

STATE OF OREGON
COUNTY OF UMATILLA

ORDER APPROVING A TEMPORARY CHANGE IN PLACE OF USE

Pursuant to ORS 540.523, after notice was given and no objections were filed, and finding that no injury to existing water rights would result, this order approves, as conditioned or limited herein, TEMPORARY TRANSFER 8709 submitted by:

HALE BROTHERS FARMS, INC.
P.O. BOX 110
HERMISTON, OREGON 97838.

I.

The first water right to be modified, as evidenced by a portion of Transfer 7545, was confirmed by decree of the Circuit Court of the State of Oregon for Umatilla County entered in the Order Record of the Water Resources Department at Volume 3, page 250. The dates of priority are 1866 for 0.216 cubic foot per second (cfs), 1870 for 0.432 cfs, 1884 for 0.216 cfs, and 1896 for 5.484 cfs.

The right allows the use of not more than 6.348 cfs from Butter Creek, tributary to the Umatilla River, for irrigation of 326.0 acres if available at the original point of diversion located in the SE¼ SW¼, Section 11, Township 2 North, Range 27 East; 970 feet North and 450 feet West from the South ¼ Corner, Section 11.

The additional point of diversion authorized by Transfer 7545, from which water will be diverted for the proposed temporary change in place of use, is located in the NE¼ NE¼, Section 2, Township 2 North, Range 27 East; 1290 feet South and 80 feet West from the NE Corner, Section 2.

The authorized places of use are located as follows:

USE	TWP	RNG	SEC	Q/Q	TAXLOT	ACRES	OWNER	ATT. #
IR	2N	27E	2	NE SE	100	9.36	HALE BROS.	1.
IR	2N	27E	2	NW SE	100	6.00	HALE BROS.	1.
						15.36		

The applicant proposes to change the places of use to:

USE	TWP	RNG	SEC	Q/Q	TAXLOT	ACRES	OWNER	ATT. #
IR	3N	28E	31	NE SW		9.36	HALE BROS.	1.

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

IR	3N	28E	31	SW SE		6.00	HALE BROS.	1.
						15.36		

II.

The second water right to be modified, as evidenced by a portion of Certificate 53658, was perfected under Permit G-434. The date of priority is January 21, 1957.

The right allows the use of 4.0 cfs from Wells #1 and #2, tributary to Butter Creek, for irrigation of 96.75 acres and supplemental irrigation of 322.59 acres. The points of appropriation are located as follows:

Well #1 - SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 1, T 2 N, R 27 E; 10 feet North and 2400 feet East from the East $\frac{1}{4}$ Corner, Section 2.

Well #2 - NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 2, T 2 N, R 27 E; 100 feet South and 130 feet West from the East $\frac{1}{4}$ Corner, Section 2.

The applicant proposes to add the following points of appropriation to facilitate the proposed change in place of use:

Hanson Well - NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 12, Township 2 North, Range 27 East; 10 feet South and 10 feet East from the NW Corner, Section 12.

Hale Sr. Well - NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 7, Township 2 North, Range 28 East; 1040 feet South and 440 feet West from the NE Corner, Section 7.

The authorized places of use are located as follows:

USE	TWP	RNG	SEC	Q/Q	TAXLOT	ACRES	OWNER	ATT.#
IR	2N	27E	1	NE NE	100	11.22	HALE BROS.	2.
IR	2N	27E	1	SW NE	100	0.81	HALE BROS.	2.
IR	2N	27E	1	SE NE	100	7.39	HALE BROS.	2.
IR	2N	27E	1	NE SE	100	0.30	HALE BROS.	2.
IR	2N	27E	1	NW SE	100	17.22	HALE BROS.	2.
IR	2N	27E	2	SW NE	100	6.70	HALE BROS.	2.
IR	2N	27E	2	SE NE	100	34.20	HALE BROS.	2.
IR	2N	27E	2	NE SE	100	1.20	HALE BROS.	2.
IR	2N	27E	2	NW SE	100	17.60	HALE BROS.	2.
						96.64		

The applicant proposes to change the places of use to:

USE	TWP	RNG	SEC	Q/Q	TAXLOT	ACRES	OWNER	ATT.#
IR	2N	28E	8	NW SW	1701	31.40	HALE BROS.	2.
IR	2N	28E	8	SW SW	1701	31.40	HALE BROS.	2.
IR	2N	28E	17	NE NW	1700	1.00	HALE BROS.	2.
IR	2N	28E	17	NW NW	1702	31.40	HALE BROS.	2.
IR	2N	28E	17	SW NW	1702	1.44	HALE BROS.	2.
						96.64		

III.

The third water right to be modified, as evidenced by a portion of Certificate 30742, was perfected under Permit G-1227. The date of priority is January 21, 1959.

