

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

In the Matter of Transfer Application)	CORRECTING FINAL ORDER
T-13524, Lake County)	APPROVING TEMPORARY
)	CHANGES IN PLACES OF USE AND
)	ADDITIONAL POINTS OF
)	APPROPRIATION

Authority

Oregon Revised Statute (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. Oregon Administrative Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

Applicant

J.R.S. PROPERTIES III, LLP
PO BOX 27
BOISE, ID 83707

Findings of Fact

1. On September 23, 2020, J.R.S. PROPERTIES III, LLP, filed an application to temporarily change the places of use and for additional points of appropriation to serve the proposed places of use under Certificate 93777 for a period of 5 years. The Department assigned the application number T-13524.
2. Notice of the application for transfer was published on September 29, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 30, 2021, a final order was issued approving Temporary Transfer application T-13524 as evidenced in Special Order Volume 118, Page 796; upon issuance of the final order a scrivener’s error was found in the description of the proposed place of use. This order is issued to correct scrivener’s errors in the description of the proposed place of use.

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 portion of the first right to be transferred is as follows:

Certificate: 93777 in the name of J R SIMPLOT SELF DECLARATION REVOCABLE TRUST (perfected under Permit G-15037)
Use: IRRIGATION of 81.3 ACRES
Priority Date: MAY 24, 2001
Rate: 1.02 CUBIC FEET PER SECOND
Period of Use: March 1 through October 31
Limit/Duty: The amount of water used for irrigation under this right, 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) and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: FOUR WELLS in the CHEWAUCAN BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
33 S	19 E	WM	7	NE SE	WELL 2 - 1690 FEET NORTH AND 770 FEET WEST FROM THE SE CORNER OF SECTION 7
33 S	19 E	WM	8	SE NE	WELL 3 - 2048 FEET SOUTH AND 563 FEET WEST FROM THE NE CORNER OF SECTION 8
33 S	19 E	WM	8	NW NW	WELL 4 - 325 FEET SOUTH AND 4704 FEET WEST FROM THE NE CORNER OF SECTION 8
33 S	19 E	WM	17	SW NW	WELL 1 - 2600 FEET SOUTH AND 50 FEET EAST FROM THE NW CORNER OF SECTION 17

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
33 S	19 E	WM	7	NE NE	0.8
33 S	19 E	WM	7	SE NE	1.1
33 S	19 E	WM	8	NE NW	12.4
33 S	19 E	WM	8	NW NW	22.5
33 S	19 E	WM	8	SW NW	26.3
33 S	19 E	WM	8	SE NW	18.2
Total					81.3

5. Temporary Transfer Application T-13524 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
33 S	19 E	WM	23	NE NW	0.2
33 S	19 E	WM	23	NW NW	0.6
33 S	19 E	WM	23	SE NW	0.5
34 S	19 E	WM	14	SW SW	0.5
34 S	19 E	WM	14	SE SW	0.5
34 S	19 E	WM	14	SW SE	0.6
34 S	19 E	WM	15	NE SW	4.5
34 S	19 E	WM	15	NW SW	9.2

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	19 E	WM	15	NW SW	0.9
34 S	19 E	WM	15	SW SW	25.6
34 S	19 E	WM	15	SW SW	10.4
34 S	19 E	WM	15	SE SW	20.8
34 S	19 E	WM	22	NW NE	2.4
34 S	19 E	WM	22	NE NW	0.4
34 S	19 E	WM	22	NE NW	0.4
34 S	19 E	WM	22	NW NW	3.0
34 S	19 E	WM	23	NW NE	0.6
34 S	19 E	WM	23	SW NE	0.2
Total					81.3

6. Additional points of appropriation are necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-13524 proposes to move the authorized points of appropriation approximately between 2.2 and 3.5 miles southeast to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
34 S	19 E	WM	15	SW SW	825 FEET SOUTH AND 1080 FEET EAST FROM THE SW CORNER OF SECTION 15
34 S	19 E	WM	15	SE SE	800 FEET NORTH AND 650 FEET WEST FROM THE SE CORNER OF SECTION 15
34 S	19 E	WM	22	NW NE	510 FEET NORTH AND 3530 FEET EAST FROM THE NW CORNER OF SECTION 22
34 S	19 E	WM	23	NE NW	105 FEET SOUTH AND 3000 FEET WEST FROM THE NE CORNER OF SECTION 23

