

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

In the Matter of District Temporary)	RECONSIDERATION AND
Transfer Application T-9671, Umatilla)	MODIFICATION OF FINAL ORDER
County, Oregon)	
)	ORDER APPROVING A DISTRICT
)	TEMPORARY TRANSFER

ORS 537.705 and 540.570 establish the process in which a district may request to temporarily transfer the place of use, and point of appropriation authorized under an existing water right. OAR 137-044-0080 describes the process for reconsideration of an order in other than contested case.

Applicant

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

Findings of Fact

1. The Department issued an order rejecting a district temporary transfer of place of use under Transfer Application T-9671. The order was issued on June 14, 2004, and is entered at Special Order Volume 60, Pages 268 to 270.
2. T-9671 proposed changing the place of use of inchoate water rights under Water Right Certificates 49733, 65485, and 74897. These rights had been canceled by orders approving additional points of appropriation under Transfers T-6775 and T-6777.
3. T-9671 was rejected because inchoate water rights are not subject to transfer under ORS 540.570(1)(a).
4. Subsequent to issuance of the order, the Department received a letter from the applicant stating Transfers T-6775 and T-6777 involving additional points of appropriation will not be completed and requested that the authorized points of appropriation revert to the last authorized points of appropriation prior to the transfers.
5. The applicant amended T-9671, consistent with ORS 540.570(2), to temporarily change points of appropriation to facilitate the proposed change in place of use.

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 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

6. The period in which the Department may, on its own initiative, reconsider a final order has not yet closed.
7. Pursuant to OAR 690-380-6010(6), the Department issued certificates 80849, 80850, and 80851 to supersede the certificates canceled under Transfers T-6775 and T-6777 to reflect the reverted points of appropriation.
8. Amended T-9671 proposes to modify the following rights:

IRRIGATION

Certificate 74896: issued in the names of Robert C., Rick L. and Douglas L. Hale

Priority Date: April 8, 1963

Rate & Duty: 1/80 cfs and a maximum of 3.0 acre-feet per acre per irrigation season

Source: Hale Wells #1, #2, #4, #6 and #7

Certificate 80851: issued in the names of Robert C., Rick L. and Douglas L. Hale

Priority Date: June 8, 1971

Rate & Duty: 1/80 cfs and a maximum of 3.0 acre-feet per acre per irrigation season

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

Certificate 80849: issued in the name of Kenneth H. Coppinger

Priority Date: December 29, 1975

Rate & Duty: 1/80 cfs and a maximum of 3.0 acre-feet per acre per irrigation season

Source: Coppinger Wells # 1 and # 2

Certificate 80850: issued in the name H- 4 Farms, Inc.

Priority Date: February 16, 1973

Rate & Duty: 1/80 cubic foot per second per acre irrigated

Source: Wells #5 and #8

SUPPLEMENTAL IRRIGATION

Certificate 80851: issued in the names of Robert C., Rick L. and Douglas L. Hale

Priority Date: June 8, 1971

Rate & Duty: 1/80 cfs and a maximum of 3.0 acre-feet per acre per irrigation season

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

9. Echo Irrigation District applied to temporarily change the place of use for irrigation authorized by Certificate 80851 from the location identified in Table 1 to the location listed in Table 2, and change the place of use for supplemental irrigation from the location identified in Table 3 to the location listed in Table 4.

TABLE 1.										
CERTIFICATE 80851 - AUTHORIZED PLACE OF USE - IRRIGATION										
TWP	RNG	MER	SEC	1/4	1/4	TL	ACRES	CIRCLE		
3	N	30	E	WM	6	SE	NW	703	36.31	
									9.7	

TABLE 2.										
CERTIFICATE 80851 - PROPOSED PLACE OF USE - IRRIGATION										
TWP	RNG	MER	SEC	1/4	1/4	TL	ACRES	CIRCLE		
3	N	30	E	WM	7	NE	SE	802	6.31	502
3	N	30	E	WM	7	NW	SE	802	30.00	502
									9.7	

