



# Oregon

John A. Kitzhaber, MD, Governor

## Water Resources Department

North Mall Office Building  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
503-986-0900  
FAX 503-986-0904

May 9, 2013

### **Applicant**

GOLDEN RULE FARMS  
PO BOX 255  
CHRISTMAS VALLEY, OR 97641  
Via E-mail: goldenrulefarms@gmail.com

### **Agent**

DENNIS R. GLENDER  
DBA GLENDER'S HYDRO TECH  
SERVICES  
8664 SW SAND RIDGE RD  
CROOKED RIVER RANCH, OR 97760  
Via E-mail: djglender@msn.com

SUBJECT: Water Right Transfer Application T-11482

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11482. 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 Burns Times Herald 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 503-986-0858 if I may be of assistance.

Sincerely,

Susan Douthit  
Transfer and Conservation Section

cc: T-11482  
JR Johnson, District 10 Watermaster (via e-mail)

Dennis R. Glender, Agent for the applicant (*via e-mail*)

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

In the Matter of Transfer Application            )  
T-11482, Harney County                        )  
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**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 October 24, 2012, GOLDEN RULE FARMS filed an application for an additional point of appropriation under Certificate 82370. The Department assigned the application number T-11482.

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

**Certificate:** 82370 in the name of CONNECTICUT GENERAL LIFE INSURANCE CO.  
(perfected under Permit G-8593)

**Use:** IRRIGATION of 206.0 ACRES

**Priority Date:** JUNE 4, 1979

**Rate:** 1.88 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 is limited to a diversion of ONE-EIGHTIETH of one cfs (or its equivalent) per acre irrigated , not to exceed 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

**Source:** A WELL in the SOUTH FORK MALHEUR RIVER

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.

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	34 E	WM	9	NW NW	800 FEET SOUTH AND 1300 FEET EAST FROM THE NW CORNER OF SECTION 9

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	34 E	WM	4	NE SW	5.6
27 S	34 E	WM	4	NW SW	33.1
27 S	34 E	WM	4	SW SW	40.0
27 S	34 E	WM	4	SE SW	37.6
27 S	34 E	WM	4	SW SE	13.7
27 S	34 E	WM	9	NW NE	39.7
27 S	34 E	WM	9	NE NW	20.0
27 S	34 E	WM	9	NW NW	16.3
Total:					206.0

- Transfer Application T-11482 proposes to add an the authorized point of appropriation approximately ½ mile in a southeasterly direction from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	34 E	WM	9	NE NE	1302 FEET SOUTH AND 1302 FEET WEST FROM THE NE CORNER OF SECTION 9

- Notice of the application for transfer was published on October 30, 2012, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On March 28, 2013, the Department sent a copy of the Preliminary Determination proposing to approve Transfer Application T-11482 to the applicant. The Preliminary Determination cover letter set forth a deadline of April 26, 2013, 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)***

- Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-11482.
- The proposed change would not result in enlargement of the right.
- The proposed change would not result in injury to other water rights.

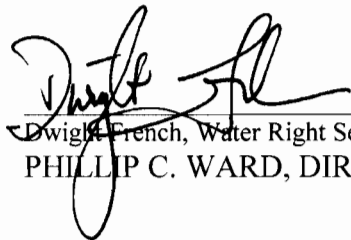
## **Determination and Proposed Action**

The additional point of appropriation proposed in Transfer Application T-11482 appears 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-11482 is approved, the final order will include the following:*

- 10. The additional point of appropriation proposed in application T-11482 is approved.*
- 11. 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 Certificate 82370 and any related decree.*
- 12. Water right certificate 82370 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
- 13. The quantity of water diverted at the additional point of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*
- 14. 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 (new and existing).*
  - 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.*
- 15. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
- 16. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2014**. 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 change and full beneficial use of the water.*
- 17. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 8 day of May, 2013.



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

This Preliminary Determination was prepared by Carrie Matthews. If you have questions about the information in this document, you may reach me at 541-523-8224 x 223 or [Carrie.R.Matthews@wrд.state.or.us](mailto:Carrie.R.Matthews@wrд.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.