

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

In the Matter of Transfer Application            )    RECONSIDERATION, WITHDRAWAL,  
T-9763,    )    AND RE-ISSUANCE OF FINAL  
Deschutes County, Oregon                        )    ORDER APPROVING A TRANSFER

ORS 537.705 and 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  
2598 N Hwy 97  
Redmond, OR 97756

**Receiving Landowner**  
The Canyons Land & Cattle Co.  
1336 NE Eby Ave.  
Terrebonne, OR 97760

**Findings of Fact**

1. Central Oregon Irrigation District (The Canyons Land & Cattle Co.) filed an application to change the use and place of use, under Certificates 76358 and 76714. The Department assigned the application number T-9763.
2. The Department issued an order approving a change in place of use and character of use under application T-9763 on April 11, 2005. The order is entered at Special Order Volume 64, Pages 43 to 48.
3. On April 22, 2005 Leslie Clark, representing Central Oregon Irrigation District requested the Department to reconsider the order because the withdrawal of the Bureau of Reclamation's protest of the transfer was based on an agreement that portion of the supplemental right proposed for transfer would be cancelled. The applicant intended to partially cancel the supplemental right, however, the Final Order was issued prematurely, before the Department had received the affidavit of cancellation.
4. The period in which the Department may, on its own initiative, reconsider a final order has not yet closed. Upon reconsideration, the Department has concluded that the order should be modified and reissued to transfer only the primary right as follows:

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 137-004-080 and OAR 690-01-005 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.

**Certificate:** 76358 in the name of Central Oregon Irrigation District (COID)  
**Use:** Irrigation and pond maintenance  
**Priority Date:** October 31, 1900 and December 2, 1907  
**Season of Use:** April 1 through 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  
 May 15 to September 15 described as Season 3  
**Acres:** 42.78 acres and acres/equivalent; being 42.18 acres for irrigation and 0.60 acre/equivalent for pond maintenance  
**Rate:** Season 1 (limited to 1/80 cfs per acre): 0.53 cfs  
 Season 2 (limited to 1/60 cfs per acre): 0.71 cfs  
 Season 3 (limited to 1/32.4 cfs per acre): 1.32 cfs, being 0.94 cfs under the 1900 priority date and 0.38 cfs under the 1907 priority date  
**Duty:** Not to exceed 9.91 acre-feet (AF) per acre: 423.95 AF  
**Source:** Deschutes River, tributary to the Columbia River

**Authorized Point of Diversion:**

Township	Range	Meridian	Sec	¼	¼	Lot	DLC	Location	
17	S	12	E	W.M.	29	SE NE	-	-	COID North Canal – 850 feet north & 630 feet west from the E¼ Corner of Section 29

**Authorized Place of Use:**

*Section 3*

Township	Range	Meridian	Sec	¼	¼	Tax Lot	DLC	Acres	
14	S	13	E	W.M.	3	SE NE	300	-	Irrigation off 0.30 acre
14	S	13	E	W.M.	3	SE NW	200	-	Irrigation off 0.20 acre
14	S	13	E	W.M.	3	SE NW	300	-	Irrigation off 1.30 acres
14	S	13	E	W.M.	3	NE SW	200	-	Irrigation off 2.40 acres
14	S	13	E	W.M.	3	SW SW	200	-	Irrigation off 1.10 acres
14	S	13	E	W.M.	3	SE SW	200	-	Irrigation off 1.50 acres
14	S	13	E	W.M.	3	NW SE	300	-	Irrigation off 1.00 acre, Pond off 0.60 acre
14	S	13	E	W.M.	3	NW SE	400	-	Irrigation off 0.90 acre
14	S	13	E	W.M.	3	NW SE	500	-	Irrigation off 0.20 acre
14	S	13	E	W.M.	3	NW SE	700	-	Irrigation off 0.90 acre
14	S	13	E	W.M.	3	SW SE	700	-	Irrigation off 3.30 acres

Township		Range		Meridian	Sec	¼	¼	Tax Lot	DLC	Acres
14	S	13	E	W.M.	3	SW	SE	800	-	Irrigation off 0.30 acre
14	S	13	E	W.M.	3	SE	SE	700	-	Irrigation off 0.20 acre

