# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER
T-10054, 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

MEDFORD IRRIGATION DISTRICT 1340 MYERS LANE MEDFORD, OREGON 97501

#### **Findings of Fact**

- 1. On December 23, 2005, Medford Irrigation District filed a district transfer application to permanently change the place of use as evidence by Certificates 80570 (primary), 80572 (supplemental), and Permit 4951 (supplemental). The Department assigned the application number T-10054.
- 2. Notice of the application for transfer was published on January 3, 2006, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.
- 3. On May 31, 2007, the Department issued a final order (Special Order Vol. 72, Pg.238) approving changes in character of use and place of use requested under Transfer T-10120 for a portion of the rights evidenced by Certificates 80570 and 80572. The final order then cancelled water right Certificates 80570 and 80572.
- 4. The Department issued remaining right Certificate 83381 on May 31, 2007, to describe that portion of the water right confirmed by Certificate 80570 and remaining right Certificate 83383 on July 26, 2007, to describe that portion of the water right confirmed by Certificate 80572 that were NOT modified by the order approving Transfer T-10120.
- 5. The permanent change in place of use proposed under this transfer request (Transfer Application T-10054) affects portions of remaining right Certificates 83381 and 83383 and supplemental water use Permit S-4951.

#### NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order 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 137-004-080 and OAR 690-01-005, you may either 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.

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

Certificate: 83381 in the name of MEDFORD IRRIGATION DISTRICT (perfected under

Permit E-19)

Use: IRRIGATION of 22.83 ACRES Priority Date: JULY 23, 1909

Rate: 0.166 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-HUNDRETH cfs per acre, or its equivalent, during the irrigation season

each year

Source: NORTH AND SOUTH FORKS of LITTLE BUTTE CREEK, tributaries to

LITTLE BUTTE CREEK

## **Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
36 S	2 E	WM	20	SE NE	North Fork Little Butte Creek: 40 feet North and 620 feet
					West from the East 1/4 corner of Section 20
36 S	2 E	WM	29	NE SE	South Fork Little Butte Creek: 780 feet South and 400
					feet West from the East 1/4 corner of Section 29
36 S	1 E	WM	8	SWSW	Bradshaw Drop: Coordinates not specified

## **Authorized Place of Use:**

	IRRIGATION									
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	User	Notice #		
37 S	1 W	WM	4	SE SW	1001	0.01	LOONEY TRUST	04-1		
37 S	1 W	WM	4	SE SW	1100	1.01	LOONEY TRUST	04-1		
37 S	1 W	WM	8	NE NW	4200	1.75	J. TONKIN	04-1		
37 S	1 W	WM	16	NW SE	400	0.62	R. HASKETT	04-1		
37 S	1 W	WM	20	NW NE	300	0.77	M. HADLEY	04-1		
37 S	1 W	WM	20	SW NE	1200	0.20	S. BENNETT	04-1		
					Subtotal	4.36				
37 S	1 W	WM	20	SE NE	5600	0.17	D. HILL	04-2		
37 S	1 W	WM	20	SE NE	6400	0.25	J. GEEAR	04-2		
37 S	1 W	WM	21	NE NW	400	0.31	P. JOURDAN	04-2		
37 S	2 W	WM	9	NW SE	3908	0.29	J. M. BAUER	04-2		
					Subtotal	1.02				
37 S	1 W	WM	20	SE NE	7000	0.20	J. TURCKE	04-3		
37 S	1 W	WM	21	NE NW	501	4.31	CITY OF MEDFORD	04-3		
37 S	1 W	WM	21	NW NE	1300	10.86	CITY OF MEDFORD	04-3		
37 S	1 W	WM	21	NW NE	1201	1.32	F. SCARLATA	04-3		
37 S	1 W	WM	21	NW NE	500	0.69	M. RICHARD TRUST	04-3		
37 S	1 W	WM	21	SW NE	500	0.07	M. RICHARD TRUST	04-3		
					Subtotal	17.45				
					22.83					

