

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

In the Matter of Transfer Applications)	FINAL ORDER TERMINATING A
T-10549 and T-10520, Lake County)	TEMPORARY TRANSFER AND
)	APPROVING CHANGES IN POINT OF
)	APPROPRIATION AND PLACE OF
)	USE

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
P.O. Box 255
Christmas Valley, OR 97641

Findings of Fact

Background

1. On January 17, 2008, Golden Rule Farms filed an application to change the place of use and point of appropriation under Certificate 76483. The Department assigned the application number T-10520.
2. On April 10, 2008, temporary transfer T-10549 was approved (Special Order Volume 74, pages 583-585). That temporary transfer covered the same place of use and point of appropriation described in this application and is in effect for five years, ending in 2012, or until terminated by order of the Department.
3. On February 23, 2009, received an email withdrawing temporary transfer 10549 when transfer 10520 is approved.
4. The right to be transferred is as follows:

Certificate: 76483 in the name of RICHARD WIDENOJA (perfected under Permit G-6980)

<p>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.</p>

Use: IRRIGATION of 130.0 ACRES

Priority Date: SEPTEMBER 1, 1976

Rate: 1.62 CUBIC FEET PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3 acre-feet per acre per year

Source: A WELL in the FORT ROCK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
26 S	15 E	WM	8	NE NE	1310 FEET SOUTH AND 1320 FEET WEST FROM THE NE CORNER OF SECTION 8

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	8	NE NE	32.5
26 S	15 E	WM	8	NW NE	32.5
26 S	15 E	WM	8	SW NE	32.5
26 S	15 E	WM	8	SE NE	32.5

5. Application T-10520 proposes to move the authorized point of appropriation approximately 15.5 miles southeast from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
27 S	17 E	WM	15	SE SW	1310 FEET NORTH AND 10 FEET WEST FROM THE S $\frac{1}{4}$ CORNER OF SECTION 15

6. Application T-10520 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	17 E	WM	15	NE SW	32.5
27 S	17 E	WM	15	SE SW	32.5
27 S	17 E	WM	15	NW SE	32.5
27 S	17 E	WM	15	SW SE	32.5

7. Before T-10520 can be approved, temporary transfer T-10549 must expire or be terminated by order of the Department.
8. Notice of the application for transfer was published on January 29, 2008, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
9. On February 20, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10520 to the applicant. The draft Preliminary Determination set forth a deadline of April 20, 2009, for the applicant to respond. The applicant requested that temporary transfer T-10549 be cancelled upon issuance of an order approving transfer application T-10520 and that the Department proceed with issuance of a Preliminary Determination. The applicant provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

10. On March 25, 2009, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10520 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on April 7, 2009, and in the Lake County Examiner newspaper on April 15, 22 and 29, 2009, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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 right, and there is no information in the record that would demonstrate that the right is 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 right were present within the five-year period prior to submittal of Application T-10520.
13. The proposed change would not result in enlargement of the right.
14. The proposed change would not result in injury to other water rights.

Conclusions of Law

The changes in place of use and point of appropriation proposed in application T-10520 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-10549 is terminated. The final order entered at Special Order Volume 74, pages 583-585 is of no further force or effect.
2. The changes in place of use and point of appropriation proposed in application T-10520 are approved.
3. The right to the use of the water is restricted to beneficial use at the proposed place of use described, and is subject to all other conditions and limitations contained in Certificate 76483 and any related decree.
4. Water right certificate 76483 is cancelled.
5. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
6. The quantity of water diverted at the new point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
7. The former place of use of the transferred right shall no longer receive water under the right.

8. Prior to diverting water, the water user shall install an in-line flow meter or other suitable device for measuring and recording the quantity of water diverted. 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. The water user shall maintain and operate the measuring device as required by the Department.
9. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2010**. A Claim of Beneficial Use prepared by a Certified Water Rights 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. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 1ST day of June 2009.



Phillip C. Ward, Director

Mailing date: JUN 12 2009