

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-9840, Jackson County) 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 27, 2004, 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-9840.
2. Notice of the application for transfer was published on January 11, 2005, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.
3. On March 4, 2010, the Department received clarification from EPID of a portion of the place of use involved in the transfer.
4. 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 21.1 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

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 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 |

Authorized Places of Use:

| Irrigation | | | | | | | | |
|--------------|-----|-----|-----|-------|-------------|-----------|-----------------|--------|
| Twp | Rng | Mer | Sec | Q-Q | Acres | Tax Lot | Owner Name | Notice |
| 35 S | 1 E | WM | 34 | SE SW | 13.7 | 3200/3201 | BERRYMAN | 7-04 |
| 35 S | 1 W | WM | 34 | SW NE | 0.8 | 701 | BRYAN | 2-04 |
| 35 S | 1 W | WM | 34 | SE NE | 2.8 | 701 | BRYAN | 2-04 |
| 35 S | 1 W | WM | 34 | NW SE | 0.3 | 701 | BRYAN | 2-04 |
| 35 S | 1 W | WM | 34 | NE SE | 1.2 | 701 | BRYAN | 2-04 |
| 36 S | 1 W | WM | 3 | SW NW | 2.3 | 801 | TRU MIX LEASING | 1-04 |
| Total | | | | | 21.1 | | | |

5. Transfer Application T-9840 proposes to change the places of use to:

Proposed Places of Use:

| Irrigation | | | | | | | | |
|---------------|-----|-----|-----|-------|-------------|---------|------------|--------|
| Twp | Rng | Mer | Sec | Q-Q | Acres | Tax Lot | Owner Name | Notice |
| 35 S | 1 W | WM | 27 | SW SE | 2.2 | 1000 | DAWE | 7-04 |
| 35 S | 1 W | WM | 35 | NE NE | 5.1 | 100 | HAPPELL | 2-04 |
| 36 S | 1 W | WM | 10 | NE SE | 5.0 | 1100 | HANRATTY | 7-04 |
| 36 S | 1 W | WM | 11 | NW SW | 1.2 | 200 | DAVIS | 7-04 |
| 36 S | 1 W | WM | 11 | NE SW | 1.3 | 1400 | AYERS | 7-04 |
| 36 S | 1 W | WM | 12 | SW NW | 2.3 | 100 | STANLEY | 1-04 |
| 36 S | 1 W | WM | 13 | NW NE | 3.0 | 901 | MERCER | 7-04 |
| 36 S | 1 W | WM | 22 | NW NE | 1.0 | 200 | KELLY | 7-04 |
| Total: | | | | | 21.1 | | | |

6. 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 34.1 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:

| Irrigation | | | | | | | | |
|---------------|-----|-----|-----|-------|-------------|---------|-----------------|--------|
| Twp | Rng | Mer | Sec | Q-Q | Acres | Tax Lot | Owner Name | Notice |
| 35 S | 1 E | WM | 18 | NW NW | 4.0 | 7602 | SCHOCKLEY | 5-04 |
| 35 S | 1 W | WM | 34 | NE SW | 5.0 | 1203 | FREEMAN | 7-04 |
| 35 S | 1 W | WM | 34 | SW SW | 1.0 | 2201 | WEBSTER | 6-04 |
| 36 S | 1 W | WM | 3 | NW NW | 7.5 | 100 | GREB | 1-04 |
| 36 S | 1 W | WM | 3 | NW NW | 0.4 | 804 | BAKER | 1-04 |
| 36 S | 1 W | WM | 4 | NE NE | 3.2 | 200 | GREB | 1-04 |
| 36 S | 1 W | WM | 9 | SE NE | 0.4 | 1801 | GRAVES | 3-04 |
| 36 S | 1 W | WM | 9 | SE NE | 0.4 | 1900 | RAYNER | 3-04 |
| 36 S | 1 W | WM | 10 | NW NE | 11.1 | 304 | MELROSE ORCHARD | 1-04 |
| 36 S | 1 W | WM | 20 | SE SE | 1.1 | 800 | CARPENTER | 4-04 |
| Total: | | | | | 34.1 | | | |

7. Transfer Application T-9840 proposes to change the places of use to:

Proposed Places of Use:

| Irrigation | | | | | | | | |
|---------------|-----|-----|-----|-------|-------------|---------|------------|--------|
| Twp | Rng | Mer | Sec | Q-Q | Acres | Tax Lot | Owner Name | Notice |
| 35 S | 1 E | WM | 18 | SE NW | 4.0 | 7602 | CASSLEY | 5-04 |
| 35 S | 1 W | WM | 33 | SE SE | 1.0 | 400 | HANSEN | 6-04 |
| 36 S | 1 W | WM | 11 | NE SW | 0.8 | 2400 | SIMPSON | 3-04 |
| 36 S | 1 W | WM | 11 | NE SE | 5.0 | 1500 | HURLEY | 8-04 |
| 36 S | 1 W | WM | 12 | NE NW | 1.8 | 100 | STANLEY | 1-04 |
| 36 S | 1 W | WM | 12 | SW NW | 2.0 | 100 | STANLEY | 1-04 |
| 36 S | 1 W | WM | 12 | SE NW | 18.4 | 100 | STANLEY | 1-04 |
| 36 S | 1 W | WM | 20 | SE SE | 1.1 | 800 | CARPENTER | 4-04 |
| Total: | | | | | 34.1 | | | |

- 8. 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.
- 9. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
- 10. The proposed change in places of use will not result in enlargement of the rights.
- 11. The proposed change in places of use will not result in injury to other water rights.

Conclusions of Law

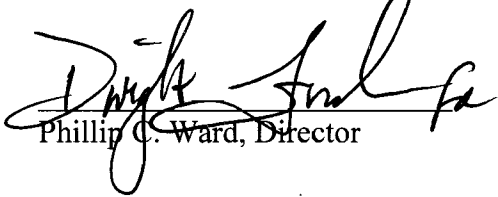
The proposed changes in place of use as proposed in Transfer Application T-9840 satisfy the requirements of ORS 540.574(3) and 540.580.

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 15 day of July, 2010.


Phillip C. Ward, Director

Mailing Date: JUL 19 2010