

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

In the Matter of Transfer Application                                    ) FINAL ORDER APPROVING  
T-10818, Umatilla County                                                    ) 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  
73120 HIGHWAY 207  
ECHO, OR 97826

**Contact**

BILL PORFILY  
PO BOX 643  
STANFIELD, OR 97875

**Findings of Fact**

1. On March 16, 2009, Echo Irrigation District filed a district transfer application to temporarily change the place of use under Certificates 80849, 80850, 80851 and Permit G-2415 (as modified under transfer application T-6787), within the boundaries of the irrigation district. The Department assigned the application number T-10818.
2. Certificate 80851 was superseded by Certificate 85124 issued by the Department on February 17, 2009. Therefore, the District revised Application T-10818 to accurately reflect Certificate 85124 rather than the cancelled Certificate 80851.
3. Pursuant to OAR 690-385-3110, Echo Irrigation District specified that the portion of existing Certificate 76369 that is located on the same land as a portion of the proposed “TO” lands under this transfer (said lands being fully described in Findings of Fact #6 and #16 below) will not be used or transferred during the course of the 2009 irrigation season.
4. Notice of the application for temporary transfer was published on March 24, 2009, pursuant to ORS 540.570 and OAR 690-385-3400. No comments were filed in response to the notice.

This is a final order in 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 137-004-0080, you may 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.

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

**Certificate:** 85124 (which supersedes 80851), issued in the name of ROBERT C., RICK L., AND DOUGLAS L. HALE (perfected under Permit G-4969)

**Use:** IRRIGATION of 66.51 ACRES

**Priority Date:** JUNE 8, 1971

**Rate & Duty:** ONE-EIGHTIETH of one cubic foot per second (cfs) for each acre irrigated and further limited to a diversion of not to exceed 3.0 ACRE-FEET per acre for each acre irrigated during the irrigation season of each year

**Source:** HALE WELLS # 1, 2, 3, 4, 6 & 7, within the STAGE GULCH BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
3 N	30 E	WM	7	NW NW	Well #1 - 4340 feet North and 1830 feet West from the South ¼ Corner of Section 7
3 N	30 E	WM	6	NW SW	Well #2 - 2010 feet North and 1330 feet East from the SW Corner of Section 6
3 N	30 E	WM	7	SW SW	Well #3 - 1420 feet South and 40 feet East from the West ¼ Corner of Section 7
3 N	29 E	WM	2	SE NE	Well #4 - 180 feet North and 260 feet West from the East ¼ Corner of Section 2
3 N	29 E	WM	11	SW NE	Well #6 - 132 feet North and 2190 feet West from the East ¼ Corner of Section 11
3 N	29 E	WM	12	NW NW	Well #7 - 1010 feet South and 40 feet East from the NW Corner of Section 12

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q - Q	TL	Acres	User
3 N	30 E	WM	6	NE NW	703	30.20	HALE BROS. FARMS
3 N	30 E	WM	6	SE NW	703	36.31	HALE BROS. FARMS
<b>TOTAL:</b>						<b>66.51</b>	

6. Application T-10818 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	12	SW SW	3700	3.00*	COOK
3 N	29 E	WM	13	NW NE	3700	13.20*	COPPINGER FARMS
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	20	NW SW	3000	14.00(**)	DITCHENS
<b>TOTAL:</b>						<b>66.51</b>	

\* Additional POA's (See Finding of Fact #7 below)

(\*\*) NOTE: The applicant has stated that there will be no use of the 14.0 acres under the primary water right Certificate 76369 on these lands nor will it be transferred during the 2009 irrigation season.

7. Application T-10818 also proposes to TEMPORARILY CHANGE THE POINT OF APPROPRIATION for the 3.0 acres (in Sec. 12, T. 3N, R. 29E, WM), the 13.2 acres (in Sec. 13, T. 3N, R. 29E, WM), and the 14.0 acres (in Sec. 20, T. 3N, R. 30E, WM), under this right (described in the table in Finding of Fact #6 above) to:

**Proposed Additional Points of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
3 N	29 E	WM	24	SW NE	Coppinger NEW Well #1 - 20 feet North and 1490 feet West from the East ¼ Corner of Section 24
3 N	30 E	WM	30	NE SW	Ditchen Well #1 - 30 feet South and 640 feet West from the Center of Section 30
3 N	30 E	WM	20	SW SW	Ditchen Well #2 - 80 feet East from the SW Corner of Section 20