TABLE 3.										
CERTIFICATE 80851 - AUTHORIZED PLACE OF USE - SUPPLEMENTAL IRRIGATION										
TWP	RNG	MER	SEC	1/4	1/4	TL	ACRES	CIRCLE		
3	N	29	E	WM	1	NE	SE	100	0.50	27
3	N	29	E	WM	1	SE	SE	100	0.20	27
3	N	29	E	WM	12	NE	SE	103	0.89	
3	N	30	E	WM	6	NW	SW	703	8.50	27
3	N	30	E	WM	6	SW	SW	703	4.30	27
3	N	30	E	WM	7	NE	NW	703	2.50	
3	N	30	E	WM	7	NW	SW	706	4.10	
3	N	30	E	WM	7	SW	NW	702	13.20	
3	N	30	E	WM	7	SE	NW	702	16.30	
3	N	30	E	WM	7	NE	SW	702	33.20	
									83.69	

TABLE 4.										
CERTIFICATE 80851 - PROPOSED PLACE OF USE - SUPPLEMENTAL IRRIGATION										
TWP	RNG	MER	SEC	1/4	1/4	TL	ACRES	CIRCLE		
3	N	30	E	WM	7	NE	SE	802	23.69	502
3	N	30	E	WM	7	SW	SE	802	30.00	502
3	N	30	E	WM	7	SE	SE	802	30.00	502
									83.69	

10. Echo Irrigation District applied to temporarily change the place of use for irrigation authorized by Certificate 74896 from the location identified in Table 5 to the location listed in Table 6.

TABLE 5.										
CERTIFICATE 74896 - AUTHORIZED PLACE OF USE - IRRIGATION										
TWP	RNG	MER	SEC	1/4	1/4	TL	ACRES	CIRCLE		
3	N	29	E	WM	1	NE	SE	100	0.50	27
3	N	29	E	WM	1	SE	SE	100	0.20	27
3	N	29	E	WM	12	NE	SE	103	0.89	
3	N	30	E	WM	6	NW	SW	703	8.50	27

TABLE 5.										
CERTIFICATE 74896 - AUTHORIZED PLACE OF USE - IRRIGATION										
TWP	RNG	MER	SEC	1/4	1/4	TL	ACRES	CIRCLE		
3	N	30	E	WM	6	SW	SW	703	4.30	27
3	N	30	E	WM	7	NE	NW	703	2.50	
3	N	30	E	WM	7	NW	SW	706	4.10	
3	N	30	E	WM	7	SW	NW	702	13.20	
3	N	30	E	WM	7	SE	NW	702	16.30	
3	N	30	E	WM	7	NE	SW	702	33.20	
									83.69	

TABLE 6.										
CERTIFICATE 74896 - PROPOSED PLACE OF USE - IRRIGATION										
TWP	RNG	MER	SEC	1/4	1/4	TL	ACRES	CIRCLE		
3	N	30	E	WM	7	NE	SE	802	23.69	502
3	N	30	E	WM	7	SW	SE	802	30.00	502
3	N	30	E	WM	7	SE	SE	802	30.00	502
									83.69	

11. Echo Irrigation District applied to temporarily change the place of use for irrigation authorized by Certificate 80849 from the location identified in Table 7 to the location listed in Table 8.

TABLE 7.										
CERTIFICATE 80849 - AUTHORIZED PLACE OF USE - IRRIGATION										
TWP	RNG	MER	SEC	1/4	1/4	TL	ACRES	CIRCLE		
3	N	29	E	WM	24	NE	NE	8600	9.00	
3	N	29	E	WM	24	NW	NE	8600	9.00	
3	N	29	E	WM	24	SW	NE	8600	9.00	
3	N	29	E	WM	24	SE	NE	8600	9.00	
3	N	29	E	WM	24	NE	SE	8700	37.10	
3	N	29	E	WM	24	NW	SE	8700	40.00	
3	N	29	E	WM	24	SW	SE	8700	9.00	
3	N	29	E	WM	24	SE	SE	8700	9.00	
3	N	30	E	WM	19	NE	NW	2601	27.50	
3	N	30	E	WM	19	NW	NW	2601	13.20	
3	N	30	E	WM	19	SW	NW	2601	13.60	
3	N	30	E	WM	19	SE	NW	2601	26.70	
3	N	30	E	WM	19	NE	SW	2600	28.50	
3	N	30	E	WM	19	NW	SW	2600	8.10	
3	N	30	E	WM	19	SW	SW	2600	9.20	
3	N	30	E	WM	19	SE	SW	2600	26.40	
									284.30	

