

**BEFORE THE WATER RESOURCES DIRECTOR**

**BAKER COUNTY OREGON**

**FINAL ORDER**

Pursuant to ORS 541.329, District Water Rights Mapping Provision, a petition requesting approval and acceptance of petitioner's maps showing the present location and use of water rights within the boundaries of and serviced by Tobin Ditch Company was submitted to the Oregon Water Resources Department on June 29, 1993, by the petitioner:

Tobin Ditch Company  
Rt. 1 Box 51E  
RICHLAND, OR 97870

The water right certificates petitioned are portions of, or all of, the Rights of Record evidenced by the water right certificates, numbered 4615, 4626, 4654, 4682, 4710, 4718, 4740, 4767, 49436, 49624, 49625, 52945, 52946, 52948, 56452, and 56454 of the State Record of Water Right Certificates. The water right certificates allow use of the waters of Eagle Creek for the irrigation of 128.8 acres and storage from Crater Lake Reservoir for supplemental irrigation of 86.8 acres, both being tributaries of the Powder River.

The rights to be modified are:

**TABLE 1**

CERT	DATE	SOURCE	OR AC	T.(S)	R.(E)	SEC	¼	¼	USE	POD
4615	1877	Eagle Cr	7	9	45	11	NE	SE	irr	Tobin
4626	1896	Eagle Cr	1.33	9	45	10	NE	NE	irr	Tobin
4626	1896	Eagle Cr	4.67	9	45	10	NW	NE	irr	Tobin
4654	1903	Eagle Cr	15	9	45	11	NE	SW	irr	Tobin
4682	1903	Eagle Cr	3	9	45	11	SW	NW	irr	Tobin
4682	1903	Eagle Cr	9	9	45	11	SE	NW	irr	Tobin
4710	1898	Eagle Cr	3.5	9	45	11	NW	NW	irr	Tobin
4710	1898	Eagle Cr	16	9	45	10	NE	NE	irr	Tobin
4718	1896	Eagle Cr	5.35	9	45	3	SE	NW	irr	Tobin
4718	1896	Eagle Cr	8.1	9	45	3	NE	SW	irr	Tobin
4740	1887	Eagle Cr	10	8	45	29	NE	SE	irr	Tobin
4767	1906	Eagle Cr	6	9	45	3	SW	SW	irr	Tobin
49436	1896	Eagle Cr	9.7	9	45	3	NE	SW	irr	Tobin
49624	1896	Eagle Cr	7.2	8	45	33	SW	SE	irr	Tobin
49625	1898	Eagle Cr	8.2	9	45	10	SE	NE	irr	Tobin

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49625	1898	Eagle Cr	11.5	9	45	11	SW	NW	irr	Tobin
52945	1883	Eagle Cr	2.5	9	45	10	SE	NE	irr	Tobin
52946	1888	Eagle Cr	1.33	9	45	10	NW	NE	irr	Tobin
52948	1896	Eagle Cr	2.7	8	45	33	NE	SW	irr	Tobin
56452	12/28/1962	Crater Lake	0.5	8	45	33	NE	SW	supp	Crater Lake
56452	12/28/1962	Crater Lake	0.8	9	45	11	NW	SE	supp	Crater Lake
56452	12/28/1962	Crater Lake	0.9	9	45	10	NW	NE	supp	Crater Lake
56452	12/28/1962	Crater Lake	1.4	9	45	10	NE	NE	supp	Crater Lake
56452	12/28/1962	Crater Lake	1.8	9	45	11	SW	NW	supp	Crater Lake
56452	12/28/1962	Crater Lake	2.1	9	45	3	SE	SW	supp	Crater Lake
56452	12/28/1962	Crater Lake	3.2	8	45	29	NE	SE	supp	Crater Lake
56452	12/28/1962	Crater Lake	3.2	8	45	29	SE	SE	supp	Crater Lake
56452	12/28/1962	Crater Lake	3.5	9	45	11	NW	NW	supp	Crater Lake
56452	12/28/1962	Crater Lake	5.1	9	45	10	NW	NE	supp	Crater Lake
56452	12/28/1962	Crater Lake	7.3	9	45	11	SE	NW	supp	Crater Lake
56452	12/28/1962	Crater Lake	9.2	9	45	3	SE	NW	supp	Crater Lake
56452	12/28/1962	Crater Lake	9.7	9	45	11	SW	NW	supp	Crater Lake
56452	12/28/1962	Crater Lake	10.7	9	45	10	SE	NE	supp	Crater Lake
56452	12/28/1962	Crater Lake	12.4	9	45	10	NE	NE	supp	Crater Lake
56452	12/28/1962	Crater Lake	15	9	45	11	NE	SW	supp	Crater Lake
56454	1896	Eagle Cr	0.6	8	45	33	SW	SE	irr	Tobin
		TOTAL	219.48							

