

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

In the Matter of Instream Transfer)	FINAL ORDER APPROVING A
Application T-10562 and Mitigation Credit)	CHANGE IN PLACE OF USE AND
Project MP-115, Deschutes County)	CHARACTER OF USE, PARTIAL
)	CANCELLATION OF A
)	SUPPLEMENTAL WATER RIGHT,
)	AND PRELIMINARY AND FINAL
)	AWARD OF MITIGATION CREDITS

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. OAR Chapter 690, Division 077 provides additional criteria for evaluating transfers to instream water rights.

ORS 540.510 establishes the process in which the Department may cancel a supplemental water right not included as part of the transfer application.

OAR 690-521-0100 to 690-521-0600 establishes the process in which anyone may submit a ground water mitigation project to the Department for the purpose of establishing mitigation credits in the Deschutes Ground Water Study Area.

Pursuant to OAR 690-521-0400 (2), any mitigation credits awarded to a mitigation project are valid until used to fulfill a mitigation obligation of a ground water use in the Deschutes Ground Water Study Area. Valid mitigation credits may be assigned by any person or recognized mitigation bank to any person or other mitigation bank. Mitigation credits are used when a person submits to the Department documentary evidence that valid credits have been obtained and assigned to satisfy a mitigation obligation.

Applicants

Deschutes River Conservancy
700 NW Hill Street
Bend, OR, 97701

Central Oregon Irrigation District
1055 SW Lake Court
Redmond, OR 97756

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, 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.

City of Bend
 575 NE 15th Street
 Bend, Oregon 97701

Findings of Fact

Background

1. On March 13, 2008, the Deschutes River Conservancy (DRC), Central Oregon Irrigation District (COID) and the City of Bend filed an application to change the place of use and character of use under a portion of Certificate 83571 to instream use. The Department assigned the application number T-10562.
2. On September 25, 2009, COID requested to amend the application to remove 0.35 acre located as follows:

Township	Range	Meridian	Sec	¼ ¼	Acres
15	S	13	E	W.M.	9 NW NW 0.35

3. The portion of the right to be transferred, as modified based on Finding of Fact #2, is as follows:

Certificate: 83571 in the name of Central Oregon Irrigation District

Use: Irrigation of 27.45 acres

Priority Date: October 31, 1900 and December 2, 1907

Season of Use: April 1 to October 31, further limited as follows:

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

limited to 1/80th cubic foot per second (CFS) per acre during the period April 1 through April 30 & October 1 through October 31

limited to 1/60th CFS per acre during the period May 1 through May 14 & September 15 through September 30

limited to 1/32.4th CFS per acre during the period May 15 through September 14

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: Deschutes River, tributary to the Columbia River

Authorized Point of Diversion (POD):

Township	Range	Meridian	Sec	¼ ¼	Location
17	S	12	E	W.M.	29 SE NE POD #11 (COID NORTH CANAL): 850 FEET NORTH AND 630 FEET WEST FROM THE EAST ¼ CORNER OF SECTION 29

Authorized Places of Use:

Township	Range	Meridian	Sec	¼ ¼	Acres
14	S	13	E	W.M.	16 NW SW 0.12
15	S	13	E	W.M.	9 NW NW 3.20
15	S	13	E	W.M.	10 NE NW 3.73
15	S	13	E	W.M.	17 SE NE 4.3
15	S	13	E	W.M.	30 NW NW 3.6
17	S	13	E	W.M.	20 NW SW 12.5

4. 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:

Season of Use: April 1 to October 31, further limited as follows:
 April 1 through April 30 and October 1 through October 31, described herein as Season 1.
 May 1 through May 14 and September 15 through September 30, described herein as Season 2.
 May 15 through September 14, described herein as Season 3.

