

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12386, Lake County)	PROPOSING APPROVAL OF A
)	CHANGE IN POINTS OF
)	APPROPRIATION AND PLACE OF
)	USE

Authority

Oregon Revised Statutes (ORS) 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, place of use, or character of use authorized under an existing water right. Oregon Administrative Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

JRS PROPERTIES III LP
PO BOX 27
BOISE, ID 83707
vic.conrad@simplot.com

Findings of Fact

1. On May 16, 2016, JRS PROPERTIES III LP filed an application to change the points of appropriation and to change the place of use under Certificates 86190, 88583, and 88584. The Department assigned the application number T-12386.
2. Notice of the application for transfer was published on May 24, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On January 20, 2017, the applicant submitted a revised application and map.
4. On July 5, 2017, the watermaster submitted a new watermaster review based on the newly amended application and map finding no injury or enlargement.
5. On December 7, 2017, the applicant submitted an amended transfer application and map for a portion of the transfer.
6. On December 18, 2017, the applicant submitted an amended transfer application and map for a portion of the transfer.

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.

7. On December 19, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12386 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of January 19, 2018, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

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

Certificate: 86190 in the name of JR SIMPLOT, TRUSTEE AND J R SIMPLOT SELF-DECLARATION OF REVOCABLE TRUST (perfected under Permit G-13505)

Use: IRRIGATION of 96.5 ACRES

Priority Date: SEPTEMBER 19, 1997

Rate: 1.2 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 no to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: TWO WELLS within the CHEWAUCAN RIVER BASIN

Authorized Points of Appropriation:

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

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
33 S	19 E	WM	18	NW NE	1.6
33 S	19 E	WM	18	SW NE	2.7
33 S	19 E	WM	18	NE NW	22.9
33 S	19 E	WM	18	NW NW	22.5
33 S	19 E	WM	18	SW NW	22.4
33 S	19 E	WM	18	SE NW	20.2
33 S	19 E	WM	18	NE SW	2.6
33 S	19 E	WM	18	NW SW	1.6
Total					96.5

9. Transfer Application T-12386 proposes to move the authorized point of appropriation approximately 7.9 miles from the WELL 1 and 8.7 miles from WELL 2 to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
34 S	19 E	WM	23	SW NE	WELL 6 - 570.9 FEET NORTH AND 1332.8 FEET WEST FROM THE E¼ CORNER OF SECTION 23

10. Transfer Application T-12386 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	19 E	WM	23	SW NW	4.4
34 S	19 E	WM	23	SE NW	11.7
34 S	19 E	WM	23	NE SW	40.0
34 S	19 E	WM	23	NW SW	22.9
34 S	19 E	WM	23	SW SW	3.3
34 S	19 E	WM	23	SE SW	10.7
34 S	19 E	WM	23	NW SE	3.5
Total					96.5

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

Certificate: 88583 in the name of J R SIMPLOT SELF DECLARATION REVOCABLE TRUST (perfected under Permit G-15037)

Use: IRRIGATION of 112.1 ACRES

Priority Date: MAY 24, 2001

Rate: 1.4 CUBIC FEET PER SECOND

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.

Period of Use: MARCH 1 – OCTOBER 31

Source: FOUR WELLS within the CHEWAUCAN RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
33 S	19 E	WM	17	SW NW	WELL 1 - 2600 FEET SOUTH AND 50 FEET EAST FROM THE NW CORNER OF SECTION 17
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

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
33 S	19 E	WM	5	NW SW	1.4
33 S	19 E	WM	5	SW SW	15.9
33 S	19 E	WM	6	NE SE	17.5
33 S	19 E	WM	6	NW SE	7.2
33 S	19 E	WM	6	SW SE	22.8
33 S	19 E	WM	6	SE SE	7.8
33 S	19 E	WM	7	NE NE	22.1
33 S	19 E	WM	7	NW NE	12.4
33 S	19 E	WM	8	NW NW	5.0
Total					112.1

12. Transfer Application T-12386 proposes to move the authorized points of appropriation with the approximate distances from the existing points of appropriation listed in the table below:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Dist. from Well 1	Dist. from Well 2	Dist. from Well 3	Dist. from Well 4
34 S	19 E	WM	23	SW NE	WELL 6 - 570.9 FEET NORTH AND 1332.8 FEET WEST FROM THE E $\frac{1}{4}$ CORNER OF SECTION 23	7.9 mi.	8.7 mi.	8.6 mi.	9.2 mi.
34 S	19 E	WM	23	NE NW	WELL 7 - 105 FEET SOUTH AND 3000 FEET WEST FROM THE NE CORNER OF SECTION 23	7.4 mi.	8.2 mi.	8.1 mi.	8.7 mi.

