

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

In the Matter of Instream Transfer	)	FINAL ORDER APPROVING A
Application T-10224 and Mitigation Credit	)	CHANGE IN PLACE OF USE AND
Project MP-91, Deschutes County	)	CHARACTER OF USE, PARTIAL
	)	CANCELLATION OF WATER RIGHTS,
	)	AND PRELIMINARY AWARD OF
	)	MITIGATION CREDITS

**Authority**

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. OAR Chapter 690, Division 077 provides additional criteria for evaluating transfers to instream water rights.

OAR 690-380-2250 and ORS 540.510 establishes the process in which the Department may cancel a supplemental water right when not included as part of the transfer application.

OAR 690-521-0100 to 690-521-0600 establishes the process in which anyone may submit a ground water mitigation project to the Department for the purpose of establishing mitigation credits in the Deschutes Ground Water Study Area.

Pursuant to OAR 690-521-0400 (2), any mitigation credits awarded to a mitigation project are valid until used to fulfill a mitigation obligation of a ground water use in the Deschutes Ground Water Study Area. Valid mitigation credits may be assigned by any person or recognized mitigation bank to any person or other mitigation bank. Mitigation credits are used when a person submits to the Department documentary evidence that valid credits have been obtained and assigned to satisfy a mitigation obligation.

**Applicants**

ARWOOD DEVELOPMENT LLC  
250 NW FRANKLIN AVE., SUITE 203  
BEND, OR 97701

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

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 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.

**Findings of Fact**

**Background**

1. On August 7, 2006, COID and Arrowood Development LLC filed an application to change the place of use and character of use under Certificate 76358 to instream use. The Department assigned the application number T-10224.
2. On September 26, 2007, Certificate 83571 was issued and supersedes Certificate 76358.
3. The portion of the right to be transferred is as follows:

**Certificate:** 83571 in the name of Central Oregon Irrigation District (confirmed by Deschutes River decree)

**Use:** IRRIGATION of 83.9 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<sup>th</sup> Cubic Foot per Second (CFS) per acre

Season 2: limited to 1/60<sup>th</sup> 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 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:** The Deschutes River, tributary to the Columbia River

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

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
17 S	12 E	WM	29	SE NE	COID North Canal POD #11: 850 FEET NORTH AND 630 FEET WEST FROM E1/4 CORNER OF SECTION 29

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	13 E	WM	16	SE SE	0.36
14 S	13 E	WM	16	SE SE	0.84
14 S	13 E	WM	26	NE SW	0.85
15 S	13 E	WM	8	NE SE	8.00
15 S	13 E	WM	8	NE SE	2.00
15 S	13 E	WM	9	SE NE	1.00
15 S	13 E	WM	9	SE NE	1.50
15 S	13 E	WM	9	SE NE	1.15

Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	13 E	WM	10	NW NW	4.38
15 S	13 E	WM	10	NW NW	3.40
15 S	13 E	WM	10	NW NW	1.42
15 S	13 E	WM	17	NE NW	16.00
15 S	13 E	WM	17	NW NW	18.00
15 S	13 E	WM	19	NW NE	21.35
15 S	13 E	WM	19	NE SW	0.20
15 S	13 E	WM	30	NW SE	3.45

4. Certificate 83571 is a deficient water right. If water were diverted simultaneously to all authorized lands and uses described in the right at the maximum rates and duty allowed (described in Finding of Fact #3), the total rate and duty for the water right would be exceeded. In the event water were diverted simultaneously to all authorized lands and uses described in the right at the maximum rates and duty allowed at the POD (described in Finding of Fact #3), the portion of the right involved in this transfer would be limited as described in the table below. These rates and duty are also the quantities by which Certificate 83571 shall be reduced, if this transfer is approved.

