BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-9583, Baker County)	CHANGE IN PLACE OF USE AND AN
•)	ADDITIONAL POINT OF DIVERSION

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use 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 Agent
Gordon Aldrich Jim Aldrich
14644 N. Rock Cr. Lane P.O. Box 255
Haines, OR 97833 North Powder, OR 97867

Findings of Fact

1. Gordon Aldrich filed an application to change the place of use, change points of diversion, and add a point of diversion under Certificate 3977. The Department assigned the application number T-9583.

2. The right to be transferred is as follows:

Certificate: 3977 in the name of William J. F. Ashwood

Use: Irrigation

Priority Date: June, 1892 for 34.0 acres, June 8, 1887 for 4.0 acres, and April 26, 1884 for

81.0 acres

Rate/Duty: 1/40 cfs per acre

Acres: 119.0

Source: Rock Creek, tributary to Powder River

Authorized Place of Use:

Town	nship	Rai	nge	Meridian	Sec	1/4 1/4		Priority	Acres	Ditch	Type of Change
7	S	38	Е	W.M.	36	NW	NE	6/8/1887	4.0	Ashwood Green	APOD/POD/POU
7	S	38	Е	W.M.	36	NW	NE	4/26/1884	36.0	Ashwood	APOD
7	S	38	E	W.M.	36	NE	NW	4/26/1884	40.0	Ashwood	APOD
7	S	38	Е	W.M.	36	SE	NW	4/26/1884	4.0	Ashwood	APOD/POD/POU
7	S	38	Е	W.M.	36	SE	NW	4/26/1884	1.0	Ashwood	APOD
7	S	38	E	W.M.	36	SE	NW	6/1892	34.0	Favorite	APOD

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.

3. Locations of points of diversion historically in use under this right for the above lands are as follows:

Town	nship	Rai	nge	Meridian	Sec	1/4 1/4		Survey Coordinates
7	S	38	Е	W.M.	35	SE	NE	Ashwood; 1493 feet South & 244 feet West from the NE corner of Section 35
7	S	38	Е	W.M.	36	SW	NW	(Favorite aka Anderson Morris Favorite); 1818 feet South & 1036 feet East from the NW corner of Section 36
7	S	38	Е	W.M.	36	NE	NW	Ashwood Green; 1249 feet South & 2632 feet East from the NW corner of Section 36

4. Application T-9583 proposes to change the place of use and points of diversion for the lands identified in Finding of Fact #2 in the NW NE and SE NW of Section 36 as follows:

To	wns	ship	Raı	nge	Meridian	Sec	1/4 1/4		Priority	Ditch	Acres
7		S	38	Е	W.M.	36	SE	NW	6/8/1887	Ashwood	4.0
7		S	38	Е	W.M.	36	NW	NE	4/26/1884	Ashwood Green	4.0

5. The proposed points of diversion for the lands described in Finding of Fact #4 are located as follows:

Tov	vnship	Range		Range		Meridian	Sec	1/4 1/4	Survey Coordinates
7	S	38	Е	W.M.	35	SE NE	Ashwood; 1493 feet South & 244 feet West from the NE corner of Section 35		
7	S	38	Е	W.M.	36	NE NW	Ashwood Green; 1249 feet South & 2632 feet East from the NW corner of Section 36		

6. Application T-9583 proposes to add a point of diversion in Rock Creek to all of the lands mentioned in Finding of Fact # 2 to:

To	vnship	Range Meridian		Meridian	Sec	1/4 1/4	Survey Coordinates
7	S	38	Е	W.M.	35	SW NE	Miller; 1564 feet South & 2062 feet West from the NE corner of Section 35

- Notice of the application for transfer was published on November 4, 2003 pursuant to ORS 540.520 and OAR 690-380-4000.
- 8. 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.
- 9. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.

- 10. The proposed changes would not result in enlargement of the right.
- 11. The proposed changes would not result in injury to other water rights.
- 12. On April 1, 2006, the Department issued a preliminary determination proposing to approve Transfer T-9583 and mailed a copy to the applicant. Additionally, notice of the preliminary determination for the transfer application was published on the Department's weekly notice on April 4, 2006, and in the Baker City Herald newspaper on May 19 and 26 and June 2, 2006 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

Conclusions of Law

The proposed changes in point of diversion and place of use in application T-9583 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

- 1. The in point of diversion and place of useproposed in application T-9583 are approved.
- 2. Water right certificate 3977 is cancelled. A new certificate will be issued describing that portion of the right not involved in this transfer.
- 3. 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 Certificate 3977 and any related decree.
- 4. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2007.** A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
- 5. The quantity of water diverted at the additional point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
- 6. When required by the Department, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

7.	When satisfactory proof of the completed changes is received, a new certificate confirming the portion of the right transferred will be issued.
Da	ted at Salem, Oregon this 14th day of, 2006.
Phi	Abou Abox jllip C. Ward, Director
Ma	ailing date:JUL_2_1_2006