13. Transfer Application T-12386 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	19 E	WM	14	SW SW	5.9
34 S	19 E	WM	14	SE SW	27.5
34 S	19 E	WM	14	SW SE	18.2
34 S	19 E	WM	23	NW NE	22.9
34 S	19 E	WM	23	SW NE	0.3
34 S	19 E	WM	23	NE NW	27.0
34 S	19 E	WM	23	NW NW	7.8
34 S	19 E	WM	23	SE NW	2.5
Total					112.1

14. The portion of the third right to be transferred is as follows:

Certificate: 88584 in the name of J R SIMPLOT SELF DECLARATION REVOCABLE TRUST AND RONALD N. GRAVES, TRUSTEE (perfected under Permit G-13714)

Use: IRRIGATION of 101.0 ACRES

Priority Date: NOVEMBER 30, 1998

Rate: 1.26 CUBIC FEET PER SECOND

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 within 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	4	SW SW	0.2
33 S	19 E	WM	5	SW SE	3.2
33 S	19 E	WM	5	SE SE	11.5
33 S	19 E	WM	8	NE NE	12.6
33 S	19 E	WM	8	NW NE	23.0
33 S	19 E	WM	8	SW NE	12.1
33 S	19 E	WM	8	SE NE	19.9
33 S	19 E	WM	9	NW NW	13.3
33 S	19 E	WM	9	SW NW	5.2
Total					101.0

15. Transfer Application T-12386 proposes to move the authorized points of appropriation with the approximate distances from the existing points of appropriation listed in the table below:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance from Well 3	Distance from Well 4
34 S	19 E	WM	23	SW NE	WELL 6 - 570.9 FEET NORTH AND 1332.8 FEET WEST FROM THE E $\frac{1}{4}$ CORNER OF SECTION 23	8.6 mi.	9.2 mi.
34 S	19 E	WM	23	NE NW	WELL 7 - 105 FEET SOUTH AND 3000 FEET WEST FROM THE NE CORNER OF SECTION 23	8.1 mi.	8.7 mi.

16. Transfer Application T-12386 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	19 E	WM	14	SE SW	7.1
34 S	19 E	WM	14	SW SE	0.5
34 S	19 E	WM	23	NW NE	1.4
34 S	19 E	WM	23	SW NE	3.2
34 S	19 E	WM	23	NE NW	12.0
34 S	19 E	WM	23	SW NW	11.1
34 S	19 E	WM	23	SE NW	13.4
34 S	19 E	WM	23	NW SW	13.1
34 S	19 E	WM	23	SW SW	9.7
34 S	19 E	WM	23	SE SW	13.5
34 S	19 E	WM	23	NW SE	12.8
34 S	19 E	WM	23	SW SE	3.2
Total					101.0

Transfer Review Criteria (OAR 690-380-4010)

17. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.

18. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-12386.
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.
21. All other application requirements are met.

Determination and Proposed Action


The change in points of appropriation and change in place of use proposed in Transfer Application T-12386 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-12386 is approved, the final order will include the following:

1. *The change in points of appropriation and change in place of use proposed in Transfer Application T-12386 are approved.*
2. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificates 86190, 88583, and 88584 and any related decree.*
3. *Water right Certificates 86190, 88583, and 88584 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.*
4. *The quantity of water diverted at the new points of appropriation, together with that diverted at the original points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.*
5. *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 in good working order.*
 - c. *The water user shall allow the Watermaster access to the meters; provided however, where the meters are located within a private structure, the Watermaster shall request access upon reasonable notice.*
6. *Water shall be acquired from the same aquifer (water source) as the original points of appropriation.*
7. *The former place of use of the transferred right shall no longer receive water under the right.*

8. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2019**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.*
9. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 5 day of April.


Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

This Preliminary Determination was prepared by Marcy Osborn. If you have questions about the information in this document, you may reach me at 541-523-8224 ext.228 or marcy.j.osborn@oregon.gov.

Protests should be addressed to the attention of Water Rights Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.

Notice Regarding Service Members: Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>