7. Application T-10054 proposes to change the place of use to:

	IRRIGATION									
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	User	Notice #		
36 S	1 W	WM	36	NE SE	2300	4.36	R. BROWN	04-1		
37 S	1 W	WM	9	SE NE	2700	1.02	K. SILVEY	04-2		
37 S	1 W	WM	3	SW NW	1100	17.45	M. FOLSOM	04-3		
					22.83					

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

Certificate: 83383 in the name of MEDFORD IRRIGATION DISTRICT (perfected under

Permit S-407)

Use: SUPPLEMENTAL IRRIGATION of 22.83 ACRES

Priority Date: MARCH 31, 1910

Rate: 0.166 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH of one cfs per acre for each acre irrigated during the

irrigation season of each year

Source: FOUR MILE LAKE RESERVOIR, within the Klamath River Basin; and

WATERS DRAINING OR FLOWING INTO THE CASCADE CANAL; and FISH LAKE

RESERVOIR (constructed under Permit R-50), within the Rogue River Basin

## **Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
36 S	1 E	WM	8	SW SW	Bradshaw Drop: Coordinates not specified
36 S	2 E	WM	20	SE NE	North Fork: 40 feet North and 620 feet West from the East 1/4
					corner of Section 20
36 S	5 E	WM	9	SW NW	Four Mile Lake Dam: 3600 feet North and 4200 feet East
					from the SW corner of Section 9
37 S	4 E	WM	4	SE SE	Fish Lake Dam: 4000 feet South and 600 feet East from the
					NE corner of Section 4

#### **Authorized Place of Use:**

uilloit	itnorized Place of Use:								
				SUPPLEM	<u>1ENTAL II</u>	RRIGAT	ION		
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	User	Notice #	
37 S	1 W	WM	4	SE SW	1001	0.01	LOONEY TRUST	04-1	
37 S	1 W	WM	4	SE SW	1100	1.01	LOONEY TRUST	04-1	
37 S	1 W	WM	8	NE NW	4200	1.75	J. TONKIN	04-1	
37 S	1 W	WM	16	NW SE	400	0.62	R. HASKETT	04-1	
37 S	1 W	WM	20	NW NE	300	0.77	M. HADLEY	04-1	
37 S	1 W	WM	20	SW NE	1200	0.20	S. BENNETT	04-1	
					Subtotal	4.36			
37 S	1 W	WM	20	SE NE	5600	0.17	D. HILL	04-2	
37 S	1 W	WM	20	SE NE	6400	0.25	J. GEEAR	04-2	
37 S	1 W	WM	21	NE NW	400	0.31	P. JOURDAN	04-2	
37 S	2 W	WM	9	NW SE	3908	0.29	J. M. BAUER	04-2	
					Subtotal	1.02			
37 S	1 W	WM	20	SE NE	7000	0.20	J. TURCKE	04-3	
37 S	1 W	WM	21	NE NW	501	4.31	CITY OF MEDFORD	04-3	
37 S	1 W	WM	21	NW NE	1300	10.86	CITY OF MEDFORD	04-3	
37 S	1 W	WM	21	NW NE	1201	1.32	F. SCARLATA	04-3	
37 S	1 W	WM	21	NW NE	500	0.69	M. RICHARD TRUST	04-3	
37 S	1 W	WM	21	SW NE	500	0.07	M. RICHARD TRUST	04-3	
					Subtotal	17.45			
					Total	22.83			

9. Application T-10054 also proposes to change the place of use of the right to:

	SUPPLEMENTAL IRRIGATION									
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	User	Notice #		
36 S	1 W	WM	36	NE SE	2300	4.36	R. BROWN	04-1		
37 S	1 W	WM	9	SE NE	2700	1.02	K. SILVEY	04-2		
37 S	1 W	WM	3	SWNW	1100	17.45	M. FOLSOM	04-3		

10. The portion of the third water use permit to be transferred is as follows:

**Permit:** S-4951 in the name of ROGUE RIVER VALLEY IRRIGATION DISTRICT and MEDFORD IRRIGATION DISTRICT (submitted under Application S-7352), as previously amended by Special Order Volume 49, Page 401 and Special Order Volume 74, Page 469.

