

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

In the Matter of Transfer Application             )     FINAL ORDER  
T-9275, Umatilla County, Oregon             )  
   )

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer application to add an additional point of appropriation, change in place of use and change in character of use authorized under existing water rights. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

**Applicant**

Hansell Brother Inc., c/o John Hansell  
28286 Stafford Hansell Road  
Hermiston, OR 97838

**Findings of Fact**

1. On October 21, 2002, Hansell Brothers Inc. filed a transfer application to change the character of use and place of use with the Water Resources Department. The Department assigned the transfer application number T-9275. On October 29, 2002, notice of the application for transfer of T-9275 was published in the Department's weekly notice.
2. On February 13, 2004, Hansell Brothers Inc. filed another transfer application to add an additional point of appropriation with the Water Resources Department. The Department assigned the transfer application number T-9649. On February 24, 2004, notice of the application for transfer of T-9649 was published in the Department's weekly notice. Neither application received a timely protest or comment to the Water Resources Department's weekly published notices.
3. On May 19, 2004, Hansell Brothers, Inc. requested that T-9275 be amended to include the additional point of appropriation (Well #1a) and T-9649 be withdrawn.
4. T-9275 proposes to change the place of use and add an additional point of appropriation under water right certificate 80596 as follows:  
**Certificate:** 80596 in the name of Hansell Brothers, Incorporated  
**Use:** Irrigation  
**Priority Date:** June 28, 1960  
**Quantity:** 0.40 cfs  
**Acres:** 32.0

This is a final order in other than 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.

**Source:** a well within the Umatilla River Basin

**Authorized Point of Appropriation:**

Township		Range		Meridian	Sec	¼ ¼		Location
4	N	27	E	W.M.	27	NE	SE	Well #1 - 1420' N & 490' W from SE corner, Section 27

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	27	E	W.M.	36	SW	SW	26.0 (APOA)
4	N	27	E	W.M.	36	SW	SW	6.0 (POU & APOA)

**Proposed Additional Point of Appropriation:**

Township		Range		Meridian	Sec	¼ ¼		Location
4	N	27	E	W.M.	27	SE	SE	Well #1a - 630' N & 575' W from the SE corner, Section 27

**Proposed Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	27	E	W.M.	36	SE	SW	6.0

5. T-9275 requests to add an additional point of appropriation under water right certificate 74111 as follows.

**Certificate:** 74111 in the name of Hansell Brothers, Incorporated

**Use:** Irrigation

**Priority Date:** June 5, 1964

**Quantity:** 3.33 cfs

**Acres:** 266.7 acres

**Source:** a well (#1) within the Umatilla River Basin [the source of water granted herein includes effluent from the hog raising operation]

**Authorized Point of Appropriation:**

Township		Range		Meridian	Sec	¼ ¼		Location
4	N	27	E	W.M.	27	NE	SE	Well #1 - 1420' N & 490' W from SE corner, Section 27

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	27	E	W.M.	26	SE	SE	10.1
4	N	27	E	W.M.	27	SW	NW	9.8
4	N	27	E	W.M.	27	SE	NW	8.9
4	N	27	E	W.M.	27	NE	SW	35.9
4	N	27	E	W.M.	27	NW	SW	39.4
4	N	27	E	W.M.	27	SW	SW	13.5
4	N	27	E	W.M.	27	SE	SW	12.6
4	N	27	E	W.M.	27	SW	SE	16.6

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	27	E	W.M.	27	SE	SE	23.1
4	N	27	E	W.M.	34	NE	NE	37.5
4	N	27	E	W.M.	34	NW	NE	39.5
4	N	27	E	W.M.	34	SW	NE	10.1
4	N	27	E	W.M.	34	SE	NE	7.1
4	N	27	E	W.M.	34	NE	NW	2.6

**Proposed Additional Point of Appropriation:**

Township		Range		Meridian	Sec	¼ ¼		Location
4	N	27	E	W.M.	27	SE	SE	Well #1a – 630' N & 575' W from the SE corner, Section 27

6. T-9275 requests to change the place of use of portions of water right certificate 74109 as follows:

**Certificate:** 74109 in the name of Hansell Brothers, Incorporated  
**Use:** Irrigation  
**Priority Date:** August 9, 1954  
**Quantity:** 0.02 cfs  
**Acres:** 1.7  
**Source:** a well (#9) within the Umatilla River Basin

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	27	E	W.M.	36	NW	NW	1.7

**Proposed Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	27	E	W.M.	27	SE	SW	1.7

7. T-9275 requests to change the place of use of portions of water right certificate 74112 as follows:

**Certificate:** 74112 in the name of Hansell Brothers, Incorporated  
**Use:** Irrigation  
**Priority Date:** March 31, 1964  
**Quantity:** 0.06 cfs  
**Acres:** 5.0  
**Source:** a well (#7) within the Umatilla River Basin