Priority Date	Season 1 Rate	Season 2 Rate	Season 3 Rate	Duty
October 31, 1900	1.046 CFS	1.395 CFS	1.844 CFS	829.39 AF
December 2, 1907			0.739 CFS	

5. A total of 457.3 AF, excluding transmission loss, of water may be beneficially used annually under the portion of Certificate 83571 proposed for transfer.
6. There is a supplemental water right, Certificate 76714, appurtenant to the same lands on which the primary right, Certificate 83571, is appurtenant and proposed to be transferred to instream use. The applicants requested that the affected portion of Certificate 76714 be cancelled upon issuance of the Final Order approving T-10224.
7. There is another existing water right, Certificate 64030 appurtenant to a portion of the same lands on which Certificate 83571 is proposed to be transferred instream. The applicants have not requested to include this water right in the transfer application. A request to cancel this water right has previously been submitted to the Department.
8. The applicants are not the owners of the lands to which the water right described in Finding of Fact #3 is appurtenant. However, water right conveyance agreements have been completed and interest in the water rights has been conveyed from each landowner described in the table below. The portion of this right to be transferred was appurtenant to lands owned by the identified landowners at the time interest in the water right was conveyed through a Quit Claim, a water right conveyance agreement.

Grantor (landowner)	Water Right Interest Holder	T	R	Sec	¼ ¼	Current Tax Lot
Steven Russell	COID	14 S	13 E	16	SE SE	403

Grantor (landowner)	Water Right Interest Holder	T	R	Sec	¼ ¼	Current Tax Lot
Steven Russell	COID	14 S	13 E	16	SE SE	414
W.T. & Carol L. Nelson	COID	14 S	13E	26	NE SW	500
Community Presbyterian Church of the Presbytery of the Cascades, a non profit corp.	COID	15 S	13 E	8	NE SE	8800
Community Presbyterian Church of the Presbytery of the Cascades, a non profit corp.	COID	15 S	13 E	8	NE SE	8900
Health Services, now known as Cascade Healthcare Community Inc.	Arrowood Development	15 S	13 E	9	SE NE	801
Health Services, now known as Cascade Healthcare Community Inc.	Arrowood Development	15 S	13 E	9	SE NE	804
Health Services, now known as Cascade Healthcare Community Inc.	Arrowood Development	15 S	13 E	9	SE NE	900
Harold B. & Zell Povey	COID	15 S	13 E	10	NW NW	200
Harold B. & Zell Povey	COID	15 S	13 E	10	NW NW	201
Harold B. & Zell Povey	COID	15 S	13 E	10	NW NW	202
Arthur C. Piculell, Jr.	Arrowood Development	15 S	13 E	17	NE NW	800
Arthur C. Piculell, Jr.	Arrowood Development	15 S	13 E	17	NW NW	1300
James E. & Debra E. Marshall	Arrowood Development	15 S	13 E	19	NW NE	100
Forked Horn LLC	Arrowood Development	15 S	13 E	19	NE SW	1002

Grantor (landowner)	Water Right Interest Holder	T	R	Sec	¼ ¼	Current Tax Lot
William B. Curtis, Stanley Rice, and Kenneth & Dorothy Krieger, co-trustees of Krieger Trust	Arrowood Development	15 S	13 E	30	NW SE	600

9. Application T-10224 proposes to change the character of use to instream use for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and any other ecological values; pollution abatement; and recreation. The application also proposes to establish mitigation credits in the Deschutes Ground Water Study Area.
10. Application T-10224 proposes to change the place of use of the right to create an instream reach from the COID North Canal POD, as described in Finding of Fact #3, to Lake Billy Chinook.
11. The applicants propose the quantities of water to be transferred instream to be protected as follows:

Certificate	Priority Date	Instream Period	Instream Rate	Instream Volume
83571	October 31, 1900	Season 1 (modified to end on October 26)	0.577 CFS	457.3 AF
		Season 2	0.769 CFS	
		Season 3	1.424 CFS	

