# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER
T-10763, Jackson County	)	APPROVING A DISTRICT
	)	PERMANENT TRANSFER

#### Authority

ORS 540.570 to 540.580 establishes the process in which a district may submit a request to transfer a water right within district boundaries. 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 December 29, 2008, Eagle Point Irrigation District (EPID) filed a district transfer application to permanently change the place of use under Certificates 68741 and 75429. The Department assigned the application number T-10763.
- 2. Notice of the application for transfer was published on January 13, 2009, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.
- 3. The portion of the first right to be transferred is as follows:

Certificate: 68741 in the name of EAGLE POINT IRRIGATION DISTRICT

Use: Irrigation of 14.9 acres Priority Date: APRIL 21, 1915

**Limit:** The amount of water used for irrigation under this right, 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) and 4.5acre-feet for each acre irrigated during the irrigation season of each year.

Source: Big Butte Creek, a tributary of the Rogue River

# **Authorized Points of Diversion:**

POD#	Twp	Rng	Mer	Sec	Lot	Q-Q	Measured Distances
1	35 S	2 E	WM	10		NE NE	1130 FEET SOUTH AND 700 FEET WEST FROM
							THE NE CORNER OF SECTION 10
2	35 S	2 E	WM	3	4	NW NW	1030 FEET SOUTH AND 290 FEET EAST FROM
							THE NW CORNER OF SECTION 3

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.

# **Authorized Places of Use:**

	Irrigation									
Twp	Rng	Mer	Sec	Q-Q	Acres	Taxlot	Owner Name	Notice		
35 S	1 W	WM	34	SW NE	3.20	1302	MCFALL	001-08		
35 S	1 W	WM	34	SW NE	3.30	703	MCFALL	001-08		
35 S	1 W	WM	34	SW NE	3.40	705	SOUTHERN OREGON	001-08		
							DEVELOPMENT			
35 S	1 W	WM	34	SW NE	0.30	800	FUTURE CONCEPTS LLC	001-08		
35 S	1 W	WM	34	NW SE	1.60	703	MCFALL	001-08		
35 S	1 W	WM	34	NW SE	1.60	1302	MCFALL	001-08		
35 S	1 W	WM	34	NW SE	1.50	705	SOUTHERN OREGON	001-08		
							DEVELOPMENT			
			•	Total:	14.90					

4. Transfer Application T-10763 proposes to change the places of use to:

# **Proposed Places of Use:**

Twp	Rng	Mer	Sec	Q-Q	Acres	Taxlot	Owner Name	Notice
35 S	1 W	WM	35	NE NE	7.90	100	HAPPEL	001-08
35 S	1 <b>W</b>	WM	36	NW NW	7.00	201	HAPPEL	001-08
				Total:	14.90			

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

Certificate: 75429 in the name of EAGLE POINT IRRIGATION DISTRICT

Use: IRRIGATION of 30.5 acres Priority Date: April 21, 1915

**Limit:** The amount of water used for irrigation under this right, 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) and 4.5 acre-feet for each acre irrigated during the irrigation season of each year.

Source: Big Butte Creek, a tributary of the Rogue River

# **Authorized Points of Diversion:**

POD#	Twp	Rng	Mer	Sec	Lot	Q-Q	Measured Distances
1	35 S	2 E	WM	10		NE NE	1130 FEET SOUTH AND 700 FEET WEST FROM THE EN CORNER OF SECTION 10
2	35 S	2 E	WM	3	4	NW NW	1030 FEET SOUTH AND 290 FEET EAST FROM THE NW CORNER OF SECTION 3

# **Authorized Places of Use:**

Twp	Rng	Mer	Sec	Q-Q	Acres	Taxlot	Owner Name	Notice
35 S	1 W	WM	22	SE NW	2.85	2601	FAHEY	002-08
35 S	1 W	WM	22	SE NW	0.55	2603	FAHEY	002-08
35 S	1 W	WM	34	SE NW	3.70	1201	HOUSE	003-08
35 S	1 W	WM	34	SE NW	3.70	1202	HOUSE	003-08
35 S	1 W	WM	34	NE SW	0.70	1201	HOUSE	003-08
35 S	1 W	WM	34	NE SW	0.90	1202	HOUSE	003-08
35 S	1 W	WM	34	NE SW	6.00	1204	HOUSE	003-08
36 S	1 W	WM	3	NW NW	1.30	200	GREB	005-08
36 S	1 W	WM	10	SW NW	3.60	600	HOUSE	003-08

Twp	Rng	Mer	Sec	Q-Q	Acres	Taxlot	Owner Name	Notice
36 S	1 W	WM	11	NW SW	7.20	100	SOUTHERN OREGON DEVELOPMENT	006-08
	Total:							

6. Transfer Application T-10763 proposes to change the places of use to:

#### **Proposed Places of Use:**

Twp	Rng	Mer	Sec	Q-Q	Acres	Taxlot	Owner Name	Notice
36 S	1 E	WM	6	SW NW	1.40	800	MARTIN	006-08
35 S	1 W	WM	15	SWSW	3.40	1700	TERBECK	002-08
35 S	1 W	WM	27	SW SE	15.00	1000	DAWE	003-08
36 S	1 W	WM	10	NW SW	3.60	405	BRITE	004-08
36 S	1 W	WM	34	NW NW	1.30	3002	VALENCIA	005-08
36 S	1 W	WM	1	SE NE	5.80	800	MARTIN	006-08
				Total:	30.5			

- 7. The district permanent transfer application satisfies the criteria of OAR 690-385-4000 contains the information required under OAR 690-385-2000 and includes maps meeting the requirements of OAR 690-385-2200.
- 8. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
- 9. The proposed change in places of use will not result in enlargement of the rights.
- 10. The proposed change in places of use will not result in injury to other water rights.

#### **Conclusions of Law**

The proposed changes in place of use as proposed in Transfer Application T-10763 satisfy the requirements of ORS 540.574(3) and 540.580.

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

- 1. The proposed changes in place of use to the water rights evidenced by Certificates 68741 and 75429 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 68741 and 75429 and any related decree.
- 3. The former places of use shall no longer be irrigated as part of these water rights.
- 4. The approved changes shall be completed and full beneficial use of the water shall be made on or before October 1, 2011.
- 5. A Claim of Beneficial Use (COBU) shall be submitted by the applicant to the Department by October 1, 2012.
- 6. Water right certificates 68741 and 75429 are modified. The Department will issue superseding certificates describing the rights when it determines that is necessary for record keeping.

Dated at Salem, Oregon this 245 day of February, 2010.

Ar Phillip C. Ward, Director

Mailing Date: FEB 2 6 2010