



5. On October 31, 2012, Cary Penhollow, Operations Manager (on behalf of Steve Johnson) sent a response to Pastor Duane Pippitt, informing Pastor Pippitt of the right to request a hearing and present information regarding the nonuse issue at the November 13, 2012, District Board of Directors meeting.
6. According to the minutes of the November 13, 2012, the District's Board of Directors meeting, confiscation hearings was held however, no COID patron had requested the opportunity to speak to the Board nor were any patrons in attendance at this meeting.
7. Landowners (other than noted above) did not notify COID or the Department that they had any evidence sufficient to rebut the presumption of forfeiture.
8. On December 20, 2012, COID notified the relevant patrons that the District had filed a district transfer application under ORS 540.572, to permanently change the place of use.
9. On December 21, 2012, the Department received an application to permanently change the place of use under both ORS 540.572 and ORS 540.580. The Department assigned the application number T-11509.
10. On January 8, 2013, the Department published notice of application T-11509 in its weekly bulletin pursuant to OAR 690-385-5500. No comments were filed in response to the notice.
11. 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 23.76 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 |

| POD # | Twp  | Rng  | Mer | Sec | Q-Q   | Measured Distances  |
|-------|------|------|-----|-----|-------|---|
| 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 | User Name               | Notice     | POD # |
| 14 S          | 13 E | WM  | 23  | SE NW | 0.63         | *201    | COID                    | T-2012-025 | 11    |
| 14 S          | 13 E | WM  | 26  | NW SW | 0.30         | *1000   | STONE                   | T-2012-024 | 11    |
| 14 S          | 13 E | WM  | 27  | SW NW | 0.40         | 800     | HAINES                  | T-2012-022 | 11    |
| 15 S          | 13 E | WM  | 5   | SW SW | 2.80         | 1006    | RDM INVESTMENTS         | T-2012-022 | 11    |
| 15 S          | 13 E | WM  | 9   | SW SW | 2.20         | 1300    | REDMOND ASSEMBLY OF GOD | T-2012-022 | 11    |
| 15 S          | 13 E | WM  | 18  | SW NE | 0.60         | 1800    | PARR LUMBER             | T-2012-022 | 11    |
| 15 S          | 13 E | WM  | 29  | NW SW | 5.50         | 704     | MAYBERRY/ ROSUMNY       | T-2012-022 | 11    |
| 15 S          | 13 E | WM  | 29  | NW SW | 0.40         | 1419    | MAYBERRY/ ROSUMNY       | T-2012-022 | 11    |
| 15 S          | 13 E | WM  | 30  | NE SE | 0.60         | 704     | MAYBERRY/ ROSUMNY       | T-2012-022 | 11    |
| 15 S          | 13 E | WM  | 30  | NE SE | 0.10         | 703     | MAYBERRY/ ROSUMNY       | T-2012-022 | 11    |
| 15 S          | 13 E | WM  | 30  | NE SE | 3.40         | 1419    | MAYBERRY/ ROSUMNY       | T-2012-022 | 11    |
| 16 S          | 12 E | WM  | 1   | NE SW | 0.33         | *600    | PENHOLLOW               | T-2012-023 | 11    |
| 16 S          | 14 E | WM  | 3   | SW NW | 5.00         | 500     | UMBARGER                | T-2012-022 | 1     |
| 17 S          | 12 E | WM  | 23  | NW SE | 0.25         | 1500    | HUYETTE/ STURDEVANT     | T-2012-022 | 1     |
| 17 S          | 12 E | WM  | 19  | NW NE | 0.35         | 109     | CUSTARD                 | T-2012-022 | 1     |
| 18 S          | 12 E | WM  | 1   | NW NE | 0.90         | *301    | MCDONALD                | T-2012-022 | 1     |
| <b>TOTAL:</b> |      |     |     |       | <b>23.76</b> |         |                         |            |       |

\*These properties are not involved in the transfer due to nonuse.

