

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-9299, Deschutes County, Oregon)	CHANGES IN PLACE OF USE AND
)	CHARACTER OF USE

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

St. Charles Medical Center
2500 NE Neff Road
Bend, OR 97701

Findings of Fact

1. Central Oregon Irrigation District, for St. Charles Medical Center, filed an application to change the character of use and the place of use under Certificates 76358 and 76714. The Department assigned the application number T-9299.

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 and Pond Maintenance

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

May 15 to September 15 described as Season 3

Acres: 5.2 acres of irrigation and 1.8 acres/equivalent for pond maintenance

Rate/Duty: Season 1 (limited to 1/80 cfs per acre): 0.09 cfs

Season 2 (limited to 1/60 cfs per acre): 0.12 cfs

Season 3 (limited to 1/32.4 cfs per acre): 0.22 cfs, being 0.16 cfs under the
1900 priority date and 0.06 cfs under the 1907 priority date

Duty: Not to exceed 9.91 acre-feet (AF) per acre: 69.37 AF

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.

The quantities listed reflect an 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	Location
18	S	11	E	W.M.	13	SW	NE	Central Oregon Canal-1520 ft South & 1535 ft West from the NE Corner of Section 13

Authorized Place of Use for Primary Right:

Township		Range		Meridian	Sec	¼	¼	Lot	Acres
17	S	12	E	W.M.	27	SW	SE	1200	3.7 Irrigation
17	S	12	E	W.M.	27	SW	SE	1200	1.8 Pond acre/equivalent
17	S	12	E	W.M.	27	SE	SE	1200	1.5 Irrigation

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

Certificate: 76714 in the name of COID

Use: Supplemental Irrigation and Pond Maintenance

Priority Date: February 28, 1913

Season of Use: April 1 through October 31

Acres: 5.2 acres irrigation and 1.8 acres/equivalent for pond maintenance

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	Location
18	S	11	E	W.M.	13	SW	NE	Central Oregon Canal-1520 ft South & 1535 ft 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 for Supplemental Right:

Township		Range		Meridian	Sec	¼	¼	Lot	Acres
17	S	12	E	W.M.	27	SW	SE	1200	3.7 Irrigation
17	S	12	E	W.M.	27	SW	SE	1200	1.8 Pond acre/equivalent
17	S	12	E	W.M.	27	SE	SE	1200	1.5 Irrigation

5. Application T-9299 proposes to change the character of use to Quasi-Municipal.
6. In addition, the application proposes to change the place of use to within the service boundary area of the Quasi-Municipal Water District for St. Charles Medical Hospital.

Location of Proposed Quasi-Municipal Use

Township		Range		Meridian	Sec	¼	¼
17	S	12	E	W.M.	27	NE	SE
17	S	12	E	W.M.	27	SW	SE
17	S	12	E	W.M.	27	SE	SE

7. Notice of the application for transfer was published December 24, 2002, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
8. Water has been used within the last five years according to the terms and conditions of the right and no evidenced is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
9. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights are present.
10. Considering current knowledge about water rights and their impact on the hydrology of the Deschutes Basin, the Department is unable to conclude that the change from irrigation of crops on 5.2 acres and maintenance of water levels in ponds with a total surface area of 0.6 acre, to quasi-municipal use on the much larger proposed place of use would not result in enlargement of the right or injury to instream water rights. An increase in consumptive water use could decrease the amount of return flows entering downstream, which support instream water rights in the Deschutes River. However, if quasi-municipal use on the proposed place of use were conditioned so that the quantity of water removed from the hydrologic system through consumptive use would approximate the consumptive use of crops on 5.2 acres of irrigation and evaporation loss on 0.6 acre surface area of ponds, the proposed use would not injure other water rights.
11. The total consumptive use of irrigation water for crops in the Deschutes Basin is estimated by the Department at 1.8 acre-feet per acre irrigated. Presumably, the rest of the water diverted up to the allowed duty is not taken up by crops, but returns to the surface and groundwater system. Water withdrawn by crops on 5.2 acres results in 9.36 AF of consumptive use.

12. The total pond consumptive use is calculated by multiplying the pond surface area (Pond #1= 0.2 acre and, Pond #2= 0.4 acre) by the rate of evaporation loss. In the Deschutes Basin, on average, evaporation loss is 2.67 AF/acre. Therefore, the total consumptive use for pond maintenance yields 1.60 AF.
13. The quantity of water that can be consumptively used for quasi-municipal uses, without resulting in a net increase in consumptive use is 10.96 AF.
14. Research by the Department indicates that approximately 47.14% of the total volume of water diverted for municipal use in the Deschutes River Basin during the months of the irrigation season is consumptive. Therefore, the volume of water, in acre-feet, that could be diverted from the canal to the place of use for quasi-municipal purposes, (including both consumptive and non-consumptive uses) without resulting in an increase in consumptive use can be estimated by dividing the total AF by the consumptive percent of quasi-municipal use.
15. Limiting the maximum annual volume of water diverted for quasi-municipal use on the proposed place of use to 23.24 acre-feet would be sufficient to ensure that the right is not enlarged and that other water rights are not injured.
16. The rates of diversion to be allowed for quasi-municipal use (which includes an allowance of 45% transmission loss as per decree) are as follows, provided the annual volume of 23.34 acre-feet is not exceeded:

Season of Use: April 1 through October 31, 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

Rate

Season 1 (limited to 1/80 cfs per acre): 0.029 cfs

Season 2 (limited to 1/60 cfs per acre): 0.039 cfs

Season 3 (limited to 1/32.4 cfs per acre): 0.072 cfs, being 0.052 cfs under the 1900 priority date and 0.020 cfs under the 1907 priority date

17. St. Charles Medical Center is the receiving landowner responsible for completion and perfection of the changes after the final order is issued.
18. Notice of the preliminary determination was published on the Department's Weekly Public Notice on February 7, 2006, and in the Bend Bulletin newspaper on February 16, February 23, and March 2, 2006. No protests were received in response to the notice.

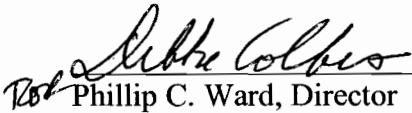
Conclusions of Law

The proposed changes in place of use and character of use in application T-9299 are consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The changes in place of use and character of use proposed in application T-9299 are 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 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. The annual quantity of water diverted for quasi-municipal uses shall not exceed 23.24 acre-feet.
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.

Dated at Salem, Oregon this 25th day of May, 2006.


Phillip C. Ward, Director

Mailing date: JUN 0 1 2006