

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

In the Matter of Transfer Application) **FINAL ORDER APPROVING**
T-8513, Jackson County) **CHANGES IN PLACE OF USE**

Authority

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

EAGLE POINT GOLF COURSE
Attn – C. A. Galpin
100 EAGLE POINT DRIVE
EAGLE POINT, OR 97524

Findings of Fact

1. On May 8, 2000, C. A. Galpin, on behalf of Eagle Point Golf Course filed a transfer application to change the place of use under Certificates 66056, 75427, 72476 and 75429. Certificate 72476 was subsequently superseded by 75428. The Department assigned the application number T-8513.

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

Certificate: 66056 in the name of STRAUS RANCHES (perfected under Permit S-48316)

Use: IRRIGATION of 1.1 ACRES

Priority Date: JANUARY 10, 1984

Rate: 0.01 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 4.5 acre-feet per acre during the irrigation season of each year

Source: UNNAMED STREAM 1 WHEN AVAILABLE, WITH ANY DEFICIENCY IN THE AVAILABLE SUPPLY FROM UNNAMED STREAM 1 TO BE MADE UP BY APPROPRIATION FROM STREAM 2, TRIBUTARIES OF LITTLE BUTTE CREEK

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may 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.

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
36 S	1 W	WM	10	NW NE	47	STREAM 1 - 380 FEET SOUTH AND 2050 FEET WEST FROM THE NE CORNER OF SECTION 10
36 S	1 W	WM	10	SE NW	47	STREAM 2 - 1390 FEET SOUTH AND 3060 FEET WEST FROM THE NE CORNER OF SECTION 10

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
36 S	1 W	WM	10	NW NE	47	1.1

3. Transfer Application T-8513 proposes to change the place of use of the right within the same quarter-quarter to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
36 S	1 W	WM	10	NW NE	47	1.1

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

Certificate: 75427 in the name of ALTA VISTA ORCHARD (perfected under Permit S-15987)

Use: IRRIGATION of 14.0 ACRES

Priority Date: SEPTEMBER 9, 1944

Rate: 0.18 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 4.5 acre-feet per acre irrigated during the irrigation season from April 2 to October 31 of each year

Source: LITTLE BUTTE CREEK, tributary to the ROGUE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
36 S	1 W	WM	3	SW SW

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	1 W	WM	10	SE NE	8.3
36 S	1 W	WM	10	NW NW	5.7

5. Transfer Application T-8513 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	1 W	WM	3	SW SE	2.3
36 S	1 W	WM	10	NE NE	2.9
36 S	1 W	WM	10	NW NE	5.7
36 S	1 W	WM	10	NW NE	3.1

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

Certificate: 75428 in the name of EAGLE POINT GOLF CLUB (perfected under Permit S-17621)

Use: IRRIGATION of 5.5 ACRES

Priority Date: MARCH 19, 1947

Rate: 0.07 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 4.5 acre-feet per acre irrigated during the irrigation season from April 2 to October 31 of each year

Source: LITTLE BUTTE CREEK, tributary to ROGUE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
36 S	1 W	WM	3	SW SW

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	1 W	WM	10	NW NE	4.06
36 S	1 W	WM	10	NE NW	1.44

7. Records of the Department indicate that scrivener's errors were identified in the description of the place of use on Certificate 75428. Certificate 75428 lists the place of use as follows:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	1 W	WM	10	NW NE	7.5
36 S	1 W	WM	10	NE NW	17.2

8. The correct authorized place of use for Certificate 75428 should list the following:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	1 W	WM	10	NW NE	12.9
36 S	1 W	WM	10	NE NW	11.8

9. Transfer Application T-8513 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	1 W	WM	10	NW NE	5.5

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

Certificate: 75429 in the name of EAGLE POINT IRRIGATION DISTRICT (perfected under Permit S-6396)

Use: IRRIGATION of 2.9 ACRES

Priority Date: APRIL 21, 1915

Rate: 0.04 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 4.5 acre-feet per acre during the irrigation season of each year

Source: BIG BUTTE CREEK, tributary to the ROGUE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
35 S	2 E	WM	10	NE NE		DIVERSION POINT 1 - 1130 FEET SOUTH AND 700 FEET WEST FROM THE NE CORNER OF SECTION 10
35 S	2 E	WM	3	NW NW	4	DIVERSION POINT 2 - 1030 FEET SOUTH AND 290 FEET EAST FROM THE NW CORNER OF SECTION 3

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	1 W	WM	10	NE NE	2.9

11. Transfer Application T-8513 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	1 W	WM	10	SE NE	2.9

12. Notice of the application for transfer was published on May 16, 2000, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
13. On June 11, 2008, the applicant submitted evidence to establish that water was used within the five years prior to the submittal of Transfer Application T-8513.
14. On September 12 and October 18, 2006, the Department sent letters explaining that some of the lands proposed to be transferred are owned by someone other than the applicant. A request for the applicant to submit signed, notarized statements from all landowners indicating that they consent to the proposed transfer was included in these letters. On June 11, 2008, signed, notarized statements from all the affected landowners consenting to the proposed transfer were received by the Department.
15. Also included in the Department's September 12 and October 18, 2006, letters was a request to the applicant to submit clarifications related to the 11.1 acres in the NWNE of Section 10, T36S R1W. It was unclear from the application whether the applicant intended to exclude these acres from the transfer. Clarification of this issue was received on June 11, 2008.
16. On January 16, 2007, the Department mailed a copy of the *draft* Preliminary Determination and a cover letter to the applicants. The *draft* Preliminary Determination identified deficiencies that needed to be resolved and indicated that the transfer application may be denied unless by February 16, 2007, the applicants removed the deficiencies or requested to withdraw the application. As of March 13, 2007, no response had been received from the applicants.

17. On March 29, 2007, the Department issued a Preliminary Determination proposing to deny Transfer Application T-8513 and mailed a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on April 3, 2007, pursuant to ORS 540.520 and OAR 690-380-4020.
18. On April 30, 2007, C. A. Galpin filed a timely protest pursuant to OAR 690-380-4030.
19. Subsequent to the applicant's protest, the Department entered into discussions with the applicant to resolve the issues identified in the Preliminary Determination.
20. On June 11, 2008, the applicant submitted information demonstrating that the owners of the lands to which the transferred rights were appurtenant had consented to the transfer. In addition, the applicant submitted a revised map omitting those lands for which the applicant had been unsuccessful in obtaining the consent of the landowners.
21. On June 11, 2008, the applicant also submitted a letter withdrawing the protest contingent on issuance of a final order approving the transfer, as modified.

Transfer Review Criteria [OAR 690-380-4010(2)]

22. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
23. The proposed change would not result in enlargement of the rights.
24. The proposed change would not result in injury to other water rights.

Conclusions of Law

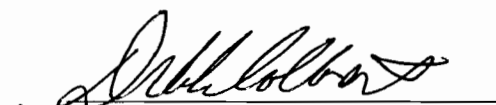
The proposed changes in place of use in Transfer Application T-8513 are consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The changes in place of use proposed in application T-85138513 are approved.
2. 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 66056, 75427, 75428, 75429 and any related decree.
3. Certificates 66056, 75427 and 75428 are cancelled. New certificates will be issued describing the portions of the rights not involved in this transfer.
4. Certificate 75429 is modified. The Department will issue a superseding certificate describing the right when the Department determines that is necessary for record keeping.
5. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2009**. 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.

6. The former place of use of the transferred water shall no longer receive water as part of these rights.
7. 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.
8. 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, 2008.


Phillip C. Ward, Director

Mailing date: AUG 06 2008