

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

In the Matter of Transfer Application            )     FINAL ORDER APPROVING  
T-9650, Umatilla County, Oregon                )     TEMPORARY CHANGES IN PLACE  
  )     OF USE

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to temporarily transfer the place of use and, if necessary to convey the water to the temporary place of use, the point of diversion or appropriation 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**

Kent Madison  
29299 Madison Road  
Echo, OR 97826

Hale Brothers Farms  
PO Box 110  
Hermiston, OR 97838

**Findings of Fact**

1. Kent Madison and Hale Brothers Farms filed an application to temporarily transfer the place of use under Certificates 2690, 2687, and 2696 for primary irrigation, and Certificates 25902, 25776, 25903 and Permit S-51017 for supplemental irrigation for a period of 1 year. The Department assigned the application number T-9650.
2. The temporary transfer application misidentified the permit number for S-51017 as S-70272, which is the originating water right application number. This transfer order has been modified to reflect the correct permit identification number.
3. The portion of the rights to be transferred is as follows:
  - a) PRIMARY IRRIGATION

<b>Certificate:</b>	2690 in the name of Hugh Stanfield
<b>Use:</b>	Irrigation
<b>Priority Date:</b>	1864 and 1898
<b>Quantity:</b>	1864: 0.017 Cubic Foot per Second (CFS) 1898: 0.274 CFS
<b>Duty:</b>	Not to exceed 4.0 acre-feet per acre (Butter Creek Decree)
<b>Acres:</b>	14.7 acres
<b>Source:</b>	Butter Creek, tributary to the Umatilla River

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.

**Authorized Point of Diversion/Appropriation:**

Township		Range		Meridian	Sec	¼ ¼	Location
2	N	27	E	W.M.	2	NE NE	1290 feet South and 80 feet West from the NW Corner, Section 1

b) SUPPLEMENTAL IRRIGATION

**Certificate:** 25902 in the name of James F. Thompson  
**Use:** Supplemental Irrigation  
**Priority Date:** 1908  
**Quantity:** 0.37 CFS to June 1 & 0.18 CFS thereafter  
**Rate/Duty:** 1/40 CFS per acre to June 1 & 1/80 CFS per acre thereafter, not to exceed 4.0 acre-feet per acre  
**Acres:** 14.7 acres  
**Source:** Five Mile Creek, tributary to the Umatilla River  
**Authorized Point of Diversion/Appropriation:**

Ditch Name
Saylor-Thompson Water and Construction Co. Ditch

c) SUPPLEMENTAL IRRIGATION

**Permit:** S-51017 Kent R. and Shannon K. Madison  
**Use:** Supplemental Irrigation  
**Priority Date:** April 2, 1990  
**Quantity:** 0.37 CFS  
**Duty:** 1/40 CFS per acre, not to exceed 4.5 acre-feet per acre  
**Acres:** 14.7 acres  
**Source:** Columbia River, tributary to the Pacific Ocean  
**Authorized Point of Diversion/Appropriation:**

Township		Range		Meridian	Sec	¼ ¼	Lot	Location
2	N	27	E	W.M.	2	SE SE	7	150 feet South and 2990 feet West from NE Corner, Section 2

4. Application T-9650 proposes to change the place of use of the water rights described above from the locations identified in Table 1 to the Locations listed in Table 2.

Township		Range		Meridian	Sec	¼ ¼	Tax Lot	Acres
3	N	27	E	W.M.	25	NE SE	5900	8.7
3	N	27	E	W.M.	25	NW SE	5900	6.0

TABLE 2 - "TO" LANDS								
Township		Range		Meridian	Sec	¼ ¼	Tax Lot	Acres
2	N	27	E	W.M.	1	NE NE	100	14.7