8. The portion of the second primary right and its supplemental right to be transferred are as follows:

**Certificate:** 74896 (as modified by T-6787, Sp. Or. Vol. 57, Page 893 – See Finding of Fact #10) issued in the name of ROBERT C., RICK L., and DOUGLAS L. HALE (originally perfected under Permit G-2415)

**Use:** IRRIGATION (IR) of 83.69 ACRES

**Priority Date:** APRIL 8, 1963

**Rate & Duty:** ONE-EIGHTIETH of one cubic foot per second (cfs) for each acre irrigated and further limited to a diversion of not to exceed 3.0 ACRE-FEET per acre for each acre irrigated during the irrigation season of each year

**Source:** HALE WELLS # 1, 2, 4, 6 & 7, within the STAGE GULCH BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
3 N	30 E	WM	7	NW NW	Well #1 - 4340 feet North and 1830 feet West from the South ¼ Corner of Section 7
3 N	30 E	WM	6	NW SW	Well #2 - 2010 feet North and 1330 feet East from the SW Corner of Section 6
3 N	29 E	WM	2	SE NE	Well #4 - 180 feet North and 260 feet West from the East ¼ Corner of Section 2
3 N	29 E	WM	11	SW NE	Well #6 - 132 feet North and 2190 feet West from the East ¼ Corner of Section 11
3 N	29 E	WM	12	NW NW	Well #7 - 1010 feet South and 40 feet East from the NW Corner of Section 12

*NOTE: As described in Finding of Fact #9 below, Hale Well #3 is NOT an authorized point of appropriation under Certificate 74896.*

**Certificate:** 85124 (which supersedes 80851), issued in the name of ROBERT C., RICK L., and DOUGLAS L. HALE (perfected under Permit G-4969)

**Use:** SUPPLEMENTAL IRRIGATION (IS) of 83.69 ACRES

**Priority Date:** JUNE 8, 1971

**Rate & Duty:** ONE-EIGHTIETH of one cubic foot per second (cfs) for each acre irrigated and further limited to a diversion of not to exceed 3.0 ACRE-FEET per acre for each acre irrigated during the irrigation season of each year

**Source:** HALE WELLS # 1, 2, 3, 4, 6 & 7, within the STAGE GULCH BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
3 N	30 E	WM	7	NW NW	Well #1 - 4340 feet North and 1830 feet West from the South ¼ Corner of Section 7
3 N	30 E	WM	6	NW SW	Well #2 - 2010 feet North and 1330 feet East from the SW Corner of Section 6
3 N	30 E	WM	7	SW SW	Well #3 - 1420 feet South and 40 feet East from the West ¼ Corner of Section 7
3 N	29 E	WM	2	SE NE	Well #4 - 180 feet North and 260 feet West from the East ¼ Corner of Section 2
3 N	29 E	WM	11	SW NE	Well #6 - 132 feet North and 2190 feet West from the East ¼ Corner of Section 11
3 N	29 E	WM	12	NW NW	Well #7 - 1010 feet South and 40 feet East from the NW Corner of Section 12

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q - Q	TL	CERTIFICATE (ACRES)		User
						74896 (IR)	85124 (IS)	
3 N	29 E	WM	12	NE SE	103	0.89	0.89	HALE BROS. FARMS
3 N	30 E	WM	6	NW SW	103	8.50	8.50	HALE BROS. FARMS
3 N	30 E	WM	6	SW SW	103	4.30	4.30	HALE BROS. FARMS
3 N	30 E	WM	7	NE NW	703	2.50	2.50	HALE BROS. FARMS
3 N	30 E	WM	7	SW NW	702	13.90	13.90	HALE BROS. FARMS
3 N	30 E	WM	7	SE NW	702	16.30	16.30	HALE BROS. FARMS
3 N	30 E	WM	7	NE SW	702	33.20	33.20	HALE BROS. FARMS
3 N	30 E	WM	7	NW SW	702	4.10	4.10	HALE BROS. FARMS
<b>TOTAL:</b>						<b>83.69</b>	<b>83.69</b>	

9. Transfer Application T-10818 incorrectly lists Hale Well #3 as being an authorized point of appropriation under Certificate 74896. Certificate 74896 does not allow for the appropriation of water from Hale Well #3 for the purpose of primary irrigation under said water right certificate.
10. On May 31, 2003, the Department issued a Final Order (Sp. Or. Vol. 57, Page 893) to approve Transfer Application T-6787 which requested to modify water right Certificates 74896 and 74897. The authorized changes to be made to Certificate 74896 consisted of adding a well (Hale Well #5) to the entirety of Certificate 74896 and to change a portion of the place of use under Certificate 74896. A determination of proof to the satisfaction of the Director has not yet been made for the changes authorized under Sp. Or. Vol. 57, Page 893.

