

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12427, Harney County)	PROPOSING APPROVAL OF A
)	CHANGE IN POINT 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 July 11, 2016, GOLDEN RULE FARMS, INC. filed an application to change the point of appropriation and place of use under Certificate 91556. The Department assigned the application number T-12427.
2. Notice of the application for transfer was published on July 19, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On August 17, 2016, the Department determined that groundwater withdrawals at this proposed location will result in increased local interferences with an existing groundwater right, Certificate 60746.
4. On April 7, 2017, transfer application T-12427 was assigned in the name of SINGHOSE LAND AND CATTLE CO., LLC.
5. On May 12, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to deny Transfer Application T-12427 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 9, 2017, for the applicant to respond.
6. On July 26, 2017, the applicants' agent requested to amend the application to change the location of the proposed points of appropriation.

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.

7. On August 28, 2017, the Department received an amended application and map proposing to change the location of the points of appropriation.
8. 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.
9. 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.
10. 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.
11. On March 12, 2018, the Department mailed a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-12427 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 11, 2018, for the applicant to respond.
12. On April 24, 2018, the Department contacted the Applicant's agent requesting the submission of an affidavit for consent to transfer by the deeded landowner.
13. On May 11, 2018, the Department sent a deficiency letter by mail requesting the submission of an affidavit for consent to transfer by the deeded landowner. The deficiency letter set forth a deadline of May 25, 2018, for the applicant to submit the affidavit.
14. On June 22, 2018, the Department received a signed affidavit for consent to transfer by deeded landowner form. 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.
15. The right to be transferred is as follows:

Certificate: 91556 in the name of GOLDEN RULE FARMS INC.
(perfected under Permit G-17543)

Use: IRRIGATION OF 335.0 ACRES

Priority Date: FEBRUARY 8, 1999

Rate: 4.19 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: A WELL, in 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	NE SW	40.0
25 S	31 E	WM	27	NW SW	40.0
25 S	31 E	WM	27	NE SE	24.6
25 S	31 E	WM	27	NW SE	29.0
25 S	31 E	WM	27	SW SE	29.0
25 S	31 E	WM	27	SE SE	24.6
25 S	31 E	WM	28	NE SE	31.4
25 S	31 E	WM	34	NE NE	27.9
25 S	31 E	WM	34	NW NE	30.3
25 S	31 E	WM	34	SW NE	30.3
25 S	31 E	WM	34	SE NE	27.9
Total					335.0

16. Transfer Application T-12427 proposes to move the authorized point of appropriation with approximate distances from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance from authorized point of appropriation (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	31.9
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	31.5

17. Transfer Application T-12427 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
23 S	26 E	WM	1	NE SW	32.5
23 S	26 E	WM	1	NW SW	32.5
23 S	26 E	WM	1	SW SW	32.5
23 S	26 E	WM	1	SE SW	32.5
23 S	26 E	WM	1	NE SE	32.5
23 S	26 E	WM	1	NW SE	32.5
23 S	26 E	WM	1	SW SE	32.5
23 S	26 E	WM	1	SE SE	32.5
23 S	26 E	WM	2	NE SE	28.1
23 S	26 E	WM	2	SW SE	14.4
23 S	26 E	WM	2	SE SE	32.5
Total					335.0

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 right. There is no information in the record that would demonstrate that the right is 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 right was present within the five-year period prior to submittal of Transfer Application T-12427.
20. The proposed changes, as conditioned, would not result in enlargement of the right.
21. The proposed changes, 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.
22. All other application requirements are met.

Determination and Proposed Action

The change in point of appropriation and change in place of use proposed in Transfer Application T-12427 appears 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-12427 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-12427 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 91556 and any related decree.*
3. *Water right Certificate 91556 is cancelled.*
4. *The quantity of water diverted at the new points 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.*

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 wells 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.*

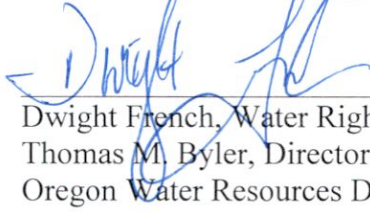
The request shall be in writing, and shall include a rough well log and a proposed construction design for approval by the Department. The request can be approved only if it is received and reviewed prior to placement of any permanent casing and sealing material. If the well is constructed first and 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.*
10. *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 changes and full beneficial use of the water.*

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

JUL 19 2018

Dated at Salem, Oregon, _____.



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 at 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>