12. There are several existing instream water rights within the proposed reach. The existing instream water rights were established under ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process).
13. The applicants propose that any instream water right established as a result of this instream transfer be additive to the existing instream water rights for the same reach established pursuant to ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process). The applicants also propose that any instream water right established as a result of this instream transfer replace a portion of any instream rights established pursuant to ORS 537.346 (minimum streamflow conversion) and ORS 537.341 (state agency instream application process), with an earlier priority date.
14. There presently are no instream water rights within the proposed reach created as a result of ORS 537.346 or ORS 537.341. However, there is a pending instream water right application, filed by the Oregon Department of Fish and Wildlife (ODFW) pursuant to ORS 537.341 to establish an instream water right from the COID North Canal POD to Lake Billy Chinook, which if approved will have a priority date of September 19, 1990.
15. The applicants have requested to protect water instream under the October 31, 1900, priority date. Water is diverted at the points of diversion during Season 3 under both the 1900 and

1907 priority dates. The quantity of water diverted under the 1907 priority date during Season 3 makes up a balance of water allowed by the decree for transmission losses. Transmission losses account for 45% of the water diverted at the point of diversion and are not transferable to instream use. The quantities of water proposed to be transferred instream, as described in Finding of Fact #11, do not include the 45% transmission loss. The Department finds that water may be protected instream solely under the 1900 priority date.

16. The application includes Land Use Information form completed and signed by a representative of the Deschutes County planning department. Additionally, the Department has provided notification of the proposed action to the City of Bend and Jefferson County.
17. Notice of the application for transfer was published on August 22, 2006, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
18. On May 31, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10224 to the applicants. The draft Preliminary Determination set forth a deadline of June 29, 2007, for the applicants to respond. On June 14, 2007, the Department received a request from the applicant's agent (Creative Water Solutions) for some additional time to review the draft Preliminary Determination and provide information necessary to demonstrate that the applicant is authorized to pursue the transfer. The additional information requested by the Department was received on July 26 and 30, 2007, August 27, 2007, and September 13, 2007. On September 28, 2007, and November 23, 2007, the Department mailed a red-lined draft Preliminary Determination to the applicant with modifications based upon the information provided and due to the issuance of Certificate 83571. On November 26, 2007, and December 5, 2007, the applicants gave concurred with the draft Preliminary Determination and the red-lined changes and requested that the Department issue the Preliminary Determination.
19. On December 26, 2007, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10224 and mailed a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on January 1, 2008, and in The Bulletin on January 7, 14, and 21, 2008, pursuant to ORS 540.520 and OAR 690-380-4020. No comments or protests were filed in response to the Department's weekly notice or to the newspaper notice.

***Instream Transfer Review Criteria (OAR 690-77-0075 and 690-380-4010)***

20. The portion of the water right proposed for transfer has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610. The portion of the right proposed for transfer was leased instream in 2005 under instream lease L-640. In addition, some portions were leased instream in 2003 and 2004 under instream leases L-380 and L-571.

21. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present at the point of diversion within the five-year period prior to submittal of Application T-10224.
22. Return flows from on farm use of water on 69.0 acres of the right proposed for transfer likely return to the Deschutes River beginning near Lower Bridge (approximately River Mile 135.5).
23. The proposed changes would not result in enlargement of the right.
24. The proposed changes would not result in injury to other water rights.
25. The amount and timing of the proposed instream flow (as described in Finding of Fact #11) is allowable within the limits and use of the original water right.
26. The protection of flows within the proposed reach (as described in Finding of Fact #10) is appropriate, considering:
  - a) The instream water right begins at the recorded point of diversion;
  - b) The location of confluences with other streams downstream of the point of diversion;
  - c) There are no known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
  - d) Return flows resulting from the exercise of a portion of the existing water right would re-enter the river approximately between Lower Bridge and River Mile 125. However, there are no downstream rights that would be injured by loss of return flows. Therefore, the full quantity may be protected instream throughout the proposed reach.
27. Within the proposed reach, the Deschutes River is a designated State Scenic Waterway. The protection of flows necessary to maintain the free flowing character of the Deschutes River for fish and wildlife habitat, and recreation is a matter of statutory policy. Within the reach proposed by the applicant, there are several existing instream water rights, which include the use of water for fish and wildlife habitat, aquatic life, recreation, and pollution abatement. There is also a pending instream water right application filed by ODFW for anadromous and resident fish rearing. In addition to flows for the designated Scenic Waterway and the existing and pending instream water right application, which are at times not met during the requested period for instream protection, this segment of the Deschutes River is also on the Oregon Department of Environmental Quality's (DEQ) 303d list of water quality limited streams for temperature and pH above Lake Billy Chinook and for nutrients, sedimentation and temperature below Lake Billy Chinook at the lower end of the river.
28. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach/at the point will provide for a beneficial purpose and do not exceed the estimated average natural flow.