5. There are two additional supplemental water rights underlying the "from" lands described above, being Certificate 32592 and Permit S-46499. The applicant has identified that these water rights will not be exercised during the term of this temporary transfer.
6. Temporary transfer application T-9650 also requests to change the place of use of water under the portion of the water rights described as follows:

a) PRIMARY IRRIGATION

**Certificate:** 2687 in the name of J. B. Saylor  
**Use:** Irrigation  
**Priority Date:** 1867, 1896, and 1900  
**Quantity:** 1867: 0.119 CFS  
1896: 0.113 CFS  
1900: 0.116 CFS  
**Duty:** Not to exceed 4.0 acre-feet per acre (Butter Creek Decree)  
**Acres:** 18.4 acres  
**Source:** Butter Creek, tributary to the Umatilla River

**Authorized Point of Diversion/Appropriation:**

Township		Range		Meridian	Sec	¼ ¼	Location
2	N	27	E	W.M.	2	NE NE	1290 feet South and 80 feet West from the NW Corner, Section 1

b) SUPPLEMENTAL IRRIGATION

**Certificate:** 25776 in the name of J. B. Saylor  
**Use:** Supplemental Irrigation  
**Priority Date:** 1908  
**Quantity:** 0.46 CFS to June 1 & 0.23 CFS thereafter  
**Rate/Duty:** 1/40 CFS per acre to June 1 & 1/80 CFS per acre thereafter, not to exceed 4.0 acre-feet per acre  
**Acres:** 18.4 acres  
**Source:** Five Mile Creek, tributary to the Umatilla River

**Authorized Point of Diversion/Appropriation:**

Ditch Name
Saylor-Thompson Water and Construction Co. Ditch

c) SUPPLEMENTAL IRRIGATION

**Permit:** S-51017 Kent R. and Shannon K. Madison  
**Use:** Supplemental Irrigation  
**Priority Date:** April 2, 1990

**Quantity:** 0.46 CFS  
**Duty:** 1/40 CFS per acre, not to exceed 4.5 acre-feet per acre  
**Acres:** 18.4 acres  
**Source:** Columbia River, tributary to the Pacific Ocean  
**Authorized Point of Diversion/Appropriation:**

Township		Range		Meridian	Sec	¼ ¼	Lot	Location
2	N	27	E	W.M.	2	SE SE	7	150 feet South and 2990 feet West from NE Corner, Section 2

7. Application T-9650 proposes to change the place of use of the water rights described in Finding 6 above from the locations identified in Table 3 to the Locations listed in Table 4.

TABLE 3 - "FROM" LANDS								
Township		Range		Meridian	Sec	¼ ¼	Tax Lot	Acres
3	N	27	E	W.M.	36	SW SW		3.5
3	N	27	E	W.M.	36	SE SW		1.2
3	N	27	E	W.M.	36	NE SE		2.0
3	N	27	E	W.M.	36	NW SE		0.2
2	N	27	E	W.M.	1	NW NW		11.5

TABLE 4 - "TO" LANDS								
Township		Range		Meridian	Sec	¼ ¼	Tax Lot	Acres
2	N	27	E	W.M.	1	NW NE		18.4

8. There is one additional supplemental water right underlying the "from" lands described above, being Permit S-46499. The applicant has identified that this water right will not be exercised during the term of this temporary transfer.
9. Temporary transfer application T-9650 also requests to change the place of use of water under the portion of the water rights described as follows:

a) PRIMARY IRRIGATION

**Certificate:** 2696 in the name of Wallace A. Thompson  
**Use:** Irrigation  
**Priority Date:** 1864 and 1898  
**Quantity:** 1864: 0.12 CFS  
 1898: 0.354 CFS  
**Duty:** Not to exceed 4.0 acre-feet per acre (Butter Creek Decree)  
**Acres:** 24.9 acres  
**Source:** Butter Creek, tributary to the Umatilla River