The right allows the use of a Well, tributary to the Umatilla River, for irrigation of 54.5 acres and supplemental irrigation of 274.0 acres. The authorized point of appropriation is located as follows: NW¼ NW¼, Section 12, Township 2 N, Range 27 E, W.M.

The applicant proposes to add the following points of appropriation to facilitate the proposed change in place of use:

Ammon Well #2 - NE¼ SE¼, Section 2, Township 2 North, Range 27 East; 100 feet South and 130 feet West from the East ¼ Corner, Section 2.

Hale Sr. Well - NE¼ NE¼, Section 7, Township 2 North, Range 28 East; 1040 feet South and 440 feet West from the NE Corner, Section 7.

The authorized places of use are located as follows:

USE	TWP	RNG	SEC	Q/Q	TAXLOT	ACRES	OWNER	ATT. #
IR	2N	27E	1	SE SW	404	2.50	HALE BROS.	3.
IR	2N	27E	1	SW SE	404	13.50	HALE BROS.	3.
IR	2N	27E	2	SW SE	401	10.00	HALE BROS.	3.
IR	2N	27E	12	NW NE	400	1.50	HALE BROS.	3.
IR	2N	27E	12	NE NW	404,400	20.00	HALE BROS.	3.
						47.50		

The applicant proposes to change the places of use to:

USE	TWP	RNG	SEC	Q/Q	TAXLOT	ACRES	OWNER	ATT. #
IR	2N	28E	6	NW NE	1000	13.54	HALE BROS.	3.
IR	2N	28E	17	SW NW	1702	29.96	HALE BROS.	3.
IR	2N	28E	17	SE NW	1700	4.00	HALE BROS.	3.
						47.50		

IV.

The fourth water right to be modified, as evidenced by a portion of Certificate 63802, was confirmed by decree of the Circuit Court of the State of Oregon for Umatilla County entered in the Order Record of the Water Resources Department at Volume 3, page 250. The dates of priority are 1866 for 0.284 cubic foot per second (cfs), 1870 for 0.568 cfs, 1884 for 0.284 cfs, and 1896 for 7.216 cfs.

The right allows the use of not more than 8.352 cfs from Butter Creek, tributary to the Umatilla River, for domestic and livestock purposes, and irrigation of 429.0 acres if available at the original point of diversion.

The point of diversion is located in the SW¼ NE¼, Section 11, T 2 N, R 27 E; 1330 feet South and 270 feet East from the North ¼ Corner, Section 11.

The authorized places of use are located as follows:

USE	TWP	RNG	SEC	Q/Q	TAXLOT	ACRES	OWNER	ATT. #
IR	2N	27E	2	SW SE	401	25.60	HALE BROS.	4.
IR	2N	27E	11	NW NE	401	16.46	HALE BROS.	4.
IR	2N	27E	11	SW NE	401	18.00	HALE BROS.	4.
IR	2N	27E	11	NE SW	1401/1400	40.00	HALE BROS.	4.
						100.06		

The applicant proposes to change the places of use to:

USE	TWP	RNG	SEC	Q/Q	TAXLOT	ACRES	OWNER	ATT. #
IR	2N	28E	6	NW NE	1000	10.36	HALE BROS.	4.
IR	3N	28E	31	NE SW	8900	24.90	HALE BROS.	4.
IR	3N	28E	31	NW SW	8900	7.80	HALE BROS.	4.
IR	3N	28E	31	SW SW	8900	8.60	HALE BROS.	4.
IR	3N	28E	31	SE SW	8900	36.70	HALE BROS.	4.
IR	3N	28E	31	NW SE	8900	2.10	HALE BROS.	4.
IR	3N	28E	31	SW SE	8900	9.60	HALE BROS.	4.
						100.06		

V.

The fifth water right to be modified, is evidenced by a portion of Permit 46499. The date of priority is October 16, 1978.

The right allows the use of 108.7 cfs from Butter Creek, tributary to the Umatilla River, for supplemental irrigation between September 2 and December 30 of each year. The point of diversion is located as follows: SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 11, T 2 N, R 27 E; 970 feet North and 450 feet West from the South $\frac{1}{4}$ Corner, Section 11.

