

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-11327, Jackson County)	DISTRICT PERMANENT TRANSFER
)	AND PARTIAL CANCELLATION OF
)	CERTIFICATE 44614

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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

Applicant

EAGLE POINT IRRIGATION DISTRICT
PO BOX 157
EAGLE POINT, OR 97524

Findings of Fact

1. On December 12, 2011, Eagle Point Irrigation District (EPID) filed a permanent district transfer application to change the place of use under Certificate 75429. The Department assigned the application number T-11327.
2. On December 20, 2011, notice of the application for transfer was published pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.
3. On Febraury 15, 2012, the Department received from EPID the necessary partial cancellation of a layered certificate addressing an enlargement issue and permitting the Department to complete processing of the transfer application.
4. The portion of the right to be transferred is as follows:
Certificate: 75429 in the name of EAGLE POINT IRRIGATION DISTRICT
Use: IRRIGATION of 17.0 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-

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.

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	GLot	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	DLC	GLot	Q-Q	Acres	Tax Lot	User Name	Notice
35 S	1 W	WM	22			SENE	1.20	1001	Brink	2011-08
35 S	1 W	WM	34			SENE	4.80	200	Kellerman	2011-04
35 S	1 W	WM	34			SENE	0.70	200	Kellerman	2011-05
35 S	1 W	WM	34			SENE	3.00	200	Kellerman	2011-06
35 S	1 W	WM	34			SENE	1.40	300	Kellerman	2011-07
35 S	1 W	WM	34		3	NESW	1.50	1300	Pacific Crest Properties	2011-02
35 S	1 W	WM	34	40		NESW	0.70	1200	Pacific Crest Properties	2011-03
36 S	1 W	WM	3			NWNW	3.70	200	Greb	2011-01
Total:							17.00			

5. Transfer Application T-11327 proposes to change the place of use to:

Proposed Places of Use:

IRRIGATION										
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	User Name	Notice		
36S	1W	WM	5	SE NE	3.7	204	GODDING	2011-01		
36S	1W	WM	5	SE NE	1.5	204	GODDING	2011-02		
36S	1W	WM	5	SE NE	0.7	204	GODDING	2011-03		
36S	1W	WM	5	SE NE	4.8	204	GODDING	2011-04		
36S	1W	WM	5	SE NE	0.7	204	GODDING	2011-05		
36S	1W	WM	5	SE NE	3.0	204	GODDING	2011-06		
36S	1W	WM	5	SENE	1.4	204	GODDING	2011-07		
36S	1W	WM	22	NESW	1.2	2904	BRINK	2011-08		
Total:					17.00					

6. 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.
7. The water right is subject to transfer as defined in OAR 690-385-0100(17).
8. The proposed change in places of use will not result in enlargement of the right.
9. The proposed change in places of use will not result in injury to other water rights.

Partial Cancellation of a Water Right

10. On February 15, affidavits certifying that portions of water right Certificate 44614 have been abandoned and requesting cancellation of the right were received. The right to be cancelled is as follows:

Certificate: 44614 in the name of JOHN E. BARTON

Use: SUPPLEMENTAL IRRIGATION of 0.8 ACRE

Priority Date: APRIL 24, 1972

Rate: 0.001 CUBIC FOOT PER SECOND

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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year from direct flow and storage from reservoir constructed under Permit R-5984 evidenced by Certificate 44613.

Source: East Unnamed Stream and Barton Reservoir

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
35 S	1 W	WM	34	SW NW

Authorized Place of Use to be Cancelled:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
35 S	1 W	WM	34	SE NW	0.8

Conclusions of Law

The proposed changes in place of use as proposed in Transfer Application T-11327 satisfy the requirements of ORS 540.574(3) and 540.580. The partial cancellations are consistent with ORS 540.621 and the abandoned lands are cancelled.

Now, therefore, it is ORDERED:

1. The proposed changes in place of use to the water rights evidenced by Certificate 75429 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 Certificate 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, 2013.
5. A Claim of Beneficial Use (COBU) shall be submitted by the applicant to the Department by October 1, 2014.

6. Water right Certificate 75429 is modified. The Department will issue superseding certificates describing the rights when it determines that is necessary for record keeping.
7. Water right Certificate 44614 is cancelled. A new certificate will be issued describing those portions of Certificate 44614 not modified or cancelled by this order.

Dated at Salem, Oregon this 16 day of February, 2012


Dwight French, Water Services Division Administrator for
PHILLIP C. WARD, DIRECTOR

Mailing Date: FEB. 24 2012