

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

In the Matter of Transfer Application)
T-11185, Klamath County)
)
) PRELIMINARY DETERMINATION
) PROPOSING APPROVAL OF
) CHANGES IN POINTS 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

CALIFORNIA GIANT, INC.
PO BOX 1359
WATSONVILLE, CA 95077

Findings of Fact

Background

1. On January 13, 2011, CALIFORNIA GIANT, INC. filed an application to change the points of appropriation under Certificates 27304 and 30279. The Department assigned the application number T-11185.
2. On July 6, 2011, the applicant amended the application to clarify the proposed point of appropriation and place of use under Certificate 30279.
3. The portion of the first right to be transferred is as follows:
 - Certificate:** 27304 in the name of C. G. GROSS AND MADELINE J. GROSS
(perfected under Permit U-361)
 - Use:** IRRIGATION of 199.8 ACRES
 - Priority Date:** SEPTEMBER 26, 1950
 - Rate:** 1.9 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.

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.

Source: A WELL within the LOST RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	12 E	WM	34	SE SW	1125 FEET NORTH AND 450 FEET WEST FROM THE S $\frac{1}{4}$ CORNER OF SECTION 34

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	12 E	WM	27	SE SW	1.2
40 S	12 E	WM	27	SW SE	7.6
40 S	12 E	WM	27	SE SE	0.1
40 S	12 E	WM	34	NE NE	5.6
40 S	12 E	WM	34	NW NE	40.0
40 S	12 E	WM	34	SW NE	38.4
40 S	12 E	WM	34	SE NE	0.3
40 S	12 E	WM	34	NE NW	10.8
40 S	12 E	WM	34	SE NW	23.6
40 S	12 E	WM	34	NE SW	32.2
40 S	12 E	WM	34	NW SE	40.0
TOTAL					199.8

4. Transfer Application T-11185 proposes to move the authorized point of appropriation approximately 2750 feet north from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	12 E	WM	34	SW NE	1400 FEET SOUTH AND 2370 FEET EAST OF THE NE CORNER OF SECTION 34

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

Certificate: 30279 in the name of C. G. AND MADELINE J. GROSS (perfected under Permit G-730)

Use: SUPPLEMENTAL IRRIGATION of 32.4 ACRES

Priority Date: DECEMBER 11, 1957

Rate: 0.3 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: GROSS WELL NO. 2 within the LOST RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	12 E	WM	34	SW NE	20.5 CHAINS (1353 FEET) SOUTH AND 4.5 CHAINS (297 FEET) EAST FROM THE N¼ CORNER OF SECTION 34

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	12 E	WM	34	SE SW	4.4
40 S	12 E	WM	34	SW SE	28.0
TOTAL					32.4

6. Transfer Application T-11185 proposes to move the authorized point of appropriation approximately 2750 feet south from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	12 E	WM	34	SE SW	1250 FEET NORTH AND 450 FEET WEST OF THE S¼ CORNER OF SECTION 34

7. Notice of the application for transfer was published on January 18, 2011, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
8. On July 6, 2011, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11185 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 8, 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)

9. 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.
10. 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-11185.
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.

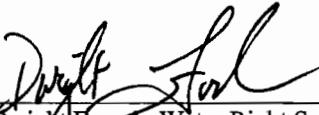
Determination and Proposed Action

The changes in points of appropriation proposed in Transfer Application T-11185 appear 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-11185 is approved, the final order will include the following:

- 13. The changes in points of appropriation proposed in Transfer Application T-11185 are approved.*
- 14. 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 27304 and 30279 and any related decree.*
- 15. Water right certificates 27304 and 30279 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.*
- 16. 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.*
- 17. The water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.*
- 18. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.*
- 19. The approved changes 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 changes and full beneficial use of the water.*
- 20. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 8 day of August 2011.



Dwight French, Water Right Services Administrator, for
PHILIP 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@wrds.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.

**Notice of Preliminary Determination for
Water Right Transfer T-11185**

T-11185 filed by California Giant Inc, PO Box 1359, Watsonville, CA 95077, proposes changes in points of appropriation under Certificates 27304 and 30279. Certificate 27304 allows the use of 1.9 cubic feet per second (priority date September 26, 1950) from a well in Sec. 34, T 40 S, R 12 E, W.M. (Lost River Basin) for irrigation in Secs. 27 and 34, T 40 S, R 12 E, W.M. The applicant proposes to move the point of appropriation approximately 2750 feet north within Sec. 34. Certificate 30279 allows the use of 0.3 cubic foot per second (priority date December 11, 1957) from a well in Sec. 34, T 40 S, R 12 E, W.M. (Lost River Basin) for supplemental irrigation in Sec. 34. The applicant proposes to move the point of appropriation approximately 2750 feet south within Sec. 34. The Water Resources Department has concluded that the proposed transfer appears to be consistent with the requirements of ORS Chapter 540 and OAR 690-380-5000.

Any person may file, jointly or severally, with the Department a protest or standing statement within 30 days after the date of final publication of notice in the Department's weekly notice or of this newspaper notice, whichever is later. A protest form and additional information on filing protests may be obtained by calling (503) 986-0883. The last date of newspaper publication is **[DATE OF LAST PUBLICATION]**. If no protests are filed, the Department will issue a final order consistent with the preliminary determination.