

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

In the Matter of Transfer Application        )  
T-11602, Lake County                        )  
  )  
  )        **FINAL ORDER APPROVING A  
TEMPORARY CHANGE IN PLACE OF  
USE AND CHANGE IN POINT OF  
APPROPRIATION**

**Authority**

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to temporarily transfer the place of use and, if necessary to convey the water to the temporary place of use, the point of appropriation 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.

**Applicant**

J. R. SIMPLOT SELF DECLARATION OF REVOCABLE TRUST  
P.O. BOX 27  
BOISE, ID 83707

**Findings of Fact**

**Background**

1. On May 21, 2013, J. R. SIMPLOT SELF DECLARATION OF REVOCABLE TRUST filed an application to temporarily change the place of use and change the point of appropriation to serve the proposed place of use under Certificate 86190 for a period of five years. The Department assigned the application number T-11602.
2. Notice of the application for transfer was published on May 28, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The portion of the right to be transferred is as follows:  
**Certificate:** 86190 in the name of J R. SIMPLOT, TRUSTEE, J R SIMPLOT SELF DECLARATION OF REVOCABLE TRUST (perfected under Permit G-13505)  
**Use:** IRRIGATION OF 136.7 ACRES  
**Priority Date:** SEPTEMBER 19, 1997  
**Rate:** 1.7 CUBIC FEET PER SECOND

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

**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.

**Sources:** WELLS 1 AND 2 within the CHEWAUCAN RIVER BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
33 S	19 E	WM	17	SW NW	WELL 1 - 2600 FEET SOUTH AND 50 FEET EAST OF THE NW CORNER OF SECTION 17
33 S	19 E	WM	7	NE SE	WELL 2 - 1690 FEET NORTH AND 770 FEET WEST OF THE NW CORNER OF SECTION 17

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
33 S	19 E	WM	7	SE SW	1.0
33 S	19 E	WM	7	NE SE	3.0
33 S	19 E	WM	7	NW SE	2.5
33 S	19 E	WM	7	SW SE	35.9
33 S	19 E	WM	7	SE SE	35.1
33 S	19 E	WM	8	SW SW	0.2
33 S	19 E	WM	18	NE NE	28.9
33 S	19 E	WM	18	NW NE	29.8
33 S	19 E	WM	18	NE NW	0.3
Total					136.7

- 4 Temporary Transfer Application T-11602 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	19 E	WM	14	SW SW	2.4
34 S	19 E	WM	14	SE SW	32.9
34 S	19 E	WM	14	SW SE	23.8
34 S	19 E	WM	23	NW NE	31.3
34 S	19 E	WM	23	SW NE	1.2
34 S	19 E	WM	23	NE NW	38.8
34 S	19 E	WM	23	NW NW	3.7
34 S	19 E	WM	23	SE NW	2.6
Total					136.7

- 5 A change in point of appropriation is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-11602 proposes to move the authorized points of appropriation approximately 7.8 miles southeast to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
34 S	19 E	WM	23	NE NW	WELL 7 (LAKE 52463) - 170 FEET SOUTH AND 3000 FEET WEST OF THE NE CORNER OF SECTION 23

### ***Temporary Transfer Review Criteria***

- 6 Water has been used within the last five years according to the terms and conditions of the right. There is no evidence available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- 7 A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
- 8 The proposed change would not result in enlargement of the right.
- 9 The proposed change would not result in injury to other water rights. This finding is made through an abbreviated review recognizing that the transfer may be revoked under ORS 540.523(5) if the Department later finds that the transfer is causing injury to any existing water right.

### **Conclusions of Law**

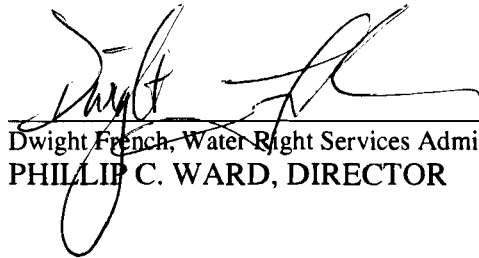
The temporary change in place of use and point of appropriation to serve the temporary place of use proposed in Temporary Transfer Application T-11602 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

### **Now, therefore, it is ORDERED:**

1. The temporary change in place of use and point of appropriation to serve the temporary place of use proposed in Temporary Transfer Application T-11602 are approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2013, 2014, 2015, 2016 and 2017 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2017 irrigation season. The authorization to use the temporary point of appropriation shall be terminated concurrently.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
5. A subsequent application for permanent transfer of Certificate 86190 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
6. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificate 86190.
7. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.

8. 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 meter(s) or measuring device(s) in good working order.
  - c. The water user shall allow the Watermaster access to the meter(s) or measuring device(s); provided however, where the meter(s) or measuring device(s) are located within a private structure, the Watermaster shall request access upon reasonable notice.
9. The use of the remaining water right(s) described by Certificate 86190 shall continue to be in accordance with the terms and conditions of Certificate 86190.

Dated at Salem, Oregon this 26<sup>TH</sup> day of July, 2013.

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

Mailing Date: AUG 02 2013