12. Transfer Application T-11509 proposes to change the places of use to:

**Proposed Places of Use:**

| IRRIGATION |      |     |     |       |       |         |                |            |       |
|------------|------|-----|-----|-------|-------|---------|----------------|------------|-------|
| Twp        | Rng  | Mer | Sec | Q-Q   | Acres | Tax Lot | User Name      | Notice     | POD # |
| 14 S       | 13 E | WM  | 14  | SE SE | 0.60  | 404     | ARMSON         | T-2012-022 | 11    |
| 14 S       | 13 E | WM  | 22  | SE NE | 0.70  | 700     | LECKIE         | T-2012-022 | 11    |
| 14 S       | 13 E | WM  | 25  | NW NE | 5.40  | 600     | SANDERS        | T-2012-022 | 11    |
| 14 S       | 13 E | WM  | 26  | SW NW | 1.40  | 1000    | STONE          | T-2012-022 | 11    |
| 14 S       | 13 E | WM  | 26  | NW SW | 2.30  | 1000    | STONE          | T-2012-022 | 11    |
| 14 S       | 13 E | WM  | 26  | NW SW | 0.30  | 1000    | STONE          | T-2012-024 | 11    |
| 14 S       | 13 E | WM  | 31  | SE SE | 0.45  | 3401    | WILLIAMS       | T-2012-022 | 11    |
| 14 S       | 13 E | WM  | 31  | SW SE | 0.20  | 3401    | WILLIAMS       | T-2012-022 | 11    |
| 14 S       | 14 E | WM  | 17  | SW SW | 0.63  | 200     | BROOKS/ JULIAN | T-2012-025 | 11    |
| 14 S       | 14 E | WM  | 17  | SW SW | 0.46  | 200     | BROOKS/ JULIAN | T-2012-022 | 11    |
| 14 S       | 14 E | WM  | 18  | SE SE | 2.15  | 500     | BROOKS/ JULIAN | T-2012-022 | 11    |

| IRRIGATION    |      |     |     |       |              |         |                                 |            |       |
|---------------|------|-----|-----|-------|--------------|---------|---------------------------------|------------|-------|
| Twp           | Rng  | Mer | Sec | Q-Q   | Acres        | Tax Lot | User Name                       | Notice     | POD # |
| 16 S          | 12 E | WM  | 1   | NW SW | 0.70         | 901     | PENHOLLOW                       | T-2012-022 | 11    |
| 16 S          | 12 E | WM  | 1   | SW SW | 0.85         | 1000    | PENHOLLOW                       | T-2012-022 | 11    |
| 16 S          | 12 E | WM  | 1   | NE SW | 0.33         | 600     | PENHOLLOW                       | T-2012-023 | 11    |
| 16 S          | 12 E | WM  | 1   | NE SW | 0.79         | 600     | PENHOLLOW                       | T-2012-022 | 11    |
| 16 S          | 14 E | WM  | 17  | NE NE | 6.50         | 100     | SCHINKEL<br>FAMILY<br>FARMS LLC | T-2012-022 | 1     |
| <b>TOTAL:</b> |      |     |     |       | <b>23.76</b> |         |                                 |            |       |

13. 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.

14. 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 5.95 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  |
|-------|------|------|-----|-----|-------|---|
| 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 | User Name          | Notice     | POD # |
| 14 S       | 13 E | WM  | 23  | SE NW | 0.63  | *201    | COID               | T-2012-025 | 11    |
| 14 S       | 13 E | WM  | 26  | NW SW | 0.30  | *1000   | STONE              | T-2012-024 | 11    |
| 14 S       | 13 E | WM  | 27  | SW NW | 0.40  | 800     | HAINES             | T-2012-022 | 11    |
| 15 S       | 13 E | WM  | 5   | SW SW | 2.80  | 1006    | RDM<br>INVESTMENTS | T-2012-022 | 11    |

| IRRIGATION    |      |     |     |       |              |         |                               |            |       |
|---------------|------|-----|-----|-------|--------------|---------|-------------------------------|------------|-------|
| Twp           | Rng  | Mer | Sec | Q-Q   | Acres        | Tax Lot | User Name                     | Notice     | POD # |
| 15 S          | 13 E | WM  | 9   | SW SW | 2.20         | 1300    | REDMOND<br>ASSEMBLY OF<br>GOD | T-2012-022 | 11    |
| 15 S          | 13 E | WM  | 18  | SW NE | 0.60         | 1800    | PARR LUMBER                   | T-2012-022 | 11    |
| 15 S          | 13 E | WM  | 29  | NW SW | 5.50         | 704     | MAYBERRY/<br>ROSUMNY          | T-2012-022 | 11    |
| 15 S          | 13 E | WM  | 29  | NW SW | 0.40         | 1419    | MAYBERRY/<br>ROSUMNY          | T-2012-022 | 11    |
| 15 S          | 13 E | WM  | 30  | NE SE | 0.60         | 704     | MAYBERRY/<br>ROSUMNY          | T-2012-022 | 11    |
| 15 S          | 13 E | WM  | 30  | NE SE | 0.10         | 703     | MAYBERRY/<br>ROSUMNY          | T-2012-022 | 11    |
| 15 S          | 13 E | WM  | 30  | NE SE | 3.40         | 1419    | MAYBERRY/<br>ROSUMNY          | T-2012-022 | 11    |
| 16 S          | 12 E | WM  | 1   | NE SW | 0.33         | *600    | PENHOLLOW                     | T-2012-023 | 11    |
| 16 S          | 14 E | WM  | 3   | SW NW | 5.00         | 500     | UMBARGER                      | T-2012-022 | 1     |
| 17 S          | 12 E | WM  | 23  | NW SE | 0.25         | 1500    | HUYETTE/<br>STURDEVANT        | T-2012-022 | 1     |
| 17 S          | 12 E | WM  | 19  | NW NE | 0.35         | 109     | CUSTARD                       | T-2012-022 | 1     |
| 18 S          | 12 E | WM  | 1   | NW NE | 0.90         | *301    | MCDONALD                      | T-2012-022 | 1     |
| <b>TOTAL:</b> |      |     |     |       | <b>23.76</b> |         |                               |            |       |