*Section 9*

Township		Range		Meridian	Sec	¼	¼	Tax Lot	DLC	Acres
14	S	13	E	W.M.	9	NE	NE	101	-	Irrigation off 1.60 acres
14	S	13	E	W.M.	9	NE	NE	102	-	Irrigation off 0.10 acre
14	S	13	E	W.M.	9	SE	NE	1800	-	Irrigation off 0.10 acre

*Section 10*

Township		Range		Meridian	Sec	¼	¼	Tax Lot	DLC	Acres
14	S	13	E	W.M.	10	NW	NE	500	-	Irrigation off 7.50 acres
14	S	13	E	W.M.	10	NW	NE	503	-	Irrigation off 0.50 acre
14	S	13	E	W.M.	10	NW	NE	701	-	Irrigation off 0.07 acre
14	S	13	E	W.M.	10	SW	NE	500	-	Irrigation off 1.40 acres
14	S	13	E	W.M.	10	SW	NE	503	-	Irrigation off 0.60 acre
14	S	13	E	W.M.	10	SE	NE	200	-	Irrigation off 0.50 acre
14	S	13	E	W.M.	10	NE	NW	500	-	Irrigation off 0.40 acre
14	S	13	E	W.M.	10	NE	NW	504	-	Irrigation off 1.30 acres
14	S	13	E	W.M.	10	NW	NW	500	-	Irrigation off 0.05 acre
14	S	13	E	W.M.	10	NW	NW	503	-	Irrigation off 0.25 acre
14	S	13	E	W.M.	10	NW	NW	504	-	Irrigation off 0.20 acre
14	S	13	E	W.M.	10	SE	NW	504	-	Irrigation off 2.60 acres
14	S	13	E	W.M.	10	NE	SW	500	-	Irrigation off 0.50 acre
14	S	13	E	W.M.	10	NE	SW	505	-	Irrigation off 0.20 acre
14	S	13	E	W.M.	10	NE	SW	600	-	Irrigation off 0.30 acre
14	S	13	E	W.M.	10	NE	SW	2500	-	Irrigation off 0.04 acre
14	S	13	E	W.M.	10	NE	SE	200	-	Irrigation off 1.75 acres
14	S	13	E	W.M.	10	NE	SE	400	-	Irrigation off 0.50 acre
14	S	13	E	W.M.	10	NE	SE	500	-	Irrigation off 1.55 acres
14	S	13	E	W.M.	10	NE	SE	502	-	Irrigation off 0.67 acre
14	S	13	E	W.M.	10	NW	SE	500	-	Irrigation off 3.70 acres
14	S	13	E	W.M.	10	NW	SE	502	-	Irrigation off 1.00 acre
14	S	13	E	W.M.	10	SW	SE	502	-	Irrigation off 1.20 acres

5. Application T-9763 proposes to change the place of use of the right to:  
*Section 3*

Township		Range		Meridian	Sec	¼	¼	Tax Lot	DLC	Acres
14	S	13	E	W.M.	9	NE	SW	200	-	Pond on 2.20 acres
14	S	13	E	W.M.	9	SW	SW	200	-	Pond on 1.80 acres
14	S	13	E	W.M.	3	SE	SW	200	-	Pond on 1.00 acre
14	S	13	E	W.M.	3	NW	SE	300	-	Pond on 0.60 acre
14	S	13	E	W.M.	3	NW	SE	400	-	Pond on 0.80 acre
14	S	13	E	W.M.	3	NW	SE	700	-	Pond on 0.40 acre
14	S	13	E	W.M.	3	SW	SE	700	-	Pond on 6.20 acres
14	S	13	E	W.M.	3	SW	SE	800	-	Pond on 0.60 acre
14	S	13	E	W.M.	3	SE	SE	700	-	Pond on 0.40 acre

*Section 9*

Township		Range		Meridian	Sec	¼	¼	Tax Lot	DLC	Acres
14	S	13	E	W.M.	9	NE	NE	101	-	Pond on 2.60 acres