5. Certificate 83571 is a deficient water right. If water were diverted simultaneously to all authorized lands and uses described in the right at the maximum rates and duty allowed (described in Finding of Fact #3), the total rate and duty for the water right would be exceeded. In the event water were diverted simultaneously to all authorized lands and uses described in the right at the maximum rates and duty allowed at the POD (described in Finding of Fact #3), the portion of the right involved in this transfer would be limited as described in the tables below. These rates and duty are also the quantities by which Certificate 83571 shall be reduced, if this transfer is approved.

Priority Date	Season 1	Season 2	Season 3	Duty
October 31, 1900	0.342 CFS	0.456 CFS	0.603 CFS	271.34 AF
December 2, 1907			0.242 CFS	

6. A total of 149.62 AF of water, excluding transmission losses, may be beneficially used annually for primary irrigation under the portion of existing Certificate 83571 proposed for transfer.
7. There is a supplemental right, Certificate 76714, appurtenant to the same lands on which the primary right, Certificate 83571, is appurtenant to and proposed to be transferred to instream use. The applicant has requested that the affected portion of Certificate 76714 be cancelled upon issuance of the Final Order approving T-10562.
8. The applicants, with the exception of the City of Bend and City of Redmond, are not the owners of the lands to which the water right described in Finding of Fact #3 is appurtenant. The City of Bend appears to be the owner of the 12.5 acre parcel located in the NW ¼ SW ¼ of Section 20, T17S, R13E, W.M. On September 23, 2009, COID also clarified that the City of Redmond appears to be the owner of a portion of the water right (0.2 acre located within SW Xero Avenue) located in the NW ¼ NW ¼ of Section 30, T15S, R13E, W.M. Water right conveyance agreements have been completed and interest in the remaining balance of

Certificate 83571 to be transferred has been conveyed to COID from each landowner described in the table below. The portion of this right to be transferred was appurtenant to lands owned by the identified land's landowners at the time interest in the water right was conveyed through a Quit Claim, a water right conveyance agreement.

Landowner	Water Right Interest Holder	T	R	Sec	¼ ¼	Current Tax Lot	acres
Wayne R. and Stella M. Rowe	COID	14S	13E	16	NW SW	213	0.12
Dave L. and Loretta J. Hoole	COID	15S	13E	9	NW NW	207	1.74
Gary N. and Sherry L. Thrasher	COID	15S	13E	9	NW NW	208	1.46
Aqua-Tronics Inc.	COID	15S	13E	10	NE NW	102	3.73
Redmond School District 2J	COID	15S	13E	17	SE NE	1502	4.3
Johnnie M. Murray, Trustee	COID	15S	13E	30	NW NW	905	3.4

9. Application T-10562 proposes to change the character of use to instream use for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and any other ecological values; recreation; and pollution abatement. The application also proposes to establish mitigation credits in the Deschutes Ground Water Study Area.
10. Application T-10562 proposes to change the place of use of the right to create an instream reach from the COID North Canal POD #11 (described in Finding of Fact #3) to Lake Billy Chinook (River Mile 120).
11. The applicant proposes the quantities of water to be transferred and protected instream to be as follows:

Certificate	Priority Dates	Rate Instream	Volume Instream
83571	October 31, 1900	Season 1: 0.191 CFS Season 2: 0.255 CFS Season 3: 0.472 CFS	151.52 AF

12. The applicant proposes that any instream water right established as a result of this instream transfer to be additive to existing instream water rights for the same reach established pursuant to ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process). The applicant also proposes that any instream water right established as a result of this instream transfer replace a portion of any existing instream rights established pursuant to ORS 537.346 (minimum streamflow conversion) and ORS 537.341 (state agency application process), with an earlier priority date.
13. The applicant has requested to protect water instream under the October 31, 1900 priority date. Water is diverted at the point of diversion during Season 3 under both the 1900 and 1907 priority dates. The quantity of water diverted under the 1907 priority date during Season 3 makes up a balance of water allowed by the Decree for transmission losses. Transmission losses account for 45 percent of the water diverted at the point of diversion and are not transferable to instream use. The quantities of water proposed by the applicant to be transferred instream, as described in Finding of Fact #11, do not include the 45 percent

transmission loss. The Department finds that water may be protected instream solely under the 1900 priority date.

