

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

COUNTY OF UMATILLA

| | | |
|---|---|--------------------|
| In the Matter of a Proposed Temporary Change |) | ORDER |
| In Place of Use of Water and Additional Points of |) | APPROVING A |
| Appropriation — TRANSFER 9363 |) | TEMPORARY TRANSFER |

FINDINGS OF FACT

1. Pursuant to ORS 540.523, J.R. SIMPLOT CO., PO Box 27, Boise, ID, 83707, submitted a transfer application to the Oregon Water Resources Department to temporarily change the place of use of water and add points of appropriation to facilitate the proposed change in place of use. The transfer application was received on February 27, 2003, and included the required fees.
2. The Department assigned the transfer application number T-9363.
3. The Department published notice of receipt of the temporary transfer application in the Department's Weekly Notice dated March 18, 2003.
4. No comments or timely protests were received in response to the published notice.
5. The first right to be modified, as evidenced by Certificate 76263, was perfected under Permit G-5812 with a date of priority of June 12, 1972. The right allows the use of a well (described as the Sparks Well) in the Umatilla River Basin, for irrigation of 226.1 acres. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 2.83 cubic feet per second or its equivalent in case of rotation, measured at the well.

The well (Sparks Well) is located as follows: NW¼ SE¼, Section 34, Township 3 North, Range 28 East, W.M.; 1,300 feet North and 60 feet West from the SE Corner, NW¼ SE¼, Section 34.

The applicant also proposes to use the following additional points of appropriation to facilitate the temporary change in place of use of water:

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order 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 137-004-080 and OAR 690-01-005, you may either petition for judicial review or petition the Director for reconsideration of this order

Well #1 - SW¼ SE¼, Section 23, Township 3 North, Range 28 East, W.M.; 960 feet North from the S ¼ Corner, Section 23. Well #2 - NW¼ NE¼, Section 26, Township 3 North, Range 28 East, W.M.; 930 feet South from the N ¼ Corner, Section 26.
 Well #3 - NW¼ NW¼, Section 23, Township 3 North, Range 28 East, W.M.; 60 feet South and 820 feet East from the NW Corner, Section 23.

The authorized places of use are located as follows:

| USE | TWP | RNG | SEC | Q/Q | TAXLOT | ACRES | PRIORITY |
|-----|-----|-----|-----|-------|--------|---------------|------------|
| IR | 3N | 28E | 34 | SW NE | 9200 | 30.00 | 06-12-1972 |
| IR | 3N | 28E | 34 | SE NE | 9200 | 24.40 | 06-12-1972 |
| IR | 3N | 28E | 34 | NW NW | 9200 | 11.30 | 06-12-1972 |
| IR | 3N | 28E | 34 | SW NW | 9200 | 31.50 | 06-12-1972 |
| IR | 3N | 28E | 34 | SE NW | 9200 | 10.00 | 06-12-1972 |
| IR | 3N | 28E | 34 | NE SW | 9200 | 8.00 | 06-12-1972 |
| IR | 3N | 28E | 34 | NW SW | 9200 | 30.10 | 06-12-1972 |
| IR | 3N | 28E | 34 | SW SW | 9200 | 2.40 | 06-12-1972 |
| IR | 3N | 28E | 34 | NE SE | 9200 | 33.60 | 06-12-1972 |
| IR | 3N | 28E | 34 | NW SE | 9200 | 38.00 | 06-12-1972 |
| IR | 3N | 28E | 34 | SW SE | 9200 | 4.20 | 06-12-1972 |
| VIR | 3N | 28E | 34 | SE SE | 9200 | 2.60 | 06-12-1972 |
| | | | | | | 226.10 | |

The applicant proposes to change the places of use to:

| USE | TWP | RNG | SEC | Q/Q | TAXLOT | ACRES | PRIORITY | CIRCLE |
|-----|-----|-----|-----|-------|--------|---------------|------------|--------|
| IR | 3N | 28E | 28 | NE SW | 7500 | 30.50 | 06-12-1972 | 13 |
| IR | 3N | 28E | 28 | NW SW | 7500 | 30.20 | 06-12-1972 | 13 |
| IR | 3N | 28E | 28 | SW SW | 7500 | 34.30 | 06-12-1972 | 13 |
| IR | 3N | 28E | 28 | SE SW | 7500 | 28.90 | 06-12-1972 | 13 |
| IR | 3N | 28E | 29 | NE SE | 8105 | 30.00 | 06-12-1972 | 20 |
| IR | 3N | 28E | 29 | NW SE | 8105 | 26.20 | 06-12-1972 | 20 |
| IR | 3N | 28E | 29 | SW SE | 8105 | 29.30 | 06-12-1972 | 20 |
| IR | 3N | 28E | 29 | SE SE | 8105 | 16.70 | 06-12-1972 | 20 |
| | | | | | | 226.10 | | |