\*These properties are not involved in the transfer due to nonuse.

15. Transfer Application T-11509 proposes to change the places of use to:

**Proposed Places of Use:**

| IRRIGATION    |      |     |     |       |              |         |                                 |            |       |
|---------------|------|-----|-----|-------|--------------|---------|---------------------------------|------------|-------|
| Twp           | Rng  | Mer | Sec | Q-Q   | Acres        | Tax Lot | User Name                       | Notice     | POD # |
| 14 S          | 13 E | WM  | 14  | SE SE | 0.60         | 404     | ARMSON                          | T-2012-022 | 11    |
| 14 S          | 13 E | WM  | 22  | SE NE | 0.70         | 700     | LECKIE                          | T-2012-022 | 11    |
| 14 S          | 13 E | WM  | 25  | NW NE | 5.40         | 600     | SANDERS                         | T-2012-022 | 11    |
| 14 S          | 13 E | WM  | 26  | SW NW | 1.40         | 1000    | STONE                           | T-2012-022 | 11    |
| 14 S          | 13 E | WM  | 26  | NW SW | 2.30         | 1000    | STONE                           | T-2012-022 | 11    |
| 14 S          | 13 E | WM  | 26  | NW SW | 0.30         | 1000    | STONE                           | T-2012-024 | 11    |
| 14 S          | 13 E | WM  | 31  | SE SE | 0.45         | 3401    | WILLIAMS                        | T-2012-022 | 11    |
| 14 S          | 13 E | WM  | 31  | SW SE | 0.20         | 3401    | WILLIAMS                        | T-2012-022 | 11    |
| 14 S          | 14 E | WM  | 17  | SW SW | 0.63         | 200     | BROOKS/<br>JULIAN               | T-2012-025 | 11    |
| 14 S          | 14 E | WM  | 17  | SW SW | 0.46         | 200     | BROOKS/<br>JULIAN               | T-2012-022 | 11    |
| 14 S          | 14 E | WM  | 18  | SE SE | 2.15         | 500     | BROOKS/<br>JULIAN               | T-2012-022 | 11    |
| 16 S          | 12 E | WM  | 1   | NW SW | 0.70         | 901     | PENHOLLOW                       | T-2012-022 | 11    |
| 16 S          | 12 E | WM  | 1   | SW SW | 0.85         | 1000    | PENHOLLOW                       | T-2012-022 | 11    |
| 16 S          | 12 E | WM  | 1   | NE SW | 0.33         | 600     | PENHOLLOW                       | T-2012-023 | 11    |
| 16 S          | 12 E | WM  | 1   | NE SW | 0.79         | 600     | PENHOLLOW                       | T-2012-022 | 11    |
| 16 S          | 14 E | WM  | 17  | NE NE | 6.50         | 100     | SCHINKEL<br>FAMILY<br>FARMS LLC | T-2012-022 | 1     |
| <b>TOTAL:</b> |      |     |     |       | <b>23.76</b> |         |                                 |            |       |

### **Transfer Review Criteria**

16. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
17. The proposed change in places of use will not result in enlargement of the rights.
18. The proposed change in places of use will not result in injury to other water rights.
19. For those portions of this transfer NOT involved in the nonuse process, water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
20. For those portions of this transfer NOT involved in the nonuse process, a diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-11509.
21. All applicable requirements for district permanent transfers of water right for nonuse (ORS 540.572) have been met.

### **Conclusions of Law**

The proposed change in place of use in Transfer Application T-11509 satisfies the requirements of ORS 540.572 and 540.580.

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

1. The proposed change in place of use to the water rights evidenced by Certificates 83571 and 76714 are 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 these water rights.
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. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2014**. A Claim of Beneficial Use shall be submitted by COID to the Department within one year after the deadline for completion of the changes 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 21 day of February, 2013.

  
Dwight French, Water Right Services Administrator for  
PHILLIP C. WARD, DIRECTOR

*Mailing Date:* FEB 28 2013