11. Application T-10818 proposes to TEMPORARILY change the places of use of the rights to:

**Proposed Places of Use:**

Twp	Rng	Mer	Sec	Q - Q	TL	CERTIFICATE (ACRES)		User
						74896 (IR)	85124 (IS)	
3 N	30 E	WM	8	NE SW	802	23.69	23.69	HALE BROS. FARMS
3 N	30 E	WM	8	SW SW	802	30.00	30.00	HALE BROS. FARMS
3 N	30 E	WM	8	SE SW	802	30.00	30.00	HALE BROS. FARMS
<b>TOTAL:</b>						<b>83.69</b>	<b>83.69</b>	

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

**Certificate:** 80849, issued in the name KENNETH H. COPPINGER (perfected under Permit G-6626)

**Use:** IRRIGATION of 227.1 ACRES

**Priority Date:** DECEMBER 29, 1975

**Rate & Duty:** ONE-EIGHTIETH of one cubic foot per second (cfs) for each acre irrigated and further limited to a diversion of not to exceed 3.0 ACRE-FEET per acre for each acre irrigated during the irrigation season of each year

**Source:** COPPINGER WELLS #1 & 2, within the STAGE GULCH BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
3 N	29 E	WM	24	SW NE	Coppinger Well #1 - 20 feet North and 1570 feet West from the East 1/4 Corner of Section 24
3 N	29 E	WM	24	SE NE	Coppinger Well #2 - 960 feet North and 30 feet West from the East 1/4 Corner of 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	7.30	KENNETH COPPINGER
3 N	29 E	WM	24	NW SE	8700	10.20	KENNETH COPPINGER
3 N	29 E	WM	24	SW SE	8700	10.20	KENNETH COPPINGER
3 N	29 E	WM	24	SE SE	8700	10.20	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
<b>TOTAL:</b>						<b>227.10</b>	

13. Application T-10818 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	KENNETH COPPINGER
3 N	29 E	WM	13	NW NE	3700	16.80	KENNETH COPPINGER
3 N	29 E	WM	13	SW NE	3700	29.50	KENNETH COPPINGER
3 N	29 E	WM	13	SE NE	3700	30.00	KENNETH COPPINGER
3 N	29 E	WM	13	NE SE	3700	30.20	KENNETH COPPINGER
3 N	29 E	WM	13	NW SE	3700	30.20	KENNETH COPPINGER
3 N	29 E	WM	13	SW SE	3700	30.20	KENNETH COPPINGER
3 N	29 E	WM	13	SE SE	3700	30.20	KENNETH COPPINGER
<b>TOTAL:</b>						<b>227.10</b>	

14. Application T-10818 also proposes to TEMPORARILY ADD ADDITIONAL POINTS OF APPROPRIATION for the lands described in the table in Finding of Fact #13 above to:

**Proposed Additional Points of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
3 N	29 E	WM	24	SW NE	<b>Coppinger NEW Well #1</b> - 20 feet North and 1490 feet West from the East ¼ Corner of Section 24
3 N	30 E	WM	30	NE SW	<b>Ditchen Well #1</b> - 30 feet South and 640 feet West from the Center of Section 30
3 N	30 E	WM	20	SW SW	<b>Ditchen Well #2</b> - 80 feet East from the SW Corner of Section 20

15. The portion of the fourth 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 111.1 ACRES

**Priority Date:** FEBRUARY 16, 1973

**Rate & Duty:** ONE-EIGHTIETH of one cubic foot per second (cfs) for each acre irrigated and further limited to a diversion of not to exceed 3.0 ACRE-FEET per acre for each acre irrigated during the irrigation season of each year

