

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

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-13403, 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 27, 2020, Eagle Point Irrigation District (EPID) filed a district transfer application to permanently change the place of use under Certificate 89373. The Department assigned the application number T-13403.
2. Notice of the application for transfer was published on April 14, 2020, pursuant to ORS 540.570 and OAR 690-385-3400. No comments were filed in response to the notice.
3. 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
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

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:

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	2020-001

4. Transfer Application T-13403 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	5.1	500	Rogue Family Farms	2020-001
35 S	1 W	WM	28	NE SE	4.3	400	Rogue Family Farms	2020-001
Total:					9.4			

5. 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.
6. 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.
7. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
8. 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.
9. 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).
10. The proposed change in places of use would not result in injury to other water rights as defined in OAR 690-385-0100(4).
11. 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-13403 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-13403 are approved.
2. The former places of use **shall not** be irrigated as part of these water rights during the 2020 irrigation season.
3. The use shall revert to the authorized places of use after the 2020 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 under this approved temporary transfer does not apply toward a finding of forfeiture of Certificate 89373, under ORS 540.610.
6. The use of water on lands from which the right is transferred and in the new temporary location during the same irrigation season or calendar year is prohibited and may subject the district and the landowner to civil penalties.
7. The water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.
8. 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.
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 APR 30 2020



Lisa J. Jaramillo, Transfer and Conservation Section Manager for
THOMAS M. BYLER, DIRECTOR
Oregon Department of Water Resources

Mailing Date: MAY 01 2020