7. The second right to be transferred is as follows:

Certificate: 93778 in the name of J R SIMPLOT SELF DECLARATION OF REVOCABLE TRUST, RONALD N. GRAVES, TRUSTEE (perfected under Permit G-13714)

Use: IRRIGATION of 193.6 ACRES

Priority Date: NOVEMBER 30, 1998

Rate: 2.42 CUBIC FEET PER SECOND

Period off Use: March 1 through October 31

Limit/Duty: The amount of water used for irrigation, under this right, 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) and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: TWO WELLS in the CHEWAUCAN RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
33 S	19 E	WM	8	SE NE	WELL 3 - 2048 FEET SOUTH AND 563 FEET WEST FROM THE NE CORNER OF SECTION 8
33 S	19 E	WM	8	NW NW	WELL 4 - 325 FEET SOUTH AND 4704 FEET WEST FROM THE NE CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
33 S	19 E	WM	5	NE SW	38.7
33 S	19 E	WM	5	NW SW	14.5
33 S	19 E	WM	5	SW SW	22.1
33 S	19 E	WM	5	SE SW	40.0
33 S	19 E	WM	5	NW SE	23.1
33 S	19 E	WM	5	SW SE	31.8
33 S	19 E	WM	8	NW NE	4.8
33 S	19 E	WM	8	NE NW	16.1
33 S	19 E	WM	8	NW NW	2.5
Total:					193.6

8. Temporary Transfer Application T-13524 proposes to temporarily change the place of use of the right and reduce 74.8 acres to Supplemental Irrigation as described in the tables below to:

PRIMARY IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	19 E	WM	14	NW SW	5.3
34 S	19 E	WM	14	SW SW	29.5
34 S	19 E	WM	15	SW SE	13.2
34 S	19 E	WM	15	SE SE	35.0
34 S	19 E	WM	22	NE NE	23.5
34 S	19 E	WM	22	NW NE	4.6
34 S	19 E	WM	23	NW NW	7.7
Total					118.8

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	19 E	WM	14	NW SW	7.9
34 S	19 E	WM	15	NE SE	32.0
34 S	19 E	WM	15	NW SE	14.1
34 S	19 E	WM	15	SW SE	15.8
34 S	19 E	WM	15	SE SE	5.0
Total					74.8

9. Additional points of appropriation are necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-13524 proposes additional points of appropriation approximately 2.3 and 3.3 miles southeast from the authorized wells to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
34 S	19 E	WM	15	SE SE	LAKE 52491 - 800 FEET NORTH AND 650 FEET WEST FROM THE SE CORNER OF SECTION 15
34 S	19 E	WM	15	SW SW	LAKE 52492 - 825 FEET NORTH AND 1080 FEET EAST FROM THE SW CORNER OF SECTION 15
34 S	19 E	WM	22	NW NE	LAKE 52770 - 510 FEET NORTH AND 3530 FEET EAST FROM THE NW CORNER OF SECTION 22

Temporary Transfer Review Criteria

10. 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.
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 prevent the lands from which the water right is removed during the period of the temporary transfer from receiving water under the transferred rights, as required by ORS 540.523(7).
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(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 place of use proposed in Temporary Transfer Application T-13524 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. This order corrects a scrivener’s error in Special Order Volume 118, Page 796.
2. The temporary change in place of use and additional points of appropriation to serve the temporary place of use proposed in Temporary Transfer Application T-13524 are approved.
3. The former place of use **shall not** be irrigated as part of these water rights during the 2021, 2022, 2023, 2024, and 2025 irrigation seasons.
4. The use shall revert to the authorized place of use at the end of the 2025 irrigation season. The authorization to use the temporary point of appropriation shall be terminated concurrently.

5. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
6. A subsequent application for permanent transfer of Certificates 93777 and 93778 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.
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 93777 and 93778.
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. 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 new point of appropriation.
 - b. The water user shall maintain the meters or measuring device(s) in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring device(s); provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice
10. The use of the remaining water right described by Certificate 93777 shall continue to be in accordance with the terms and conditions of Certificate 93777.

Dated in Salem, Oregon on

APR 07 2021


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

Mailing Date:

APR 09 2021