The petitioner requests a change in the place of use and type of use for 215.6 acres, being irrigation of 128.8 acres and supplemental irrigation of 86.8 acres. The petitioner seeks certificates confirming the present place of use and uses listed below in TABLE 2:

**TABLE 2**

DATE	SOURCE	PET.A C	T.(S)	R.(E)	SEC	¼	¼	POD	OWNER	USE	T L
1877	Eagle Cr.	0.8	9	45	11	SW	NW	Tobin	Carnahan	IR	300
1877	Eagle Cr.	6.2	9	45	11	SE	NW	Tobin	Carnahan	IR	300
1883	Eagle Cr.	2.5	9	45	10	SE	NE	Tobin	Wright	IR	1300
1887	Eagle Cr.	1.7	8	45	33	NW	SE	Tobin	Deardorff	IR	900
1887	Eagle Cr.	4.1	8	45	29	SE	SE	Tobin	Eaton	IR	2900
1887	Eagle Cr.	4.2	8	45	29	NE	SE	Tobin	Eaton	IR	2900
1888	Eagle Cr.	0.5	9	45	10	NE	NE	Tobin	Beale	IR	102
1888	Eagle Cr.	0.8	9	45	10	NW	NE	Tobin	Beale	IR	102
1896	Eagle Cr.	0.2	9	45	11	NE	SW	Tobin	Carnahan	IR	600
1896	Eagle Cr.	0.4	8	45	33	SE	SE	Tobin	Randall	IR	1400
1896	Eagle Cr.	0.1	9	45	10	NE	NE	Tobin	Page	IR	103
1896	Eagle Cr.	0.5	9	45	10	NW	NE	Tobin	Page	IR	100

