BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-6825 and T-9016, Wasco County)	CHANGE IN POINT OF DIVERSION &
)	APPROPRIATION AND PLACE OF
)	USE, AND REVERSION OF AN
)	UNCOMPLETED CHANGE IN POINT
)	OF APPROPRIATION

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

Rick Cantrell 81157 Dufur Valley Road Dufur, OR 97021

Findings of Fact

- 1. On October 2, 1992, Rick Cantrell filed a transfer application to change the points of diversion and place of use under Certificates 5656, 50113, 49487, and 31414. The Department assigned the application number T-6825.
- 2. On January 25, 1996, the applicant amended the application to also include changes in points of diversion and appropriation and place of use under Certificates 31821, 31814, 50552 and 50553.
- 3. On December 22, 2003, the Department issued an order approving application T-9016 authorizing an additional point of appropriation under a portion of Certificate 50552. The order was entered at Special Order Volume 58, Page 388. The order cancelled Certificate 50552 and resulted in the issuance of Certificate 80508 to describe the portion of the right not affected by the transfer.
- 4. On May 4, 2006, Timothy Dahle provided the Department with an affidavit indicating that he did not intend to complete the changes authorized under the order approving application T-9016, requested that the changes proposed in application T-9016 be incorporated into application T-6825, and consenting to the changes proposed in application T-6825.

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.

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

Certificate: 5656 in the name of Earnest O. Mead

Use: Irrigation of 5.0 acres

Priority Date: 1867

Rate/Duty: Not to exceed 3 acre-feet per acre per year

Source: Ramsey Creek, tributary to Fifteen Mile Creek

Authorized Point of Diversion:

Town	nship	Rai	nge	Meridian	Sec	1/4 1/4	Survey Coordinates
2	S	13	Е	W.M.	6	NW NW	

Authorized Place of Use:

Town	nship	Rai	nge	Meridian	Sec	1/4	1/4	Acres
2	S	13 E		W.M.	6	NW	NW	5.0

6. The portion of the second right to be transferred is as follows:

Certificate: 80508 in the name of Rick Cantrell
Use: Supplemental Irrigation of 5.0 acres

Priority Date: April 27, 1976

Quantity: 0.03 cubic foot per second (cfs)

Rate/Duty: 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source: Well #1, tributary to Ramsey Creek

Authorized Point of Appropriation:

Tov	vnship	Rai	nge	e Meridian Sec		1/4 1/4	Survey Coordinates
1	S	13	Е	W.M.	31	SW SE	430 feet North and 3460 feet East from the SW corner, Section 31

Authorized Place of Use:

Township		Range		Meridian	Sec	1/4 1/4	Acres
2	S	13	E	W.M.	6	NW NW	5.0

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

Certificate: 50553 in the name of Rick Cantrell
Use: Supplemental Irrigation of 5.0 acres

Priority Date: April 11, 1977

Quantity: 0.02 cfs

Rate/Duty: 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source: Well #2, tributary to Fifteen Mile Creek

Authorized Point of Appropriation:

Town	nship	Rai	nge	Meridian	Sec	1/4 1/4	Survey Coordinates
2	S	13	Е	W.M.	6	NW NE	330 feet South and 3530 feet East from the NW corner, Section 6.

Authorized Place of Use:

Tow	nship	Rai	nge	Meridian	Sec	1/4 1/4	Acres
2	S	13 E		W.M.	6	NW NW	5.0

8. Application T-6825 proposes to change the place of use of the rights described in Findings of Fact 5, 6 and 7 to:

Town	nship	Rai	nge	Meridian	Sec	1/4	1/4	Acres
1	S	13	Е	W.M.	31	SW	SW	5.0

9. The portion of the fourth right to be transferred is as follows:

Certificate: 31414 in the name of Harvey & Lucy McAllister

Use: Irrigation of 16.1 acres

Priority Date: 1861 for 10.6 acres, 1866 for 5.5 acres

Rate/Duty: Not to exceed 3.0 acre-feet per acre per year **Source:** Ramsey Creek, tributary to Fifteenmile Creek

Authorized Point of Diversion:

_	Town	nship	Raı	nge	Meridian	Sec	1/4 1/4	Survey Coordinates
	1 S		13	Е	W.M.	31	SW SE	

