

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-13394, Umatilla County)	TEMPORARY CHANGES IN PLACE
)	OF USE AND ADDITIONAL POINTS
)	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

CASTLE ROCK FARMING, LLC
ATTN: GREG HARRIS
75906 THREEMILE ROAD
BOARDMAN, OR 97818

Agent

GEO ENGINEERS, INC.
ATTN: MOLLY REID
8019 W. QUINAULT AVENUE, SUITE 201
KENNEWICK, WA 99336

Findings of Fact

1. On March 18, 2020, Castle Rock Farming, LLC, filed an application to temporarily change the places of use and for additional points of appropriation to serve the proposed place of use under Certificates 76263 and 79993 for a period of 1 year. The Department assigned the application number T-13394.
2. Notice of the application for transfer was published on March 24, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On July 9, 2020, the agent for the applicant submitted a revised application and map to clarify the place of use and disposition of layered rights.
4. The application contains a statement from the agent for the applicant that the following rights which exist on the "FROM" and "TO" lands will not be exercised during the 2020 irrigation season and has requested that the rights not be included as part of this temporary transfer: Permits S-54633, S-55061, S-55190, S-55192, S-55114, S-55262 and Certificates 54753, 83083 and 54753. Existing Permit S-54582 will continue to be used as supplemental irrigation to the incoming primary in Section 4, T2N, R28E, WM.

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.

5. The first right to be temporarily transferred is as follows:

Certificate: 76263 in the name of J. R. SIMPLOT CO. (perfected under Permit G-5812)

Use: IRRIGATION OF 226.1 ACRES

Priority Date: JUNE 12, 1972

Rate: 2.83 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.

Source: ONE WELL in the UMATILLA RIVER BASIN

Authorized Point Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
3 N	28 E	WM	34	NW SE	1300 FEET NORTH AND 60 FEET WEST FROM THE SE CORNER OF THE NW¼ SE¼ OF SECTION 34

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
3 N	28 E	WM	34	SW NE	30.0
3 N	28 E	WM	34	SE NE	24.4
3 N	28 E	WM	34	NW NW	11.3
3 N	28 E	WM	34	SW NW	31.5
3 N	28 E	WM	34	SE NW	10.0
3 N	28 E	WM	34	NE SW	8.0
3 N	28 E	WM	34	NW SW	30.1
3 N	28 E	WM	34	SW SW	2.4
3 N	28 E	WM	34	NE SE	33.6
3 N	28 E	WM	34	NW SE	38.0
3 N	28 E	WM	34	SW SE	4.2
3 N	28 E	WM	34	SE SE	2.6
Total:					226.1

6. Transfer application T-13394 proposes to temporarily change the place of use for the above described right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
2 N	28 E	WM	4	SW NE	29.8
2 N	28 E	WM	4	SE NE	29.9
2 N	28 E	WM	4	NE NW	33.9
2 N	28 E	WM	4	NW NW	32.9
2 N	28 E	WM	4	SW NW	28.0
2 N	28 E	WM	4	SE NW	28.0
3 N	28 E	WM	33	SW SW	0.1
3 N	28 E	WM	33	SE SW	0.1
4 N	29 E	WM	20	NE SW	0.2
4 N	29 E	WM	20	NW SW	33.2
4 N	29 E	WM	20	SW SW	10.0
Total:					226.1

*NOTE: As stated in Finding of Fact #4, water right Certificates# 83083, 53662 & 54753 (T-10879), Permits S-55061, S-55114, S-55190 and S-55192 already exist on the proposed "TO" lands for primary & supplemental irrigation and will not be exercised during the 2020 irrigation season. Existing Permit S-54582 will continue to be used as supplemental irrigation to the incoming primary in Section 4, T2N, R28E, WM.

7. The proposed "TO" lands described in Findings of Facts #6 above are lands for which there is Planned Irrigation Activity during the 2020 irrigation season under in Permits S-55114, S-55262 and S-55263. Use of water under these permits are subject to the following annual use condition: If water from Permits S-55114, S-55262 and S-55263 are used for supplemental irrigation, then pre-existing primary rights for the same place of use cannot be transferred to another place or character of use.
8. Temporary Transfer Application T-13394 also proposes to temporarily add additional points of appropriation to convey the water to the temporary place of use. The three additional L&L points of appropriation, are located an average of approximately 1.9 miles northeast from the authorized point of appropriation, and the Mills North Well is located northeast approximately 10.5 miles from the authorized point of appropriation, located as follows:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
3 N	28 E	WM	23	SW SE	L&L #1 - 960 FEET NORTH AND 30 FEET EAST FROM S ¹ / ₄ CORNER OF SECTION 23
3 N	28 E	WM	26	NW NE	L&L #2 - 930 FEET SOUTH FROM THE N ¹ / ₄ CORNER OF SECTION 26
3 N	28 E	WM	23	NW NW	L&L #3 - 60 FEET SOUTH AND 820 FEET EAST FROM NW CORNER OF SECTION 23
4 N	29 E	WM	20	SW SE	MILLS N. WELL - 1050 FEET NORTH AND 50 FEET EAST FROM S ¹ / ₄ CORNER OF SECTION 20