*Section 10*

Township		Range		Meridian	Sec	¼	¼	Tax Lot	DLC	Acres
14	S	13	E	W.M.	10	NW	NE	500	-	Pond on 13.20 acres
14	S	13	E	W.M.	10	NW	NE	701	-	Pond on 0.10 acre
14	S	13	E	W.M.	10	SW	NE	500	-	Pond on 2.80 acres
14	S	13	E	W.M.	10	NE	SW	500	-	Pond on 1.00 acre
14	S	13	E	W.M.	10	NE	SW	505	-	Pond on 0.40 acre
14	S	13	E	W.M.	10	NE	SW	600	-	Pond on 0.60 acre
14	S	13	E	W.M.	10	NE	SW	2500	-	Pond on 0.08 acre
14	S	13	E	W.M.	10	NE	SE	200	-	Pond on 0.10 acre
14	S	13	E	W.M.	10	NE	SE	400	-	Pond on 0.40 acre
14	S	13	E	W.M.	10	NE	SE	500	-	Pond on 0.10 acre
14	S	13	E	W.M.	10	NW	SE	500	-	Pond on 5.80 acres
14	S	13	E	W.M.	10	NW	SE	502	-	Pond on 1.60 acres

5. Application T-9763 proposes to change the character of use of 42.18 acres under the Certificate 76358 water right from irrigation to pond maintenance.
6. Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.

7. Water has been used within the last five years according to the terms and conditions of the right and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
8. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.
11. The Canyons Land & Cattle Co. is the receiving landowner responsible for completion and perfection of the changes after the final order is issued.
12. December 27, 2004 the Bureau of Reclamation filed a protest of the application, on the grounds that the use of stored water from Crane Prairie Reservoir under contract No. Ilr-1143 is limited to irrigation. However, the applicant and the Bureau were able to resolve the issue, and March 31, 2005 the Bureau withdrew the protest.

**Partial Cancellation of Certificate 76714**

13. May 6, 2005, the applicant submitted an affidavit for the partial cancellation of a water right certificate 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:** 42.78 acres and acres/equivalent; being 42.18 acres for irrigation and 0.60 acre/equivalent for pond use  
**Quantity:** Not to exceed a total 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 icer.  
**Source:** Crane Prairie Reservoir, tributary to the Deschutes River

**Authorized Point(s) of Diversion:**

Township		Range		Meridian	Sec	¼	¼	Lot	DLC	Location
17	S	12	E	W.M.	29	SE	NE	-	-	COID North Canal – 850 feet north & 630 feet west from the E¼ Corner of Section 29

Township		Range		Meridian	Sec	¼	¼	Lot	DLC	Location
21	S	8	E	W.M.	17	NE	NE	-	-	Crane Prairie Reservoir Dam

**Authorized Place of Use:**

*Section 3*

Township		Range		Meridian	Sec	¼	¼	Tax Lot	DLC	Acres
14	S	13	E	W.M.	3	SE	NE	300	-	Irrigation 0.30 acre
14	S	13	E	W.M.	3	SE	NW	200	-	Irrigation 0.20 acre
14	S	13	E	W.M.	3	SE	NW	300	-	Irrigation 1.30 acres
14	S	13	E	W.M.	3	NE	SW	200	-	Irrigation 2.40 acres
14	S	13	E	W.M.	3	SW	SW	200	-	Irrigation 1.10 acres
14	S	13	E	W.M.	3	SE	SW	200	-	Irrigation 1.50 acres
14	S	13	E	W.M.	3	NW	SE	300	-	Irrigation 1.00 acre, Pond 0.60 acre
14	S	13	E	W.M.	3	NW	SE	400	-	Irrigation 0.90 acre
14	S	13	E	W.M.	3	NW	SE	500	-	Irrigation 0.20 acre
14	S	13	E	W.M.	3	NW	SE	700	-	Irrigation 0.90 acre
14	S	13	E	W.M.	3	SW	SE	700	-	Irrigation 3.30 acres
14	S	13	E	W.M.	3	SW	SE	800	-	Irrigation 0.30 acre
14	S	13	E	W.M.	3	SE	SE	700	-	Irrigation 0.20 acre