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	27	E	W.M.	26	SE	NW	4.6
4	N	27	E	W.M.	26	NE	SW	0.4

**Proposed Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	27	E	W.M.	27	SE	NE	5.0

8. T-9275 requests to change the place of use of portions of water right certificate 74185 as follows:

**Certificate:** 74185 in the name of Hansell Brothers, Incorporated  
**Use:** Supplemental Irrigation  
**Priority Date:** January 9, 1970  
**Quantity:** 0.02 cfs  
**Acres:** 1.7  
**Source:** Wells (3, 4, 5, 6, 7, and 8) within the Umatilla River Basin

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	27	E	W.M.	36	NW	NW	1.7

**Proposed Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	27	E	W.M.	27	SE	SW	1.7

9. T-9275 requests to change the place of use of portions of water right certificate 80594 as follows:

**Certificate:** 80594 in the name of Hansell Brothers, Incorporated  
**Use:** Supplemental Irrigation  
**Priority Date:** February 15, 1968  
**Quantity:** 0.075 cfs (if available at the original point of appropriation described as well number 2 located within the NE¼ SE¼, Section 27, Township 4 North, Range 27 East, W.M.; 1420 feet North and 490 feet west from the SE corner of Section 27)  
**Acres:** 6.0  
**Source:** Well #8, a well within the Umatilla River Basin

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	27	E	W.M.	36	SW	SW	6.0

**Proposed Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	27	E	W.M.	27	SE	SW	6.0

10. As a result of a scrivener's error in certificate 74109, the authorized point of diversion is listed as Well 9: SW¼ NW¼, Section 36, T 4 N, R 27 E, W.M.; 1884 feet South and 1315 feet from the NW corner of Section 36. Certificate 74109 is a confirming right certificate from certificate 23740. The word "East" was inadvertently omitted after 1315 feet.

11. As a result of a scrivener's error in certificate 80594, the well is incorrectly listed as being in Section 28. The correct location is Section 26.
12. Certificate 74185 allows the use of Wells 3, 4, 5, 6, 7, 8, and 9, located within the Umatilla River Basin, for irrigation of 1.7 acres. The maximum amount of water to which the right is entitled is 0.02 cubic foot per second (cfs) and 3.0 acre-feet per acre irrigated during the irrigation season of each year, and shall be subject to the provisions of the question of determination of a critical ground water area in the Ordnance area, Morrow and Umatilla counties, Oregon, by Special Order recorded at Volume 27, Pages 40 through 79, dated the 2<sup>nd</sup> day of April 1976. The date of priority of the right is January 9, 1970.
13. As a result of a scrivener's error in Certificate 74185, the location of Well #5 is incorrectly described. The correct description of the location of Well #5 is SE $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 27, Township 4 North, Range 27 East, W. M.; 960 feet North and 1850 feet East from W $\frac{1}{4}$  corner, Section 27.
14. T-9275 requests to change the place of use and character of use from maintenance of a wetland for wildlife and fish (0.78 cfs of the 1.60 cfs) to irrigation of 62.7 acres, and add an additional point of appropriation under water right certificate 80597:

**Certificate:** 80597 in the name of Tyler Hansell  
**Use:** maintenance of a wetland for wildlife and fish  
**Priority Date:** June 28, 1960  
**Quantity:** 0.78 cfs  
**Source:** Well #1, a well within the Umatilla River Basin

**Authorized Point of Appropriation:**

Township		Range		Meridian	Sec	$\frac{1}{4}$ $\frac{1}{4}$		Location
4	N	27	E	W.M.	27	NE	SE	Well #1 – 1420' N & 490' W from SE corner, Section 27

**Authorized Place of Use:**

Township		Range		Meridian	Sec	$\frac{1}{4}$ $\frac{1}{4}$		Acres
3	N	27	E	W.M.	2	NW	NW	X
3	N	27	E	W.M.	2	SW	NW	X
3	N	27	E	W.M.	3	SW	NE	X
3	N	27	E	W.M.	3	SE	NE	X
3	N	27	E	W.M.	3	SE	NW	X

**Proposed Additional Point of Appropriation:**

Township		Range		Meridian	Sec	$\frac{1}{4}$ $\frac{1}{4}$		Location
4	N	27	E	W.M.	27	SE	SE	Well #1a – 630'N & 575'W from the SE corner, Section 27

**Proposed Place of Use:**

Township		Range		Meridian	Sec	$\frac{1}{4}$ $\frac{1}{4}$		Acres
4	N	27	E	W.M.	27	SE	NE	18.0
4	N	27	E	W.M.	27	SE	SW	16.3

