

Senate Bill 908

Sponsored by Senator WHITSETT

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows withdrawal of waters from Big Butte Creek watershed for certain ponds of 25 acre-feet or less for certain purposes. Requires compliance with applicable permitting requirements.

A BILL FOR AN ACT

1
2 Relating to the Big Butte Creek watershed; amending ORS 538.430.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 538.430 is amended to read:

5 538.430. (1) Subject to water rights existing on May 29, 1925, the City of Medford, in Jackson
6 County, is granted the exclusive right to use for municipal purposes all the waters of Big Butte
7 Creek, a tributary of Rogue River situated in Jackson County, and of the springs at the head which
8 form the creek, and of its tributaries. The City of Medford, any of its officers, and others on its
9 behalf may appropriate all the waters for these purposes and an application therefor may be made
10 for the benefit of the city, either by it in its own name, or by any of its officers or by any other
11 person on its behalf. No person shall appropriate or be granted a permit to use any of the waters
12 except as provided in this section, and for the use and benefit of the city. But the City of Medford
13 may, under this grant, divert such waters from their watershed and convey them to the city and
14 elsewhere for use by it for municipal purposes, either within or without the city limits. All of such
15 waters are withdrawn from future appropriation, except for such use and benefit of the City of
16 Medford; provided however, that the Eagle Point Irrigation District may establish and use an addi-
17 tional point of diversion below the diversion point in use on April 1, 1953, under its permit number
18 6396 which authorizes the appropriation of not to exceed 100 cubic feet per second.

19 (2) Subject to rights existing on July 21, 1953, to the use of the waters of Big Butte Creek, and
20 of the springs at the head which form the creek, and of its tributaries, including the rights granted
21 in subsection (1) of this section to the City of Medford to the use of such waters and the right of
22 future appropriation of such waters, the Eagle Point Irrigation District is granted the right to ap-
23 propriate and use up to and including 100 cubic feet per second of the waters of Big Butte Creek,
24 using the diversion site of the Eagle Point Irrigation District existing on April 1, 1953, for the pur-
25 pose of generating electric energy; provided, however, that not less than 10 cubic feet per second
26 of said waters shall be permitted to pass said diversion point and remain in the channel of said
27 stream at all times other than times when said waters are diverted for irrigation purposes. The
28 Eagle Point Irrigation District may:

29 (a) Enter into such contracts and perform such other acts as it deems necessary or desirable for
30 the generation of electric energy and the construction and maintenance of facilities for the gener-
31 ation of electric energy.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (b) Enter into such arrangements as it deems proper for the use, sale or distribution of the
2 electric energy which is generated.

3 (3) In performing any of the acts under subsection (2) of this section, the Eagle Point Irrigation
4 District shall not be deemed a public utility as defined in ORS 757.005.

5 (4) Subsections (1) and (2) of this section shall not prevent the appropriation of the waters of
6 Clark Creek, in Jackson County, for the development of hydroelectric power not to exceed two
7 megawatts if the facility will be constructed and operated in compliance with recommendations by
8 the State Department of Fish and Wildlife concerning fish conservation, including streamflow re-
9 quirements based upon biological criteria.

10 (5) **This section does not prevent waters withdrawn from the Big Butte Creek watershed**
11 **from being stored in ponds of 25 acre-feet or less that were created before January 1, 2008,**
12 **for fish and wildlife, recreation and firefighting. The storage of water under this subsection**
13 **must comply with any applicable permitting requirements under ORS 537.400 and 537.409.**

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