

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

In the Matter of Transfer Application) **F I N A L O R D E R**
T-10587, Umatilla County) **APPROVING A DISTRICT**
) **TEMPORARY TRANSFER**

ORS 540.570 establishes the process in which a district may submit a request to temporarily transfer a water right within district boundaries. OAR Chapter 690, Division 385 implements the statutes and provides the Department’s procedures and criteria for evaluating district transfer applications.

Applicant

Echo Irrigation District
P.O. Box 110
Hermiston, OR 97838

Findings of Fact

1. On March 31, 2008, Echo Irrigation District filed a district transfer application to temporarily change the place of use and points of appropriation under Certificates 80849, 80850, 80851 and Permit G-2415 (*as modified* under transfer application T-6787). The Department assigned the application number T-10587.
2. Notice of the application for transfer was published pursuant to ORS 540.580 and OAR 690-385-3400. No comments were filed in response to the notice.
3. Pursuant to OAR 690-385-3130 the applicant applied to temporarily change a portion of water right Certificate 80849 to supplemental irrigation at the proposed place of use during the 2008 irrigation season as described in Findings of Fact #10. Echo Irrigation District also specified water use on the authorized “FROM” lands under existing Permit G-8907 will not be used or transferred during the course of the 2008 Irrigation Season, as described in Findings of Fact #4 and #7. In addition, Echo Irrigation District also specified water use on the proposed “TO” lands under existing Certificate 76369 will not be used or transferred during the course of the 2008 Irrigation Season, as described in Findings of Fact #10 & #13.
4. The portion of the first primary right to be transferred is as follows:
Certificate: 80851, issued in the name of Robert C., Rick L., and Douglas Hale (perfected under Permit G-4969)
Use: Irrigation of 66.31 acres
Priority Date: June 8, 1971

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 137-004-0080 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.

Rate & Duty: 1/80 cfs and 3.0 acre-feet per acre per growing season

Source: Hale Wells # 1, 2, 3, 4, 6 & 7

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
3 N	30 E	WM	7	NW NW	Well #1 - 4340 feet North and 1830 feet West from the S□ Corner of Section 7
3 N	30 E	WM	6	NW SW	Well #2 - 2010 feet North and 1330 feet East from the SW Corner of Section 6
3 N	30 E	WM	7	SW SW	Well #3 - 1420 feet South and 40 feet East from the W□ Corner of Section 7
3 N	29 E	WM	2	SE NE	Well #4 - 180 feet North and 260 feet West from the E□ Corner of Section 2
3 N	29 E	WM	11	SW NE	Well #6 - 132 feet North and 2190 feet West from the E□ Corner of Section 11
3 N	29 E	WM	12	NW NW	Well #7 - 1010 feet South and 40 feet East from the NW Corner of Section 12

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q - Q	TL	Acres	User
3 N	30 E	WM	6	NE NW	703	30.00*	HALE BROS. FARMS
3 N	30 E	WM	6	SE NW	703	36.31*	HALE BROS. FARMS
TOTAL:						66.31	

*NOTE: The applicant has stated that there will be no use of the 66.31 acres under the supplemental water right Permit G-8907 on these lands nor will it be transferred during the 2008 irrigation season

5. Application T-10587 proposes to TEMPORARILY change the place of use of the right to:

Proposed Place of Use:

Twp	Rng	Mer	Sec	Q - Q	TL	Acres	User
3 N	29 E	WM	13	NW NE	3700	30.00*	HALE BROS. FARMS
3 N	30 E	WM	8	NE SW	802	6.31	HALE BROS. FARMS
3 N	30 E	WM	8	NW SW	802	30.00	HALE BROS. FARMS
TOTAL:						66.31	*- addt'l POA (see below)

6. Application T-10587 also proposes to TEMPORARILY CHANGE THE POINT OF APPROPRIATION for the 30.0 acres described in the above table in Section 13 under this right to:

Proposed Point of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
3 N	29 E	WM	24	SW NE	Coppinger NEW Well #1 - 20 feet North and 1490 feet West from the E□ Corner, Section 24

7. The portion of the second primary right and its supplemental right to be transferred are as follows:

Certificate: 74896 (as modified by T-6787) issued in the name of Robert C., Rick L., and Douglas L. Hale (originally perfected under Permit G-2415)

Use: Irrigation (IR) of 83.69 acres

Priority Date: April 8, 1963

Rate & Duty: ONE-EIGHTIETH of one cubic foot per second (cfs) for each acre irrigated and further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of reach year

Source: Hale Wells # 1, 2, 3, 4, 6 & 7, within the Stage Gulch Basin.

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
3 N	30 E	WM	7	NW NW	Well #1 - 4340 feet North and 1830 feet West from the S ^W Corner of Section 7
3 N	30 E	WM	6	NW SW	Well #2 - 2010 feet North and 1330 feet East from the SW Corner of Section 6
3 N	30 E	WM	7	SW SW	Well #3 - 1420 feet South and 40 feet East from the W ^W Corner of Section 7
3 N	29 E	WM	2	SE NE	Well #4 - 180 feet North and 260 feet West from the E ^W Corner of Section 2
3 N	29 E	WM	11	SW NE	Well #6 - 132 feet North and 2190 feet West from the E ^W Corner of Section 11
3 N	29 E	WM	12	NW NW	Well #7 - 1010 feet South and 40 feet East from the NW Corner of Section 12

Certificate: 80851, issued in the name of Robert C., Rick L., and Douglas Hale (perfected under Permit G-4969)

Use: Supplemental Irrigation (IS) of 83.69 acres

Priority Date: June 8, 1971

Rate & Duty: ONE-EIGHTIETH of one cfs and 3.0 acre-feet per acre per growing season

Source: Hale Wells # 1, 2, 3, 4, 6 & 7, within the Stage Gulch Basin.

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
3 N	30 E	WM	7	NW NW	Well #1 - 4340 feet North and 1830 feet West from the S ^W Corner of Section 7
3 N	30 E	WM	6	NW SW	Well #2 - 2010 feet North and 1330 feet East from the SW Corner of Section 6
3 N	30 E	WM	7	SW SW	Well #3 - 1420 feet South and 40 feet East from the W ^W Corner of Section 7
3 N	29 E	WM	2	SE NE	Well #4 - 180 feet North and 260 feet West from the E ^W Corner of Section 2
3 N	29 E	WM	11	SW NE	Well #6 - 132 feet North and 2190 feet West from the E ^W Corner of Section 11
3 N	29 E	WM	12	NW NW	Well #7 - 1010 feet South and 40 feet East from the NW Corner of Section 12

Authorized Places of Use:

Permit G-2415 (as modified under T-6787) (IR) - Certificate 80851 (IS)							
Twp	Rng	Mer	Sec	Q - Q	TL	Acres	User
3 N	29 E	WM	1	NE SE	100	0.50*	HALE BROS. FARMS
3 N	29 E	WM	1	SE SE	100	0.20*	HALE BROS. FARMS
3 N	29 E	WM	12	NE SE	103	0.89	HALE BROS. FARMS
3 N	30 E	WM	6	NW SW	103	8.50*	HALE BROS. FARMS
3 N	30 E	WM	6	SW SW	103	4.30*	HALE BROS. FARMS
3 N	30 E	WM	7	NE NW	703	2.50	HALE BROS. FARMS

3 N	30 E	WM	7	SW NW	702	13.20	HALE BROS. FARMS
3 N	30 E	WM	7	SE NW	702	16.30	HALE BROS. FARMS
3 N	30 E	WM	7	NE SW	702	33.20	HALE BROS. FARMS
3 N	30 E	WM	7	NW SW	702	4.10	HALE BROS. FARMS
TOTAL:						83.69	

*NOTE: The applicant has stated that there will be no use of the 13.5 acres under the supplemental water right Permit G-8907 on these lands nor will it be transferred during the 2008 irrigation season.

8. Application T-10587 proposes to TEMPORARILY change the places of use of the rights to:

Proposed Places of Use:

Permit G-2415 (as modified under T-6787) (IR) - Certificate 80851 (IS)							
Twp	Rng	Mer	Sec	Q - Q	TL	Acres	User
3 N	30 E	WM	8	NE SW	802	23.69	HALE BROS. FARMS
3 N	30 E	WM	8	SW SW	802	30.00	HALE BROS. FARMS
3 N	30 E	WM	8	SE SW	802	30.00	HALE BROS. FARMS
TOTAL:						83.69	

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

Certificate: 80849, issued in the name Kenneth H. Coppinger (perfected under Per G-6626)

Use: Irrigation of 284.3 acres

Priority Date: December 29, 1975

Rate & Duty: ONE-EIGHTIETH of one cfs and 3.0 acre-feet per acre per growing season

Source: Coppinger Wells #1 & 2, within the Stage Gulch Basin

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
3 N	29 E	WM	24	SW NE	Coppinger Well #1 - 20 feet North and 1570 feet West from the E ¹ Corner of Section 24
3 N	29 E	WM	24	SE NE	Coppinger Well #2 - 960 feet North and 30 feet West from the E ¹ Corner of Section 24

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q - Q	TL	Acres	User
3 N	29 E	WM	24	NE NE	8600	9.00	KENNETH COPPINGER
3 N	29 E	WM	24	NW NE	8600	9.00	KENNETH COPPINGER
3 N	29 E	WM	24	SW NE	8600	9.00	KENNETH COPPINGER
3 N	29 E	WM	24	SE NE	8600	9.00	KENNETH COPPINGER
3 N	29 E	WM	24	NE SE	8700	37.10	KENNETH COPPINGER
3 N	29 E	WM	24	NW SE	8700	40.00	KENNETH COPPINGER
3 N	29 E	WM	24	SW SE	8700	9.00	KENNETH COPPINGER
3 N	29 E	WM	24	SE SE	8700	9.00	KENNETH COPPINGER
3 N	30 E	WM	19	NE NW	2601	27.50	KENNETH COPPINGER
3 N	30 E	WM	19	NW NW	2601	13.20	KENNETH COPPINGER
3 N	30 E	WM	19	SW NW	2601	13.60	KENNETH COPPINGER
3 N	30 E	WM	19	SE NW	2601	26.70	KENNETH COPPINGER

3 N	30 E	WM	19	NE SW	2600	28.50	KENNETH COPPINGER
3 N	30 E	WM	19	NW SW	2600	8.10	KENNETH COPPINGER
3 N	30 E	WM	19	SW SW	2600	9.20	KENNETH COPPINGER
3 N	30 E	WM	19	SE SW	2600	26.40	KENNETH COPPINGER
TOTAL:						284.3	

10. Application T-10587 proposes to TEMPORARILY change the place of use of the right to:

Proposed Place of Use:

Twp	Rng	Mer	Sec	Q - Q	TL	Acres	User
3 N	29 E	WM	13	NE NE	3700	30.0	HALE BROS. FARMS
3 N	29 E	WM	13	SW NE	3700	29.5*	HALE BROS. FARMS
3 N	29 E	WM	13	SE NE	3700	30.0	HALE BROS. FARMS
3 N	29 E	WM	13	NE SE	3700	30.2	HALE BROS. FARMS
3 N	29 E	WM	13	NW SE	3700	30.2	HALE BROS. FARMS
3 N	29 E	WM	13	SW SE	3700	30.2	HALE BROS. FARMS
3 N	29 E	WM	13	SE SE	3700	30.2	HALE BROS. FARMS
3 N	29 E	WM	25	NE NE	8800	30.0	HALE BROS. FARMS
3 N	29 E	WM	25	NW NE	8800	30.0	HALE BROS. FARMS
3 N	30 E	WM	20	NW SW	3000	14.0**	HALE BROS. FARMS
TOTAL:						284.3	*- add'l POA's (see below)

*NOTE: The applicant has requested to diminish the 29.5 acres under Certificate 80849 on new place of use to supplemental irrigation for incoming primary District water right (Certificate 79889) proposed under Echo Irrigation District Temporary Transfer 10588 (Cook) proposed for the 2008 irrigation season.

**NOTE: The applicant has stated that there will be no use of the 14.0 acres under the primary water right Certificate 76369 on these lands nor will it be transferred during the 2008 irrigation season.

11. Application T-10587 also proposes to TEMPORARILY ADD ADDITIONAL POINTS OF APPROPRIATION for the lands in the above described table to:

Proposed Additional Points of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
3 N	29 E	WM	24	SW NE	Coppinger NEW Well #1 - 20 feet North and 1490 feet West from the E \square Corner, Section 24
3 N	30 E	WM	30	SW NE	Ditchen Well #1 - 30 feet South and 640 feet West from the Center of Section 30
3 N	30 E	WM	20	SW NE	Ditchen Well #2 - 80 feet East from the SW Corner of 20

12. The portion of the fourth right to be transferred is as follows:

Certificate: 80850, issued in the name of H-4 FARMS, INC. (perfected under Per. G-5215)

Use: Irrigation of 111.1 acres

Priority Date: February 16, 1973

Rate & Duty: ONE-EIGHTIETH of one cfs and 3.0 acre-feet per acre per growing season

Source: Two Wells within the Umatilla River Basin

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
3 N	29 E	WM	11	SE SE	Well #5 - 60 feet North and 590 feet West from the SE Corner, Section 11
3 N	29 E	WM	14	SW NW	Well #8 - 1350 feet South and 50 feet West from the NE Corner of the NW¼ of the NW¼, Section 14

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q - Q	TL	Acres	User
3 N	29 E	WM	11	NE SE	3603	2.0	HALE BROS. FARMS
3 N	29 E	WM	11	NW SE	3603	5.9	HALE BROS. FARMS
3 N	29 E	WM	11	SE SE	3603	5.0	HALE BROS. FARMS
3 N	29 E	WM	12	SW SW	3603	29.8	HALE BROS. FARMS
3 N	29 E	WM	12	SE SW	3603	24.4	HALE BROS. FARMS
3 N	29 E	WM	14	NW NE	3900	9.3	HALE BROS. FARMS
3 N	29 E	WW	14	SW NE	3900	9.3	HALE BROS. FARMS
3 N	29 E	WM	14	SE NE	3900	7.3	HALE BROS. FARMS
3 N	29 E	WW	14	NE NW	3900	9.3	HALE BROS. FARMS
3 N	30 E	WM	14	SE NW	3900	8.8	HALE BROS. FARMS
TOTAL:						111.1	

13. Application T-10587 proposes to TEMPORARILY change the place of use of the right to:

Proposed Place of Use:

Twp	Rng	Mer	Sec	Q - Q	TL	Acres	User
3 N	30 E	WM	20	NE SW	3000	31.1*	DITCHEN FARM
3 N	30 E	WM	20	NW SW	3000	16.8*	DITCHEN FARM
3 N	30 E	WM	20	SW SW	3000	31.5*	DITCHEN FARM
3 N	30 E	WM	20	SE SW	3000	31.7*	DITCHEN FARM
TOTAL:						111.1	* - addt'l POA's (see below)

*NOTE: The applicant has stated that there will be no use of the 111.1 acres under the primary water right Certificate 76369 on these lands nor will it be transferred during the 2008 irrigation season.

14. Application T-10587 also proposes to TEMPORARILY ADD ADDITIONAL POINTS OF APPROPRIATION under this right to accommodate the place of use change for the 111.1 acres within the SW¼, Section 20 located:

Proposed Additional Points of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
3 N	29 E	WM	24	SW NE	Coppinger New Well #1 – 20 feet North and 1490 feet West from the E Corner of Section 24
3 N	30 E	WM	30	NE SW	Ditchen Well #1 – 30 feet South and 640 feet West from the Center of Section 30
3 N	30 E	WM	20	SW SW	Ditchen Well #2 – 80 Feet East from the SW Corner of Section 20

15. Notice of the application for temporary transfer was published on April 15, 2008, pursuant to ORS 540.570(4). No comments were filed in response to the notice.
16. The Department has determined that the proposed additional points of appropriation (Coppinger New Well #1, Ditchen Well #1 and #2) are all within the same subareas (D and H) of the Stage Gulch Critical Ground Water Area and will all develop the same source of water as the authorized existing wells described in Certificates 80849, 80850 and 80851.
17. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
18. The proposed changes in place of use would not result in enlargement of the rights.
19. The proposed changes would not result in injury to other water rights.

Conclusions of Law


The proposed TEMPORARY changes in application T-10587 satisfy the requirements of ORS 540.574(3) and 540.570.

Now, therefore, it is ORDERED:

1. The proposed temporary changes to the water rights evidenced by Certificates 80849, 80850 and 80851 and Permit G-2415 (as modified under transfer application T-6787) are approved.
2. The former places of use **shall not** be irrigated as part of these water rights during the 2008 irrigation season.
3. At the end of the 2008 irrigation season all use of water under this temporary transfer shall automatically revert to the terms and conditions of the original water right certificates or adjudication as evidenced by a court decree. The authorization to use the additional points of appropriation shall be terminated concurrently.
4. 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 80849, 80850, 80851, Permit G-2415 (as modified under transfer application T-6787) and any related decree.
5. Use of water under Permit G-8097 is not allowed on the lands included in this transfer order during the 2008 Irrigation Season.
6. The use of water on the lands from which the water right is transferred and at the new temporary place of use during the same irrigation season or calendar year is prohibited and may subject the district and landowner to civil penalties.
7. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.

8. The use of water under this temporary transfer may be conditioned or revoked at any time to the extent necessary to avoid injury if the Department finds the transfer causes injury to any existing water right.
9. A subsequent application for permanent transfer of Certificates 80849, 80850, 80851, Permit G-2415 (*as modified* under transfer application T-6787) 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.
10. 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 80849, 80850 and 80851 and Permit G-2415 (*as modified* under transfer application T-6787).
11. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
12. The use of the remaining water rights described by Certificates 80849, 80850 and 80851 and Permit G-2415 (*as modified* under transfer application T-6787) shall continue to be in accordance with the terms and conditions of Certificates 80849, 80850 and 80851 and Permit G-2415 (*as modified* under transfer application T-6787).
13. The District shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.

Dated at Salem, Oregon this 23rd day of June, 2008.


Phillip C. Ward, Director

Date mailed JUN 26 2008