29. By adding to other instream water rights for the same location, the instream right will provide protection for additional streamflows necessary for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and any other ecological values; pollution abatement; and recreation.

### ***Partial Cancellation of Water Rights***

30. There is an existing supplemental right, Certificate 76714, appurtenant to the portion of lands on which certificate 83571 is proposed for transfer to instream use. The applicant has not submitted an affidavit certifying that the affected portions under Certificate 76714 have been abandoned. The applicant has requested that affected portions of the supplemental water rights under Certificate 76714 be cancelled upon issuance of the Final Order approving T-10224. A portion of Certificate 76714 to be cancelled has been quit claimed to Arrowood Development and other portions to COID. However, some portions of Certificate 76714 have not been quit claimed to either COID or Arrowood Development. All persons who are owners of the property from which the primary irrigation rights under Certificate 83571 were quit claimed to COID or Arrowood Development were not provided prior notification of the intent to cancel Certificate 76714.
31. There is also a second existing water right, Certificate 64030, appurtenant to approximately 21.35 acres of irrigation use proposed for transfer under Certificate 83571. Certificate 64030 is a ground water right with a priority date of February 23, 1982. It appears that approximately 2.09 acres of this right that overlap with the portion of Certificate 83571 proposed for transfer had originally been for primary irrigation. However, since the right was originally established, the configuration of irrigated lands under Certificate 83571 has been modified and these 2.09 acres are now supplemental to Certificate 83571. An affidavit certifying that this certificate has been abandoned was submitted to the Department on February 15, 2005. This cancellation request is being pursued under a separate application process. It has been requested that the voluntary cancellation of Certificate 64030 be used to offset a portion of the mitigation obligation (under the Deschutes Groundwater Mitigation Rules) for ground water permit application G-16648, in the name of Phillip Kochan. The cancellation of Certificate 64030 has been requested to be finalized upon issuance of a permit for ground water permit application G-16648.
32. Supplemental water rights (layered water rights) must be included in a transfer application or cancelled.
33. Consistent with OAR 690-380-2250, the Department provided notice in the draft Preliminary Determination to COID, Arrowood Development, and affected landowners (those owners of lands from which Certificates 76714 is to be canceled) of its intent to cancel the portion of Certificate 76714 as described below unless within 30 days of the date of the notification, the applicant modified the application to include the supplemental right or withdrew the application. The applicant did not respond to the notice by modifying or withdrawing the application. Also, no response was received from the affected landowners.



34. As identified in Finding of Fact #31, Certificate 64030 is to be cancelled concurrently with the issuance of a permit for application G-16648. Certificate 64030 was cancelled on April 22, 2008, as evidenced by Special Order Volume 74, Page 642.

