

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

| | | |
|---------------------------------------|---|-----------------------------|
| In the Matter of Transfer Application |) | FINAL ORDER APPROVING |
| T-9343, Deschutes County, Oregon |) | CHANGES IN PLACE OF USE AND |
| |) | CHARACTER OF USE |

ORS 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, 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.

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

Receiving Landowner
Alan G Morris
62265 Hamby Road
Bend, OR 97701

Findings of Fact

1. Central Oregon Irrigation District, for Tracie Lee Smith, filed an application to change the character and place of use, under Certificates 76358 and 76714. The Department assigned the application number T-9343.

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

Certificate: 76358 in the name of Central Oregon Irrigation District (COID)
Use: Irrigation
Priority Date: October 31, 1900 and December 2, 1907
Season of Use: April 1 to November 1, further limited as follows:
 April 1 to May 1 & October 1 to November 1 described as Season 1;
 May 1 to May 15 & September 15 to October 1 described as Season 2; and
 May 15 to September 15 described as Season 3
Acres: 6.0 acres
Rate/Duty: Season 1 (limited to 1/80 cfs per acre): 0.08 cfs
 Season 2 (limited to 1/60 cfs per acre): 0.10 cfs
 Season 3 (limited to 1/32.4 cfs per acre): 0.19 cfs, being 0.14 cfs

This is a final order in other than 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 either 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.

Duty: under the 1900 priority date and 0.05 cfs under the 1907 priority date
 Not to exceed 9.91 acre-feet (AF) per acre: 59.46 AF
The quantities listed reflect allowance of a 45% transmission loss as determined by decree of the Circuit Court of Deschutes County, dated March 24, 1933.

Source: Deschutes River, tributary to the Columbia River

Authorized Point(s) of Diversion:

| Township | Range | Meridian | Sec | ¼ | ¼ | Location |
|----------|-------|----------|-----|----|----|--|
| 18 S | 11 E | W.M. | 13 | SW | NE | 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 | Tax Lot | Acres |
|----------|-------|----------|-----|----|----|---------|---------------------|
| 17 S | 14 E | W.M. | 24 | NW | SE | 1000 | Irrigation 6.0 acre |

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

Certificate: 76714 in the name of COID

Use: Supplemental Irrigation

Priority Date: February 28, 1913

Season of Use: April 1 through October 31

Acres: 6.0 acres

Quantity: This appropriation shall be 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 waters of the Deschutes River and its tributaries; provided further that the amount of water allowed herein, together with the amount secured under any other right existing for the same lands shall not exceed the limitation allowed herein, and shall be further limited to the terms of the inter-district contract dated January 4, 1938, between the Central Oregon Irrigation District, Crook County Improvement District #1, and the Arnold Irrigation District, and shall be 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(s) of Diversion:

| Township | Range | Meridian | Sec | ¼ | ¼ | Location |
|----------|-------|----------|-----|----|----|--|
| 18 S | 11 E | W.M. | 13 | SW | NE | Central Oregon Canal-1520 feet South and 1535 feet West from the NE Corner of Section 13 |
| 21 S | 8 E | W.M. | 17 | NE | NE | Crane Prairie Reservoir Dam |

Authorized Place of Use:

| Township | Range | Meridian | Sec | ¼ | ¼ | Tax Lot | Acres |
|----------|-------|----------|-----|----|----|---------|---------------------|
| 17 S | 14 E | W.M. | 24 | NW | SE | 1000 | Irrigation 6.0 acre |

- Application T-9343 proposes to change the character of use to pond storage and maintenance for noncommercial fish.
- The application also proposes to change the place of use to:

Location of Proposed Use

| Township | Range | Meridian | Sec | ¼ | ¼ | Tax Lot | Acres |
|----------|-------|----------|-----|----|----|---------|--------------------------|
| 17 S | 12 E | W.M. | 35 | SE | NE | 1300 | Pond 6.0 acre/equivalent |

- Notice of the application for transfer was published February 25, 2003, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
- Notice of the Preliminary Determination for T-9343 was published on the Department's Public Notice on January 24, 2006, and in the Bend Bulletin on January 27, and February 3 and 10, 2006. No protests were filed in response to the notice.
- 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.
- A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights are present.
- As described, use of water in the pond with a surface area of 1.9 acres would not result in enlargement of the right.
- The proposed change would not result in injury to other water rights.

Conclusions of Law

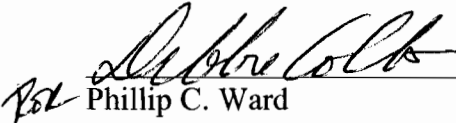
The changes in place of use and character of use in application T-9343 are consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000.

Now, therefore it is ORDERED:

- The changes in place of use and character of use proposed in application T-9343 are approved.
- Certificates 76358 and 76714 will be modified. The Department shall issue new water right certificates to supersede certificates 76358 and 76714 on a determination that it is necessary to produce certificates describing the rights.

3. The right to use 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 76358 and 76714 and any related decree.
4. The approved changes shall be completed and full beneficial use of the water shall be made on or before October 1, 2007. 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.
5. Allan Morris is responsible for completion and perfection of the changes.
6. The former place of use shall no longer be irrigated as part of this water right.
7. When required by the Department, the water user shall install and maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water appropriated. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
8. Except as modified herein, all other conditions and restriction on certificates 76358 and 76714 remain in effect.

Dated at Salem, Oregon this 10th day of May, 2006.



Phillip C. Ward
Director

Mailing Date: MAY 12 2006