BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

| In the Matter of Transfer Application |) | FINAL ORDER APPROVING CHANGES |
|---------------------------------------|---|-------------------------------|
| T-9853, Umatilla County |) | IN PLACE OF USE, POINT OF |
| • |) | APPROPRIATION AND PARTIAL |
| |) | DIMINUTION FROM PRIMARY TO |
| |) | SUPPLEMENTAL IRRIGATION |

Authority

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

Applicant

ECHO IRRIGATION DISTRICT P.O. BOX 110 HERMISTON, OREGON 97838

Findings of Fact

- 1. On January 28, 2005, Echo Irrigation District filed a transfer application to change the place of use and point of appropriation under Certificate 79890. The Department assigned the application number T-9853.
- 2. The entirety of the right to be transferred is as follows:

Certificate: 79890, in the name of Rick L. Hale (perfected under Permit G-7183)

Use: Irrigation of 237.8 acres

Priority Date: February 25, 1977

Rate: 2.97 cubic feet per second (cfs)

Rate & Duty: One-eightieth of one cfs per acre limited to 3.0 acre-feet per acre

Source: Well 2, within the Umatilla River Basin

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

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.

Authorized Point of Appropriation:

| Twp | Rng | Mer | Sec | 1/4 | 1/4 | Survey Coordinates |
|-----|------|------|-----|-----|-----|---|
| 4 N | 28 E | W.M. | 24 | SW | SE | Well 2 – 1230 feet North and 1910 feet West from the SE corner of Section 24 |

Authorized Place of Use:

| Twp | Rng | Mer | Sec | 1/4 1/4 | Acres | |
|-----|--------------|-----|-----|---------|-------|--|
| 4N | 28E | WM | 23 | NE SE | 5.8 | |
| 4N | 28E | WM | 23 | SE SE | 5.0 | |
| 4N | 28E | WM | 24 | NE SW | 26.0 | |
| 4N | 28E | WM | 24 | NW SW | 37.4 | |
| 4N | 28E | WM | 24 | SW SW | 37.6 | |
| 4N | 28E | WM | 24 | SE SW | 28.0 | |
| 4N | 28E | WM | 24 | NE SE | 11.2 | |
| 4N | 28E | WM | 24 | NW SE | 34.0 | |
| 4N | 28E | WM | 24 | SW SE | 38.4 | |
| 4N | 28E | WM | 24 | SE SE | 13.6 | |
| | TOTAL: 237.8 | | | | | |

3. Transfer Application T-9853 proposes to change the place of use of 194.1 acres to the following locations:

| Twp | Rng | Mer | Sec | 1/4 1/4 | Acres | |
|-----|--------------|-----|-----|---------|-------|--|
| 3N | 29E | WM | 9 | NW NE | 3.6 | |
| 3N | 29E | WM | 9 | SW NE | 37.5 | |
| 3N | 29E | WM | 9 | SE NE | 0.6 | |
| 3N | 29E | WM | 9 | NW SE | 26.2 | |
| 3N | 29E | WM | 14 | SW NW | 6.5 | |
| 3N | 29E | WM | 14 | NW SW | 6.4 | |
| 3N | 29E | WM | 15 | SE NE | 14.7 | |
| 3N | 29E | WM | 15 | NE SE | 30.6 | |
| 3N | 29E | WM | 15 | NW SE | 13.0 | |
| 3N | 29E | WM | 15 | SW SE | 24.9 | |
| 3N | 29E | WM | 15 | SE SE | 30.1 | |
| | TOTAL: 194.1 | | | | | |

4. Transfer Application T-9853 also proposes to change the place of use and to diminish 43.7 acres from primary irrigation to supplemental irrigation on the following lands to which a primary irrigation right under Certificate 80850 is appurtenant:

| Twp | Rng | Mer | Sec | 1/4 1/4 | Acres |
|-----|-----|-----|------|---------|-------|
| 3N | 29E | WM | 13 | NW NW | 36.1 |
| 3N | 29E | WM | 13 | SW NW | 7.6 |
| | | | 43.7 | | |

5. Transfer Application T-9853 proposes to change the point of appropriation for the proposed places of use described in Findings of Fact #3 and #4, approximately 5 miles in a southeasterly direction from the authorized point of appropriation (Cook well) to a well located at:

| Twp | Rng | Mer | Sec | 1/4 1/4 | Survey Coordinates |
|-----|------|------|-----|---------|---|
| 3 N | 29 E | W.M. | 9 | SE SW | Seibel Well – 380 feet North and 3120 feet West from the SE corner of Section 9 |

- 6. Notice of the application for transfer was published on February 8, 2005, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
- 7. On September 8, 2006, the Department issued a Preliminary Determination proposing approving of Transfer Application T-9853 and mailed a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on September 12, 2006 and in the The Hermiston Herald on August 29, September 5 and September 12, 2006.
- 8. Water has been used within five years according to the terms and conditions of the right, as modified by Special Order Volume 57, page 382, approving Temporary Transfer T-9364, and Special Order Volume 62, page 123, approving Temporary Transfer T-9677. No evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- 9. A pump, pipeline and sprinkler system sufficient to use the full amount of water allowed under the existing right are present and have been used within the last five years at the place of use authorized under T-9364 and T-9677.
- 10. The proposed change would not result in enlargement of the right.
- 11. The proposed change would not result in injury to other water rights.

Conclusions of Law

The changes in place of use, point of appropriation and partial diminution from primary to supplemental irrigation proposed in Transfer Application T-9853 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The changes in place of use and point of appropriation proposed in application T-9853 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 Certificate 79890 and any related decree.
- 3. Water shall be acquired from the same source as the original point of appropriation, namely the basalt ground water source, and is restricted to the same subarea (A) of the Stage Gulch Critical Ground Water Area.
- 4. The use of water for supplemental irrigation at the proposed place of use described in Finding of Fact #4 is restricted to the total rate and duty described by Certificate 80850, and may be used only to make up a deficiency of supply.
- 5. Water right Certificate 79890 is cancelled.
- 6. The former place of use shall no longer be irrigated as part of this water right.
- 7. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2008**. A Claim of Beneficial Use report prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the project and beneficial use of the water.
- 8. The quantity of water diverted at the new point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
- 9. Prior to diverting water at the new point of appropriation, the water user shall install an inline flow meter or other suitable device for measuring and recording the quantity of water used. The type and plan 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.
- 10. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 23rd day of Albert , 2006

Pw Phillip C. Ward, Director

Mailing date: **OCT 2 6** 2006