14. Consistent with land use requirements, notice of the intent to file the instream transfer application was provided by the applicant to Deschutes County, Jefferson County, and the City of Bend. Additionally, the Department provided notification of the proposed action to these local governments upon receipt of Transfer Application T-10562.
15. Notice of the application for transfer was published on April 1, 2008, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
16. On July 21, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10562 to the applicants. The cover letter to the draft Preliminary Determination set forth a deadline of August 19, 2009, for the applicants to respond. The additional information requested by the Department was received on July 21 and 28, 2009, August 26 and 27, 2009. Additional information was also requested from the applicants on September 18, 2009, and the additional information was received on September 23, 2009.
17. On September 25, 2009, the Department mailed a copy of a revised draft Preliminary Determination proposing to approve Transfer Application T-10562 to the applicants based on revised application materials and the amendment made to the application identified in Finding of Fact #2. The applicants concurred with the findings of the draft Preliminary Determination on September 28, 29, and 30, 2009, and requested that the Department proceed with issuance of a Preliminary Determination.
18. On October 2, 2009, the Department issued a preliminary determination proposing to approve Transfer Application T-10562 and mailed a copy to the applicants. Additionally, notice of the preliminary determination for the transfer application was published on the Department's weekly notice on October 6, 2009, and in the Bend Bulletin on October 17, 24, and 31, 2009, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the Department's weekly notice or to the newspaper notice

Instream Transfer Review Criteria (OAR 690-77-0075 and 690-380-4010)

19. The following portion of the right was leased instream and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.

Township		Range		Meridian	Sec	¼ ¼		Acres	Lease #	Lease Year
14	S	13	E	WM	16	NW	SW	0.12	IL-675	2005
15	S	13	E	WM	10	NE	NW	3.73	IL-765	2006
15	S	13	E	WM	30	NW	NW	3.6	IL-765	2006

20. Water has been used within the last five years according to the terms and conditions of the right on the remaining portion of the right proposed for transfer, and there is no information

in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.

21. 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 Application T-10562. Individual delivery systems were removed from some of the lands on which the portion of Certificate 83571 is proposed for transfer shortly after interest in the water right was conveyed to COID.
22. The period during which water is requested to be protected instream requires modification to prevent injury and enlargement. At the full rates and duty allowed by the water right to be transferred instream, water may be protected instream for a period of 209 days. The period requested by the applicant, April 1 to October 31, is 214 days.
23. The number of acres of irrigation to be transferred instream has been modified as identified in Findings of Fact #2 and #3. The instream flows requested by the applicants, as described in Finding of Fact #11 require modification to account for this amendment to the application.
24. Based on Findings of Fact #22 and #23, on September 28, 29, and 30, 2009, the applicants agreed to modify the quantities to be transferred and protected instream as follows:

Reach: COID North Canal POD #11 (as described in Finding of Fact #3) to Lake Billy Chinook

Certificate	Priority Date	Instream Period	Instream Rate	Volume Instream
83571	October 31, 1900	Season 1 (modified to end October 26)	0.189 CFS	149.62 AF
		Season 2	0.252 CFS	
		Season 3	0.466 CFS	

25. The proposed change, as modified, would not result in enlargement of the right.
26. The proposed change, as modified, would not result in injury to other water rights.
27. The amount and timing of the proposed instream flow, as modified, is allowable within the limits and use of the original water right.
28. The protection of flows within the proposed reach is appropriate, considering:
 - a) The instream water right begins at the recorded point of diversion;
 - b) The location of confluences with other streams downstream of the point of diversion;
 - c) There are no known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
 - d) Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.

