BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-11063, Jackson County)	PROPOSING APPROVAL OF A
)	CHANGE IN PLACE OF USE AND
)	CHARACTER OF USE

Authority

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Agent

JACK AND DOROTHY STEINHOEFEL

10290 BUTTE FALLS HWY

EAGLE POINT, OR 97524

GARY D. KAISER

KAISER SURVEYING

19440 HIGHWAY 62

EAGLE POINT, OR 97524

Findings of Fact

Background

- 1. On April 20, 2010, JACK AND DOROTHY STEINHOEFEL filed an application to change the place of use and to change the character of use under Certificate 86073. The Department assigned the application number T-11063.
- 2. Concurrent with submission of transfer application T-11063, the applicants submitted Eagle Point Irrigation District's consent to the proposed water right transfer.
- 3. The portion of the right to be transferred is as follows:

Certificate: 86073 in the name of EAGLE POINT IRRIGATION DISTRICT (perfected

under Permit S-6396)

Use: IRRIGATION of 0.62 ACRE

Priority Date: APRIL 21, 1915

Rate: 0.007 CUBIC FOOT PER SECOND

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

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.

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 acrefeet per acre for each acre irrigated during the irrigation season of each year. SOUTH FORK BIG BUTTE CREEK, tributary to the ROGUE RIVER

Source:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances 1130 FEET SOUTH AND 700 FEET WEST FROM	
35 S	2 E	WM	10	NE NE		
					THE NE CORNER OF SECTION 10	

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	1 E	WM	35	SW NE	0.62

- 4. Transfer Application T-11063 proposes to change the character of use to multi-purpose pond storage. Water is proposed to be diverted for storage (one-time fill) during the irrigation season and to remain in the pond during the off season.
- 5. Transfer Application T-11063 also proposes to change the place of use of the right to:

MULTI-PURPOSE							
Twp	Rng	Mer	Sec	Q-Q			
34 S	1 E	WM	35	NW NE			
34 S	1 E	WM	35	SW NE			

- 6. The duty of water listed under Certificate 86073 is 4.5 acre feet per acre. As defined by OAR 690-380-0100(2), the proposed character of use change could result in enlargement of the right if not conditioned to prevent use of more water than could have been beneficially used without waste for the existing authorized use. The best currently available information indicates that the most consumptive crop in the area is apples with a net irrigation requirement of 3.06 acre feet per acre. (Oregon Crop Water Use and Irrigation Requirements (Cuenca, 1992)). Utilizing an evaporative loss quantification of 10%, the maximum duty of water that could be transferred without enlargement would be 3.4 acre feet (af) per acre. Therefore, to prevent enlargement of this right, the maximum diverted annual volume of water for the new use under this right is limited to 2.1 acre feet (0.62 acre x 3.4 af = 2.1 af).
- 7. Notice of the application for transfer was published on April 27, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 8. On June 4, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11063 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of July 7, 2010, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.

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Transfer Review Criteria [OAR 690-380-4010(2)]

- Water has been used within the last five years according to the terms and conditions of the right.
 There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- A diversion structure and ditch sufficient to use the full amount of water allowed under the
 existing right were present within the five-year period prior to submittal of Transfer Application
 T-11063.
- 11. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-11063.
- 12. The proposed changes would not result in enlargement of the right provided the annual volume of water diverted for storage does not exceed 2.1 acre-feet during the irrigation season of each year.
- 13. The proposed changes would not result in injury to other water rights.

Determination and Proposed Action

The change in place of use and change in character of use proposed in Transfer Application T-11063 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-11063 is approved, the final order will include the following:

- 1. The change in place of use and change in character of use proposed in Transfer Application T-11063 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 Certificate 86073 and any related decree.
- 3. Water right certificate 86073 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
- 4. The former place of use of the transferred right shall no longer receive water under the right.
- 5. The use of water under this right is limited to an annual volume of 2.1 acre feet. Water is to be diverted for storage as a one-time fill during the irrigation and will remain in the pond during the off season.
- 6. Eagle Point Irrigation District shall maintain the existing headgate and measuring device at the diversion and shall make such improvements as may be required by the Department.

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- 7. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2011**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
- 8. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued to Eagle Point Irrigation District.

Dated at Salem, Oregon this 23-1 day of June 2010.

A-Phillip C. Ward, Director

This Preliminary Determination was prepared by Teri Hranac. If you have questions about the information in this document, you may reach me at 503-986-0881 or Teri.K.Hranac@wrd.state.or.us.

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.