

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12376, 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

SINGHOSE LAND AND CATTLE CO., LLC
PO BOX 55
RILEY, OR 97758

Findings of Fact

1. On May 9, 2016, GOLDEN RULE FARMS, INC. filed an application to change the point of appropriation and the place of use under Certificate 91445. The Department assigned the application number T-12376.
2. Notice of the application for transfer was published on May 17, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On September 21, 2016, the Department informed the applicant of a potential layering issue.
4. On October 28, 2016, the applicants' agent provided an affidavit for the partial cancellation 0.8 Acres of Certificate 91445, resolving the potential layering issue.

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.

5. On December 9, 2016, the Department notified the agent that groundwater withdrawals at the proposed location would result in increased interference with an existing groundwater right, Permit G-15348. The applicant would need to consent to the subordination of priority dates for groundwater right Permit G-15348, which they own, in order to prevent injury. The agent for the applicant submitted a statement consenting to the subordination of the priority date, April 5, 2000, to resolve the issue of injury to their groundwater right Permit G-15348.
6. On April 10, 2017, an assignment by proof of ownership from Golden Rule Farms Inc, to Singhose Land and Cattle Co., LLC was completed for Transfer Application T-12376.
7. On March 22, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12376 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 24, 2017, for the applicant to respond.
8. On March 27, 2017, the Department received a report of ownership for the incorrect lands.
9. On May 10, 2017, the Department sent an email to the applicants' agent requesting reports of ownership for the authorized lands under Certificate 91445, and provided a list of the tax lots in which a report will need to be submitted.
10. On May 11, 2017, the applicants' agent submitted a report of ownership for review.
11. On May 15, 2017, the Department contacted the applicants' agent by email, informing him of a report of ownership that was not included for one of the requested tax lots, and requesting a notarized statement of consent for lands not owned by the applicant.
12. On May 16, 2017, the applicants' agent submitted the remaining requested report of ownership, as described in the email sent on May 15, 2017.
13. On June 19, 2017, the Department received a signed and notarized consent by deeded landowner form, demonstrating that the applicant is authorized to pursue the transfer.
14. On July 18, 2017, upon further review of the draft Preliminary Determination by the Department, it was found that a groundwater condition was not included in the draft Preliminary Determination that was mailed to the applicant on March 22, 2017.
15. On July 25, 2017, the Department mailed a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-12376 to the applicant. The revised draft Preliminary Determination cover letter set forth a deadline of August 23, 2017, for the applicant to respond.
16. On July 26, 2017, the applicants' agent requested to amend the application to change the location of the proposed points of appropriation.

17. On August 28, 2017, the Department received an amended application and map proposing to change the location of the points of appropriation.
18. On December 7, 2017, the Department completed a groundwater re-review. The review indicates that the proposed additional points of appropriation will result in increased local interference with an existing groundwater right under inchoate transfer application T-12377.
19. On January 22, 2018, the Department recognized a scrivener's error in the groundwater review completed on December 7, 2017. The proposed additional points of appropriation will result in increased local interference with an existing groundwater right under inchoate transfer application T-12337.
20. On March 1, 2018, the Department received an affidavit from the applicants' consenting to the injury of inchoate transfer application T-12337, in which the applicants', Singhose Land & Cattle Company, Inc, are the holder of the water right.
21. On March 12, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12376 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 11, 2018, 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.

22. The right to be transferred is as follows:

Certificate: 91445 in the name of CARPENTER RANCH LLC
(perfected under Permit G-14993)

Use: IRRIGATION OF 432.2 ACRES

Priority Date: APRIL 5, 2000

Rate: 5.4 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 per acre for each acre irrigated during the irrigation season of each year.

Period of Use: MARCH 1 THROUGH OCTOBER 31

Source: ONE WELL, in the MALHEUR LAKE BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	31 E	WM	33	NW NW	WELL 18 - 770 FEET SOUTH AND 1320 FEET EAST FROM THE NW CORNER OF SECTION 33

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	31 E	WM	27	SW SW	32.8
25 S	31 E	WM	27	SE SW	27.2
25 S	31 E	WM	28	SW SE	39.4