Authorized Place of Use:

Town	nship	Rai	nge	Meridian	Sec	1/4 1/4	Tract	Priority	Acres
1	S	13	E	W.M.	31	SW SI	E 1	1861	7.1
1	S	13	E	W.M.	31	SE SI	E 1	1861	3.0
1	S	13	E	W.M.	31	SE SI	E 2	1866	5.5
2	S	13	Е	W.M.	6	NW N	E 1	1861	0.5

10. The portion of the fifth right to be transferred is as follows:

Certificate: 31814 in the name of Harvey & Lucy McAllister

Use: Supplemental Irrigation of 16.1 acres

Priority Date: December 29, 1960

Quantity: 0.20 cfs

Rate/Duty: 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source: McAllister Well, tributary to Ramsey Creek

Authorized Point of Appropriation:

Tov	nship	Rai	Range Meridian		Sec	1/4 1/4	Survey Coordinates
1	S	13	Е	W.M.	31	SW SE	400 feet North and 1980 feet W from the SE corner, Section 31

Authorized Place of Use:

	Tow	nship	Rai	nge	Meridian	Sec	1/4 1/4	Acres
	1	S	13	Е	W.M.	31	SW SE	7.1
Γ	1	S	13	Е	W.M.	31	SE SE	8.5

Town	nship	Township Range		Meridian	Sec	1/4	1/4	Acres	
2	S	13 E		W.M.	6	NW	NE	0.5	

11. The portion of the sixth right to be transferred is as follows:

Certificate: 31821 in the name of Harvey & Lucy McAllister

Use: Supplemental Irrigation of 16.1 acres

Priority Date: May 24, 1962

Quantity: 0.27 cfs

Rate/Duty: 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source: Fifteenmile Creek, tributary to Colombia River

Authorized Points of Diversion:

Tow	nship	Range		Meridian	Sec	1/4 1/4	Survey Coordinates
1	S	13	E	W.M.	31	SE SE	
2	S	13	Е	W.M.	6	NW NE	

Authorized Place of Use:

Town	nship _	Range		Range Meridian S		Sec	1/4 1/4	Acres
1	S	13	Е	W.M.	31	SW SE	7.1	
1	S	13	Е	W.M.	31	SE SE	8.5	
2	S	13	Е	W.M.	6	NW NE	0.5	

12. Application T-6825 proposes to change the place of use of the rights described in Findings of Fact 9, 10 and 11 to:

Town	Township		nge	Meridian	Sec	1/4 1/4		Acres
1	S	13	Е	W.M.	31	sw	SW	9.1
1	S	13	Е	W.M.	31	SE	SW	7.0

13. The seventh right to be transferred is as follows:

Certificate: 49487 in the name of Rick Cantrell

Use: Irrigation of 39.0 acres **Priority Date:** October 24, 1911

Quantity: 0.49 cfs

Rate/Duty: 1/80 cfs per acre, not to exceed 3 acre-feet per acre per year, if available at

the original point of diversion; NE ¼ SE ¼, Section 1, T2S, R12E, W.M., Galligan Ditch – 300 feet South and 1224 feet West from E ¼ corner, Sec 1

Source: Fifteenmile Creek, tributary to Colombia River

Authorized Point of Diversion:

Tow	nship	Range		Meridian	Sec	1/4 1/4	Survey Coordinates
1	S	13	E	W.M.	31	SW SE	20 feet North and 3540 feet East from the SW corner, Section 31

Authorized Place of Use:

Town	nship	Raı	ıge	Meridian	Sec	1/4	1/4	Acres
1	S	13	E	W.M.	31	NE	SW	20.2
1	S	13	Е	W.M.	31	NW	SW	1.7
1	S	13	Е	W.M.	31	SW	SW	2.4
1	S	13	E	W.M.	31	SE	SW	5.6
1	S	13	Е	W.M.	31	NW	SE	9.1

14. The portion of the eighth right to be transferred is as follows:

Certificate: Spec. Order Vol. 58, Page 388 (formerly 50552 in the name of Rick

Cantrell)

Use: Supplemental Irrigation of 88.9 acres

Priority Date: April 27, 1976

Quantity: 0.445 cfs

Rate/Duty: 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source: Well #1, tributary to Ramsey Creek

