

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

In the Matter of Transfer Application) **FINAL ORDER APPROVING A**
T-9527, Crook County, Oregon) **CHANGE IN CHARACTER OF USE**

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.

Applicant

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

Receiving Landowner

Tega 3, Inc.
65525 Gerking Market Road
Bend, Oregon 97701

Findings of Fact

1. On August 18, 2003, Central Oregon Irrigation District, for Tega 3, Inc., filed a transfer application to change the character of use under Certificates 76358 and 76714. The Department assigned the application number T-9527.
2. After issuance of the draft Preliminary Determination, staff found discrepancies in the calculation of rate and duty for Certificate 76358. The discrepancies were corrected and the applicant was given an opportunity to review the corrections. The applicant agreed with the corrections and this document includes those corrections.
3. The portion of the 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

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.

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: 16.0 acres

Rate: Season 1 (limited to 1/80 cfs per acre): 0.20 cfs
Season 2 (limited to 1/60 cfs per acre): 0.27cfs
Season 3 (limited to 1/32.4 cfs per acre): 0.49 cfs, being 0.35 cfs
under the 1900 priority date and 0.14 cfs under the 1907 priority date.

Duty: Not to exceed 9.91 acre-feet (AF) per acre: 158.56 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 of Diversion:

Township	Range	Meridian	Sec	¼ ¼	Survey Coordinates
17 S	12 E	W.M.	29	SE NE	C.O.I.D. North Canal: 850 feet North and 630 feet West from the E¼ corner of Section 29

Authorized Place of Use:

Township	Range	Meridian	Sec	¼ ¼	Tax Lot	Acres	NOT#
14 S	14 E	W.M.	30	SW NE	302	10.2	2003-003
14 S	14 E	W.M.	30	SE NE	302	5.8	2003-003

4. 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 to November 1

Acres: 16.0 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 Points of Diversion:

Township	Range	Meridian	Sec	¼ ¼	Survey Coordinates
17 S	12 E	W.M.	29	SE NE	C.O.I.D. North Canal: 850 feet North and 630 feet West from the E¼ corner of Section 29
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	NOT#
14 S	14 E	W.M.	30	SW NE	302	10.2	2003-003
14 S	14 E	W.M.	30	SE NE	302	5.8	2003-003

5. Application T-9527 proposes to change the character of use from irrigation to mining.
6. The place of use, as defined in the application, will remain in the same township, range, section and tax lot.
7. Notice of the application for transfer was published on September 2, 2003, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
8. Notice of the Preliminary Determination for T-9527 was published on the Department’s Public Notice on November 29, 2005, and in the Bend Bulletin on December 8, 15 and 22, 2005, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
9. 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.
10. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights are present.
11. The proposed change would not result in enlargement of the rights.
12. The proposed change would not result in injury to other water rights.

Conclusions of Law

The change in character of use proposed in application T-9527 is consistent with the requirements of 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in character of use proposed in application T-9527 is approved.

2. 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 to describe the rights.
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 76358 and 76714 and any related decree.
4. The approved change 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. When required by the Department, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
6. The former place us use shall no longer be irrigated as part of Certificates 76358 and 76714.
7. Except as modified herein, all other terms and conditions of the referenced certificates remain the same.

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



Phillip C. Ward, Director

PCW

Mailing date: MAY 12 2006