

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-11950, Crook and Deschutes Counties) DISTRICT PERMANENT TRANSFER
) FOR NON-USE

Authority

ORS 540.570 through 540.580 establish the process in which a district may submit a request to transfer a water right within district boundaries. OAR Chapter 690, Division 385 implements the statutes and provides the Department's procedures and criteria for evaluating district transfer applications.

Applicant

CENTRAL OREGON IRRIGATION DISTRICT (COID)
1055 SW LAKE CT
REDMOND, OR 97756

Findings of Fact

Background

1. On December 11, 2013, COID notified a number of landowners that COID's records indicate that the water right (or portion thereof) appurtenant to their property had not been used. The notification indicated the water right could be confiscated due to non-use. . The notices also informed the landowners that they had a right to transfer the water right to another place of use including leasing the water right instream. Further, the notices informed the landowners about the confiscation policy of COID.
2. On October 1, 2014, COID notified the respective landowners and all persons holding a recorded security interest in the lands, that COID's records indicated that they had failed to beneficially use the water right appurtenant to their property. This notice indicated, pursuant to the District's confiscation policy, COID planned to file a petition to transfer the unused water rights.
3. On December 23, 2014, COID filed a district transfer application, to permanently change the place of use. The Department assigned the application number T-11950.
4. On January 6, 2015, the Department published notice of Transfer Application T-11950 in its' weekly bulletin pursuant to OAR 690-385-5500. No comments were filed in response to the notice.
5. Based on the evidence contained in the letters and required notices, water was not put to beneficial use on the relevant authorized lands during the 2010, 2011, 2012, 2013, or 2014 irrigation seasons.

This is an order in other than a 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 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.

6. Transfer Application T-11950 also proposes a permanent place of use change for a total of 0.6 acre *not involved in a non-use process*. (ORS 540.580)
7. The portion of the primary right to be transferred is as follows:

Certificate: 83571 in the name of CENTRAL OREGON IRRIGATION DISTRICT

Use: IRRIGATION of 14.53 acres

Priority Date: OCTOBER 31, 1900 and DECEMBER 2, 1907

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

April 1 through April 30 & October 1 through October 31 described herein as Season 1

May 1 through May 14 & September 16 through September 30 described herein as Season 2

May 15 through September 15 described herein as Season 3

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

Season 1: Limited to 1/80 cubic foot per second (CFS) per acre

Season 2: Limited to 1/60 CFS per acre

Season 3: Limited to 1/32.4 CFS per acre

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 Points of Diversion:

POD #	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1	18 S	11 E	WM	13	SW NE	CENTRAL OREGON CANAL: 1520 FEET SOUTH AND 1535 FEET WEST FROM THE NE CORNER OF SECTION 13
11	17 S	12 E	WM	29	SE NE	COID NORTH CANAL: 850 FEET NORTH AND 630 FEET WEST FROM THE E1/4 CORNER OF SECTION 29

Authorized Places of Use:

IRRIGATION									
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice	POD #
15 S	14 E	WM	23	SE SW	0.20	401	Bassett	T-2014-019	1
15 S	14 E	WM	23	SE SW	0.20	402	Bassett	T-2014-019	1
15 S	14 E	WM	23	SE SW	0.10	500	Bassett	T-2014-019	1
17 S	12 E	WM	12	SW SE	0.50	309	Hamberger	T-2014-019	1
17 S	13 E	WM	28	SE SW	0.40	900	Killpack	T-2014-019	1
18 S	12 E	WM	2	NE SE	1.00	1301	Kelco Inc.	T-2014-019	1
17 S	12 E	WM	12	SW SE	*0.50	309	Hamberger	T-2014-024	1
17 S	13 E	WM	28	SE NE	*0.10	600	Herauf	T-2014-026	1
14 S	13 E	WM	8	NE SW	2.40	400	Jordison	T-2014-019	11
14 S	13 E	WM	8	SE SW	0.50	700	Jahn	T-2014-019	11
14 S	13 E	WM	14	SE NW	0.78	1101	Griffin, et al	T-2014-019	11
14 S	13 E	WM	17	NW NW	0.42	2100	Klinko	T-2014-019	11
14 S	13 E	WM	32	SE SW	0.50	1000	Crouch	T-2014-019	11
15 S	12 E	WM	14	NE NE	0.44	601	Kulin	T-2014-019	11
15 S	12 E	WM	25	SW NE	0.45	600	Pupo	T-2014-019	11
15 S	12 E	WM	25	SE NE	0.50	600	Pupo	T-2014-019	11

IRRIGATION									
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice	POD #
15 S	13 E	WM	3	NW SW	3.10	1401	Wagenblast Family LTD	T-2014-019	11
16 S	12 E	WM	28	NW SE	0.90	700	Buckley	T-2014-019	11
16 S	12 E	WM	35	SW SW	1.54	700	Plunkett	T-2014-019	11
Total:					14.53				

*Indicates acreage not involved in transfer due to non-use.