**Authorized Point of Diversion/Appropriation:**

Township		Range		Meridian	Sec	¼ ¼	Location
2	N	27	E	W.M.	2	NE NE	1290 feet South and 80 feet West from the NW Corner, Section 1

b) SUPPLEMENTAL IRRIGATION

**Certificate:** 25903 in the name of Susan Almira Thompson  
**Use:** Supplemental Irrigation  
**Priority Date:** 1908  
**Quantity:** 0.62 CFS to June 1 & 0.31 CFS thereafter  
**Rate/Duty:** 1/40 CFS per acre to June 1 & 1/80 CFS per acre thereafter, not to exceed 4.0 acre-feet per acre  
**Acres:** 24.9 acres  
**Source:** Five Mile Creek, tributary to the Umatilla River  
**Authorized Point of Diversion/Appropriation:**

Ditch Name
Saylor-Thompson Water and Construction Co. Ditch

c) SUPPLEMENTAL IRRIGATION

**Permit:** S-51017 Kent R. and Shannon K. Madison  
**Use:** Supplemental Irrigation  
**Priority Date:** April 2, 1990  
**Quantity:** 0.62 CFS  
**Duty:** 1/40 CFS per acre, not to exceed 4.5 acre-feet per acre  
**Acres:** 24.9 acres  
**Source:** Columbia River, tributary to the Pacific Ocean  
**Authorized Point of Diversion/Appropriation:**

Township		Range		Meridian	Sec	¼ ¼	Lot	Location
2	N	27	E	W.M.	2	SE SE	7	150 feet South and 2990 feet West from NE Corner, Section 2

10. Application T-9650 proposes to change the place of use of the water rights described in Finding 9 above from the locations identified in Table 5 to the Locations listed in Table 6.

Township		Range		Meridian	Sec	¼ ¼	Tax Lot	Acres
3	N	27	E	W.M.	36	NE NE	5900	9.5
3	N	27	E	W.M.	36	SW NE	5900	3.6
3	N	27	E	W.M.	36	SE NE	5900	5.6
3	N	27	E	W.M.	36	SW NW	6200	2.1
3	N	27	E	W.M.	36	SE NW	5900	4.1

TABLE 6 - "TO" LANDS									
Township		Range		Meridian	Sec	¼ ¼		Tax Lot	Acres
2	N	27	E	W.M.	1	NE	NE	100	3.3
2	N	27	E	W.M.	1	NW	NE	100	20.8
2	N	27	E	W.M.	1	NW	NE	100	0.8

11. There are two additional supplemental water rights underlying the "from" lands described above, being Certificate 32592 and Permit S-46499. The applicant has identified that these water rights will not be exercised during the term of this temporary transfer.
12. Notice of the application for temporary transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
13. Water has been used within the last five years according to the terms and conditions of the right and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
14. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights are present.
15. The proposed change would not result in enlargement of the rights.
16. The proposed change would not result in injury to other water rights.

**Conclusions of Law**


The temporary changes in place of use proposed in application T-9650 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

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

1. The changes in place of use proposed in application T-9650 are approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2004 irrigation season.
3. The use shall revert to the authorized place of use at the end of the 2004 irrigation season.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
5. 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 2690, 2687, and 2696 for primary irrigation, and Certificates 25902, 25776, 25903 and Permit S-51017 for supplemental irrigation.

6. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
7. When required by the Department, the water user shall install an in-line flow meter or other suitable device for measuring and recording the quantity of water used. The type and plans 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.
8. The use of the remaining water right described by Certificates 2690, 2687, and 2696 for primary irrigation, and Certificates 25902, 25776, 25903 and Permit S-51017 for supplemental irrigation shall continue to be in accordance with the terms and conditions of Certificates 2690, 2687, and 2696 for primary irrigation, and Certificates 25902, 25776, 25903 and Permit S-51017 for supplemental irrigation.

Dated at Salem, Oregon this 13<sup>th</sup> day of October, 2004.

  
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Phillip C. Ward  
Acting Director

Mailing date: OCT 21 2004

*Requests for Reconsideration should be addressed to the attention of Field Services Division,  
Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1271*