



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:** SOUTH FORK BIG BUTTE CREEK, tributary to the ROGUE RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
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
34 S	1 E	WM	35	SW NE	0.62

- 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.
- 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	

- 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).
- 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.
- 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.

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

9. 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.
10. 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.*

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<sup>rd</sup> day of June 2010.

**D R A F T**

*William E. Feltus*  
By 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@wrds.state.or.us](mailto:Teri.K.Hranac@wrds.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.