



Oregon

Kate Brown, Governor

Water Resources Department

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November 22, 2016

GI RANCH CORPORATION
MATT SMITH, VICE PRESIDENT
15 SW COLORADO AVENUE, SUITE 1
BEND, OR 97702

SUBJECT: Water Right Transfer Application T-12313

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12313. 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 Bend Bulletin 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 503-986-0890 or Sarah.A.Henderson@ wrd.state.or.us if I may be of assistance.

Sincerely,

Sarah Henderson
Transfer Specialist
Transfer and Conservation Section

cc: Transfer Application file T-12313
Jeremy T. Giffin, District 11 Watermaster (*via e-mail*)
Bruce A. Estes, Agent and CWRE 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) **PRELIMINARY DETERMINATION**
T-12313, Crook County) **PROPOSING APPROVAL OF A**
) **CHANGE IN POINTS OF**
) **APPROPRIATION AND PLACES OF**
) **USE**

Authority

Oregon Revised Statutes (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. Oregon Administrative Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

GI RANCH CORPORATION
MATT SMITH, VICE PRESIDENT
15 SW COLORADO AVENUE, SUITE 1
BEND, OR 97702

Findings of Fact

1. On March 10, 2016, GI RANCH CORPORATION, MATT SMITH, VICE PRESIDENT filed an application to change the points of appropriation and change the places of use under Certificates 42372, 82877, 90460 and 90461. The Department assigned the application number T-12313.
2. Notice of the application for transfer was published on March 22, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On August 17, 2016, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12313 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 16, 2016, 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.
4. The portion of the first right to be transferred is as follows:
Certificate: 42372 in the name of G.I. RANCH INC., LEONARD LUNDGREN
(perfected under Permit G-5208)
Use: IRRIGATION of 43.6 ACRES
Priority Date: JANUARY 25, 1971

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.

Rate: 0.54 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: A WELL within the SOUTH FORK CROOKED RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
20 S	22 E	WM	25	SW SE	6380 FEET NORTH AND 1940 FEET WEST FROM THE SE CORNER OF SECTION 36

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
20 S	22 E	WM	36	NE SE	6.8
20 S	22 E	WM	36	SE SE	36.8
Total					43.6

5. Certificate 42372 does describe the location of the point of diversion, however information is available from the applicant and CWRE indicating that the point of diversion is more accurately described as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
20 S	22 E	WM	25	SW SE	GI WELL - 1100 FEET NORTH AND 1940 FEET WEST FROM THE SE CORNER OF SECTION 25

6. Transfer Application T-12313 proposes to move the authorized point of appropriation approximately 2.2 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
20 S	22 E	WM	27	SE NW	F-5 - 1610 FEET NORTH AND 130 FEET WEST FROM THE S1/4 CORNER OF SECTION 27

7. Transfer Application T-12313 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
20 S	22 E	WM	27	NW NE	3.4
20 S	22 E	WM	27	SW NE	39.7
20 S	22 E	WM	27	SE NE	0.5
Total					43.6

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

Certificate: 82877 in the name of G.I. RANCH CORPORATION, C/O WILLIAM L. SMITH (perfected under Permit G-2422)
Use: IRRIGATION of 176.0 ACRES
Priority Date: MAY 6, 1963
Rate: 2.2 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 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; provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.

Source: GI WELL NO. 3 within the SOUTH FORK CROOKED RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
20 S	22 E	WM	25	SW SE	6380 FEET NORTH AND 1940 FEET WEST FROM THE SE CORNER OF SECTION 36

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
20 S	22 E	WM	25	SW NE	2.3
20 S	22 E	WM	25	SE NE	0.4
20 S	22 E	WM	25	SE SW	6.0
20 S	22 E	WM	25	NE SE	3.8
20 S	22 E	WM	25	NW SE	1.4
20 S	22 E	WM	25	SW SE	1.9
20 S	22 E	WM	25	SE SE	1.0
20 S	22 E	WM	36	NE NE	21.4
20 S	22 E	WM	36	NW NE	5.5
20 S	22 E	WM	36	SE NE	3.6
20 S	22 E	WM	36	NE NW	11.8
20 S	22 E	WM	36	NW NW	3.2
20 S	22 E	WM	36	SW NW	6.4
20 S	22 E	WM	36	SE NW	28.0
20 S	22 E	WM	36	NE SW	25.6
20 S	22 E	WM	36	NW SW	1.6
20 S	22 E	WM	36	SE SW	16.3
20 S	22 E	WM	36	NW SE	1.6
20 S	22 E	WM	36	SW SE	34.2
Total					176.0

9. Certificate 82877 does describe the location of the point of diversion, however information is available from the applicant and CWRE indicating that the point of diversion is more accurately described as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
20 S	22 E	WM	25	SW SE	GI WELL - 1100 FEET NORTH AND 1940 FEET WEST FROM THE SE CORNER OF SECTION 25

10. Transfer Application T-12313 proposes to move the authorized point of appropriation approximately 1.3 and 2.2 miles respectively from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
20 S	22 E	WM	26	NE SW	F-7 - 1690 FEET NORTH AND 1960 FEET EAST FROM THE SW CORNER OF SECTION 26
20 S	22 E	WM	27	SE NW	F-5 - 1610 FEET NORTH AND 130 FEET WEST FROM THE S1/4 CORNER OF SECTION 27