Authorized Point of Appropriation:

Tow	nship	Rai	Range Meridian Sec 1/4 1/4		Survey Coordinates		
1	S	13	Е	W.M.	31	SW SE	430 feet North and 3460 feet East from the SW corner, Section 31

Authorized Place of Use:

Town	nship	Range		Meridian	Sec	1/4	1/4	Acres	Change
1	S	12	Е	W.M.	36	NE	SE	2.4	APOA
1	S	12	Е	W.M.	36	SE	SE	30.8	APOA
1	S	12	Е	W.M.	31	NE	SW	20.2	POU
1	S	13	E	W.M.	31	NW	SW	3.8	APOA
1	S	13	Е	W.M.	31	NW	SW	1.7	POU
1	S	13	Е	W.M.	31	SW	SW	12.9	APOA
1	S	13	Е	W.M.	31	SW	SW	2.4	POU
1	S	13	E	W.M.	31	SE	SW	5.6	POU
1	S	13	Е	W.M.	31	NW	SE	9.1	POU

15. The portion of the ninth right to be transferred is as follows:

Certificate: 50553 in the name of Rick Cantrell
Use: Supplemental Irrigation of 39.0 acres

Priority Date: April 11, 1977

Quantity: 0.16 cfs

Rate/Duty: 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source: Well #2, tributary to Fifteen Mile Creek

Authorized Point of Appropriation:

	Tow	Township Range		nge	Meridian	Sec	1/4 1/4	Survey Coordinates
İ	2	S	13	Е	W.M.	6	NW NE	330 feet South and 3530 feet East from the NW corner, Section 6.

Authorized Place of Use:

Town	nship	Raı	nge	Meridian	Sec	1/4	1/4	Acres
1	S	13	Е	W.M.	31	NE	SW	20.2
1	S	13	E	W.M.	31	NW	SW	1.7
1	S	13	Е	W.M.	31	sw	SW	2.4
1	S	13	Е	W.M.	31	SE	SW	5.6
1	S	13	Е	W.M.	31	NW	SE	9.1

16. Application T-6825 proposes to change the place of use of the rights described in Findings of Fact 13, 14 (the portion for which the change is listed as POU), and 15 to:

Town	nship	Range		Range Merid		Meridian	Sec	1/4 1/4		Acres
1	S	13	Е	W.M.	31	sw	SE	7.1		
1	S	13	Е	W.M.	31	SE	SE	8.5		
2	S	13	Е	W.M.	6	NW	NE	0.5		
2	S	13	Е	W.M.	6	NW	NW	22.9		

17. Application T-6825 proposes to add a point of appropriation for the portion of the right described in Findings of Fact 14 for which the change is listed as APOA at:

Town	nship	Range		Meridian	Sec	1/4 1/4	Survey Coordinates
1	S	12	Е	W.M.	36	SE SE	338 feet North from SW corner, Section 31.

18. The portion of the tenth right to be transferred is as follows:

Certificate:

50113 in the name of Rick Cantrell

Use:

Irrigation of 39.0 acres

Priority Date: April 27, 1976

Quantity:

0.49 cfs

Rate/Duty:

1/80 cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source:

Ramsey Creek, tributary to Fifteenmile Creek

Authorized Point of Diversion:

Township		Range		Meridian	Sec	1/4 1/4		Survey Coordinates	
2	S	S 13 E		W.M.	6	NW	NW	140 feet South and 350 feet East from the NW corner, Section 6	

Authorized Place of Use:

Township		Range		Meridian	Sec	1/4 1/4	Acres	
1	S	13	Е	W.M.	31	SW_SW	14.1	

Town	nship	Range		Meridian	dian Sec		1/4	Acres	
1	S	13	Е	W.M.	31	SE	SW	7.0	
2	S	13	Е	W.M.	6	NW	NW	17.9	

19. The portion of the eleventh right to be transferred is as follows:

Certificate:

80508 in the name of Rick Cantrell

Use:

Supplemental Irrigation of 39.0 acres

Priority Date: April 27, 1976

Quantity:

0.20 cfs

Rate/Duty:

1/80 cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source:

Well #1, tributary to Ramsey Creek

Authorized Point of Appropriation:

