

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

|                                       |   |                               |
|---------------------------------------|---|-------------------------------|
| In the Matter of Transfer Application | ) | FINAL ORDER APPROVING         |
| T-10903, Lake County                  | ) | TEMPORARY CHANGES IN PLACE    |
|                                       | ) | OF USE, A TEMPORARY CHANGE IN |
|                                       | ) | POINT OF APPROPRIATION, AND A |
|                                       | ) | TEMPORARY 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 temporarily transfer the place of use and, if necessary to convey the water to the temporary place of use, the point of appropriation 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**

GOLDEN RULE FARMS INC.  
P.O. BOX 255  
CHRISTMAS VALLEY, OREGON 97641

**Findings of Fact**

**Background**

1. On June 11, 2009, Golden Rule Farms, Inc. filed an application to temporarily change the place of use and point of appropriation to serve the proposed place of use under Certificate 52640 and to temporarily change the place of use and add an additional point of appropriation to serve the proposed place of use under Certificate 81517 for a period of 5 years. The Department assigned the application number T-10903.

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

2. The first right to be temporarily transferred is as follows:

**Certificate:** 52640 in the names of ROBERT AND ARLINE CLINKENBEARD  
(perfected under Permit G-9651)  
**Use:** IRRIGATION OF 121.6 ACRES  
**Priority Date:** APRIL 5, 1982  
**Rate:** 1.52 CUBIC FEET 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.  
**Source:** A WELL within the FORT ROCK BASIN

**Authorized Point of Appropriation:**

| Twp  | Rng  | Mer | Sec | Q-Q   | Measured Distances                                                               |
|------|------|-----|-----|-------|----------------------------------------------------------------------------------|
| 27 S | 16 E | WM  | 18  | NW NE | 1320 FEET NORTH AND 1330 FEET WEST FROM THE E $\frac{1}{4}$ CORNER OF SECTION 18 |

**Authorized Place of Use:**

| IRRIGATION |      |     |     |       |       |
|------------|------|-----|-----|-------|-------|
| Twp        | Rng  | Mer | Sec | Q-Q   | Acres |
| 27 S       | 16 E | WM  | 18  | NE NE | 28.7  |
| 27 S       | 16 E | WM  | 18  | NW NE | 29.5  |
| 27 S       | 16 E | WM  | 18  | SW NE | 32.2  |
| 27 S       | 16 E | WM  | 18  | SE NE | 31.2  |

3. Temporary Transfer Application T-10903 proposes to temporarily change the place of use of the right described by Certificate 52640 to:

| IRRIGATION |      |     |     |       |       |
|------------|------|-----|-----|-------|-------|
| Twp        | Rng  | Mer | Sec | Q-Q   | Acres |
| 27 S       | 17 E | WM  | 19  | NE NE | 32.7  |
| 27 S       | 17 E | WM  | 19  | NW NE | 23.5  |
| 27 S       | 17 E | WM  | 19  | SW NE | 32.7  |
| 27 S       | 17 E | WM  | 19  | SE NE | 32.7  |

4. A change in point of appropriation is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-10903 proposes to move the authorized point of appropriation approximately six miles east to:

| Twp  | Rng  | Mer | Sec | Q-Q   | Measured Distances                                                  |
|------|------|-----|-----|-------|---------------------------------------------------------------------|
| 27 S | 17 E | WM  | 19  | NE NE | 1320 FEET SOUTH AND 1280 FEET WEST FROM THE NE CORNER OF SECTION 19 |

5. The portion of the second right to be temporarily transferred is as follows:

**Certificate:** 81517 in the name of Golden Rule Farms, Inc. (perfected under Permit G-8888)  
**Use:** IRRIGATION OF 9.2 ACRES  
**Priority Date:** JULY 10, 1980  
**Rate:** 0.12 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 acre-feet per acre for each acre irrigated during the irrigation season of each year.  
**Source:** A WELL within the FORT ROCK BASIN

**Authorized Point of Appropriation:**

| Twp  | Rng  | Mer | Sec | Q-Q   | Measured Distances                                              |
|------|------|-----|-----|-------|-----------------------------------------------------------------|
| 27 S | 17 E | WM  | 21  | SW SE | 80 FEET NORTH AND 40 FEET EAST FROM THE S¼ CORNER OF SECTION 21 |

**Authorized Place of Use:**

| IRRIGATION |      |     |     |       |       |
|------------|------|-----|-----|-------|-------|
| Twp        | Rng  | Mer | Sec | Q-Q   | Acres |
| 27 S       | 17 E | WM  | 28  | NE NE | 9.2   |

6. Temporary Transfer Application T-10903 proposes to temporarily change a portion of the place of use of the right described by Certificate 81517 to:

| IRRIGATION |      |     |     |       |       |
|------------|------|-----|-----|-------|-------|
| Twp        | Rng  | Mer | Sec | Q-Q   | Acres |
| 27 S       | 17 E | WM  | 19  | NW NE | 9.2   |

7. An additional point of appropriation is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-10903 proposes an additional point of appropriation approximately 1.4 miles northwest to:

| Twp  | Rng  | Mer | Sec | Q-Q   | Measured Distances                                                  |
|------|------|-----|-----|-------|---------------------------------------------------------------------|
| 27 S | 17 E | WM  | 19  | NE NE | 1320 FEET SOUTH AND 1280 FEET WEST FROM THE NE CORNER OF SECTION 19 |

8. Notice of the application for temporary transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.

**Temporary Transfer Review Criteria**

9. Water has been used within the last five years according to the terms and conditions of the rights. There is no evidence available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.

10. Pumps, pipelines, and sprinkler systems sufficient to use the full amount of water allowed under the existing rights are present.
11. The proposed changes would not result in enlargement of the rights.
12. The proposed changes would not result in injury to other water rights. This finding is made through an abbreviated review recognizing that the transfer may be revoked under ORS 540.523(6) if the Department later finds that the transfer is causing injury to any existing water right.

### **Conclusions of Law**

The temporary changes in place of use, point of appropriation, and additional point of appropriation to serve the temporary places of use proposed in Temporary Transfer Application T-10903 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

### **Now, therefore, it is ORDERED:**

1. The temporary changes in place of use, point of appropriation, and additional point of appropriation to serve the temporary places of use proposed in Temporary Transfer Application T-10903 are approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the 2009, 2010, 2011, 2012 and 2013 irrigation seasons.
3. The use shall revert to the authorized places of use at the end of the 2013 irrigation season. The authorization to use the temporary point of appropriation shall be terminated concurrently.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
5. A subsequent application for permanent transfer of Certificates 52640 and 81517 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
6. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificates 52640 and 81517.
7. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
8. Prior to diverting of water at the new points of appropriation, the water user shall install an in-line flow meter or other suitable device for measuring and recording the quantity of water used. 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.

9. The use of the remaining water rights described by Certificates 52640 and 81517 shall continue to be in accordance with the terms and conditions of Certificates 52640 and 81517.

Dated at Salem, Oregon this 16<sup>th</sup> day of July 2009.

  
Phillip C. Ward, Director *PCW*

Mailing Date: JUL 27 2009