Use: SUPPLEMENTAL IRRIGATION of 22.83 ACRES

Priority Date: JUNE 18, 1920

Rate: 0.166 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH of one cfs for each acre irrigated

**Source:** The source of the proposed appropriation is waste, return, seepage, spring, underflow, storm waters arising or which may in the future arise on lands lying above each of the following canals: Little Butte, District, Phoenix, Hopkins, Oakleigh, Junction, Agate, Bear Creek, and from all sources of supply referred to in Permits E-19, S-407 and R-50

**Authorized Points of Diversion:** 

Twp	Rng	Mer	Sec	Q-Q	Lot	Survey Coordinates
36 S	1 W	WM	3			Agate Canal (Little Butte Cr): 2000 feet North from the
						East ¼ corner of Section 3
36 S	1 W	WM	10	SW SW		Agate Canal (Antelope Cr): Coordinates not specified
37 S	1 W	WM	19			Bear Cr Canal (Bear Cr): North 45 degrees East 1400
						feet from the SW corner of Section 19
36 S	1 E	WM	31	SE		District Canal (Antelope Cr): Coordinates not specified
36 S	1 W	WM	36	SE		District Canal (Dry Cr): Coordinates not specified
36 S	1 E	WM	29	NW		District Canal (Yankee Cr): Coordinates not specified
36 S	1 E	WM	30	SW NE*		Hopkins Canal (Antelope Cr): South 24 degrees 30
						minutes West 980 feet from the center of the NE 1/4 of
						Section 30
36 S	1_W	WM	23	SE		Hopkins Canal (Dry Cr): Coordinates not specified
38 S*	2 W*	WM	2*			Hopkins Canal (Griffin Cr): North 22 degrees 30 minutes
						West 1965 feet from the SE corner of DLC 66
37 S	2 W	WM	16	NE NE		Hopkins Canal (Horn Cr): Coordinates not specified
36 S*	2 W*	WM	29*			Hopkins Canal (Jackson Cr): 2060 feet North from the
						SW corner of DLC 66
36 S	2 W	WM	32	NE SW		Hopkins Canal (Willow Cr): Coordinates not specified
36 S	1 E	WM	19	SE SE		Hopkins Canal (Yankee Cr): Coordinates not specified
37 S	2 W	WM	2			Junction Canal (Bear Cr): North 87 degrees 15 minutes
						West 1335 feet from the East 1/4 corner of Section 2
36 S	2 E	WM	30	NE		Little Butte Canal (Lake Cr): Coordinates not specified
36 S	1 E	WM	25	NE NW		Little Butte Canal (Osborne Cr): Coordinates not
						specified
37 S	2 W	WM	2			Oakleigh Canal (Bear Cr): North 87 degrees 15 minutes
						West 1335 feet from the East 1/4 corner of Section 2
37 S	1 W	WM	30	NE NW		**Oakleigh Canal (Bear Cr): 445 feet North & 135 feet
						East from the SW corner of the NE ¼ NW ¼ of Section 30

Twp	Rng	Mer	Sec	Q-Q	Lot	Survey Coordinates
36 S	2 W	WM	34	SE SW		Oakleigh Canal (Griffin Cr): Coordinates not specified
36 S	2 W	WM	33	NE SE		Oakleigh Canal (Jackson Cr): Coordinates not specified
38 S	1 W	WM	15	NE SW		Phoenix Canal (Anderson Cr): Coordinates not specified
38 S	1 W	WM	23	SW NE*		Phoenix Canal (Bear Cr): North 24 degrees 46 minutes
						East, 716 feet from the center of Section 23
38 S	1 W	WM	9	SE SW		Phoenix Canal (Coleman Cr): Coordinates not specified
38 S	2 W***	WM	2		4	Phoenix Canal (Griffin Cr): Coordinates not specified
37 S	2 W	WM	21	NWNW		Phoenix Canal (Horn Cr): Coordinates not specified
37 S	2 W	WM	29	NE & SE		Phoenix Canal (Jackson Cr): Coordinates not specified

<sup>\*</sup>Denotes information not specified in Permit S-4951, but included by the Department to better describe the location of this authorized point of diversion.

