

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING
T-13163, 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 April 5, 2019, 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 one year. The Department assigned the application number T-13163.
2. Notice of the application for transfer was published on April 16, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 28, 2019, the agent for the applicant submitted revised application pages to clarify the requested changes. The agent for the applicant stated the following rights which exist on the "FROM" and "TO" lands the use of water rights existing on the "FROM" and "TO" lands will not be exercised during the 2019 irrigation season and has requested that the rights not be included as part of this temporary transfer: Permits S-54582, S-55061, S-55114, S-55190, S-55192, and Certificates 54753, 83083 and 87111.

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.

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

**Certificate:** 76263 in the name of J. R. SIMPLOT COMPANY (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 within 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

5. Transfer application T-13163 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 No. 3, water right Certificates 83083, 53662 and 54753 (T-10879), water right Permits S-55061, S-55114, S-55190, S-55192, S-54582 (supplemental irrigation) already exist on the proposed "TO" lands for primary and supplemental irrigation and will not be exercised during the 2019 irrigation season.

6. Temporary Transfer Application T-13163 also proposes temporary 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 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
4 N	29 E	WM	20	SW SE	MILLS N. WELL - 1050 FEET NORTH AND 50 FEET EAST FROM S¼ CORNER OF SECTION 20

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

**Certificate:** 79993 in the name of J. R. SIMPLOT COMPANY (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

8. Transfer application T-13163 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 No. 3, water right Certificates 83083, 53662 and 54753 (T-10879), water right Permits S-55061, S-55114, S-55190, S-55192, S-54582 (supplemental irrigation) already exist on the proposed "TO" lands for primary and supplemental irrigation and will not be exercised during the 2019 irrigation season.

9. Temporary Transfer Application T-13163 also proposes to temporary 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

10. Temporary Transfer Application T-13163 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.

11. Certain portions of water right Certificates 83083, 53662 and 54753 (T-10879), water right Permit S-55061, S-55114, S-55190, S-55192, S-54582 (supplemental irrigation) already exists on the proposed "TO" lands for primary and supplemental irrigation and will not be exercised during the 2019 irrigation season. The above described rights are appurtenant to lands described in Finding of Facts Nos. 4 and 7 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 2019 irrigation season.
12. 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).

***Temporary Transfer Review Criteria***

13. 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.
14. Wells, pumps, pipeline, and sprinkler systems sufficient to use the full amount of water allowed under the existing rights are present.
15. The proposed changes would not result in enlargement of the rights.
16. 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-13163 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

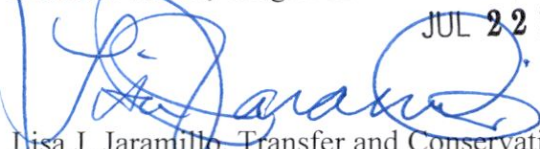
**Now, therefore, it is ORDERED:**

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-13163 are approved.
2. The former places of use **shall not** be irrigated as part of these water rights during the 2019 irrigation season.
3. The use shall revert to the authorized place of use at the end of the 2019 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. Water use measurement conditions:
  - a. Prior to diversion of water, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted at each new point of diversion.
  - b. The type and plans of the headgate and measuring device(s) must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain the meter or measuring device(s) 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. 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.
8. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
9. The use of the remaining water right described by Certificate 79993 shall continue to be in accordance with the terms and conditions of Certificate 79993.

Dated in Salem, Oregon on

JUL 22 2019



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
THOMAS M. BYLER, DIRECTOR  
Oregon Water Resources Department

Mailing Date:           JUL 23 2019