TABLE 8.										
CERTIFICATE 80849 - PROPOSED PLACE OF USE - IRRIGATION										
TWP	RNG	MER	SEC	1/4	1/4	TL	ACRES	CIRCLE		
3	N	29	E	WM	13	NE	NE	3700	31.00	41
3	N	29	E	WM	13	NW	NE	3700	31.00	41

TABLE 8.										
CERTIFICATE 80849 - PROPOSED PLACE OF USE - IRRIGATION										
TWP	RNG	MER	SEC	1/4	1/4	TL	ACRES	CIRCLE		
3	N	29	E	WM	13	SW	NE	3700	30.00	41
3	N	29	E	WM	13	SE	NE	3700	30.00	41
3	N	29	E	WM	13	NE	SE	3700	31.00	42
3	N	29	E	WM	13	NW	SE	3700	31.00	42
3	N	29	E	WM	13	SW	SE	3700	32.00	42
3	N	29	E	WM	13	SE	SE	3700	32.00	42
3	N	29	E	WM	25	NE	NE	8800	6.30	49A
3	N	29	E	WM	25	NW	NE	8800	30.00	49A
									284.30	

12. Echo Irrigation district applied for temporary additional points of appropriation under Certificate 80849 to facilitate the proposed change in place of use. The authorized points of appropriation are identified in Table 9, and the proposed additional points of appropriation are identified in Table 10.

TABLE 9.											
CERTIFICATE 80849 - AUTHORIZED POINTS OF APPROPRIATION											
TWP	RNG	MER	SEC	1/4	1/4	LOCATION					
3	N	29	E	WM	24	SW	NE	COPPINGER WELL #1 - 20' N and 1570' W from E 1/4 Corner of Section 24			
3	N	29	E	WM	24	SE	NE	COPPINGER WELL #2 - 960' N and 30' W from E 1/4 Corner of Section 24			

TABLE 10.											
CERTIFICATE 80849 - PROPOSED ADDITIONAL POINTS OF APPROPRIATION											
TWP	RNG	MER	SEC	1/4	1/4	LOCATION					
3	N	29	E	WM	11	SE	SE	HALE WELL #5 - 60' N and 590' W from SE Corner, Section 11			
3	N	29	E	WM	14	SW	NW	HALE WELL #8 - 1350' S and 50' W from NE Corner, NW 1/4 NW 1/4 Sec. 14			
3	N	29	E	WM	24	SE	NE	COPPINGER WELL #3 - 3690' N and 1320' W from SE Corner, Section 24			

13. Echo Irrigation District applied to temporarily change the place of use for irrigation authorized by Certificate 80850 from the location identified in Table 11 to the location listed in Table 12.

TABLE 11.										
CERTIFICATE 80850 - AUTHORIZED PLACE OF USE - IRRIGATION										
TWP	RNG	MER	SEC	1/4	1/4	TL	ACRES	CIRCLE		
3	N	29	E	WM	12	SW	SW	3603	15.80	29
3	N	29	E	WM	12	SE	SW	3603	24.40	30
3	N	29	E	WM	14	NE	NE	3900	30.40	2
3	N	29	E	WM	14	NW	NE	3900	40.00	2
3	N	29	E	WM	14	SW	NE	3900	40.00	2
3	N	29	E	WM	14	SE	NE	3900	38.00	2

TABLE 11.										
CERTIFICATE 80850 - AUTHORIZED PLACE OF USE - IRRIGATION										
TWP	RNG	MER	SEC	I/4	I/4	TL	ACRES	CIRCLE		
3	N	29	E	WM	14	NE	NW	3900	6.80	
3	N	29	E	WM	14	SE	NW	3900	6.00	
									201.40	

TABLE 12.										
CERTIFICATE 80850 - PROPOSED PLACE OF USE - IRRIGATION										
TWP	RNG	MER	SEC	I/4	I/4	TL	ACRES	CIRCLE		
3	N	29	E	WM	15	NE	SE	4200	14.90	7
3	N	29	E	WM	15	SW	SE	4200	12.70	7
3	N	29	E	WM	15	SE	SE	4200	30.10	7
3	N	29	E	WM	24	NE	NW	4000	4.80	601
3	N	29	E	WM	24	NW	NW	4000	5.00	601
3	N	29	E	WM	24	SW	NW	4000	37.10	601
3	N	29	E	WM	24	SE	NW	4000	36.10	601
3	N	29	E	WM	24	NE	SW	4000	18.20	601
3	N	29	E	WM	24	NW	SW	4000	18.80	601
3	N	29	E	WM	25	NE	NE	8800	23.70	49A
									201.40	

14. Echo Irrigation district applied for temporary additional points of appropriation under Certificate 80850 to facilitate the proposed change in place of use. The authorized points of appropriation are identified in Table 13, and the proposed additional points of appropriation are identified in Table 14.

