

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

MARION COUNTY

CANCELLATION OF TRANSFER 6434

*Rescinded by
V52 P2 99*

Transfer 6434, in the name of Earl Saxton, was approved by order of the Water Resources Director, entered March 19, 1991, at Special Order Volume 45, pages 151 and 152. The order approved a change in point of diversion of 0.44 cubic foot of water from McKay Creek, tributary to the Umatilla River, with a priority date of April, 1902, for Irrigation of 3.5 acres, if available at the original points of diversion; Lot 15 (SW $\frac{1}{4}$ SE $\frac{1}{4}$), Section 1, T 1 S, R 32 E, WM; 1570 feet South and 3340 feet East, 1640 feet South and 3920 feet East, both from the West $\frac{1}{4}$ corner of Section 1.

A description of the place of use is as follows:

LOT 16 (SE $\frac{1}{4}$ SE $\frac{1}{4}$) 3.5 ACRES
SECTION 1
TOWNSHIP 1 SOUTH, RANGE 32 EAST, W.M.

The change was to have been completed by October 1, 1992.

OAR 690-14-190 provides that the claim of beneficial use shall be submitted within one year after the beneficial use date allowed in the transfer. Failure to comply shall cause the Director to initiate cancellation proceedings.

Notice was sent to the applicant advising that the change was to have been completed by October 1, 1992, and advising that a claim of beneficial use must be submitted prior to October 1, 1993. A second notice, advising that the Claim of Beneficial Use must be submitted prior to October 1, 1993, was sent by certified mail, return receipt requested.

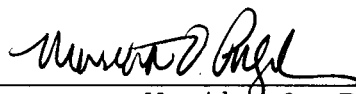
OAR 690-15-090(3) says that "non-completion of a change in point of diversion or point of appropriation does not forfeit the water right. However, upon expiration of the time allowed for completion, the water right shall again become subject to forfeiture pursuant to the provisions of ORS 540.610. A new application is required to change the point of diversion or point of appropriation to a location not authorized by the order."

The claim of beneficial use not submitted within the prescribed one year period. The transfer is cancelled. The Water Right itself is not cancelled. The water right was again subject to forfeiture on October 1, 1992.

The water right described by this order no longer has an authorized point of diversion. To obtain an authorized point of diversion, the landowner will need to make a new application for a change in point of diversion in accordance with the provisions of the Oregon Administrative Rules, Chapter 690, Division 15.

The water right described by this order may not be used until a transfer application for a new point of diversion is approved. **Failure to obtain an authorize point of diversion by October 1, 1997, shall cause the Water Resources Director to initiate water right cancellation proceedings in accordance with ORS 540.610.** The proposed cancellation will be based on the water right holder's failure to legally use water for five successive years.

WITNESS the signature of the Water Resources Director,
affixed March 21, 1994.



Martha O. Pagel