- The second right to be modified, as evidenced by a portion of the right for which proof to the satisfaction of the Director has been accomplished under T-7197, was perfected under Permit G-5812 with a date of priority of June 12, 1972. The right allows the use of a well (described as the Sparks Well) in the Umatilla River Basin, for Irrigation of 15.5 acres and industrial use.

The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 2.05 cubic feet per second; being 1.86 cfs for industrial use, and 0.19 cfs for irrigation if available at the original well, or its equivalent in case of rotation, measured at the original point of appropriation (Sparks Well).

The well (Sparks Well) is located as follows:

NW¼ SE¼, Section 34, Township 3 North, Range 28 East, W.M.; 1,300 feet North and 60 feet West from the SE Corner, NW¼ SE¼, Section 34.

The applicant also proposes to use the following additional points of appropriation to facilitate the temporary change in place of use of water:

Well #1 - SW¼ SE¼, Section 23, Township 3 North, Range 28 East, W.M.; 960 feet North from the S ¼ Corner, Section 23.

Well #2 - NW¼ NE¼, Section 26, Township 3 North, Range 28 East, W.M.; 930 feet South from the N ¼ Corner, Section 26.

Well #3 - NW¼ NW¼, Section 23, Township 3 North, Range 28 East, W.M.; 60 feet South and 820 feet East from the NW Corner, Section 23.

The authorized places of use are located as follows:

| USE | TWP | RNG | SEC | Q/Q | TAXLOT | ACRES | PRIORITY |
|-----|-----|-----|-----|-------|--------|--------------|------------|
| IR | 3N | 28E | 34 | NW NW | 9200 | 0.10 | 06-12-1972 |
| IR | 3N | 28E | 34 | SW NW | 9200 | 7.90 | 06-12-1972 |
| IR | 3N | 28E | 34 | SE NW | 9200 | 0.20 | 06-12-1972 |
| IR | 3N | 28E | 34 | NW SW | 9200 | 7.30 | 06-12-1972 |
| | | | | | | 15.50 | |

The applicant proposes to change the places of use to:

| USE | TWP | RNG | SEC | Q/Q | TAXLOT | ACRES | PRIORITY | CIRCLE |
|-----|-----|-----|-----|-------|--------|--------------|------------|--------|
| IR | 3N | 28E | 26 | SE SE | 8105 | 15.50 | 06-12-1972 | 20 |
| | | | | | | 15.50 | | |

CONCLUSIONS OF LAW

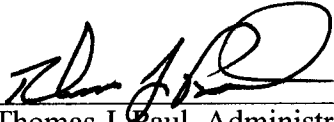
1. The temporary transfer application submitted by J.R. Simplot Co. included the information required by ORS 540.520(2).
2. The temporary transfer application submitted by J.R. Simplot Co. was accompanied by the appropriate fees as set forth in ORS 536.050.
3. The proposed transfer complies with the requirements of ORS 540.523.
4. The Director should approve the transfer because the petition satisfies the criteria and requirements of ORS 540.520(2) and ORS 540.523 resulting in no injury to other water rights.

ORDER

It is hereby ORDERED:

1. The proposed changes to the existing water rights may be made provided the following conditions are met by the water user:
 - a. The change is temporary. The change shall be effective for the 2003 irrigation season upon issuance of this order.
 - b. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
 - c. The former place of use shall **not** be irrigated as part of this water right during the 2003 irrigation season.
 - d. The use shall revert to the authorized place of use at the end of the 2003 irrigation season.
 - e. All restrictions and limitations contained in the decree or permit of the subject rights will apply to the lands described by the change in place of use. Water use from wells in the Butter Creek and Stage Gulch Critical Ground Water Areas subject to allocation under OAR Chapter 690, Division 507 shall not exceed any limitations imposed by administrative rule.

Dated APR 14 2003



Thomas J. Paul, Administrator
Field Services Division