



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department
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July 6, 2012

Applicant

GOLDEN RULE FARMS
PO BOX 255
CHRISTMAS VALLEY, OR 97641

SUBJECT: Water Right Transfer Application T-11335

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11335. 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 and in the Lake County Examiner newspaper, 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 last date of newspaper publication.

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

cc: T-11335
Brian M. Mayer, District 12 Watermaster (*via e-mail*)
Dennis R. Glender, Agent for the applicant (*via e-mail at djglender@msn.com*)



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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-11335, Lake County)	PROPOSING APPROVAL OF A
)	CHANGE 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.

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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.

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.

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 $\frac{1}{4}$ 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
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.

Transfer Review Criteria (OAR 690-380-4010)

12. 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.
13. 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.
14. The proposed change would not result in enlargement of the rights.
15. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The change in points of appropriation and change in places of use proposed in Transfer Application T-11335 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-11335 is approved, the final order will include the following:

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 9th day of July, 2012.

E. Timothy Wall for

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@wrđ.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.