## **Authorized Place of Use:**

	SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	User	Notice #	
37 S	1 W	WM	4	SE SW	1001	0.01	LOONEY TRUST	04-1	
37 S	1 W	WM	4	SE SW	1100	1.01	LOONEY TRUST	04-1	
37 S	1 W	WM	8	NE NW	4200	1.75	J. TONKIN	04-1	
37 S	1 W	WM	16	NW SE	400	0.62	R. HASKETT	04-1	
37 S	l W	WM	20	NW NE	300	0.77	M. HADLEY	04-1	
37 S	1 W	WM	20	SW NE	1200	0.20	S. BENNETT	04-1	
Subtotal						4.36			
37 S	1 W	WM	20	SE NE	5600	0.17	D. HILL	04-2	
37 S	1 W	WM	20	SE NE	6400	0.25	J. GEEAR	04-2	
37 S	1 W	WM	21	NE NW	400	0.31	P. JOURDAN	04-2	
37 S	2 W	WM	9	NW SE	3908	0.29	J. M. BAUER	04-2	
					Subtotal	1.02			
37 S	1 W	WM	20	SE NE	7000	0.20	J. TURCKE	04-3	
37 S	1 W	WM	21	NE NW	501	4.31	CITY OF MEDFORD	04-3	
37 S	1 W	WM	21	NW NE	1300	10.86	CITY OF MEDFORD	04-3	
37 S	1 W	WM	21	NW NE	1201	1.32	F. SCARLATA	04-3	
37 S	1 W	WM	21	NW NE	500	0.69	M. RICHARD TRUST	04-3	
37 S	1 W	WM	21	SW NE	500	0.07	M. RICHARD TRUST	04-3	
					Subtotal	17.45			
					22.83				

11. Application T-10054 proposes to change the place of use of the water use permit to:

	SUPPLEMENTAL IRRIGATION									
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	User	Notice #		
36 S	1 W	WM	36	NE SE	2300	4.36	R. BROWN	04-1		
37 S	1 W	WM	9	SE NE	2700	1.02	K. SILVEY	04-2		
37 S	1 W	WM	3	SW NW	1100	17.45	M. FOLSOM	04-3		
					22.83					

<sup>\*\*</sup>Denotes the point of diversion added to Permit S-4951 through a permit amendment (T-7439) approved on November 8, 1995, by Special Order Volume 49, Pages 401-402.

<sup>\*\*\*</sup>Permit S-4951 indicates Range 1 west, however the Department determined that the application map, which indicates Range 2 west, more accurately depicts the location of this authorized point of diversion.

- 12. 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.
- 13. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
- 14. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is currently equipped with an appropriate fish screening and/or by-pass device.
- 15. The proposed change in place of use would not result in enlargement of the rights.
- 16. The proposed change in place of use would not result in injury to other water rights.

#### Conclusions of Law

The change in place of use proposed in application T-10054 satisfies the requirements of ORS 540.574(3) and 540.580.

## Now, therefore, it is ORDERED:

- 1. The proposed change in place of use to the water rights evidenced by Certificates 83381 and 83383 and to water use Permit S-4951 is 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 83381 and 83383, water use Permit S-4951, and any related decree.
- 3. The former place of use shall no longer be irrigated as part of these water rights or water use permit.
- 4. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
- 5. The water user shall maintain and operate a fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with the Oregon Department of Fish and Wildlife's operational and maintenance standards.
- 6. The proposed changes shall be completed on or before October 1, 2009.
- 7. A Claim of Beneficial Use shall be submitted by the applicant to the Department by October 1, 2010.
- 8. Certificates 83381 and 83383 are modified. The Department will issue superseding water right certificates on a determination that it is necessary to produce certificates describing the water rights.

Irrigation Dis	trict, is amended as described herein.
Dated at Salem, O	regon this 22 nd day of April , 2008.
Dehlor	the
Phillip C. Ward, I	Director
Mailing date:	APR 2 5 2008

9. Permit S-4951, in the names of Rogue River Valley Irrigation District and Medford