29. Within the proposed reach, there are existing instream water rights established under ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process) located between the North Canal Dam and Lake Billy Chinook, which include the use of water for fish habitat, aquatic life, recreation, aesthetics and pollution abatement. There presently are no instream water rights within the proposed reach created as a result of ORS 537.346 or ORS 537.341. However, there is a pending instream water right application filed by the Oregon Department of Fish and Wildlife (ODFW) pursuant to ORS 537.341 to establish an instream water right from COID North Canal to Lake Billy Chinook for anadromous and resident fish rearing, which if approved will have a priority date of September 19, 1990.
30. In addition, within the proposed reach, the Deschutes River is a designated State Scenic Waterway. The protection of flows necessary to maintain the free flowing character of the Deschutes River for fish and wildlife habitat and recreation is a matter of statutory policy. Within the reach proposed by the applicant, there are several existing instream water rights, which include the use of water for fish habitat, aquatic life, recreation, aesthetics, and pollution abatement. In addition to flows for the designated Scenic Waterway and the pending instream water right application, which are at times not met during the requested period for instream protection, this segment of the Deschutes River is also on the Oregon Department of Environmental Quality's (DEQ) 303d list of water quality limited streams and a TMDL (Total Maximum Daily Load) study is underway.
31. By adding to other water rights leased or transferred instream at the same location or created through the conserved water statutes, the instream right will provide protection for additional streamflows necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values, recreation, and pollution abatement.
32. By replacing a portion of instream rights created at the request of state agencies or under the minimum streamflow conversion process, the instream right will provide protection for streamflows previously identified as necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values, recreation, and pollution abatement under earlier priority dates.
33. During the period April 1 to October 26, any instream water right established by this transfer application may replace a portion of instream water rights established pursuant to ORS 537.341 or ORS 537.346 and be in addition to instream water rights established pursuant to ORS 537.348 or ORS 537.470 unless otherwise specified by an order approving a new instream water right under these statutes.
34. The total monthly quantities of water to be protected under the proposed instream right, in addition to the existing instream water rights, within the proposed reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

Partial Cancellation of a Water Right

35. There is an existing supplemental right, Certificate 76714, appurtenant to the portion of lands on which Certificate 83571 is proposed for transfer for instream use. The applicant has not submitted an affidavit certifying that affected portions under Certificate 76714 have been abandoned. The applicant has requested that affected portions of the supplemental water rights under Certificate 76714 be cancelled upon issuance of the Final Order approving transfer application T-10562. A portion of Certificate 76714 to be cancelled has been quit claimed to COID. However, a portion of Certificate 76714, not held by any of the applicants, has not been quit claimed to COID. All persons who are owners of the property on which the primary irrigation rights under Certificate 83571 have been quit claimed to COID were not provided prior notification of the intent to cancel Certificate 76714.
36. Supplemental water rights (layered water rights) must be included in a transfer application or cancelled.
37. Consistent with OAR 690-380-2250, the Department provided notice as part of the draft Preliminary Determination to COID, the DRC, the City of Bend, and affected landowners (those owners of lands from which Certificate 76714 has not been conveyed) of its intent to cancel the portion of Certificate 76714 as described below unless within 30 days of the date of the notification, the applicants modified the application to include the supplemental right or withdrew the application. The applicants did not respond to the notice by modifying or withdrawing the application. In addition, no response was received from the affected landowners.
38. The portion of the supplemental water right to be cancelled is as follows:

Certificate: 76714 in the name of Central Oregon Irrigation District
Use: Supplemental Irrigation of 27.45 acres
Priority Date: February 28, 1913
Source: Crane Prairie Reservoir, constructed under Permit R-1687, tributary to the Deschutes River

Authorized PODs:

Township		Range		Meridian	Sec	¼ ¼	Location
17	S	12	E	W.M.	29	SE NE	POD #11 (COID NORTH CANAL): 850 FEET NORTH & 630 FEET EAST FROM THE NORTH ¼ CORNER OF SECTION 29
21	S	8	E	W.M.	17	NE NE	CRANE PRAIRIE RESERVOIR DAM

Authorized Places of Use:

