

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-11335, Lake County)	CHANGES IN POINTS OF
)	APPROPRIATION AND PLACES OF
)	USE; AND TERMINATING
)	TEMPORARY TRANSFER T-10903

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

GOLDEN RULE FARMS, INC.
PO BOX 255
CHRISTMAS VALLEY, OR 97641

Findings of Fact

Background

1. On December 20, 2011, GOLDEN RULE FARMS, INC. filed an application to change the point of appropriation and to change the place of use under Certificates 52640 and 81517. The Department assigned the application number T-11335.
2. On July 16, 2009, Temporary Transfer T-10903 was approved (Special Order Volume 78, pages 484-488). T-10903 covers the same places of use and points of appropriation described in this permanent transfer application, and is in effect for five years, ending in 2013, or until terminated by order of the Department.
3. As part of Transfer Application T-11335, the applicant requested that Temporary Transfer T-10930 be cancelled upon issuance of an order approving Transfer Application T-11335.

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, 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.

4. The first right to be transferred is as follows:

Certificate: 52640 in the name 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 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
Total					121.6

5. Transfer Application T-11335 proposes to move the authorized point of appropriation approximately 6.0 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 EAST FROM THE NE CORNER OF SECTION 19

6. Transfer Application T-11335 also proposes to change the place of use of the right 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
Total					121.6

7. The portion of the second right to be 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: 0.115 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: ONE 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	4.6
27 S	17 E	WM	28	NW NE	4.6
Total					9.2

8. Transfer Application T-11335 proposes to move the authorized point of appropriation 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

9. Transfer Application T-11335 also proposes to change the place of use of the right to:

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

10. Notice of the application for transfer was published on December 27, 2011, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

11. On June 7, 2012, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11335 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 9, 2012, 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.

12. On July 9, 2012, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11335 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on July 10, 2012, and in the Lake County Examiner newspaper on July 18 and 25, and August 1, 2012, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.

Transfer Review Criteria (OAR 690-380-4010)

13. 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.
14. 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-11335.
15. The proposed change would not result in enlargement of the rights.
16. The proposed change would not result in injury to other water rights.

Conclusions of Law

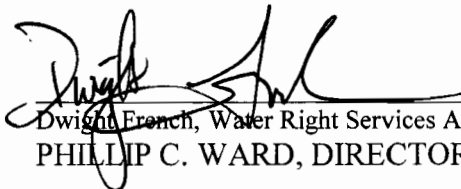
The change in points of appropriation and change in places of use proposed in Transfer Application T-11335 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. Temporary Transfer T-10903 is terminated. The final order entered at Special Order Volume 78, pages 484-488 is of no further force or effect.
2. The change in points of appropriation and change in places of use proposed in Transfer Application T-11335 are approved.
3. 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 Certificates 52640 and 81517 and any related decree.
4. Water right certificates 52640 and 81517 are cancelled. A new certificate will be issued describing that portion of Certificate 81517 not affected by this transfer.
5. The quantity of water diverted at the new points of appropriation shall not exceed the quantity of water lawfully available at the original points of appropriation.

6. 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.
7. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
8. The former places of use of the transferred rights shall no longer receive water under the rights.
9. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2013**. 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.
10. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 4 day of September, 2012.


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

Mailing date: SEP 12 2012