

**Notice of Preliminary Determination for  
Ground Water Registration Modification T-11143**

T-11143 filed by Twila M. Wettstein Trust, 9533 Yergen Road NE, Aurora, OR 97002, proposes to modify the point of appropriation under Registration Application 2687 (Certificate of Registration GR-2545). The ground water registration claims the use of 173.11 gallons per minute (tentative priority date June 8, 1952 from a well in Sec 18, T 4 S, R 1 W, W.M. (Willamette Basin) for irrigation in Secs. 7 and 18, T 4 S, R 1 W, W.M., and Secs. 12 and 13, T 4 S, R 2 W, W.M. The applicant proposes to modify the location of the original point of appropriation approximately 500 to 800 feet northwesterly from the original well to three wells located in Sec. 18, T 4 S, R 1 W, W.M., and Sec. 13, T 4 S, R 2 W, W.M. The Water Resources Department has concluded that the proposed modification appears to be consistent with the requirements of ORS Chapter 537, ORS Chapter 540 and OAR 690-382-1000.