

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

In the Matter of Transfer Application) **FINAL ORDER APPROVING**
T-12545, Deschutes and Crook Counties) **A DISTRICT PERMANENT TRANSFER**
) **FOR NON-USE**

Authority

Oregon Revised Statutes (ORS) 540.572 through 540.580 establish the process in which a district may submit a request to permanently transfer a water right within district boundaries whenever land within the legal boundaries of a district is no longer irrigated or susceptible of irrigation. Oregon Administrative Rules (OAR) 690-385-5000 to 690-385-5900 implement the statutes and provide the Department’s procedures and criteria for evaluating district permanent transfer applications for non-use.

Applicant

CENTRAL OREGON IRRIGATION DISTRICT
1055 SW LAKE CT.
REDMOND, OR 97756

Findings of Fact

1. On October 19, 2015, Central Oregon Irrigation District (COID) sent by certified mail, notices advising four different water users that COID’s records show that a portion or all of the user’s water right had not been beneficially used for the previous four consecutive years, and furthermore, if the user does not use the water for a fifth consecutive year, the district may petition the Department for a transfer of water right due to non-use. All persons holding a recorded security interest in the appurtenant lands were also notified. The contents of the notice meet the requirements of ORS 540.572(2) and OAR 690-385-5100.
2. On October 3, 2016, COID sent by certified mail, notices to the same four water users stating COID’s intent to confiscate the water right appurtenant to their lands and file a petition with the Department to transfer the unused portions of the water right to other lands in the District. The notice also advised the water users of their opportunity to object in writing within a 30 day period that began October 3, 2016. All persons holding a recorded security interest in the affected lands were also notified. The contents of the notice meet the requirements of ORS 540.572(3)-(4) and OAR 690-385-5100.
3. COID received written objections from one water user within 30 days of the notice described in Finding of Fact #2, which ultimately resulted in a hearing before COID’s board of

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. Within 20 days after this final order is issued (i.e., mailing date), the district or any protestant may file with the commission exceptions to the final order. The commission shall issue an order granting or denying the exceptions within 30 days after receiving the exceptions. ORS 540.580(10).

directors consistent with ORS 540.572(5). Following the hearing, on November 28, 2016, by email the district notified the water user that the board of directors made the decision to proceed with a petition to the Department for approval of transfer of the respective lands under ORS 540.574. The application includes a copy of the objections, and copies of the findings, determinations and conclusions resulting from the hearing.

4. On December 19, 2016, COID sent by certified mail, notices to the water users of the district whose right of record is to be transferred and to those who are to receive the transferred right. The notice informed them that COID filed a petition with the Department to remove water rights due to five consecutive years of non-use. Copies of the permanent transfer application (petition) and maps submitted to the Department were included in the notice. The notice also informed the water users of their opportunity to submit to the Department, a protest consistent with OAR 690-385-5700 against approval of the permanent transfer. The contents of the notice meet the requirements of ORS 540.576 and OAR 690-385-5400. No protests were received within the 60 day protest period that began December 19, 2016.
5. On December 22, 2016, the Department received COID's district transfer application to permanently change the place of use under Certificates 83571 and 76714. The Department assigned the application number T-12545.
6. Notice of the District Permanent Transfer Application for Non-Use was published on December 27, 2016, pursuant to ORS 540.580 and OAR 690-385-5500 with a 30 day comment period. No comments were filed in response to the notice.

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

Certificate: 83571 in the name of CENTRAL OREGON IRRIGATION DISTRICT

Use: IRRIGATION of 2.05 acres

Priority Dates: OCTOBER 31, 1900 and DECEMBER 2, 1907

Seasons of Use: Season 1: April 1 through April 30 & October 1 through October 31

Season 2: May 1 through May 14 & September 16 through September 30

Season 3: May 15 through September 15

Maximum Quantity (Rate) that can be applied to an acre:

Season 1: Limited to 1/80 cubic foot per second (cfs) per acre

Season 2: Limited to 1/60 cfs per acre

Season 3: Limited to 1/32.4 cfs per acre

Maximum Duty that can be applied to an acre:

Not to exceed 9.91 acre-feet (af) per acre per year.

The above listed rates and duty reflect allowance of a 45% transmission loss as determined by decree of the Circuit Court of Deschutes County, dated March 24, 1933. Those lands not served from the district main canal systems, but by direct pumping from the Deschutes River, are not allowed the 45% transmission loss.

Source: The Deschutes River, tributary to the Columbia River

Authorized Points of Diversion:

POD	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1	18 S	11 E	WM	13	SW NE	CENTRAL OREGON CANAL: 1520 FEET SOUTH AND 1535 FEET WEST FROM THE NE CORNER OF SECTION 13

POD	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
11	17 S	12 E	WM	29	SE NE	COID NORTH CANAL: 850 FEET NORTH AND 630 FEET WEST FROM THE E1/4 CORNER OF SECTION 29

Authorized Place of Use:

IRRIGATION									
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice	POD
14 S	13 E	WM	5	SE NW	0.50	600	LISA L COOK	T-2016-015	11
14 S	13 E	WM	11	SW SE	0.61	801	MARLA LYNN GIBSON TRUST	T-2016-015	11
14 S	13 E	WM	16	SE SE	0.24	402	SHON T. DAY	T-2016-015	11
14 S	13 E	WM	34	SW SW	0.30	1600	CHANI C HAYNES	T-2016-015	11
17 S	12 E	WM	13	SW NE	0.40	108	JIM & TRACY DUNCAN, TRUSTEES	T-2016-015	1
Total:					2.05				

8. Transfer Application T-12545 proposes to change the Place of use to:

Proposed Place of Use:

IRRIGATION									
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice	POD
15 S	13 E	WM	03	SW NE	1.65	401	BENJAMIN O'KEEFE	T-2016-015	11
15 S	14 E	WM	13	NW NW	0.40	200	JACQUELINE VEELLE	T-2016-015	1
Total:					2.05				

9. The season of use described in Certificate 83571 contains scrivener errors. Consistent with the Decree for the Deschutes River (Volume 12, Page 282), the irrigation season should be described as:

Seasons of Use: Season 1: April 1 through April 30 & October 1 through October 31
 Season 2: May 1 through May 14 & September 15 through September 30
 Season 3: May 15 through September 14

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

Certificate: 76714 in the name of CENTRAL OREGON IRRIGATION DISTRICT

Use: SUPPLEMENTAL IRRIGATION of 2.05 acres

Priority Date: February 28, 1913

Limit/Duty: Limited to 50,000 acre-feet of stored water only

Source: Crane Prairie Reservoir, constructed under Permit R-1687, a tributary of the Deschutes River

The water right evidenced by Certificate 76714 allows the use of up to 50,000 acre-feet of water stored in Crane Prairie Reservoir, a tributary of the Deschutes River, for supplemental irrigation. The diversion rate is not specified and use is limited to the total volume of stored water to make up any deficiency in supply of the live flow water right appurtenant to specified lands.

Authorized Points of Diversion:

POD	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1	18 S	11 E	WM	13	SW NE	CENTRAL OREGON CANAL: 1520 FEET SOUTH AND 1535 FEET WEST FROM THE NE CORNER OF SECTION 13

POD	Twp	Rng	Mer	Sec	Q-Q	Measured Distances			
11	17 S	12 E	WM	29	SE NE	COID NORTH CANAL: 850 FEET NORTH AND 630 FEET WEST FROM THE E1/4 CORNER OF SECTION 29			

Authorized Place of Use:

IRRIGATION									
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice	POD
14 S	13 E	WM	5	SE NW	0.50	600	LISA L COOK	T-2016-015	11
14 S	13 E	WM	11	SW SE	0.61	801	MARLA LYNN GIBSON TRUST	T-2016-015	11
14 S	13 E	WM	16	SE SE	0.24	402	SHON T DAY	T-2016-015	11
14 S	13 E	WM	34	SW SW	0.30	1600	CHANI C HAYNES	T-2016-015	11
17 S	12 E	WM	13	SW NE	0.40	108	JIM & TRACY DUNCAN, TRUSTEES	T-2016-015	1
Total:					2.05				

11. Transfer Application T-12545 proposes to change the place of use to:

Proposed Place of Use:

IRRIGATION									
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice	POD
15 S	13 E	WM	03	SW NE	1.65	401	BENJAMIN O'KEEFE	T-2016-015	11
15 S	14 E	WM	13	NW NW	0.40	200	JACQUELINE VEELLE	T-2016-015	1
Total:					2.05				

Transfer Review Criteria for Non-Use (ORS 540.572-540.580; OAR 690-358-5000 through 690-385-5800)

12. COID is managed by a full-time manager. *ORS 540.572(1)(a) and OAR 690-385-5000(1).*
13. COID is implementing an approved water conservation plan. *ORS 540.572(1)(b) and OAR 690-385-5000(2).*
14. Transfer T-12545 involves the use of water on lands located within the boundaries of COID. *ORS 540.572(1) and OAR 690-385-5000(3).*
15. COID determined the users had not made beneficial use of water for four successive years as shown in Findings of Facts #1 and #3. *OAR 690-385-5000(4).*
16. Based on the evidence contained in the letters and required notices, water was not put to beneficial use on the authorized lands shown in Finding of Facts #7 and #10, above, during the 2012, 2013, 2014, 2015, and 2016 irrigation seasons. *OAR 690-385-5000(4).*
17. The authorized places of use are “no longer irrigated” as defined in ORS 540.572(7). Based on the evidence contained in the letters and required notices, water was not put to beneficial use on the authorized lands shown in Finding of Facts #7 and #10, above, during the 2012, 2013, 2014, 2015, and 2016 irrigation seasons.
18. The district provided notice to the users of their intent to transfer and provided opportunity to resolve the matter in the manner described by ORS 540.272 and OAR 690-385-5400 and 690-385-5600. *OAR 690-385-5000(5).*

19. COID filed Transfer Application T-12545 prior to the end of the fifth year of non-use as required by OAR 690-385-5600(5).
20. Transfer application T-12545 meets the application standards of ORS 540.574 and OAR 690-385-5200.
21. The maps meet the standards of ORS 540.574(1) and OAR 690-385-5300.
22. The water rights are subject to transfer as defined in OAR 690-385-0100(17). *OAR 690-385-5600(1)*.
23. The proposed change in place of use will not result in enlargement of the rights as defined in OAR 690-385-0100(4). *OAR 690-385-5600(2)*.
24. The proposed change in place of use will not result in injury to other water rights as defined in OAR 690-385-0100(6). *OAR 690-385-5600(3)*.

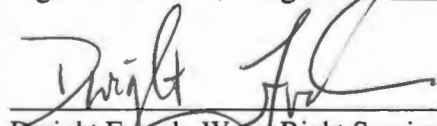
Conclusions of Law

The proposed changes in place of use as proposed in Transfer Application T-12545 satisfy the requirements of ORS 540.572 to 540.580 and OAR 693-385-5000 & 690-385-5600.

Now, therefore, it is ORDERED:

1. The proposed changes in place of use to the water rights evidenced by Certificates 83571 and 76714 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 Certificates 83571 and 76714 and any related decree.
3. The former places of use shall no longer be irrigated as part of these water rights.
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. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2018**. A Claim of Beneficial Use shall be submitted by COID to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
6. Water right certificates 83571 and 76714 are modified. The Department will issue superseding certificates describing the rights when it determines it is necessary for record keeping.

Signed at Salem, Oregon this 22 day of February 2017.



Dwight French, Water Right Services Administrator for
THOMAS M. BYLER, DIRECTOR
Oregon Department of Water Resources

Mailing Date: MAR 01 2017