

May 1 to May 15 & September 15 to October 1 described herein as Season 2
 May 15 to September 15 described herein as Season 3

Quantity (Rate): Season 1 (limited to 1/80 cfs per acre): 0.089 cfs
 Season 2 (limited to 1/60 cfs per acre): 0.118 cfs
 Season 3 (limited to 1/32.4 cfs per acre): 0.219 cfs, being 0.156 cfs under
 the 1900 priority date and 0.063 cfs under the 1907 priority date

Duty: Not to exceed 9.91 acre-feet (AF) per acre: 70.36 AF

Source: The Deschutes River, tributary to the Columbia River

Authorized Point of Diversion:

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 and 630 feet west from the E ¼ corner of Section 29

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	Tax Lot	Acres
15	S	13	E	W.M.	9	NW NW	200	7.1

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

Certificate: 76714 in the name of the Central Oregon Irrigation District

Use: Supplemental Irrigation of 7.10 acres

Priority Date: February 28, 1913

Season of Use: April 1 to November 1

Quantity: Not to exceed a portion 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 officer.

Source: Crane Prairie Reservoir, tributary to the Deschutes River

Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼	Survey Coordinates
21	S	8	E	W.M.	17	NE NE	Crane Prairie Reservoir
17	S	12	E	W.M.	29	SE NE	POD # 11 (COID North Canal): 850 feet north and 630 feet west from the E ¼ corner of Section 29

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	Tax Lot	Acres
15	S	13	E	W.M.	9	NW NW	200	7.1

5. Application T-10004 proposes to move the authorized point of diversion approximately 2.75 miles upstream in the source to:

Township		Range		Meridian	Sec	¼ ¼	Survey Coordinates
18	S	12	E	W.M.	5	SE NW	S 65°46'27" W, 3621.45 feet from the NE corner of Section 5

6. Application T-10004 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼	Acres
18	S	12	E	W.M.	5	NW NW	0.919
18	S	12	E	W.M.	5	SW NW	1.051
18	S	12	E	W.M.	5	SE NW	4.590
18	S	12	E	W.M.	5	NE SW	0.540

7. The receiving lands are owned by River Bend Limited Partnership, 15 SW Colorado Ave., Bend, OR 97702. Upon approval of T-10004, the receiving landowner will be responsible for completion of the proposed changes after the final order is issued.
8. 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. However, the Oregon Department of Fish and Wildlife did request inclusion of a condition requiring installation of proper fish screens.
9. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
10. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights are present, and water has been used within the last five years under the terms and conditions of the rights.
11. The rate and duty allowed under Certificate 76358 (under the terms of the decree) for each acre irrigated by the Central Oregon Irrigation District main canal systems reflect a 45% transmission loss. 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.
12. T-10004 proposes to change the point of diversion and delivery system for this portion of the right from the COID canal system to a direct pumping point on the Deschutes River. Therefore the rate including provision for transmission losses can not be allowed and the

transfer will be limited to the rates listed below and an annual duty not to exceed 5.45 acre-feet per acre:

Time of Year	Instantaneous Rate per Acre	Total Area	Total Diversion Rate for T-10004 without 45% transmission loss
	(cfs/acre)	(acres)	(cfs)
April 1 to May 1	1/80	7.1	0.049
May 1 to May 15	1/60	7.1	0.065
May 15 to Sep 15	1/32.4	7.1	0.121 (0.086 cfs under the 1900 priority and 0.035 cfs under 1907 priority)
Sep 15 to Oct 1	1/60	7.1	0.065
Oct 1 to Nov 1	1/80	7.1	0.049

13. The transfer proposes to move the point of diversion upstream within a stretch of the Deschutes River with flows protected by a junior instream water right under Certificate 59778 (priority date November 3, 1983). Historically, river flows are often insufficient to meet the requirements of the instream water right (660 cfs) during the periods from April 1-15 when water from reservoir releases is first coming down river and October 15-31 when water is no longer being released.
14. The proposed change would not result in enlargement of the rights.
15. The Department cannot find that the proposed change would not result in injury to the instream water right if water is diverted at the new POD at times during the periods from April 1-November 1 of each year when the Central Oregon Irrigation District is not delivering water. However, the applicant has agreed (in the application) not to divert water for the allowed use whenever flows in the Deschutes River at the point of diversion drop below 660 cfs during the period from April 1 to November 1 outside of the operational season of Central Oregon Irrigation District, when water is not being delivered by the District. Conditioning the use in this way would be sufficient to ensure that the change would not result in injury to the instream water right.

Conclusions of Law

The proposed changes in place of use and point of diversion in application T-10004, as conditioned, 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 point of diversion proposed in T-10004 are approved.
2. Certificates 76358 and 76714 are 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 to confirm that portion of the rights not involved in this transfer.
3. 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 76358 and 76714 and any related decree.

4. The water user shall not divert water for the allowed use whenever flows in the Deschutes River at the new point of diversion drop below 660 cfs during the period from April 1 to November 1 outside of the operational season of Central Oregon Irrigation District, when water is not being delivered by the District.
5. The maximum rates of diversion from the Deschutes River under the portion of the right evidenced by Certificate 76358 for delivery to the applicant's property shall continue to be based on 7.1 acres of irrigation right transferred, excluding a 45% transmission loss, being:
 - 0.049 cfs from April 1 to May 1 and October 1 to November 1;
 - 0.065 cfs from May 1 to May 15 and September 15 to October 1;
 - 0.121 cfs from May 15 to September 15; being 0.086 cfs under the 1900 priority date and 0.035 cfs under the 1907 priority date.
6. 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.
7. The former place of use of the transferred water shall no longer receive water as part of these rights.
8. Prior to diverting water, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
9. The water user shall install and maintain a fish screen or fish by-pass device, as appropriate, at the new point of diversion. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction, and shall be installed under the supervision of the Department of Fish and Wildlife.

Dated at Salem, Oregon this 30th day of January 2006.

FOR Debbie Colbert
Phillip C. Ward, Director

Mailing Date FEB 15 2006