**Source:** TWO WELLS within the UMATILLA RIVER BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
3 N	29 E	WM	11	SE SE	<b>Well #5</b> - 60 feet North and 590 feet West from the SE Corner of Section 11
3 N	29 E	WM	14	SW NW	<b>Well #8</b> - 1350 feet South and 50 feet West from the NE Corner of the NW¼ of the NW¼ of 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	NW SE	3603	5.90	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	24.40	HALE BROS. FARMS
3 N	29 E	WM	14	NW NE	3900	9.30	HALE BROS. FARMS
3 N	29 E	WW	14	SW NE	3900	9.30	HALE BROS. FARMS
3 N	29 E	WM	14	SE NE	3900	7.30	HALE BROS. FARMS
3 N	29 E	WW	14	NE NW	3900	9.30	HALE BROS. FARMS
3 N	30 E	WM	14	SE NW	3900	8.80	HALE BROS. FARMS
<b>TOTAL:</b>						<b>111.10</b>	

16. Application T-10818 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	30 E	WM	20	NE SW	3000	31.10*	DITCHEN FARM
3 N	30 E	WM	20	NW SW	3000	16.80*	DITCHEN FARM
3 N	30 E	WM	20	SW SW	3000	31.50*	DITCHEN FARM
3 N	30 E	WM	20	SE SW	3000	31.70*	DITCHEN FARM
<b>TOTAL:</b>						<b>111.10*</b>	

\* Additional POA's (See Finding of Fact #17 below). Also note that the applicant has stated that there will be no use of the 111.10 acres under the primary water right Certificate 76369 on these lands nor will it be transferred during the 2009 irrigation season.

17. Application T-10818 also proposes to TEMPORARILY ADD ADDITIONAL POINTS OF APPROPRIATION under this right to accommodate the place of use change for the 111.1 acres described in the table in Finding of Fact #16 above, located as follows:

**Proposed Additional Points of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
3 N	29 E	WM	24	SW NE	Coppinger New Well #1 – 20 feet North and 1490 feet West from the East ¼ Corner of Section 24
3 N	30 E	WM	30	NE SW	Ditchen Well #1 – 30 feet South and 640 feet West from the Center of Section 30
3 N	30 E	WM	20	SW SW	Ditchen Well #2 – 80 Feet East from the SW Corner of Section 20

18. The Department has determined that the proposed additional points of appropriation (Coppinger New Well #1, Ditchen Well #1 and Ditchen Well #2) are all within the same subareas (D and H) of the Stage Gulch Critical Ground Water Area and will all develop the same source of water as the authorized existing wells described in Certificates 80849, 80850 and 85124.

19. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
20. The district temporary transfer application satisfies the criteria of OAR 690-385-3000, contains the information required under OAR 690-385-3200, and includes a map meeting the requirements of OAR 690-385-3300.
21. The proposed changes would not result in injury to other water rights.

### **Conclusions of Law**

The temporary change in place of use and additional points of appropriation proposed in Transfer Application T-10818 satisfy the requirements of ORS 540.574(3) and 540.570.

The portions of the existing Certificate 76369, described in Findings of Fact #6 and #16 above, will not be exercised or transferred during the 2009 irrigation season.

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

1. The proposed temporary changes to the water rights evidenced by Certificates 80849, 80850, 85124 and Permit G-2415 (as modified under transfer application T-6787) are approved.
2. The temporary transfer is effective for the 2009 irrigation season.
3. The former places of use **shall not** be irrigated as part of these water rights during the 2009 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.
4. At the end of the 2009 irrigation season all use of water under this temporary transfer shall automatically revert to the terms and conditions of the original water right certificates or adjudication as evidenced by a court decree. The authorization to use the additional points of appropriation shall be terminated concurrently.
5. 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, 85124, Permit G-2415 (as modified under transfer application T-6787) and any related decree.
6. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
7. The District shall not use water under portions of Certificate 76369 at the proposed places of use as described in Findings of Fact #6 and #16.



8. The use of the remaining water rights described by Certificates 80849, 80850 and 85124 and Permit G-2415 (as modified under transfer application T-6787) shall continue to be in accordance with the terms and conditions of Certificates 80849, 80850, 85124 and Permit G-2415 (as modified under transfer application T-6787).
9. The water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.
10. A subsequent application for permanent transfer of Certificates 80849, 80850, 85124 or Permit G-2415 (as modified under transfer application T-6787) shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380 and 385. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
11. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.

Dated at Salem, Oregon this 13<sup>th</sup> day of May, 2009.

*Phillip C. Ward*  
Phillip C. Ward, Director *PCW*

Mailing date: MAY 18 2009