

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

In the Matter of Transfer Application) PRELIMINARY DETERMINATION
T-11142, Marion County) PROPOSING APPROVAL OF
) ADDITIONAL POINTS 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

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 an application for additional points of appropriation under Certificate 34687. The Department assigned the application number T-11142.

2. The right to be transferred is as follows:
 - Certificate:** 34687 in the name of H. R. DRIEVER (perfected under Permit G-2902)
 - Use:** IRRIGATION of 68.8 ACRES
 - Priority Date:** MAY 13, 1965
 - Rate:** 0.86 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, 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.
 - Source:** A WELL, a tributary of the WILLAMETTE RIVER (COLUMBIA RIVER)

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	DLC	Measured Distances
4 S	2 W	WM	13	NE NE	46	2880 FEET NORTH AND 910 FEET WEST FROM THE SE CORNER OF CHILDERS DLC 46

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	4.1
4 S	2 W	WM	12	SE SE	46	22.6
4 S	2 W	WM	13	NE NE	46	30.1

- Certificate 34687 identifies the measured distance of the point of appropriation from the SE corner of DLC 46; however, further review of the final proof survey map and the CWRE map submitted with the transfer application indicates the measured distance is actually from the SE corner of DLC 75.
- Transfer Application T-11142 proposes additional points of appropriation approximately 40 feet and 310 feet southeast from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	1 W	WM	18	NW NW	75	2730 FEET NORTH AND 600 FEET WEST FROM THE SE CORNER OF DLC 75
4 S	2 W	WM	13	NE NE	46	2840 FEET NORTH AND 870 FEET WEST FROM THE SE CORNER OF DLC 75

- Notice of the application for transfer was published on October 19, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On March 3, 2011, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11142 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 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.
- 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-11142.
- The proposed change would not result in enlargement of the right.
- The proposed change would not result in injury to other water rights.

Determination and Proposed Action


The additional points of appropriation proposed in Transfer Application T-11142 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-11142 is approved, the final order will include the following:

- 1. The additional points of appropriation proposed in Transfer Application T-11142 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 34687 and any related decree.*
- 3. Water right certificate 34687 is cancelled.*
- 4. The quantity of water diverted at the additional 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 points 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 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 11 day of March 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@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.

**Notice of Preliminary Determination for
Water Right Transfer T-11142**

T-11142 filed by Twila M. Wettstein Trust, 9533 Yergen Road NE, Aurora, OR 97002, proposes additional points of appropriation under Certificate 34687. The right allows the use of 0.858 cubic foot per second (priority date May 13, 1965) from a well in Sec. 13, T 4 S, R 2 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 additional points of appropriation approximately 40 feet and 310 feet southeast 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 transfer appears to be consistent with the requirements of ORS Chapter 540 and OAR 690-380-5000.

Any person may file, jointly or severally, with the Department a protest or standing statement within 30 days after the date of final publication of notice in the Department's weekly notice or of this newspaper notice, whichever is later. A protest form and additional information on filing protests may be obtained by calling (503) 986-0883. The last date of newspaper publication is **[DATE OF LAST PUBLICATION]**. If no protests are filed, the Department will issue a final order consistent with the preliminary determination.