8. Transfer Application T-11950 proposes to change the places of use to:

Proposed Places of Use:

IRRIGATION									
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice	POD #
17 S	13 E	WM	28	SE NE	0.30	600	Herauf	T-2014-019	1
18 S	13 E	WM	3	NE NW	2.00	1602	Bridges	T-2014-019	1
18 S	13 E	WM	3	SW SW	0.10	1000	COID	T-2014-019	1
17 S	12 E	WM	12	SW SE	*0.50	309	Hamberger	T-2014-024	1
17 S	13 E	WM	28	SE NE	*0.10	600	Herauf	T-2014-026	1
14 S	13 E	WM	20	SW NW	2.95	801	Aaby	T-2014-019	11
13 S	13 E	WM	34	SW SW	0.93	400	Knight	T-2014-019	11
13 S	13 E	WM	34	SW NW	1.00	400	Knight	T-2014-019	11
13 S	13 E	WM	34	SE SW	0.15	103	Knight	T-2014-019	11
13 S	12 E	WM	33	SE SE	1.51	400	Knight	T-2014-019	11
13 S	13 E	WM	33	SW SE	0.90	400	Knight	T-2014-019	11
13 S	13 E	WM	33	NW SE	1.60	400	Knight	T-2014-019	11
13 S	13 E	WM	33	SW NE	2.09	200	Knight	T-2014-019	11
14 S	13 E	WM	4	SW NE	0.40	300	Knight	T-2014-019	11
Total:					14.53				

*Indicates acreage not involved in transfer due to non-use.

9. The portion of the supplemental right to be transferred is as follows:

Certificate: 76714 in the name of CENTRAL OREGON IRRIGATION DISTRICT

Use: SUPPLEMENTAL IRRIGATION of 14.53 acres.

Priority Date: February 28, 1913

Limit/Duty: limited to 50,000 acre-feet of stored water only

Source: Crane Prairie Reservoir, constructed under Permit R-1687, a tributary of the Deschutes River

The water right evidenced by Certificate 76714 allows the use of up to 50,000 acre-feet of water stored in Crane Prairie Reservoir, a tributary of the Deschutes River, for supplemental irrigation. The diversion rate is not specified and use is limited to the total volume of stored water to make up any deficiency in supply of the live flow water right appurtenant to specified lands.

Authorized Points of Diversion:

POD #	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
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17 S	12 E	WM	12	SW SE	*0.50	309	Hamberger	T-2014-024	1
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14 S	13 E	WM	17	NW NW	0.42	2100	Klinko	T-2014-019	11
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15 S	12 E	WM	14	NE NE	0.44	601	Kulin	T-2014-019	11
15 S	12 E	WM	25	SW NE	0.45	600	Pupo	T-2014-019	11
15 S	12 E	WM	25	SE NE	0.50	600	Pupo	T-2014-019	11
15 S	13 E	WM	3	NW SW	3.10	1401	Wagenblast Family LTD	T-2014-019	11
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Total:					14.53				

*Indicates acreage not involved in transfer due to non-use.

10. Transfer Application T-11950 proposes to change the places of use to:

Proposed Places of Use:

IRRIGATION									
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14 S	13 E	WM	4	SW NE	0.40	300	Knight	T-2014-019	11
Total:					14.53				

*Indicates acreage not involved in transfer due to non-use.

11. 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 through October 31, further limited as follows:

April 1 through April 30 & October 1 through October 31 described herein as Season 1.

May 1 through May 14 & September 15 through September 30 described herein as Season 2.

May 15 through September 14 described herein as Season 3.

Transfer Review Criteria (ORS 540.572; ORS 540.580; OAR 690-385)

12. Central Oregon Irrigation District filed Transfer Application T-11950 prior to the end of the fifth year of non-use as required by OAR 690-385-5600.
13. The authorized places of use which were properly confiscated are within the legal boundaries of COID and are “no longer irrigated” within the meaning of ORS 540.572.
14. COID is managed by a full-time manager. ORS 540.574(1)(a).
15. COID is implementing an approved water conservation plan. ORS 540.574(1)(b).
16. COID met all notice requirements of ORS 540.572 and OAR 690-385-5100.
17. Transfer application T-11950 contains the information and map required under OAR 690-385-2000, 690-385-2200 and 690-385-4000.
18. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
19. The proposed change in places of use will not result in enlargement of the rights.
20. The proposed change in places of use will not result in injury to other water rights.

Conclusions of Law

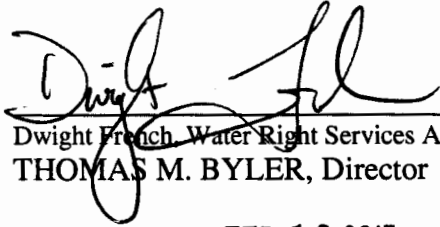
The proposed change in place of use in Transfer Application T-11950 satisfies the requirements of ORS 540.572, 540.574(3), 540.580 and OAR 693-385-5000.

Now, therefore, it is ORDERED:

1. The proposed change in place of use to the water rights evidenced by Certificates 83571 and 76714 is approved.
2. 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.
3. The former place of use shall no longer be irrigated as part of this water right.
4. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
5. The proposed change, as authorized by this final order, shall be completed within one full year from the approval date plus any additional time before or until October 1, 2016. A Claim of Beneficial Use shall be submitted by the applicant to the Department within one year after the deadline for completion of the change and full beneficial use of the water.

6. Water right certificates 83571 and 76714 are modified. The Department shall issue water right certificates on a determination that it is necessary to produce certificates describing the water rights.

Dated at Salem, Oregon this 10 day of February, 2015.



Dwight French, Water Right Services Administrator for
THOMAS M. BYLER, Director

Mailing Date: FEB 13 2015