Tow	nship	Range		Meridian	Sec	1/4 1/4	Survey Coordinates
1	S	13 E		W.M.	31	SW SE	430 feet North and 3460 feet East from the SW corner, Section 31

Authorized Place of Use:

Town	nship	Range		Meridian	Sec	1/4 1/4		Acres	
1	S	13	Е	W.M.	31	sw	SW	14.1	
1	S	13	Е	W.M.	31	SE	SW	7.0	
2	S	13	Е	W.M.	6	NW	NW	17.9	

20. The portion of the twelfth right to be transferred is as follows:

Certificate:

50553 in the name of Rick Cantrell

Use:

Supplemental Irrigation of 39.0 acres

Priority Date: April 11, 1977

Quantity:

0.16 cfs

Rate/Duty:

1/80 cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source:

Well #2, tributary to Fifteen Mile Creek

Authorized Point of Appropriation:

[Township Dongs								~ ~
	Township Range				Meridian	Sec	1/4 !	1/4	Survey Coordinates
	2	S	13	Е	W.M.	6	NW	NE	330 feet South and 3530 feet East from the NW corner, Section 6.

Authorized Place of Use:

Tow	nship	Range		Meridian	Sec	1/4	1/4	Acres	
1	S	13	Е	W.M.	31	SW	SW	14.1	
1	S	13	Е	W.M.	31	SE	SW	7.0	
2	S	13	Е	W.M.	6	NW	NW	17.9	

21. Application T-6825 proposes to add a point of diversion for the right described in Finding of Fact 18 approximately 300 feet upstream in Ramsey Creek to:

Township		Range		Meridian	Sec	1/4 1/4	Survey Coordinates
2	S	13	Е	W.M.	6	NW NW	232 feet South and 82 feet East from the NW corner, Section 6

22. Application T-6825 proposes to add a point of appropriation for the right described in Finding of Fact 19 at:

Township		Range		Meridian	Sec	1/4 1/4	Survey Coordinates
1	S	12 E		W.M.	36	SE SE	338 feet North from the SW corner, Section 31

23. Application T-6825 proposes to change the place of use of the rights described in Findings of Fact 18, 19 and 20 to:

Town	nship	Rai	nge	Meridian	Meridian Sec		1/4	Acres	
1	S	13	E	W.M.	31	NE	sw	20.2	
1	S	13	Е	W.M.	31	NW	SW	1.7	
1	S	13	Е	W.M.	31	sw	sw	2.4	
1	S	13	Е	W.M.	31	SE	sw	5.6	
1	S	13	Е	W.M.	31	NW	SE	9.1	

- 24. Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
- 25. Water has been used within the five years prior to filing of the application according to the terms and conditions of the rights and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
- 26. A diversion structure, ditch, pump, and pipeline sufficient to use the full amount of water allowed under the existing rights are present.
- 27. The proposed change would not result in enlargement of the rights.
- 28. The proposed change would not result in injury to other water rights.
- 29. On May 17, 2006, the Department issued a preliminary determination proposing to approve Transfer T-6825 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 May 23, 2006, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the Department's weekly notice.

Conclusions of Law

The proposed changes in point of diversion, point of appropriation and place of use in application T-6825 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

The change in point of appropriation authorized under T-9016 will revert to the last authorized point as per OAR 690-380-6010(6).

Now, therefore, it is ORDERED:

- 1. The changes proposed in application T-6825 are approved.
- 1. Water right certificates 5656, 80508, 50553, 31414, 31814, 31821, 49487, 50113 and 50552 are cancelled. New certificates will be issued describing the portions of the rights evidenced by Certificates 5656, 80508, 50553, 31414, 31814, 31821, 50113 and 50552 not involved in this transfer. 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 5656, 31414, 49487, 50113, 31814, 31821, 50552, 50553, 80508, and any related decree.
- 2. 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.
- 3. The quantity of water diverted at the additional points of diversion and appropriation, together with that diverted at the old points of diversion and appropriation, shall not exceed the quantity of water lawfully available at the original points of diversion and appropriation.
- 4. 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.
- 5. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 26th	day of June	, 2006.
Phillip C. Ward, Director		

JUL 1 1 2006

Mailing date: