



**Rate:** Season 1 (limited to 1/80 cfs per acre): 0.08 cfs  
 Season 2 (limited to 1/60 cfs per acre): 0.11 cfs  
 Season 3 (limited to 1/32.4 cfs per acre): 0.20 cfs, being 0.14 cfs under the 1900 priority date and 0.06 cfs under the 1907 priority date

**Duty:** Not to exceed 9.91 acre-feet (AF) per acre: 62.26 AF

**Source:** Deschutes River, tributary to the Columbia River

**Authorized Point of Diversion:**

Township		Range		Meridian	Sec	¼	¼	Survey Coordinates
18	S	11	E	W.M.	13	SW	NE	POD #1 (CENTRAL OREGON CANAL): 1520 FEET SOUTH AND 1535 FEET WEST FROM THE NE CORNER OF SECTION 13

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼	¼	TaxLot	Acres
18	S	12	E	W.M.	3	NE	NE	200	1.50
18	S	12	E	W.M.	4	SE	SW	100	4.00
18	S	13	E	W.M.	3	SE	SW	1000	0.81

3. Certificate 83571 reflects modifications (reductions) that have been made to this water right as a result of conserved water projects, instream transfers, and other transfers. Consequently, the duty for the portion of the right to be transferred is different than what was described under Certificate 76358, as reflected in the Preliminary Determination. The rates and duty described in Finding of Fact #2 reflect the amounts by which Certificate 83571 will be reduced as a result of this transfer. These amounts were determined by identifying the maximum rates that could be applied simultaneously to all lands (acres and acres equivalent) that receive water from POD #1, which is less than the maximum seasonal rate and duty limitations.

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

**Certificate:** 76714 in the name of the Central Oregon Irrigation District

**Use:** Supplemental Irrigation of 6.31 acres

**Priority Date:** February 28, 1913

**Season of Use:** April 1 through November 1

**Quantity:** Not to exceed a portion of 50,000 acre-feet of stored water only for the entire right, if available at the authorized point of diversion from the source, limited to the duty of water as set out in the modified supplemental decree of the circuit court dated March 24, 1933, in the matter of the determination of the relative rights to the use of the water of the Deschutes River and its tributaries. The amount of water allowed under this right, together with the amount secured under any other right existing for the same lands shall not exceed the limitation allowed herein, and is further limited to the terms of the Central Oregon Irrigation District, Crook County Improvement District #1, and the Arnold Irrigation District, and subject to such reasonable rotation system as may be ordered by the proper state officer.

**Source:** Crane Prairie Reservoir, tributary to the Deschutes River

**Authorized Point of Diversion:**

Township		Range		Meridian	Sec	¼	¼	Survey Coordinates	
18	S	12	E	W.M.	13	SW	NE	1520 FEET SOUTH AND 1535 FEET WEST FROM THE NE CORNER OF SECTION 13	

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼	¼	Tax Lot	Acres
18	S	12	E	W.M.	3	NE	NE	200	1.50
18	S	12	E	W.M.	4	SE	SW	100	4.00
18	S	13	E	W.M.	3	SE	SW	1000	0.81

5. Transfer Application T-10466 proposes to move the authorized point of diversion approximately 4.0 miles downstream to:

Township		Range		Meridian	Sec	¼	¼	Survey Coordinates	
18	S	12	E	W.M.	5	SE	NW	SOUTH 65 DEGREES 46 MINUTES 27 SECONDS WEST 3621.45 FEET FROM THE NE CORNER OF SECTION 5	

6. Application T-10466 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼	¼	Tax Lot	Acres
18	S	12	E	W.M.	5	NW	SW	101	2.74
18	S	12	E	W.M.	6	NE	SE	101	1.15
18	S	12	E	W.M.	6	NE	SE	2200	2.26
18	S	12	E	W.M.	6	NW	SE	2200	0.16
								TOTAL	6.31

7. The receiving lands are owned by Bend Metropolitan Park & Recreation District, 200 NW Pacific Park Lane, Bend, OR 97702. The receiving landowner will be responsible for completion of the proposed changes.
8. Notice of the application for transfer was published on November 6, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
9. On December 10, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10466 to the applicant(s). The draft Preliminary Determination set forth a deadline of January 10, 2008, for the applicant(s) to respond. The applicant(s) requested that the Department proceed with issuance of a Preliminary Determination. The applicant provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer when originally filing the application.

10. On December 27, 2007, the Department issued a preliminary determination proposing to approve Transfer Application T-10466 and mailed a copy to the applicant. Additionally, notice of the preliminary determination for the transfer application was published in the Department's weekly notice on January 1, 2008, and in The Bulletin on January 9, 16 and 23, 2008, pursuant to ORS 540.520 and OAR 690-380-4020. No comments or protests were filed in response to the Department's weekly notice or to the newspaper notice. On February 25, 2008, a red-lined Draft Final Order was e-mailed to the applicants. This red-line draft order highlighted changes to the Preliminary Determination due to the issuance of Certificate 83571. On February 25, 2008, Central Oregon Irrigation District gave their consent to the red-lined changes.
11. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is currently equipped with an appropriate fish screening and/or by-pass device.

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

12. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
13. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights are present, and water has been used within the last five years under the terms and conditions of the rights.
14. The rate and duty allowed under Certificate 83571 (under the terms of the decree) for each acre irrigated by the Central Oregon Irrigation District main canal systems reflect a 45% transmission loss. 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.
15. Transfer Application T-10466 proposes to change the point of diversion and delivery system for this portion of the right from the COID canal system to a direct pumping point on the Deschutes River. Therefore, the rate including provision for transmission losses can not be allowed and the transfer will be limited to the rates listed below and an annual duty not to exceed 5.45 acre-feet per acre:

<b>Time of Year</b>	<b>Total Area</b>	<b>Total Diversion Rate without 45% transmission loss</b>
	<b>(acres)</b>	<b>(cfs)</b>
April 1 through April 30	6.31	0.04
May 1 through May 14	6.31	0.06
May 15 through Sep 15	6.31	0.11
Sep 16 through Sep 30	6.31	0.06
Oct 1 through Oct 31	6.31	0.04

16. The water rights proposed for transfer are served by a diversion upstream of the proposed new diversion. The changes in place of use and point of diversion proposed in Transfer Application T-10466 will not result in injury to other water rights.
17. The proposed change would not result in enlargement of the rights.

### **Conclusions of Law**


The changes in place of use and point of diversion proposed in application T-10466 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

### **Now, therefore, it is ORDERED:**

1. The changes in place of use and point of diversion proposed in application T-10466 are approved.
2. Water right certificates 83571 and 76714 are modified. The Department will issue a superseding certificate describing the right when it determines that is necessary for record keeping.
3. 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.
4. The maximum rates of diversion from the Deschutes River under the portion of the right evidenced by Certificate 83571 for delivery to the applicant's property shall continue to be based on 6.31 acres of irrigation right transferred, excluding a 45% transmission loss, being:
  - 0.04 cfs from April 1 through April 30 and October 1 through October 31;
  - 0.06 cfs from May 1 to May 14 and September 16 to September 30;
  - 0.11 cfs from May 15 through September 15
5. The quantity of water diverted at the additional/new point of diversion, together with that diverted at the original point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
6. The former place of use of the transferred rights shall no longer receive water under the rights.
7. The water user shall maintain and operate a fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with the Oregon Department of Fish and Wildlife's operational and maintenance standards.
8. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.

9. The water user shall maintain the existing headgate and shall make such improvements as may be required by the Department.
10. The approved changes shall be completed and full beneficial use of the water shall be made on or before October 1, 2009. A Claim of Beneficial Use prepared by a Certified Water Rights 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.

Dated at Salem, Oregon this 26<sup>th</sup> day of February 2008.



*PCW*  
Phillip C. Ward, Director

Mailing date: MAR 03 2008