



Oregon
Kate Brown, Governor

Water Resources Department
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Salem, OR 97301
(503) 986-0900
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October 31, 2017

GOLDEN RULE FARMS INC.
PO BOX 255
CHRISTMAS VALLEY, OR 97641

SUBJECT: Water Right Transfer Application T-12420

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12420. 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 503-986-0886 or Patrick.K.Starnes@oregon.gov if I may be of assistance.

Sincerely,

Kelly Starnes
Transfer Program Analyst
Transfer and Conservation Section

cc: Transfer Application file T-12420
J R. Johnson, District 10 Watermaster *(via e-mail)*
John A. Short, 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)	PRELIMINARY DETERMINATION
T-12420, Harney County)	PROPOSING APPROVAL OF A
)	CHANGE IN POINTS OF
)	APPROPRIATION AND A CHANGE IN
)	PLACE 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

GOLDEN RULE FARMS INC.
PO BOX 255
CHRISTMAS VALLEY, OR 97641

Findings of Fact

1. On July 5, 2016, GOLDEN RULE FARMS INC. filed an application to change the points of appropriation and to change the place of use under Certificate 39665. The Department assigned the application number T-12420.
2. Notice of the application for transfer was published on July 12, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 20, 2017, the agent for the applicant submitted an amended transfer map.
4. On September 13, 2017, the agent for the applicant submitted an amended transfer application and map after reviewing the first draft preliminary determination.
5. On June 22, 2017 and September 13, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12420 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of October 13, 2017, for the applicant to respond. The applicant requested the completion date be extended to October 1, 2023 and for 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.

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

Certificate: 39665 in the name of FLOYD H. AND SUZANNE K. GARLAND
(perfected under Permit G-4030)
Use: IRRIGATION OF 17.9 ACRES
Priority Date: MARCH 18, 1968
Rate: 0.22 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 BLITZEN VALLEY BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	30 E	WM	14	SW SE	530 FEET NORTH AND 80 FEET EAST FROM THE S¼ CORNER OF SECTION 14

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
23 S	30 E	WM	14	SW SE	17.9

7. Transfer Application T-12420 proposes to move the authorized points of appropriation approximately 25.8 miles for Well No. 2 and 26 miles for Well No. 3 from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	32 E	WM	6	NE NW	WELL No. 2 - 1280 FEET SOUTH AND 1 FOOT WEST FROM N¼ CORNER OF SECTION 6
27 S	32 E	WM	6	NW NE	WELL No. 3 - 1280 FEET SOUTH AND 1280 FEET EAST FROM THE N¼ CORNER OF SECTION 6

8. Transfer Application T-12420 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
27 S	32 E	WM	6	NW NE	2	11.4
27 S	32 E	WM	6	SW NE		6.5
Total						17.9

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 right. There is no information in the record that would demonstrate that the right is 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 right were present within the five-year period prior to submittal of Transfer Application T-12420.
11. The proposed changes would not result in enlargement of the right.
12. The proposed changes would not result in injury to other water rights.
13. All other application requirements are met.

Determination and Proposed Action

The change in points of appropriation and change in place of use proposed in Transfer Application T-12420 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.

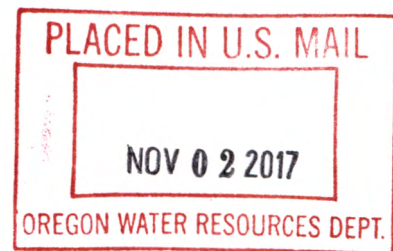
If Transfer Application T-12420 is approved, the final order will include the following:

1. *The change in points of appropriation and change in place of use proposed in Transfer Application T-12420 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 Certificate 39665 and any related decree.*
3. *Water right Certificate 39665 is cancelled. A new certificate will be issued describing that portion of the right 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 point 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 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.*
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, 2023**. 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.*
9. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 30th day of October, 2017.


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



This Preliminary Determination was prepared by Marcy Osborn. If you have questions about the information in this document, you may reach me at 541-523-8224 ext.228 or marcy.j.osborn@oregon.gov.

Protests should be addressed to the attention of Water Rights Services 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>