1896	Eagle Cr.	1.3	9	45	10	NE	NE	Tobin	Beale	IR	102
1896	Eagle Cr.	4.1	9	45	10	NW	NE	Tobin	Page	IR	103
1896	Eagle Cr.	0.4	9	45	11	NE	SW	Tobin	Carnahan	IR	700
1896	Eagle Cr.	1.1	9	45	3	SE	SW	Tobin	Bryan	IR	500
1896	Eagle Cr.	1.3	9	45	11	SE	NW	Tobin	Carnahan	IR	200
1896	Eagle Cr.	2.6	9	45	11	NE	SW	Tobin	Carnahan	IR	600
1896	Eagle Cr.	4.3	9	45	3	SW	SE	Tobin	Bryan	IR	500
1896	Eagle Cr.	0.8	8	45	33	NE	SW	Tobin	Deardorff	IR	900
1896	Eagle Cr.	2.3	8	45	33	NW	SE	Tobin	Deardorff	IR	900
1896	Eagle Cr.	4.1	8	45	33	NW	SE	Tobin	Deardorff	IR	800
1896	Eagle Cr.	1	9	45	11	SE	NW	Tobin	Carnahan	IR	200
1896	Eagle Cr.	3.4	9	45	3	SE	NW	Tobin	Holland	IR	100
1896	Eagle Cr.	9	9	45	3	NE	SW	Tobin	Holland	IR	100
1896	Eagle Cr.	0.7	9	45	11	NE	SW	Tobin	Carnahan	IR	600
1896	Eagle Cr.	1	8	45	33	NW	SE	Tobin	Deardorff	IR	800
1896	Eagle Cr.	1	8	45	33	SW	SE	Tobin	Deardorff	IR	800
1898	Eagle Cr.	0.3	9	45	11	NW	SE	Tobin	Carnahan	IR	900
1898	Eagle Cr.	1.1	9	45	11	NE	SW	Tobin	Carnahan	IR	600
1898	Eagle Cr.	6.8	9	45	10	SE	NE	Tobin	Wright	IR	1300
1898	Eagle Cr.	11.5	9	45	11	SW	NW	Tobin	Wright	IR	1300
1898	Eagle Cr.	0.9	9	45	11	NW	SE	Tobin	Carnahan	IR	900
1898	Eagle Cr.	1.5	9	45	11	SW	NW	Tobin	Carnahan	IR	300
1898	Eagle Cr.	5.8	9	45	11	NW	NW	Tobin	Marlow	IR	100
1898	Eagle Cr.	11.3	9	45	10	NE	NE	Tobin	Marlow	IR	100
1903	Eagle Cr.	1.5	9	45	11	SE	SW	Tobin	Carnahan	IR	200
1903	Eagle Cr.	13.5	9	45	11	NE	SW	Tobin	Carnahan	IR	200
1903	Eagle Cr.	0.1	9	45	11	NW	SE	Tobin	Carnahan	IR	900
1903	Eagle Cr.	3.1	8	45	33	SE	NW	Tobin	Miller	IR	200
1903	Eagle Cr.	3.9	8	45	33	NE	NW	Tobin	Miller	IR	200
1903	Eagle Cr.	4.5	8	45	33	SW	SE	Tobin	Randall	IR	1300
1906	Eagle Cr.	0.7	8	45	33	SE	NW	Tobin	Clemons	IR	700
1906	Eagle Cr.	1.9	8	45	33	SE	NW	Tobin	Clemons	IR	600
12/28/1962	Crater Lake	0.1	9	45	10	NE	NE	Crater Lake	Page	Supp	103
12/28/1962	Crater Lake	3.4	9	45	3	SE	NW	Crater Lake	Holland	Supp	100
12/28/1962	Crater Lake	0.4	9	45	11	NE	SW	Crater Lake	Carnahan	Supp	700
12/28/1962	Crater Lake	0.5	8	45	33	NE	SW	Crater Lake	Deardorff	Supp	900
12/28/1962	Crater Lake	0.5	9	45	10	NW	NE	Crater Lake	Page	Supp	100
12/28/1962	Crater Lake	0.8	9	45	10	NW	NE	Crater Lake	Beale	Supp	102
12/28/1962	Crater Lake	1	9	45	3	SW	SE	Crater Lake	Bryan	Supp	500
12/28/1962	Crater Lake	1.1	9	45	3	SE	SW	Crater Lake	Bryan	Supp	500
12/28/1962	Crater Lake	1.3	9	45	11	NW	SE	Crater Lake	Carnahan	Supp	900
12/28/1962	Crater Lake	1.8	9	45	10	NE	NE	Crater Lake	Beale	Supp	102
12/28/1962	Crater Lake	2.3	8	45	29	NE	SE	Crater Lake	Eaton	Supp	2900

12/28/1962	Crater Lake	2.3	9	45	11	SE	NW	Crater Lake	Carnahan	Supp	200
12/28/1962	Crater Lake	2.3	9	45	11	SW	NW	Crater Lake	Carnahan	Supp	300
12/28/1962	Crater Lake	3.6	9	45	11	NE	SW	Crater Lake	Carnahan	Supp	600
12/28/1962	Crater Lake	4.1	8	45	29	SE	SE	Crater Lake	Eaton	Supp	2900
12/28/1962	Crater Lake	4.1	9	45	10	NW	NE	Crater Lake	Page	Supp	103
12/28/1962	Crater Lake	4.6	9	45	11	NW	NW	Crater Lake	Marlowe	Supp	100
12/28/1962	Crater Lake	6.2	9	45	11	SE	NW	Crater Lake	Carnahan	Supp	300
12/28/1962	Crater Lake	8.9	9	45	11	NE	SW	Crater Lake	Carnahan	Supp	200
12/28/1962	Crater Lake	5.8	9	45	3	NE	SW	Crater Lake	Holland	Supp	100
12/28/1962	Crater Lake	9.3	9	45	10	SE	NE	Crater Lake	Wright	Supp	1300
12/28/1962	Crater Lake	11.3	9	45	10	NE	NE	Crater Lake	Marlowe	Supp	100
12/28/1962	Crater Lake	11.1	9	45	11	SW	NW	Crater Lake	Wright	Supp	1300
Total		215.6									

In the proposed order a few items were incorrectly typed within Table 2. These items have been corrected herein. On the map, an user wanted the water right lands repositioned. This correction was also made.

