

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING
T-14425, Jackson County	)	A DISTRICT TEMPORARY TRANSFER
	)	

**Authority**

Oregon Revised Statute (ORS) 540.570 establishes the process in which a district may submit a request to temporarily transfer a water right within district boundaries. Oregon Administrative Rule (OAR) Chapter 690, Division 385 implements the statutes and provides the Department's procedures and criteria for evaluating district transfer applications.

**Applicant**

EAGLE POINT IRRIGATION DISTRICT  
PO BOX 157  
EAGLE POINT, OR 97524

**Findings of Fact**

1. On March 20, 2024, Eagle Point Irrigation District (EPID) filed a district transfer application to temporarily change the place of use under Certificate 89373. The Department assigned the application number T-14425.
2. Notice of the application for transfer was published on March 26, 2024, pursuant to ORS 540.570 and OAR 690-385-3400. One comment was timely filed in response to the notice.
3. On March 27, 2024, the EPID corrected the priority date on the application.
4. Comments received on April 25, 2024, allege the water user irrigated more acres than allowed under several combined water authorizations in prior years, including prior temporary transfers under Certificate 89373. The comments also mentioned problems with water use reporting from various meters. Pursuant to ORS 540.570, the department shall consider comments that pertain to the potential for injury to an existing water right or to the enlargement of the water use subject to transfer in determining whether to condition, reject or revoke a temporary transfer. The comments did not address injury to any existing water right. Furthermore, pursuant to 540.570(6) transfer T-14425 is conditioned to be revoked at any time to the extent necessary to avoid injury if the Department finds the transfer causes injury to any existing water right, 540.570(6). The proposed change in places of use, as conditioned, will not result in enlargement of the rights as defined in OAR 690-385-0100(6). Consideration or investigation of prior use of water without benefit of a water

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 137-004-0080, 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.

right or other legal water use authorization is outside the scope of the review process for a temporary transfer. Any water use under the temporary transfer T-14425 is subject to the conditions in this final order, and will be subject to regulation by the Department pursuant to ORS 540.045.

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

**Certificate:** 89373 in the name of EAGLE POINT IRRIGATION DISTRICT (perfected under Permit S-6396)

**Use:** PRIMARY IRRIGATION OF 9.4 ACRES

**Priority Date:** AUGUST 21, 1915

**Rate:** 0.11 Cubic Foot per Second

**Limit/Duty:** The amount of water used for irrigation together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 4.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** BIG BUTTE CREEK, TRIBUTARY TO ROGUE RIVER

**Authorized Points of Diversion:**

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

**Authorized Place of Use:**

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
35 S	1 W	WM	27	NW SW	9.4	500,600	Rogue Family Farms	2024-001

6. Transfer Application T-14425 proposes to change the place of use to:

**Proposed Place of Use:**

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
35 S	1 W	WM	27	NW SW	4.9	400,500	Rogue Family Farms	2024-001
35 S	1 W	WM	28	NE SE	4.5	400	Rogue Family Farms	2024-001
<b>Total:</b>					<b>9.4</b>			

7. The district temporary transfer application satisfies the criteria of ORS 540.570 and OAR 690-385-3000, contains the information required under OAR 690-385-3200, and includes a map meeting the requirements of OAR 690-385-3300.

8. Water has been used within the last five years according to the terms and conditions of the rights. There is no evidence available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
9. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
10. Diversion structures, district canals, pumps, pump stations, ditches, pipeline, and sprinkler systems sufficient to use the full amount of water allowed under the existing rights are present.
11. The proposed change in places of use, as conditioned, will not result in enlargement of the rights as defined in OAR 690-385-0100(6).
12. The proposed change in places of use would not result in injury to other water rights as defined in OAR 690-385-0100(4).
13. All other applicable requirements for district temporary water right transfers are met.

#### **Conclusions of Law**

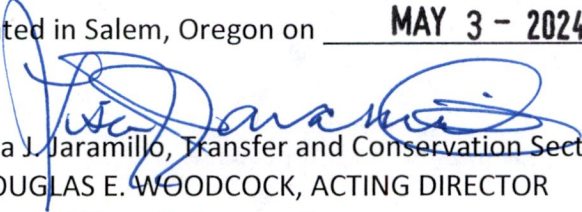
The temporary change in places of use proposed in Temporary Transfer Application T-14425 is consistent with the requirements of ORS 540.570 and OAR 690-385-3500.

#### **Now, therefore, it is ORDERED:**

1. The temporary changes in places of use proposed in Transfer Application T-14425 are approved.
2. The lands from which the water right is removed under Certificate 89373 shall receive no water under the transferred right during the 2024 irrigation season.
3. The use shall revert to the authorized places of use after the 2024 irrigation season.
4. Any application for permanent transfer of Certificate 89373 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Divisions 380 or 385. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
5. The time during which water is used on the proposed lands under this approved temporary transfer does not apply toward a finding of forfeiture of Certificate 89373, under ORS 540.610.
6. The water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.
7. The use of water under this temporary transfer may be conditioned or revoked at any time to the extent necessary to avoid injury if the Department finds the transfer causes injury to any existing water right.

8. Pursuant to ORS 536.900, a district and user may be subject to civil penalties for allowing the use of water on both the land from which water is transferred, and the lands to which the water is transferred, during the same irrigation season or calendar year.
9. The use of water at the temporary places of use authorized by this transfer shall be in accordance with the terms and conditions of Certificate 89373.
10. The use of the remaining water rights described by Certificate 89373 not involved in this transfer shall continue to be in accordance with the terms and conditions of Certificate 89373.

Dated in Salem, Oregon on MAY 3 - 2024

  
Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
DOUGLAS E. WOODCOCK, ACTING DIRECTOR  
Oregon Water Resources Department

Mailing Date: MAY 4 - 2024