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	27	E	W.M.	27	SW	SE	5.3
4	N	27	E	W.M.	34	NE	NW	0.1
4	N	27	E	W.M.	35	SW	NE	6.5
4	N	27	E	W.M.	35	SE	NW	2.6
4	N	27	E	W.M.	35	SE	NW	2.8
4	N	27	E	W.M.	35	NE	SW	5.2
4	N	27	E	W.M.	35	NW	SE	5.9
Total								62.7

15. T-9275 also proposes to add an additional point of appropriation (Well#1a) for the remaining portion of the maintenance of wetland and fish from Well #1 in the amount of 0.82 cfs under water right certificate 80597:

**Authorized Point of Appropriation:**

Township		Range		Meridian	Sec	¼ ¼		Location
4	N	27	E	W.M.	27	NE	SE	Well #1 – 1420’N & 490’W from SE corner, Section 27

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Acres
3	N	27	E	W.M.	2	NW	NW	x
3	N	27	E	W.M.	2	SW	NW	x
3	N	27	E	W.M.	3	SW	NE	x
3	N	27	E	W.M.	3	SE	NE	x
3	N	27	E	W.M.	3	SE	NW	x

**Proposed Additional Point of Appropriation:**

Township		Range		Meridian	Sec	¼ ¼		Location
4	N	27	E	W.M.	27	SE	SE	Well #1a – 630’N & 575’W from the SE corner, Section 27

16. T-9275 requests to change the place of use and character of use from maintenance of wetland for wildlife and fish under water right certificate 80595 to supplemental irrigation:

**Certificate:** 80595 in the name of Tyler Hansell

**Use:** Supplemental maintenance of wetland for wildlife and fish

**Priority Date:** February 15, 1968

**Quantity:** 0.6 cfs, (if available at the original point of appropriation described as well no. 2 located within the NE¼ SE¼, Section 27, Township 4 North, Range 27 East, W.M.; 1420 feet north and 490 feet west from the SE corner of Section 27)

**Source:** Well #8, a well within the Umatilla River Basin

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼	¼	Acres
3	N	27	E	W.M.	2	NW	NW	x
3	N	27	E	W.M.	2	NW	SW	x
3	N	27	E	W.M.	3	SW	NE	x
3	N	27	E	W.M.	3	SE	NE	x
3	N	27	E	W.M.	3	SE	NW	x

**Proposed Place of Use:**

Township		Range		Meridian	Sec	¼	¼	Acres
4	N	27	E	W.M.	27	SE	NE	18.0
4	N	27	E	W.M.	27	SE	SW	16.3
4	N	27	E	W.M.	27	SW	SE	5.3
4	N	27	E	W.M.	34	NE	NW	0.1
4	N	27	E	W.M.	35	SE	NW	2.8
4	N	27	E	W.M.	35	NE	SW	5.2
Total								47.7

17. Water has been used under Certificates 74109, 74185, 74111, 74112, 80594, 80595 80596, and 80597 within the limits and conditions under each certificate. The rights appear to have been used over the past five years prior to filing of the application in accordance with 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.
18. An agreement was signed on April 26, 1996, that allows the waters involved in the wetlands maintenance for wildlife and fish to be moved and allowed a change in character of use in a future date. This agreement was signed by officers of the company for the owners of the lands involved.
19. A delivery system sufficient to use the full amount of water allowed under the existing rights is present.
20. The proposed changes would not result in enlargement of the rights.
21. The proposed change would not result in injury to other water rights.

**Determination and Proposed Action**

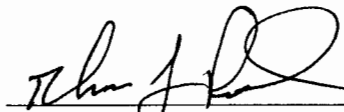
The changes in place of use, character of use, and to add an additional point of appropriation proposed in application T-9275 are consistent with the requirements of ORS Chapter 540, and OAR 690-380-5000.

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

1. The changes in place of use, character of use, and to add an additional point of appropriation proposed in application T-9275 are approved.

2. Water right certificate Certificates 74109, 74111, 74112, 74185, 80594, 80595, 80596, and 80597 are cancelled. New certificates will be issued describing that portion of the right not involved in this transfer.
3. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.
4. The proposed changes shall be completed on or before October 1, 2005.
5. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2006.
6. The right to 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 74109, 74111, 74112, 74185, 80594, 80595, 80596, and 80597.
7. The quantity of water diverted at the additional point of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.
8. The water user shall install and maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water appropriated. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
9. The former place of use and character of use shall no longer receive water under the original authorized use of these water rights.
10. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 24<sup>th</sup> day of NOVEMBER, 2004.

  
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Phillip C. Ward  
Director

Mailing date: NOV 29 2004