The points of diversion locations for petition areas are described as follows:

Tobin Ditch - SW¼ NE¼, Section 29, Township 8 South, Range 45 East, W.M.; 1020 feet North and 1440 feet West from East ¼ corner of Section 29, Township 8 South, Range 45 East, W.M.

Crater Lake - Section 12, Township 6 South, Range 44 East, W.M.

The petitioner requests the cancellation of 3.88 acres. Three and eighty-eight hundredths acres are no longer irrigated and the TDC, by petition, have requested that the same be canceled. The rights to be canceled are listed below in Table 3:

**TABLE 3**

Cert.	Priority	Source	Acreage	Section	Township(S)	Range(E)	¼	¼
4682	1903	Eagle Cr	0.40	11	9	45	SE	NW
4718	1896	Eagle Cr	0.05	3	9	45	SE	NW
4767	1906	Eagle Cr	3.40	3	9	45	SW	SW
52946	1888	Eagle Cr	0.03	10	9	45	NW	NE
Total canceled acreage			3.88					

**FINDINGS**

The Director has examined the petition and maps submitted by the Tobin Ditch Company and the Report of Findings prepared by OWRD Eastern Region staff. The

petition and Report of Findings are on file at the Water Resources Department. Based on the examination and report, the Director finds:

1. Tobin Ditch Company filed a petition and maps in a timely manner, as required by ORS 541.329.
2. The petitioned lands are served by Tobin Ditch Company, formed prior to 1917, and is a qualifying organization as defined in ORS 541.325.
3. The content and quality of Tobin Ditch Company's petition and maps meet the requirements of ORS 541.329.
4. The acreage petitioned is within the limits of the eligible water rights and the limits set in ORS 541.331 (4).
5. The proposed changes may be made without injury to existing water rights.
6. The original irrigation season, rate, duty and all other conditions and limitations contained in the Powder River Decree or as placed on the individual certificates of water right which are not a part of the Powder River Decree shall remain in effect for all rights petitioned.
7. Tobin Ditch Company has met the requirements of ORS 541.325 to 541.331 for issuance of new certificates confirming the present use and place of use of the petitioned water rights.
8. Tobin Ditch Company has authorized cancellation of the irrigation use of 3.88 acres as listed in Table 3.
9. Tobin Ditch Company has met the notice requirement of ORS 541.329(4).
10. No new points of diversion were created as a result of this petition.
11. No protests pursuant to ORS 541.311(1) were filed.
12. The changes were published as required under OAR 690-13-310.

THEREFORE, it is hereby **ORDERED** that :

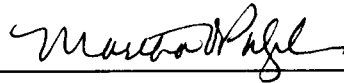
1. The petition and maps submitted by Tobin Ditch Company is accepted and approved.
2. Certificates 4615, 4626, 4654, 4682, 4710, 4718, 4740, 4767, 49436, 49624, 49625, 52945, 52946, 52948, 56452, and 56454 are canceled.

3. A certificate confirming the present use and place of use for irrigation of 128.8 acres from Eagle Creek shall be issued, as listed in TABLE 2.
4. When, to the satisfaction of the Water Resources Director, all other petitions filed on lands included on Certificate 56452 have been successfully completed, a new certificate for supplemental irrigation from Crater Lake Reservoir conforming to this petition and others that have been filed, shall be issued.
5. The right to irrigate those lands listed in Table 3 pursuant to ORS 541.325-541.331 and ORS 540.621, is canceled.
6. Remaining right certificates shall be issued for those portions of the canceled Certificates not modified by this order, or any other order pursuant to ORS 541.325 to 541.333.
7. The original irrigation season, rate, duty and all other conditions and limitations contained in the original water rights shall remain in effect for the rights petitioned.

WITNESS the signature of the Oregon Water Resources Director, affixed this day

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Martha O. Pagel, Director  
Oregon Water Resources Department