TABLE 13.								
CERTIFICATE 80850 - AUTHORIZED POINTS OF APPROPRIATION								
TWP	RNG	MER	SEC	I/4	I/4	LOCATION		
3	N	29	E	WM	11	SE	SE	HALE WELL #5 - 60' N and 590' W from SE Corner, Section 11
3	N	29	E	WM	14	SW	NW	HALE WELL #8 - 1350' S and 50' W from NE Corner, NW ¼ NW¼ Sec. 14

TABLE 14.								
CERTIFICATE 80850 - PROPOSED ADDITIONAL POINTS OF APPROPRIATION								
TWP	RNG	MER	SEC	I/4	I/4	LOCATION		
3	N	29	E	WM	24	SW	NE	COPPINGER WELL #1 - 20' N and 1570' W from E ¼ Corner of Section 24
3	N	29	E	WM	24	SE	NE	COPPINGER WELL #2 - 960' N and 30' W from E ¼ Corner of Section 24
3	N	29	E	WM	24	SE	NE	COPPINGER WELL #3 - 3690' N and 1320' W from SE Corner, Section 24

15. The right to use water for the above purposes is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in the permit. The use shall conform to any reasonable rotation system ordered by the proper state officer.

16. Pursuant to ORS 540.574 and ORS 540.570, in reviewing the application submitted by Echo Irrigation District, the Department has determined the following:
- a) The application contains the information required under ORS 540.574(3).
 - b) The application meets the requirements of ORS 540.570.
 - c) The application contains maps which are satisfactory to the Department and which the District certified as being accurate.
 - d) The application includes the required statement from the District that it has on file, and available for review, written authorization from each landowner affected by the transfer.
 - e) The District notified each affected landowner that the Department may at any time, to the extent necessary to avoid injury to an existing water right:
 - A) Condition the temporary transfer to mitigate injury; or
 - B) Reject or revoke the temporary transfer.
 - f) The lands from which the water right would be moved by the proposed transfer will not continue to receive water under the water right.
 - g) The use authorized by the water right subject to transfer will not change; and
 - h) The proposed change in place of use will not result in injury or enlargement to an existing water right.

Conclusions of Law

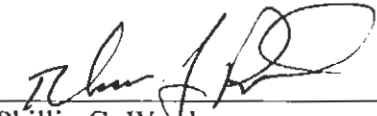
- 1. Amended Transfer Application T-9671 submitted by Echo Irrigation District proposing a temporary change in place of use within district boundaries, and additional points of appropriation to facilitate the change in place of use, included the information and satisfied the criteria required by ORS 540.574(3).
- 2. The proposed transfer complies with the requirements of ORS 540.570.
- 3. The petition satisfies the criteria and requirements of ORS 540.574(3) and ORS 540.570 resulting in no injury or enlargement to existing water rights.

Now, therefore, it is ORDERED:

- 1. The order rejecting Transfer Application T-9671 and entered at Special Order Volume 59, Pages 268 to 270 is withdrawn.
- 2. T-9671 is approved, as modified at the request of the applicant, for the temporary transfer of place of use and additional points of appropriation to facilitate the change in place of use.
- 2. The temporary transfer is effective for the 2004 irrigation season.
- 3. At the end of the 2004 irrigation season, all uses of water under the temporary transfer revert automatically to the terms and conditions of the original water right permit, certificate, or adjudication as evidenced by a court decree.

4. The approval of this temporary transfer may be conditioned, rejected 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.
5. The former place of use shall no longer be irrigated as a part of this water right. 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.
6. Except as modified herein, all other conditions and limitations of the water right remain in effect.

Dated at Salem, Oregon this 21st day of July, 2004.


for _____
Phillip C. Ward
Acting Director

Mailing date: _____
AUG 25 2004