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

Certificate: 79993 in the name of J R SIMPLOT CO. (perfected under Permit G-5812)
Use: IRRIGATION of 15.5 ACRES
Priority Date: JUNE 12, 1972
Rate: 0.19 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, 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.
Source: SPARKS WELL, within the UMATILLA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
3 N	28 E	WM	34	NW SE	SPARKS WELL - 1300 FEET NORTH AND 60 FEET WEST FROM THE SE CORNER OF NW¼ SE¼ OF SECTION 34

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
3 N	28 E	WM	34	NW NW	0.1
3 N	28 E	WM	34	SW NW	7.9
3 N	28 E	WM	34	SE NW	0.2
3 N	28 E	WM	34	NW SW	7.3
Total:					15.5

10. Transfer application T-13394 proposes to temporarily change the place of use for the above described right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
2 N	28 E	WM	4	NE NE	15.5

*NOTE: As stated in Finding of Fact #4, water right Certificates# 83083, 53662 & 54753 (T-10879), Permits# S-55061, S-55114, S-55190, S-55192, S-54582(IS) already exists on the proposed "TO" lands for primary & supplemental irrigation and will not be exercised during the 2019 irrigation season.

11. Temporary Transfer Application T-13394 also proposes to temporarily add additional points of appropriation to convey the water to the temporary place of use. The three additional points of appropriation, located an average of approximately 1.9 miles northeast from the authorized point of appropriation (SPARKS WELL), are located as follows:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
3 N	28 E	WM	23	SW SE	L&L #1 - 960 FEET NORTH AND 30 FEET EAST FROM S¼ CORNER OF SECTION 23
3 N	28 E	WM	26	NW NE	L&L #2 - 930 FEET SOUTH FROM THE N¼ CORNER OF SECTION 26
3 N	28 E	WM	23	NW NW	L&L #3 - 60 FEET SOUTH AND 820 FEET EAST FROM NW CORNER OF SECTION 23

12. Certain portions of water rights Certificates# 83083, 53662 & 54753 (T-10879), Permits # S-55061, S-55114, S-55190, S-55192, S-54582(IS) already exists on the proposed "TO" lands for primary & supplemental irrigation and will not be exercised during the 2020 irrigation season. These above described rights are appurtenant to lands described in Finding of Facts #6 and #10 above. The agent for the applicant has stated that during the term of the Temporary Transfer, the above listed water rights will not be exercised on any parcels associated with this transfer during the regular 2020 irrigation season.
13. Temporary Transfer Application T-13394 proposes to temporarily transfer water rights within the boundaries of Teel Irrigation District. The district was notified of the proposed temporary transfer and indicated that the district did not object to the transfer.
14. The Department has determined that the proposed points of appropriation (L&L Wells 1/UMAT 1215, Well 2/UMAT 1216, and Well 3/UMAT 1214, and the Mills N. Well/UMAT 2881) are within the same Subarea A of the Stage Gulch Critical Ground Water Area and will develop the same source of water as the authorized existing Sparks Well (UMAT 1224).
15. Temporary Transfer Application T-13394 proposes to temporarily transfer water rights within the boundaries of Teel Irrigation District. The district was notified of the proposed temporary transfer and indicated that the district did not object to the transfer.

Temporary Transfer Review Criteria

16. Water has been used within the last five years according to the terms and conditions of the rights. There is no evidence available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
17. Wells, pumps, pipeline, and sprinkler systems sufficient to use the full amount of water allowed under the existing rights are present.
18. The Department has determined that the proposed additional points of appropriation will develop the same source (aquifer) of water as the authorized existing point of appropriation and are within the same subarea of the State Gulch Critical Ground Water Area.
19. The proposed changes would not result in enlargement of the rights.
20. The proposed changes 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

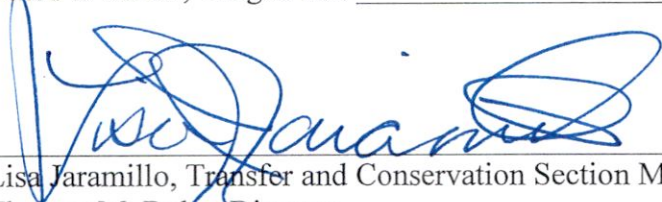
The temporary changes in place of use and additional points of appropriation to serve the temporary places of use proposed in Temporary Transfer Application T-13394 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary changes in place of use and additional points of appropriation to serve the temporary places of use proposed in Temporary Transfer Application T-13394 are approved.
2. The former places of use **shall not** be irrigated as part of these water rights during the 2020 irrigation season.
3. The use shall revert to the authorized place of use at the end of the 2020 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 Certificates 76263 and 79993 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 Certificates 76263 and 79993.
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. The use of the remaining water right described by Certificate 79993 (Industrial Use) shall continue to be in accordance with the terms and conditions of Certificate 79993.

JAN 05, 2021

Dated at Salem, Oregon this _____,



Lisa Jaramillo, Transfer and Conservation Section Manager, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing Date: JAN 06, 2021 _____