35. The portion of Certificate 76714 to be cancelled is as follows:

**Certificate:** 76714 in the name of Central Oregon Irrigation District (perfected under Permit S-23256)

**Use:** SUPPLEMENTAL IRRIGATION of 83.9 ACRES

**Priority Date:** FEBRUARY 28, 1913

**Limit/Duty:** 831.45 AF, not to exceed 9.91 AF per acre per year

**Source:** CRANE PRAIRIE RESERVOIR, tributary to DESCHUTES RIVER

**Authorized POD:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
17 S	12 E	WM	29	SE NE	COID NORTH CANAL POD #11 - 850 FEET NORTH AND 630 FEET EAST FROM N1/4 CORNER OF SECTION 29
21 S	8 E	WM	17	NE NE	CRANE PRAIRIE RESERVOIR DAM

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
14 S	13 E	WM	16	SE SE	403	0.36
14 S	13 E	WM	16	SE SE	414	0.84
14 S	13 E	WM	26	NE SW	500	0.85
15 S	13 E	WM	8	NE SE	8900	8.00
15 S	13 E	WM	8	NE SE	8800	2.00
15 S	13 E	WM	9	SE NE	801	1.00
15 S	13 E	WM	9	SE NE	900	1.50
15 S	13 E	WM	9	SE NE	804	1.15
15 S	13 E	WM	10	NW NW	201	4.38
15 S	13 E	WM	10	NW NW	200	3.40
15 S	13 E	WM	10	NW NW	202	1.42
15 S	13 E	WM	17	NE NW	800	16.00
15 S	13 E	WM	17	NW NW	1300	18.00
15 S	13 E	WM	19	NW NE	100	21.35
15 S	13 E	WM	19	NE SW	1002	0.20
15 S	13 E	WM	30	NW SE	600	3.45

35. The Department has information that POD #11 (COID North Canal) described in Certificates 83571 and 76714 is the same diversion point. The location coordinates described in Certificate 76714 contain errors. The location coordinates should be:

Township	Range	Meridian	Sec	¼ ¼	Survey Coordinates		
17	S	12	E	W.M.	29	SE NE	POD # 11 (COID NORTH CANAL): 850 FEET NORTH & 630 FEET WEST FROM THE EAST ¼ CORNER OF SECTION 29

### ***Preliminary Award of Deschutes Basin Mitigation Credits***

36. COID and Arrowood Development, LLC, have requested this instream transfer application be used to establish mitigation credits in the Deschutes Ground Water Study Area. The applicants have requested that any mitigation credits generated from this project be assigned to Arrowood Development, LLC.
37. The Department assigned this mitigation credit project number MP-91.
38. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300 (6) on September 5, 2006. No comments were received in response to this notice.
39. The Department consulted with representatives from ODFW, DEQ, Oregon Parks and Recreation Department (OPRD), Oregon Department of State Lands, the Oregon Department of Agriculture, and the Department's Watermaster pursuant to OAR 690-521-0300 (7) and OAR 690-505-0630 (2) on September 5, 2006. Comments were received from OPRD. Comments were supportive of the proposed instream water right and identified a need for additional flows for recreation and scenic attraction.
40. No changes were made to the instream transfer as a result of comments received or consultation with the above identified agencies.
41. The proposed transfer of 83.9 acres of irrigation to instream use will provide 151.0 acre-feet of mitigation water. Therefore, **151.0** mitigation credits (1.0 mitigation credit = 1.0 AF of mitigation water) may be awarded to this mitigation credit project and assigned to Arrowood Development, LLC. The mitigation credits may be used to mitigate for ground water permit applications and existing conditioned ground water permits and certificates, providing mitigation pursuant to the Deschutes Ground Water Mitigation Rules, OAR Chapter 690, Division 505, within the **Middle Deschutes Zone of Impact and/or General Zone of Impact**.
42. A total of 457.3 AF is proposed to be transferred to instream use and 151.0 AF of that, as identified above, may be used for mitigation purposes. The amount of water transferred instream and not used for mitigation purposes will benefit instream flow.
43. The Department shall award final mitigation credits upon completion of the approved project by the applicants and verification by the Department that the project is complete. The issuance of a certificate for the proposed instream water right shall result in completion of the project and verification that the project is complete. Mitigation credits may become valid the first calendar year that water is protected instream as a result of this transfer.