11. Transfer Application T-12313 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
20 S	22 E	WM	26	NE SW	4.3
20 S	22 E	WM	26	SE SW	13.2
20 S	22 E	WM	26	NW SE	2.3
20 S	22 E	WM	26	SW SE	31.8
20 S	22 E	WM	27	NW NE	10.0
20 S	22 E	WM	27	NE NW	20.3
20 S	22 E	WM	27	NW NW	0.5
20 S	22 E	WM	27	SW NW	8.4
20 S	22 E	WM	27	SE NW	40.0
20 S	22 E	WM	27	NE SW	21.4
20 S	22 E	WM	27	NW SW	0.6
20 S	22 E	WM	27	NW SE	15.4
20 S	22 E	WM	35	NW NE	7.8
Total					176.0

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

Certificate: 90460 in the name of G I RANCH CORP. (perfected under Permit G-15040)
Use: IRRIGATION of 91.0 ACRES
Priority Date: JUNE 21, 2000
Rate: 1.49 CUBIC FEET PER SECOND
Limit/Duty: The amount of water used for irrigation under this right, 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) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.
Period of Use: March 1 through October 31
Source: A WELL within the CROOKED RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
21 S	22 E	WM	3	NW NW	FIFE WELL - 940 FEET SOUTH AND 40 FEET EAST FROM THE NW CORNER OF SECTION 3

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
20 S	22 E	WM	34	NW SW	11.5
20 S	22 E	WM	34	SW SW	8.2

Twp	Rng	Mer	Sec	Q-Q	Acres
21 S	22 E	WM	3	SW NW	15.9
21 S	22 E	WM	3	SE NW	12.5
21 S	22 E	WM	3	NE SW	10.7
21 S	22 E	WM	3	NW SW	32.2
Total					91.0

13. Transfer Application T-12312 proposes to move the authorized point of appropriation approximately 2.0 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
20 S	22 E	WM	26	NE SW	F-7 - 1690 FEET NORTH AND 1960 FEET EAST FROM THE SW CORNER OF SECTION 26

14. Transfer Application T-12313 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
20 S	22 E	WM	26	SW SW	12.5
20 S	22 E	WM	26	SE SW	18.9
20 S	22 E	WM	35	NW NE	15.8
20 S	22 E	WM	35	NE NW	37.2
20 S	22 E	WM	35	NW NW	6.6
Total					91.0

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

Certificate: 90461 in the name of G I RANCH CORP.; WILLIAM SMITH (perfected under Permit G-17237)

Use: IRRIGATION of 11.0 ACRES

Priority Date: SEPTEMBER 25, 2000

Rate: 0.14 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water used for irrigation under this right, 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) and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Period of Use: March 1 through October 31

Source: A WELL within the LONG CANYON BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
20 S	22 E	WM	33	SE SE	WELL F-3 - 160 FEET NORTH AND 80 FEET WEST FROM THE SE CORNER OF SECTION 33

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
20 S	22 E	WM	33	NE SW		1.5
20 S	22 E	WM	33	SE SW		1.3
20 S	22 E	WM	33	NE SE		1.5
20 S	22 E	WM	33	NW SE		1.3

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
20 S	22 E	WM	33	SE SE		1.3
21 S	22 E	WM	4	NE NE	1	1.4
21 S	22 E	WM	4	NW NE	2	1.3
21 S	22 E	WM	4	NE NW	3	1.4
Total						11.0

16. Transfer Application T-12313 proposes to move the authorized point of appropriation approximately 1.9 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
20 S	22 E	WM	26	NE SW	F-7 – 1690 FEET NORTH AND 1960 FEET EAST FROM THE SW CORNER OF SECTION 26

17. Transfer Application T-12313 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
20 S	22 E	WM	26	NE SW	3.1
20 S	22 E	WM	26	SE SW	7.9
Total					11.0

Transfer Review Criteria (OAR 690-380-4010)

18. 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.
19. 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-12313.
20. The proposed change would not result in enlargement of the rights.
21. The proposed change would not result in injury to other water rights.
22. All other application requirements are met.

Determination and Proposed Action

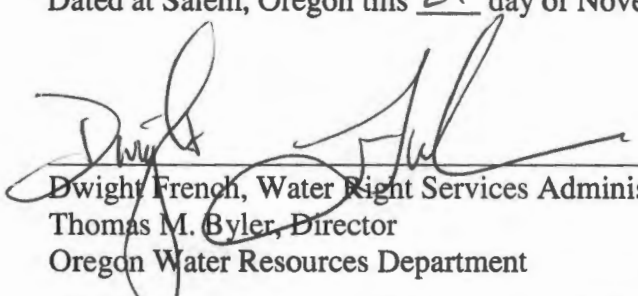
The change in points of appropriation and changes in place of use proposed in Transfer Application T-12313 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

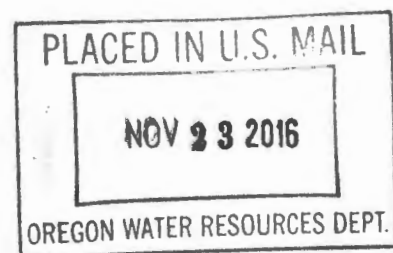
If Transfer Application T-12313 is approved, the final order will include the following:

1. *The change in points of appropriation and changes in place of use proposed in Transfer Application T-12313 are approved.*

2. *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 42372, 82877, 90460 and 90461 and any related decree.*
3. *Water right Certificates 42372, 82877, 90460 and 90461 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.*
4. *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.*
5. *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 new 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.*
6. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
7. *The former place of use of the transferred right shall no longer receive water under the right.*
8. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2018**. 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.*
9. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 21 day of November, 2016.


Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department



This Preliminary Determination was prepared by Sarah Henderson. If you have questions about the information in this document, you may reach me at 503-986-0890 or Sarah.A.Henderson@wrdd.state.or.us.

Protests should be addressed to the attention of Water Rights Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.

Notice Regarding Service Members: Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act, 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>