Township	Range	Meridian	Sec	¼ ¼	Tax Lot	Acres		
14	S	13	E	W.M.	16	NW SW	213	0.12
15	S	13	E	W.M.	30	NW NW	905	3.6
15	S	13	E	W.M.	17	SE NE	1502	4.3
15	S	13	E	W.M.	10	NE NW	102	3.73
15	S	13	E	W.M.	9	NW NW	207	1.74
15	S	13	E	W.M.	9	NW NW	208	1.46
17	S	13	E	W.M.	20	NW SW	401	12.5

39. The Department has information that POD #11 (COID North Canal) described in Certificates 83571 and 76714 is the same diversion point. The location coordinates described in Certificate 76714 contain errors. The location coordinates should be:

Township		Range		Meridian	Sec	¼ ¼	Survey Coordinates
17	S	12	E	WM	29	SE NE	POD # 11 (COID NORTH CANAL): 850 FEET NORTH & 630 FEET <u>WEST FROM THE EAST ¼</u> CORNER OF SECTION 29

Preliminary Award of Deschutes Basin Mitigation Credits

40. The DRC, COID and the City of Bend (the Applicants) have requested this instream transfer application be used to establish mitigation credits in the Deschutes Ground Water Study Area. The Applicants have requested that any mitigation credits generated from this project be assigned to the City of Bend.
41. The Department assigned this mitigation credit project number MP-115.
42. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0330 (6) on April 8, 2008. The Department identified that the mitigation project may result in 50.0 mitigation credits. No comments were received in response to this notice.
43. The Department consulted with representatives from ODFW, DEQ, Oregon Parks and Recreation Department (OPRD), Oregon Department of State Lands, Oregon Department of Agriculture, and the Department's Watermaster pursuant to OAR 690-521-0300 (7) and OAR 690-505-0630 (2) on April 8, 2008. Comments were received from OPRD. The comments suggested that this instream transfer will help improve recreation opportunities and the aesthetics of the river. OPRD was also supportive of the proposed instream period, April 1 to October 26.
44. No changes were made to the instream transfer as a result of comments received or consultation with the above named agencies.
45. On August 27, 2009, the applicant reduced the number of acres proposed to be transferred instream for mitigation purposes from 27.8 acres to 27.45 acres.
46. The proposed transfer of 27.45 acres of irrigation to instream use will provide 49.4 acre-feet of mitigation water. Therefore, 49.4 mitigation credits (1.0 mitigation credit = 1.0 AF of mitigation water) may be awarded to this mitigation credit project and assigned to the City of Bend. The mitigation credits may be used to mitigate for ground water permit applications and existing conditioned ground water permits and certificates, providing mitigation pursuant to the Deschutes Ground Water Mitigation Rules, OAR Chapter 690, Division 505, within the Middle Deschutes and General Zone of Impact.
47. A total of 149.62 AF is proposed to be transferred to instream use and 49.4 AF of that, as identified above, may be used for mitigation purposes. The amount of water transferred instream and not used for mitigation purposes will benefit instream flow.

48. The Department shall award final mitigation credits upon completion of the approved project by the applicants and verification by the Department that the project is complete. The issuance of a certificate for the proposed instream water right shall result in completion of the project and verification that the project is complete.
49. Mitigation credits awarded to this mitigation credit project will be valid beginning the first calendar year that water will be protected instream under any new instream water right created as a result of this instream transfer application. No water will be protected instream during the 2009 calendar year. Water may begin to be protected instream during the 2010 calendar year. Mitigation credits awarded to this project may be valid beginning January 1, 2010.

Conclusions of Law

The changes in character of use and place of use to instream use proposed in application T-10562 are consistent with the requirements of ORS 540.505 to 540.580, ORS 537.348, OAR 690-380-5000, and OAR 690-077-0075 and the abandoned portion of the right should be cancelled.

This mitigation project results in mitigation credits pursuant to ORS 537.746 and OAR 690-521-0300 and 690-521-0400.