The authorized places of use are located as follows:

USE	TWP	RNG	SEC	Q/Q	TAXLOT	ACRES	OWNER	ATT.#
IR(S)	2N	27E	2	NE SE	100	9.36	HALE BROS.	1.
IR(S)	2N	27E	2	NW SE	100	6.00	HALE BROS.	1.
IR(S)	2N	27E	2	SW SE	401	25.60	HALE BROS.	4.
IR(S)	2N	27E	11	NW NE	401	16.46	HALE BROS.	4.
IR(S)	2N	27E	11	SW NE	401	18.00	HALE BROS.	4.
IR(S)	2N	27E	11	NE SW	1401/1400	40.00	HALE BROS.	4.
						115.42		

The applicant proposes to change the places of use to:

USE	TWP	RNG	SEC	Q/Q	TAXLOT	ACRES	OWNER	ATT.#
IR(S)	3N	28E	31	NE SW		9.36	HALE BROS.	1.
IR(S)	3N	28E	31	SW SE		6.00	HALE BROS.	1.
IR(S)	2N	28E	6	NW NE	1000	10.36	HALE BROS.	4.
IR(S)	3N	28E	31	NE SW	8900	24.90	HALE BROS.	4.
IR(S)	3N	28E	31	NW SW	8900	7.80	HALE BROS.	4.
IR(S)	3N	28E	31	SW SW	8900	8.60	HALE BROS.	4.
IR(S)	3N	28E	31	SE SW	8900	36.70	HALE BROS.	4.
IR(S)	3N	28E	31	NW SE	8900	2.10	HALE BROS.	4.
IR(S)	3N	28E	31	SW SE	8900	9.60	HALE BROS.	4.
						115.42		

VI.

The sixth water right to be modified, as evidenced by a portion of Certificate 53658, was perfected under Permit G-434. The date of priority is January 21, 1957.

The right allows the use of 4.0 cfs from Wells #1 and #2, tributary to Butter Creek, for , irrigation of 96.75 acres and supplemental irrigation of 322.59 acres. The points of appropriation are located as follows:

- Well #1 – SE¼ NW¼, Section 1, T 2 N, R 27 E; 10 feet North and 2400 feet East from the East ¼ Corner, Section 2.
- Well #2 – NE¼ SE¼, Section 2, T 2 N, R 27 E; 100 feet South and 130 feet West from the East ¼ Corner, Section 2.

The applicant proposes these additional points of appropriation to facilitate the proposed change in place of use:

- Hanson Well - NW¼ NW¼, Section 12, Township 2 North, Range 27 East; 10 feet South and 10 feet East from the NW Corner, Section 12.
- Hale Sr. Well - NE¼ NE¼, Section 7, Township 2 North, Range 28 East; 1040 feet South and 440 feet West from the NE Corner, Section 7.

The authorized places of use are located as follows:

USE	TWP	RNG	SEC	Q/Q	TAXLOT	ACRES	OWNER	ATT.#
IR(S)	2N	27E	2	NE SE	100	9.36	HALE BROS.	1.
IR(S)	2N	27E	2	NW SE	100	6.00	HALE BROS.	1.
						15.36		

The applicant proposes to change the places of use to:

USE	TWP	RNG	SEC	Q/Q	TAXLOT	ACRES	OWNER	ATT.#
IR(S)	3N	28E	31	NE SW		9.36	HALE BROS.	1.
IR(S)	3N	28E	31	SW SE		6.00	HALE BROS.	1.
						15.36		

VII.

The seventh water right to be modified, as evidenced by a portion of Certificate 30742, was perfected under Permit G-1227. The date of priority is January 21, 1959.

The right allows the use of a Well, tributary to the Umatilla River, for irrigation of 54.5 acres and supplemental irrigation of 274.0 acres. The authorized point of appropriation is located as follows: NW¼ NW¼, Section 12, Township 2 N, Range 27 E, W.M.

The authorized places of use are located as follows:

USE	TWP	RNG	SEC	Q/Q	TAXLOT	ACRES	OWNER	ATT.#
IR(S)	2N	27E	2	SW SE	401	25.60	HALE BROS.	4.
IR(S)	2N	27E	11	NW NE	401	16.46	HALE BROS.	4.
						42.06		

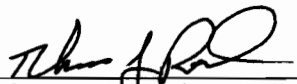
The applicant proposes to change the places of use to:

USE	TWP	RNG	SEC	Q/Q	TAXLOT	ACRES	OWNER	ATT.#
IR(S)	2N	28E	6	NW NE	1000	10.36	HALE BROS.	4.
IR(S)	3N	28E	31	NE SW	8900	23.90	HALE BROS.	4.
IR(S)	3N	28E	31	NW SW	8900	7.80	HALE BROS.	4.
						42.06		

THIS CHANGE TO AN EXISTING WATER RIGHT MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

1. The change is temporary. The change shall be effective upon issuance of this order.
2. The former place of use shall **not** be irrigated as part of this water right during the 2001 irrigation season.
3. The use shall revert to the authorized place of use at the end of the 2001 irrigation season.
4. All restrictions and limitations contained in the decree or permit of the subject rights will apply to the lands described by the change in place of use. Water use from wells in the Butter Creek and Stage Gulch Critical Ground Water Areas subject to allocation under OAR Chapter 690, Division 507 shall not exceed any limitations imposed by administrative rule.

Dated **JUN 0 6 2001**



Thomas J. Paul, Administrator
Field Services Division