



Oregon

John A. Kitzhaber, MD, Governor

August 13, 2012

Water Resources Department

North Mall Office Building

725 Summer St. NE, Suite A

Salem, OR 97301

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www.oregon.gov/owrd

VIA E-MAIL

Applicant

WILLAMETTE EGG FARMS

GORDON SATRUM

31348 S HWY 170

CANBY, OR 97013

gsatrum@willamette-egg.com

SUBJECT: Water Right Transfer Application T-11366

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11366. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the Department's notice.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me at 503-986-0881 or teri.k.hranac@wrds.state.or.us, if I may be of assistance.

Sincerely,

Teri Hranac

Transfer Specialist

Transfer and Conservation Section

Enclosures

cc: T-11366

Mike L. McCord, District 16 Watermaster (*via e-mail*)

Steven R. Bruce, Agent for the applicant (*via e-mail at steve@skookumwater.com*)



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, tributary of BEAR CREEK (WILLAMETTE RIVER)

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 E	WM	9	SE NE	1680 FEET SOUTH AND 40 FEET WEST FROM THE NE CORNER OF SECTION 9

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Type of Change
5 S	1 E	WM	9	NE NE	12.8	APOA
5 S	1 E	WM	9	SE NE	16.6	APOA
5 S	1 E	WM	9	SE NE	2.6	APOA/POU
5 S	1 E	WM	10	NW NW	17.7	APOA
5 S	1 E	WM	10	NW NW	2.1	APOA/POU
5 S	1 E	WM	10	SW NW	6.6	APOA
5 S	1 E	WM	10	SW NW	7.6	APOA/POU
Total					66.0	

4. Transfer Application T-11366 proposes additional points of appropriation approximately 1300 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 E	WM	10	SW NW	1780 FEET SOUTH AND 280 FEET EAST FROM THE NW CORNER OF SECTION 10
5 S	1 E	WM	10	SW NW	1380 FEET SOUTH AND 1230 FEET EAST FROM THE NW CORNER OF SECTION 10
5 S	1 E	WM	10	SW NW	1890 FEET SOUTH AND 380 FEET EAST FROM THE NW CORNER OF SECTION 10

5. Transfer Application T-11366 also proposes to change the place of use of 12.3 acres of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 E	WM	10	SW NW	2.8
5 S	1 E	WM	10	SE NW	9.5
Total					12.3

6. The second right to be transferred is as follows:

Certificate: 44577 in the name of WILLAMETTE EGG FARM (perfected under Permit G-5414)
Use: IRRIGATION of 28.4 ACRES
Priority Date: MAY 27, 1971
Rate: 0.36 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 BEAR CREEK OVERFLOW CHANNEL

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 E	WM	9	SE NE	1680 FEET SOUTH AND 40 FEET WEST FROM THE NE CORNER OF SECTION 9

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Type of Change
5 S	1 E	WM	10	NW NW	9.3	APOA
5 S	1 E	WM	10	NW NW	2.3	APOA/POU
5 S	1 E	WM	10	SW NW	12.5	APOA/POU
5 S	1 E	WM	10	SW NW	4.3	APOA
Total					28.4	

7. Transfer Application T-11366 proposes additional points of appropriation approximately 1300 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 E	WM	10	SW NW	1890 FEET SOUTH AND 380 FEET EAST FROM THE NW CORNER OF SECTION 10
5 S	1 E	WM	10	SW NW	1780 FEET SOUTH AND 280 FEET EAST FROM THE NW CORNER OF SECTION 10
5 S	1 E	WM	10	SW NW	1380 FEET SOUTH AND 1230 FEET EAST FROM THE NW CORNER OF SECTION 10

8. Transfer Application T-11366 also proposes to change the place of use of 14.8 acres of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 E	WM	10	SE NW	14.8

9. Notice of the application for transfer was published on March 13, 2012, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
10. On July 31, 2012, the Department sent a copy of the Preliminary Determination proposing to approve Transfer Application T-11366 to the applicant. The Preliminary Determination cover letter set forth a deadline of August 31, 2012, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination, provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer, and requested a completion date of October 2015.

Transfer Review Criteria (OAR 690-380-4010)

11. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
12. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-11366.
13. The proposed change would not result in enlargement of the rights.
14. The proposed change would not result in injury to other water rights.

Partial Cancellation of a Water Right

1. On March 1, 2012, an affidavit certifying that a portion of a water right has been abandoned and requesting cancellation of the right was received from Smyrna United Church of Christ. The right to be cancelled is as follows:

Certificate: 42788 in the name of TALMER DYBVAD (perfected under Permit G-4046)
Use: IRRIGATION of 0.3 ACRE
Priority Date: MAY 29, 1968
Rate: 0.004 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, tributary of BEAR CREEK (WILLAMETTE RIVER)

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 E	WM	9	SE NE	1780 FEET SOUTH AND 40 FEET WEST FROM THE NE CORNER OF SECTION 9

Authorized Place of Use to be Cancelled:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 E	WM	9	NE NE	0.3

Determination and Proposed Action

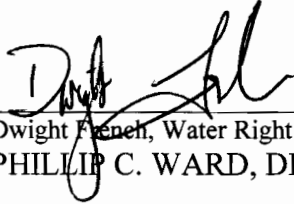
The additional points of appropriation and changes in places of use proposed in Transfer Application T-11366 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000 and the abandoned right should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved and the abandoned right(s) will be cancelled.

If Transfer Application T-11366 is approved, the final order will include the following:

- 1. The additional points of appropriation and changes in places of use proposed in Transfer Application T-11366 are approved. The portion of the right that has been abandoned is cancelled.*
- 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 42788 and 44577 and any related decree.*
- 3. Water right certificate 42788 and 44577 are 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 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 (new and existing).*
 - 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 is 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 places of use of the transferred rights shall no longer receive water under the rights.*
- 8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2015**. 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. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 13 day of August 2012.



Dwight French, Water Right Services Administrator, 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@wrp.state.or.us.

Protests should be addressed to the attention of Transfer and Conservation Section, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.