

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-10152, Umatilla County)	TEMPORARY CHANGE IN PLACE OF
)	USE AND ADDITIONAL POINTS OF
)	APPROPRIATION

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 CO.
PO BOX 27
BOISE ID 83707

Findings of Fact

1. On April 24, 2006, J R Simplot Co. filed an application to temporarily change the place of use and add additional points of appropriation under Certificates 76263 and 79993 for a period of one year. The Department assigned the application number T-10152.

2. The first right to be 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: ONE-EIGHTIETH cfs per acre, not to exceed 3 acre feet per acre per year

Source: A WELL in the UMATILLA RIVER BASIN

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an 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 either 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.

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
3 N	28 E	WM	34	NW SE	SPARKS WELL - 1300 FEET NORTH AND 60 FEET WEST FROM THE SE CORNER, NWSE, SECTION 34

Authorized Place of Use:

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

3. Additional points of appropriation are necessary to convey the water to the proposed temporary place of use. Application T-10152 proposes to add points of appropriation an average of approximately 1.9 miles north and east from the authorized point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
3 N	28 E	WM	23	SW SE	L & L WELL #1 - 960 FEET NORTH AND 30 FEET EAST FROM THE S1/4 CORNER OF SECTION 23
3 N	28 E	WM	26	NW NE	L & L WELL #2 - 930 FEET SOUTH FROM THE N1/4 CORNER OF SECTION 26
3 N	28 E	WM	23	NW NW	L & L WELL #3 - 60 FEET SOUTH AND 820 FEET EAST FROM THE NW CORNER OF SECTION 23

4. Application T-10152 proposes to change the place of use of the right to:

IRRIGATION

Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	28 E	WM	23	NE SW	17.1
3 N	28 E	WM	23	NW SW	18.5
3 N	28 E	WM	23	SW SW	39.2
3 N	28 E	WM	23	SE SW	20.1
3 N	28 E	WM	23	NE SE	30.3
3 N	28 E	WM	23	NW SE	31.3
3 N	28 E	WM	23	SW SE	23.7
3 N	28 E	WM	23	SE SE	21.7
3 N	28 E	WM	26	NE NW	12.1
3 N	28 E	WM	26	NW NW	12.1

5. The portion of the second right to be 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: ONE-EIGHTIETH cfs per acre, not to exceed 3 acre feet per acre per year

Source: A WELL in the UMATILLA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
3 N	28 E	WM	34	NW SE	SPARKS WELL - 1300 FEET NORTH AND 60 FEET WEST FROM THE SE CORNER, NWSE, 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

6. Additional points of appropriation are necessary to convey the water to the proposed temporary place of use. Application T-10152 proposes to add points of appropriation an average of approximately 1.9 miles north and east from the authorized point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
3 N	28 E	WM	23	SW SE	L & L WELL #1 - 960 FEET NORTH AND 30 FEET EAST FROM THE S1/4 CORNER OF SECTION 23
3 N	28 E	WM	26	NW NE	L & L WELL #2 - 930 FEET SOUTH FROM THE N1/4 CORNER OF SECTION 26
3 N	28 E	WM	23	NW NW	L & L WELL #3 - 60 FEET SOUTH AND 820 FEET EAST FROM THE NW CORNER OF SECTION 23

7. Application T-10152 proposes to change the place of use of the right to:

IRRIGATION

Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	28 E	WM	23	SE SW	15.5

8. Notice of the application for temporary transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
9. Application T-10152 proposes to temporarily transfer water rights within the boundaries of Westland Irrigation District. The district was notified of the proposed temporary transfer and did not provide any comments.

10. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
11. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
12. The proposed changes would not result in enlargement of the rights.
13. 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(6) if the Department later finds that the transfer is causing injury to any existing water right.

Conclusions of Law


The temporary changes in proposed in application T-10152 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The changes in place of use and add additional points of appropriation proposed in application T-10152 are approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2006 irrigation season.
3. The use shall revert to the authorized place of use at the end of the 2006 irrigation season. The authorization to use the additional points of appropriation shall be terminated concurrently.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes 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 rights described by Certificates 76263 and 79993 shall continue to be in accordance with the terms and conditions of Certificates 76263 and 79993.

Dated at Salem, Oregon this 27th day of June 2006.


for Phillip C. Ward, Director

Mailing Date: JUL 1 1 2006