STATE OF OREGON

COUNTY OF DOUGLAS

**ORDER APPROVING A CHANGE IN POINT OF DIVERSION,
A CHANGE IN PLACE OF USE,
AND A PARTIAL CANCELLATION OF A WATER RIGHT**

Pursuant to ORS 540.510 to 540.530, after notice was given and no objections were filed, and finding that no injury to existing water rights would result, this order approves, as conditioned or limited herein, TRANSFER 8826 submitted by

SAM JOE HENRY II AND WILLIAM DEAN HENRY II
1827 TYEE ROAD
UMPQUA, OREGON 97486.

The right to be modified, as evidenced by a PORTION of Certificate 22959, was perfected under Permit 21281 with a date of priority of APRIL 2, 1952. The right allows the use of the UMPQUA RIVER, a tributary of the PACIFIC OCEAN, for IRRIGATION OF 20.7 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.23 CUBIC FOOT PER SECOND, if available at the authorized point of diversion: SE¼ NE¼, AS PROJECTED WITHIN CADWALLADER DLC 37, SECTION 25, T 25 S, R 7 W, W.M., or its equivalent in case of rotation, measured at the point of diversion from the source.

This is an 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 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2½ acre-feet for each acre irrigated during the irrigation season of each year.

The use shall conform to any reasonable rotation system ordered by the proper state officer.

The authorized place of use is located as follows:

NE¼ NE¼ 0.7 ACRE
SE¼ NE¼ 13.0 ACRES
BOTH AS PROJECTED WITHIN CADWALLADER DLC 37
SECTION 25

SW¼ NW¼ 7.0 ACRES
AS PROJECTED WITHIN CADWALLADER DLC 37
SECTION 30

TOWNSHIP 25 SOUTH, RANGE 6 WEST, W.M.

The right to use the water for the above purpose is restricted to beneficial use on the lands or place of use described

The applicant proposes to change the place of use to:

NW¼ SE¼ 0.7 ACRE
LOT 2 (SW¼ SE¼) 12.5 ACRES
LOT 1 (SE¼ SE¼) 7.5 ACRES
SECTION 22

TOWNSHIP 25 SOUTH, RANGE 7 WEST, W.M.

The applicant proposes to change the point of diversion to:

SE¼ SE¼, SECTION 22, T 25 S, R 7 W, W.M., 600 FEET NORTH AND 865 FEET WEST FROM THE SE CORNER OF SECTION 22.

An affidavit was received from Sam Joe Henry II and William Dean Henry II, owners of certain land and the water right appurtenant to it. A portion of the water right has been abandoned and is requested to be cancelled.

The portion is described by Certificate 22959, State Record of Water Right Certificates. The date of priority is April 2, 1952. The water use was for irrigation of 13.5 acres from the Umpqua River, a tributary of the Pacific Ocean. The amount used was 0.169 cubic foot per second.

The abandoned portion is located as follows:

NW¼ NW¼ 2.0 ACRES
AS PROJECTED WITHIN CADWALLADER DLC 37
SECTION 18

TOWNSHIP 25 SOUTH, RANGE 6 WEST, W.M.

NE¼ NE¼ 8.5 ACRES
SE¼ NE¼ 3.0 ACRES
BOTH AS PROJECTED WITHIN CADWALLADER DLC 37
SECTION 25

TOWNSHIP 25 SOUTH, RANGE 7 WEST, W.M.

ORS 540.610 provides: "Whenever the owner of a perfected and developed water right certifies under oath to the Water Resources Commission that the water right has been abandoned by the owner and that the owner desires cancellation thereof, the commission shall enter an order cancelling the water right."

THESE CHANGES TO AN EXISTING WATER RIGHT MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

1. The proposed changes shall be completed on or before October 1, 2004.

2. The quantity of water diverted at the new 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.

3. 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.

4. Water shall be acquired from the same surface water source as the original point of diversion.

5. The former place of use shall no longer be irrigated as a part of this water right.

6. The water user shall install and maintain a fish screen or fish by-pass device. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction and shall be installed under the supervision of the Department of Fish and Wildlife.

   The water user may participate in the Oregon Department of Fish and Wildlife's cost sharing program for installation of screening and by-pass devices in accordance with ORS 540.525.

The portion of the water right evidenced by Certificate 22959 requested to be cancelled is cancelled.

Certificate 22959 is cancelled. A new certificate will be issued to confirm that portion of the right NOT involved in this transfer. When satisfactory proof of the completed changes is received, a new certificate confirming this water right will be issued.

WITNESS the signature of the Water Resources Director, affixed DEC 23 2002.

for Paul R. Cleary, Director