

**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-10423, Umatilla County) **APPROVING A DISTRICT**
) **TEMPORARY TRANSFER**

Authority

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 June 28, 2007, Echo Irrigation District filed a district transfer application to temporarily change the place of use under Certificates 80849, 80850 and 80851. The Department assigned the application number T-10423.
2. Notice of the application for transfer was published on July 3, 2007, 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 2007 irrigation season as described in Finding of Fact #7. In addition, Echo Irrigation District specified water use on the authorized “FROM” lands under existing Permit G-8907 will not be used or transferred during the course of the 2007 Irrigation Season, as fully described in Finding of Fact #4.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order 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 137-004-080 and OAR 690-01-005, 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.

4. The portion of the FIRST right to be transferred is as follows:

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

Use: Irrigation of 66.31 acres

Priority Date: June 8, 1971

Rate & Duty: 1/80 cfs and 3.0 acre feet per acre during the irrigation season each year

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

Authorized Points of Appropriation:

TWP	RNG	MER	SEC	Q - Q	LOCATION
3 N	30 E	WM	7	NW NW	Well #1 - 4340 feet North and 1830 feet West from the S $\frac{1}{4}$ Corner, Section 7
3 N	30 E	WM	6	NW SW	Well #2 - 2010 feet North and 1330 feet East from the SW Corner, Section 6
3 N	30 E	WM	7	SW SW	Well #3 - 1420 feet South and 40 feet East from the W $\frac{1}{4}$ Corner, Section 7
3 N	29 E	WM	2	SE NE	Well #4 - 180 feet North and 260 feet West from the E $\frac{1}{4}$ Corner, Section 2
3 N	29 E	WM	11	SW NE	Well #6 - 132 feet North and 2190 feet West from the E $\frac{1}{4}$ Corner, Section 11
3 N	29 E	WM	12	NW NW	Well #7 - 1010 feet South and 40 feet East from the NW Corner, Section 12

Authorized Place of Use:

TWP	RNG	MER	SEC	Q - Q	TL	ACRES	RECIPIENT
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 2007 irrigation season.

5. Application T-10423 proposes to TEMPORARILY change the place of use of the right to:

Proposed Place of Use:

TWP	RNG	MER	SEC	Q - Q	TL	ACRES	RECIPIENT
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
3 N	30 E	WM	8	SW SW	802	30.00	HALE BROS. FARMS
TOTAL:						66.31	

6. The portion of the SECOND right to be transferred is as follows:

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

Use: Irrigation of 270.3 acres

Priority Date: December 29, 1975

Rate & Duty: 1/80 cfs per acre and 3.0 acre feet per acre during the irrigation season each year

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

Authorized Points of Appropriation:

TWP	RNG	MER	SEC	Q - Q	LOCATION
3 N	29 E	WM	24	SW NE	Coppinger Well #1 - 20 feet North and 1570 feet West from the E¼ Corner, Section 24
3 N	29 E	WM	24	SE NE	Coppinger Well #2 - 960 feet North and 30 feet West from the E¼ Corner, 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	26.00	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:						270.30	

7. Application T-10423 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	30.00	HALE BROS. FARMS
3 N	29 E	WM	13	SW NE	3700	29.50*	HALE BROS. FARMS
3 N	29 E	WM	13	SE NE	3700	30.00	HALE BROS. FARMS
3 N	29 E	WM	13	NE SE	3700	30.20	HALE BROS. FARMS
3 N	29 E	WM	13	NW SE	3700	30.20	HALE BROS. FARMS
3 N	29 E	WM	13	SW SE	3700	30.20	HALE BROS. FARMS
3 N	29 E	WM	13	SE SE	3700	30.20	HALE BROS. FARMS
3 N	29 E	WM	25	NE NE	8800	30.00	HALE BROS. FARMS
3 N	30 E	WM	25	NW NE	8800	30.00	HALE BROS. FARMS
TOTAL:						270.30	

*NOTE: The applicant has requested to diminish the 29.5 acres under Certificate 80849 on the new place of use to supplemental irrigation for incoming primary District water right proposed under Echo Irrigation District Temporary Transfer 10424 (Cook) proposed for the 2007 irrigation season.

8. Application T-10423 also proposes to TEMPORARILY ADD A POINT OF APPROPRIATION under this right to:

Proposed Additional Point of Appropriation:

TWP	RNG	MER	SEC	Q - Q	LOCATION
3 N	29 E	WM	24	SW NE	Coppinger NEW Well #1 - 20 feet North and 1490 feet West from the E¼ Corner, Section 24

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

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

Use: Irrigation of 83.69 acres

Priority Date: February 16, 1973

Rate & Duty: 1/80 cfs per acre and 3.0 acre-feet per acre during the irrigation season each year

Source: Two Wells, within the Umatilla River Basin

Authorized Points of Appropriation:

TWP	RNG	MER	SEC	Q - Q	LOCATION
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	2.00	HALE BROS. FARMS
3 N	29 E	WM	11	SE SE	3603	5.00	HALE BROS. FARMS
3 N	29 E	WM	12	SW SW	3603	29.80	HALE BROS. FARMS
3 N	29 E	WM	12	SE SW	3603	2.89	HALE BROS. FARMS
3 N	29 E	WM	14	NW NE	3900	9.30	HALE BROS. FARMS
3 N	29 E	WM	14	SW NE	3900	9.30	HALE BROS. FARMS
3 N	29 E	WW	14	SE NE	3900	7.30	HALE BROS. FARMS
3 N	29 E	WM	14	NE NW	3900	9.30	HALE BROS. FARMS
3 N	29 E	WM	14	SE NW	3900	8.80	HALE BROS. FARMS
TOTAL:						83.69	

10. Application T-10423 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	23.69*	HALE BROS. FARMS
3 N	30 E	WM	8	SE SW	802	30.00*	HALE BROS. FARMS
TOTAL:						83.69	* = add'l POA (see Finding #11 below)

- Application T-10423 also proposes to TEMPORARILY ADD A POINT OF APPROPRIATION under this right to accommodate the place of use change for the 53.69 acres within the E½ SW¼, Section 8 located:

Proposed Additional Point of Appropriation:

TWP	RNG	MER	SEC	Q - Q	LOCATION
3 N	30 E	WM	7	SW SW	Hale Well #3 – 1420 feet South and 40 feet East from the W¼ Corner, Section 7

- The water rights are subject to transfer as defined in OAR 690-385-0100(17).
- The proposed changes in place of use and additional points of appropriation would not result in enlargement of the rights.
- The proposed changes would not result in injury to other water rights.

Conclusions of Law

The TEMPORARY changes proposed in application T-10423 satisfy the requirements of ORS 540.574(3) and 540.570.

Now, therefore, it is ORDERED:

- The proposed TEMPORARY changes to the water rights evidenced by Certificates 80849, 80850 and 80851 are approved.
- The TEMPORARY transfer is effective for the 2007 irrigation season.
- 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 and 80851 and any related decree.
- The use of water under the portion of Permit G-8907 appurtenant to the lands described in Finding of Fact #4 above may not be exercised during the 2007 irrigation season.
- 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.
- The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
- 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.

8. At the end of the 2007 irrigation season all uses of water under this temporary transfer revert automatically to the terms and conditions of the original water right permit, certificate, or adjudication as evidenced by a court decree.

Dated at Salem, Oregon this 1st day of August, 2007.



Phillip C. Ward, Director

jm

Mailing date: AUG 14 2007