

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

In the Matter of Transfer Application) PRELIMINARY DETERMINATION
T-11096, Umatilla 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

ANDREW SANDLER
1812 10TH AVENUE E
SEATTLE, WA 98102

Findings of Fact

Background

1. On June 23, 2010, ANDREW SANDLER filed an application for an additional point of appropriation Certificate 26533. The Department assigned the application number T-11096.
2. The portion of the right to be transferred is as follows:

Certificate: 26533 in the name of RICHARD KNOPF (perfected under Permit G-483)
Use: SUPPLEMENTAL IRRIGATION of 8.8 ACRES
Priority Date: OCTOBER 23, 1950
Rate: 0.11 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 3 acre-feet per acre for each acre for each acre irrigated during the irrigation season of each year.
Source: A WELL within the DUGGER CREEK BASIN

<p>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.</p>

Authorized Point of Appropriation:

Well	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Well	6 N	35 E	WM	33	NE NW	300 FEET NORTH AND 380 FEET WEST FROM THE SE CORNER OF THE NE ¼ OF THE NW ¼ OF SECTION 33

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Source	Twp	Rng	Mer	Sec	Q-Q	Acres
Well	6 N	35 E	WM	33	NE NW	8.8

3. The Transfer Map prepared by John S. Warinner, CWRE, states that the authorized Point of Appropriation is better described as:

Well	Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Measured Distances
POA 1	6 N	35 E	WM	33	NE NW	301	1030 FEET SOUTH AND 400 FEET WEST FROM THE NORTH ¼ CORNER OF SECTION 33

4. Transfer Application T-11096 proposes to add the following point of appropriation, approximately 200 feet south of the existing point of appropriation:

Well	Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Measured Distances
POA 2	6 N	35 E	WM	33	NE NW	301	1255 FEET SOUTH AND 415 FEET WEST FROM THE NORTH ¼ CORNER OF SECTION 11

5. Notice of the application for transfer was published on June 29, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
6. On July 26, 2011, the Department mailed a copy of a draft Preliminary Determination proposing to approve Transfer Application T-11096 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 27, 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)

7. 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.
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-11096.
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.

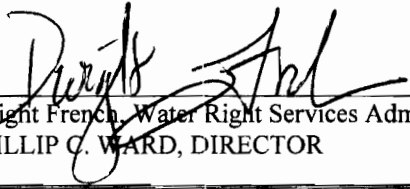
Determination and Proposed Action

The additional point of appropriation proposed in Transfer Application T-11096 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-11096 is approved, the final order will include the following:

1. *The additional point of appropriation proposed in application T-11096 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 26533 and any related decree.*
3. *Water right certificate 26533 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 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. *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 portion of the right transferred will be issued.*

Dated at Salem, Oregon this 19 day of September, 2011.



Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

This Preliminary Determination was prepared by a Reimbursement Authority contractor. If you have questions about the information in this document, you may reach Dorothy Pedersen at 503-986-0890 or Dorothy.I.Pedersen@wrds.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.