Now, therefore, it is ORDERED:

1. The changes in character of use and place of use to instream use proposed in application T-10562 are approved. The portion of the right that has been abandoned is cancelled.
2. Water right certificate 83571 is modified. A new certificate confirming the instream water right shall be issued. The Department shall issue a new water right certificate to supersede Certificate 83571 on a determination that it is necessary to produce a certificate to confirm that portion of the right not involved in this transfer. Approval of this transfer shall reduce the amount of water lawfully available under the remaining portion of Certificate 83571 by the following:

Priority Date	Season 1	Season 2	Season 3	Duty
October 31, 1900	0.342 CFS	0.456 CFS	0.603 CFS	271.341 AF
December 2, 1907			0.242 CFS	

3. The portion of Certificate 76714 that has been abandoned is cancelled. Water right certificate 76714 is modified. The Department shall issue a new water right certificate on a determination that it is necessary to produce a certificate to confirm that portion of the water right not affected by the cancellation described in Finding of Fact #38. Modification of this supplemental water right shall reduce by 27.45 acres the number of acres to which stored water may be applied for supplemental irrigation under the right.
4. The instream water right shall provide for the protection of streamflows for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and

other ecological values; pollution abatement; and recreation in the Deschutes River as follows:

Reach: from COID North Canal POD #11 (as described in Finding of Fact #3) to Lake Billy Chinook

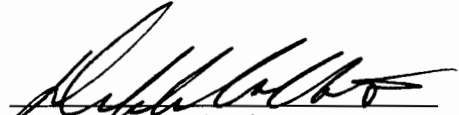
Priority Date	Period Protected Instream	Rate Instream	Instream Volume
October 31, 1900	April 1 through April 30 and October 1 through October 26	0.189 CFS	149.62 AF
	May 1 through May 14 and September 15 through September 30	0.252 CFS	
	May 15 through September 14	0.466 CFS	

5. Water rights upstream of the original point of diversion shall not be subject to regulation for flows in excess of the quantities to which this instream water right is entitled at the original point of diversion.
6. Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion.
7. Stream channel losses and gains calculated based on available data and the use of senior appropriators will determine the amount of water to which this right is entitled downstream from the original point of diversion within the specified stream reach.
8. The instream right established by this transfer shall replace a portion of instream water rights established pursuant to ORS 537.341 or 537.346 and be in addition to instream water rights established pursuant to ORS 537.348 or 537.470, unless otherwise identified in a subsequent order establishing a new instream water right under these statutes.
9. 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 83571 and any related decree.
10. The former place of use of the transferred water shall no longer receive water as part of this right.
11. **Preliminary and Final Award of Mitigation Credits:** Final Award of Mitigation Credits may be made upon completion of the project and verification by the Department that the project has been completed as proposed. Issuance of a new instream water right certificate, as described herein, will result in completion of the project and verification by the Department that the project is complete. If completed as proposed, mitigation credits, in the amount of **49.4** credits, as described herein, may be awarded to this mitigation project and assigned to the City of Bend. Mitigation credits awarded may be used to satisfy a mitigation obligation of a ground water permit applicant and/or ground water permit/certificate holder in the **Middle Deschutes and General Zones of Impact**. The awarded mitigation credits are

valid beginning January 1, 2010, the first calendar year that water will be protected instream under the new instream water right.

12. Mitigation credits are valid until used to satisfy a mitigation obligation of a ground water permit applicant and/or ground water permit/certificate holder within the Deschutes Ground Water Study Area pursuant to the Deschutes Ground Water Mitigation Rules. Mitigation credits are used when a person submits to the Department documentary evidence that valid credits have been obtained and assigned to satisfy a mitigation obligation.
13. The instream certificate created as a result of the approval of this transfer shall be identified as a mitigation credit project. Within each instream certificate, the number of mitigation credits, the zone of impact in which the mitigation credits were generated and may be used, and the volume of water dedicated instream solely for instream benefits shall also be specified.

Dated at Salem, Oregon this 2nd day of December, 2009.


Phillip C. Ward, Director *pcw*

Mailing Date DEC 14 2009