### **Conclusions of Law**

The changes in character of use and place of use to instream use proposed in application T-10224 are consistent with the requirements of ORS 540.505 to 540.580, ORS 537.348, OAR 690-380-5000, and OAR 690-077-0075 and the abandoned portions of the rights should be cancelled.

This mitigation project results in mitigation credits pursuant to ORS 537.746 and OAR 690-521-0300 and 690-521-0400.

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

1. The changes in character of use and place of use to instream use proposed in application T-10224 are approved. The portions of the rights that have been abandoned are cancelled.
2. Water Right Certificate 83571 is modified. A new certificate confirming the instream water right shall be issued. The Department shall issue a new water right certificate to supersede Certificate 83571 on a determination that it is necessary to produce a certificate to confirm that portion of the right not involved in this transfer. Approval of this transfer shall reduce the amount of water lawfully available under the remaining portion of Certificate 83571 by the following amounts:

Time Period	Priority Date	Rate (cfs)
Season 1:	October 31, 1900	1.049
Season 2:	October 31, 1900	1.395
Season 3:	October 31, 1900	1.844
	December 2, 1907	0.739
<b>Duty</b>		829.39 AF

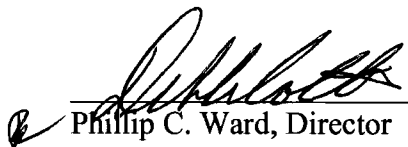
3. Water right certificate 76714 is modified. The Department will issue a superseding certificate describing the portion of the right not affected by this transfer when it determines that is necessary for record keeping. The perfected portion of certificate 76714 is reduced by 83.9 acres.
4. The instream water right shall provide for the protection of streamflows from the COID North Canal POD #11 (as described in Finding of Fact #3) to Lake Billy Chinook for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values; pollution abatement; and recreation in the Deschutes River as follows:

Certificate	Priority Date	Instream Period	Instream Rate	Instream Volume
83571	October 31, 1900	Season 1 (modified to end on October 26)	0.577 CFS	457.3 AF
		Season 2	0.769 CFS	
		Season 3	1.424 CFS	

5. Water rights upstream of the original point of diversion shall not be subject to regulation for flows in excess of the quantities to which this instream water right is entitled at the original point of diversion.
6. The instream right established by this transfer shall replace a portion of instream water rights established pursuant to ORS 537.341 or 537.346 and be in addition to instream water rights established pursuant to ORS 537.348 or 537.470 unless otherwise specified by an order approving a new instream water right under these statutes.

7. 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 Certificate 83571 and any related decree.
8. The former place of use of the transferred water shall no longer receive water as part of this right.
9. **Preliminary Award of Mitigation Credits:** Final Award of Mitigation Credits may be made upon completion of the project and verification by the Department that the project has been completed as proposed. Issuance of a new instream water right certificate, as described herein, results in completion of the project and verification by the Department that the project is complete. Therefore, mitigation credits, in the amount of 151.0 credits, as described herein, are awarded to this mitigation project and assigned to Arrowood Development. Mitigation credits awarded may be used to satisfy a mitigation obligation of a ground water permit applicant and/or ground water permit/certificate holder in the **Middle Deschutes and/or General Zones of Impact**.
10. Mitigation credits are valid until used to satisfy a mitigation obligation of a ground water permit applicant and/or ground water permit/certificate holder within the Deschutes Ground Water Study Area pursuant to the Deschutes Ground Water Mitigation Rules. Mitigation credits are used when a person submits to the Department documentary evidence that valid credits have been obtained and assigned to satisfy a mitigation obligation.
11. The instream certificate created as a result of the approval of this transfer shall be identified as a mitigation credit project. Within each instream certificate, the number of mitigation credits, the zone of impact in which the mitigation credits were generated and may be used, and the volume of water dedicated instream solely for instream benefits shall also be specified.

Dated at Salem, Oregon this 30<sup>th</sup> day of April, 2008.

  
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Phillip C. Ward, Director

Mailing Date: MAY 02 2008