

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

In the Matter of Transfer Application            )    FINAL ORDER APPROVING A  
T-12345, Umatilla County                        )    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**

BUTTER CREEK IRRIGATION DISTRICT  
73120 HIGHWAY 207  
ECHO, OR 97826

**Findings of Fact**

1. On April 18, 2016, Butter Creek Irrigation District filed a district transfer application to temporarily change the place of use under Certificates 81408 and 81409. The Department assigned the application number T-12345.
2. Notice of the application for transfer was published on April 26, 2016, pursuant to ORS 540.580 and OAR 690-385-3400. No comments were filed in response to the notice.
3. The portion of the first right to be transferred are as follows:

**Certificate:** 81408, issued in the name of HALE BROTHERS FARMS (perfected under Permit G-434)

**Use:** IRRIGATION of 36.94 acres

**Priority Date:** JANUARY 21, 1957

**Sources:** Ammon Wells #1 and #2, Hanson Well #1 and Hale, Sr. Well, all within the Butter Creek Basin.

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	27 E	WM	1	SE NW	AMMON WELL #1 – 10 FEET NORTH AND 2400 FEET EAST FROM THE E1/4 CORNER OF SECTION 2
2 N	27 E	WM	2	NE SE	AMMON WELL #2 - 100 FEET SOUTH AND 130 FEET WEST FROM THE E¼ CORNER OF SECTION 2
2 N	27 E	WM	12	NW NW	HANSON WELL #1 - 10 FEET SOUTH AND 10 FEET EAST FROM THE NW CORNER OF SECTION 12

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.

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	28 E	WM	7	NE NE	HALE SR. WELL - 1040 FEET SOUTH AND 440 FEET WEST FROM THE NE CORNER OF SECTION 7

**Authorized Place of Use:**

IRRIGATION							
Twp	Rng	Mer	Sec	Q - Q	Tax Lot	Acres	Water User
2 N	27 E	WM	1	NE NE	100	11.22	HALE BROS. FARMS
2 N	27 E	WM	1	SW NE	100	0.81	HALE BROS. FARMS
2 N	27 E	WM	1	SE NE	100	7.39	HALE BROS. FARMS
2 N	27 E	WM	1	NE SE	100	0.30	HALE BROS. FARMS
2 N	27 E	WM	1	NW SE	100	17.22	HALE BROS. FARMS
<b>Total:</b>						<b>36.94</b>	

4. Transfer Application T-12345 proposes to temporarily change the place of use of the right to:  
**Proposed Place of Use:**

IRRIGATION (diminished to supplemental irrigation)							
Twp	Rng	Mer	Sec	Q - Q	Tax Lot	Acres	Water User
2 N	27 E	WM	11	NE NW	1300	9.90	HALE BROS. FARMS
2 N	27 E	WM	11	SE NW	1300	27.04	HALE BROS. FARMS
<b>Total:</b>						<b>36.94</b>	

\*Note: During the term of this temporary transfer, the primary irrigation rights will diminish to supplemental irrigation to primary water use Permits S-51017 and S-46499. Any other primary water right appurtenant to the proposed place of use will not be used during the term of this temporary transfer.

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

**Certificate:** 81409, issued in the name of HALE BROTHERS FARMS (perfected under Permit G-1227)

**Use:** IRRIGATION of 37.5 acres

**Priority Date:** JANUARY 21, 1959

**Rate & Duty:** ONE-EIGHTIETH of one cfs not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year

**Source:** AMMON WELL #2, HALE SR. WELL, and HANSON WELL #1, within the UMATILLA RIVER BASIN.

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	27E	WM	12	NW NW	HANSON WELL #1 - 10 FEET SOUTH AND 10 FEET EAST FROM THE NW CORNER OF SECTION 12
2 N	27 E	WM	2	NE SE	AMMON WELL #2 - 100 FEET SOUTH AND 130 FEET WEST FROM THE E¼ CORNER OF SECTION 9
2 N	28 E	WM	7	NE NE	HALE SR. WELL - 1040 FEET SOUTH AND 440 FEET WEST FROM THE NE CORNER OF SECTION 7

**Authorized Place of Use:**

IRRIGATION							
Twp	Rng	Mer	Sec	Q - Q	Tax Lot	Acres	Water User
2 N	27 E	WM	1	SE SW	404	2.5	HALE BROS. FARMS
2 N	27 E	WM	1	SW SE	404	13.5	HALE BROS. FARMS
2 N	27 E	WM	12	NW NE	400	1.5	HALE BROS. FARMS
2 N	27 E	WM	12	NE NW	400 & 404	20.0	HALE BROS. FARMS
<b>Total:</b>						<b>37.5</b>	

- Transfer Application T-12345 proposes to change the place of use of the right to:

**Proposed Place of Use:**

IRRIGATION (diminished to supplemental irrigation)							
Twp	Rng	Mer	Sec	Q - Q	Tax Lot	Acres	Water User
2 N	27 E	WM	11	NE NW	1300	18.3	HALE BROS. FARMS
2 N	27 E	WM	11	SE NW	1300	9.8	HALE BROS. FARMS
2 N	27 E	WM	11	SE NW	1300	9.4	HALE BROS. FARMS
<b>Total:</b>						<b>37.5</b>	

\*Note: Certificate 81409 will be diminished to supplemental irrigation to Permit S-51017. Any other primary water right appurtenant to the proposed place of use shall not be used during the term of this temporary transfer.

- Some of the lands have been affected by an allocation of conserved water application CW-84, the applicant has included in the application a statement that these rights will not be exercised on the lands involved in this temporary transfer during the 2016 irrigation season.
- The water rights are subject to transfer as defined in OAR 690-385-0100(17).
- The proposed changes in place of use would not result in enlargement of the rights if conditioned so that any existing primary water right or water use permit appurtenant to the authorized or proposed places are either to be diminished or not to be exercised during the term of this temporary transfer
- The proposed changes would not result in injury to other water rights.

**Conclusions of Law**


The proposed temporary changes proposed in Transfer Application T-12345 satisfy the requirements of ORS 540.574(3) and 540.570.

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

- The temporary changes proposed in Transfer Application T-12345 are approved.
- The former places of use **shall not** be irrigated as part of these water rights during the 2016 irrigation season.
- The use shall revert to the authorized place of use at the end of the 2016 irrigation season. The authorization to use the additional points of appropriation shall be terminated concurrently.
- Any existing primary water right, water use permit, or allocation of conserved water appurtenant to the authorized or proposed places are either to be diminished or not to be exercised during the term of this temporary transfer.
- 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 81408, 81409, and any related decree.

6. The water user and/or district shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.
7. 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. A subsequent application for permanent transfer of Certificates 81408 and 81409 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.
9. 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 81408 and 81409.
10. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
11. The use of the remaining water rights described by Certificates 81408 and 81409 shall continue to be in accordance with the terms and conditions of Certificates 81408 and 81409.

Dated at Salem, Oregon this 24 day of May 2016.

  
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Dwight French, Water Right Services Administrator for  
THOMAS M. BYLER, DIRECTOR  
Oregon Department of Water Resources

MAY 30 2016  
Mailing Date: \_\_\_\_\_

MAY 30 2016