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	31 E	WM	28	SE SE	36.0
25 S	31 E	WM	33	NE NE	20.7
25 S	31 E	WM	33	NW NE	28.3
25 S	31 E	WM	33	SW NE	35.0
25 S	31 E	WM	33	SE NE	27.9
25 S	31 E	WM	33	NE NW	0.8
25 S	31 E	WM	33	SW NW	34.6
25 S	31 E	WM	33	SE NW	32.7
25 S	31 E	WM	33	NE SW	1.7
25 S	31 E	WM	33	NW SW	1.8
25 S	31 E	WM	34	NE NW	29.1
25 S	31 E	WM	34	NW NW	27.3
25 S	31 E	WM	34	SW NW	29.4
25 S	31 E	WM	34	SE NW	27.5
TOTAL					432.2

23. Transfer Application T-12376 proposes to move the authorized points of appropriation with approximate distances from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance from authorized well location measured in miles
23 S	26 E	WM	1	NW SW	WELL 9 - 130 FEET SOUTH AND 400 FEET EAST FROM THE W1/4 CORNER OF SECTION 1	34.1
23 S	26 E	WM	1	NW SE	WELL 10 - 50 FEET SOUTH AND 2620 FEET WEST FROM THE E1/4 CORNER OF SECTION 1	34.0
23 S	26 E	WM	11	NE NE	WELL 6 - 1300 FEET SOUTH AND 1300 FEET WEST FROM THE NE CORNER OF SECTION 11	33.4
23 S	26 E	WM	11	NW NW	WELL 5 - 1300 FEET SOUTH AND 1300 FEET EAST FROM THE NW CORNER OF SECTION 11	33.5
23 S	26 E	WM	11	SW SW	WELL 1 - 1300 FEET NORTH AND 1300 FEET EAST FROM THE SW CORNER OF SECTION 11	33.1

24. Transfer Application T-12376 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Well
23 S	26 E	WM	2	NW SE	32.5	WELLS 9 & 10
23 S	26 E	WM	2	SW SE	18.1	
23 S	26 E	WM	11	NE NE	32.5	WELL 6
23 S	26 E	WM	11	NW NE	32.5	
23 S	26 E	WM	11	SW NE	32.5	
23 S	26 E	WM	11	SE NE	32.5	
23 S	26 E	WM	11	NE NW	32.5	WELL 5
23 S	26 E	WM	11	NW NW	32.5	
23 S	26 E	WM	11	SW NW	32.5	
23 S	26 E	WM	11	SE NW	32.5	

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Well
23 S	26 E	WM	11	NE SW	32.5	WELL 1
23 S	26 E	WM	11	NW SW	32.5	
23 S	26 E	WM	11	SW SW	32.5	
23 S	26 E	WM	11	SE SW	24.1	
TOTAL					432.2	

Transfer Review Criteria (OAR 690-380-4010)

25. 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.
26. 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-12376.
27. The proposed change would not result in enlargement of the right.
28. The proposed change, as conditioned by the applicant's consenting to injury of inchoate water right transfer T-12337 by affidavit, with an understanding that the approval of this transfer may permanently reduce the quantity of water available under their water right.
29. 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-12376 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.

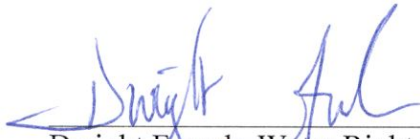
If Transfer Application T-12376 is approved, the final order will include the following:

1. *The change in point of appropriation and change in place of use proposed in Transfer Application T-12376 is 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 91445 and any related decree.*
3. *Water right Certificate 91445 is cancelled.*

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. *The wells shall be continuously cased and continuously sealed to a minimum depth of five (5) feet into the volcanic/volcaniclastic rock unit. The wells may not be completed in such a manner to allow ground water to be developed from overlying basin fill unit. If during well construction, it becomes apparent that the well can be constructed to eliminate interference with nearby shallow wells or hydraulically connected streams in a manner other than specified in this permit, the permittee can contact the Department Hydrogeologist for this permit or the Ground Water/Hydrology Section Manager to request approval of such construction. The request shall be in writing, and shall include a rough well log and a proposed construction design for approval by the Department. The request can be approved only if it is received and reviewed prior to placement of any permanent casing and sealing material. If the well is constructed first and then the request made, the requested modification will not be approved. If approved, the new well depth and construction specifications will be incorporated into any confirming certificate issued under this transfer application.*
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 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.*
7. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
8. *The former place of use of the transferred right shall no longer receive water under the right.*
9. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2019**. 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.*

10. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon, MAY 09 2018.



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

This Preliminary Determination was prepared by Jessica Joye. If you have questions about the information in this document, you may reach me at 503-986-0814 or Jessica.L.Joye@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>