*Section 9*

Township		Range		Meridian	Sec	¼	¼	Tax Lot	DLC	Acres
14	S	13	E	W.M.	9	NE	NE	101	-	Irrigation 1.60 acres
14	S	13	E	W.M.	9	NE	NE	102	-	Irrigation 0.10 acre
14	S	13	E	W.M.	9	SE	NE	1800	-	Irrigation 0.10 acre

*Section 10*

Township		Range		Meridian	Sec	¼	¼	Tax Lot	DLC	Acres
14	S	13	E	W.M.	10	NW	NE	500	-	Irrigation 7.50 acres
14	S	13	E	W.M.	10	NW	NE	503	-	Irrigation 0.50 acre
14	S	13	E	W.M.	10	NW	NE	701	-	Irrigation 0.07 acre
14	S	13	E	W.M.	10	SW	NE	500	-	Irrigation 1.40 acres
14	S	13	E	W.M.	10	SW	NE	503	-	Irrigation 0.60 acre
14	S	13	E	W.M.	10	SE	NE	200	-	Irrigation 0.50 acre
14	S	13	E	W.M.	10	NE	NW	500	-	Irrigation 0.40 acre
14	S	13	E	W.M.	10	NE	NW	504	-	Irrigation 1.30 acres
14	S	13	E	W.M.	10	NW	NW	500	-	Irrigation 0.05 acre

Township		Range		Meridian	Sec	¼	¼	Tax Lot	DLC	Acres
14	S	13	E	W.M.	10	NW	NW	503	-	Irrigation 0.25 acre
14	S	13	E	W.M.	10	NW	NW	504	-	Irrigation 0.20 acre
14	S	13	E	W.M.	10	SE	NW	504	-	Irrigation 2.60 acres
14	S	13	E	W.M.	10	NE	SW	500	-	Irrigation 0.50 acre
14	S	13	E	W.M.	10	NE	SW	505	-	Irrigation 0.20 acre
14	S	13	E	W.M.	10	NE	SW	600	-	Irrigation 0.30 acre
14	S	13	E	W.M.	10	NE	SW	2500	-	Irrigation 0.04 acre
14	S	13	E	W.M.	10	NE	SE	200	-	Irrigation 1.75 acres
14	S	13	E	W.M.	10	NE	SE	400	-	Irrigation 0.50 acre
14	S	13	E	W.M.	10	NE	SE	500	-	Irrigation 1.55 acres
14	S	13	E	W.M.	10	NE	SE	502	-	Irrigation 0.67 acre
14	S	13	E	W.M.	10	NW	SE	500	-	Irrigation 3.70 acres
14	S	13	E	W.M.	10	NW	SE	502	-	Irrigation 1.00 acre
14	S	13	E	W.M.	10	SW	SE	502	-	Irrigation 1.20 acres

**Conclusions of Law**

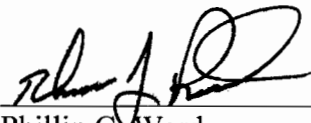
The proposed changes in place of use and character of use under Certificate 76358 and partial cancellation of Certificate 76714 in application T-7963 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and OAR 690-380-5000.

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

1. The order approving application T-9763 and entered at Special Order Volume 64, Pages 43 to 48 is withdrawn and superseded in its entirety by this order.
2. The changes in place of use and character of use proposed in application T-9763 are approved.
3. Certificate 76358 will be modified. The Department shall issue a new water right certificate to supersede certificate 76358 on a determination that it is necessary to produce a certificate to confirm that portion of the right not involved in this transfer.
4. Certificate 76714 is modified. The portion of the right described in Finding of Fact #13 is cancelled. 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 #13. Modification of this supplemental water right reduces by 42.78 acres the number of acres to which stored water may be applied for supplemental irrigation under the right.

5. The right to 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 76358 and any related decree.
6. The proposed changes shall be completed on or before October 1, 2006.
7. The Canyons Land & Cattle Co. is responsible for completion and perfection of the changes.
8. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by Canyons Land and Cattle Co. to the Department by October 1, 2007.
9. The former place of use of the transferred water shall no longer be irrigated under the transferred or cancelled portions of these water rights.
10. 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.
11. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 23<sup>rd</sup> day of May, 2005.

  
\_\_\_\_\_  
For Phillip C. Ward  
Director

Mailing date:           MAY 26 2005