

3. On December 5, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12461 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of January 5, 2018, for the applicants to respond. On December 8, 2017, the applicants provided additional information to clarify the season of use under Certificate 83571 and also requested additional information to the Department's procedural steps in the processing of a non-ORS 540.580 transfer for an irrigation district.
4. On December 14, 2017, the Department sent out a Revised Draft Preliminary Determination and set forth a deadline of January 14, 2018, for the applicants to respond. On January 4, 2018, the applicants requested the Department to proceed with issuance of the Preliminary Determination.
5. On January 24, 2018, the Department issued a Preliminary Determination proposing approval of Transfer Application T-12461, and sent copies to the applicants. However, the Preliminary Determination contained an error in the deadline date for completion of changes.
6. On January 30, 2018, the Department issued a Revised Preliminary Determination proposing to approve Transfer T-12461 and mailed a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on January 30, 2018, and in the Bend Bulletin newspaper on February 1 and 8, 2018 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.
7. The portion of the primary water right and its layered supplemental right to be transferred are as follows:

Certificate: 83571 (as modified by Sp. Ord Vol.74, P. 270, and confirmed by Sp. Ord. Vol. 100, P. 76) in the name of CENTRAL OREGON IRRIGATION DISTRICT (confirmed by decree of the Circuit Court of the State of Oregon for Deschutes County)

Use: IRRIGATION OF 6.31 ACRES

Priority Dates: OCTOBER 31, 1900 AND DECEMBER 2, 1907

Seasons of Use: Season 1 - April 1 through April 30 and October 1 through October 31;
 Season 2 - May 1 through May 14 and September 16 through September 30;
 Season 3 - May 15 through September 15

Rate: Season 1 (limited to 1/145.45 cfs per acre) 0.04 cubic foot per second (cfs);
 Season 2 (limited to 1/109.09 cfs per acre) 0.06 cfs
 Season 3 (limited to 1/58.91 cfs per acre) 0.11 cfs, being 0.077 cfs under the 1900 priority and 0.033 cfs under the 1907 priority

Limit/Duty: Not to exceed 5.45 acre-feet (AF) per acre: 34.39 AF (for 6.31 acres). The quantities listed reflect those lands not served from the district main canal systems, but by direct pumping from the Deschutes River, and will not be allowed the 45% transmission loss as determined by the decree of the Circuit Court of the State of Oregon for Deschutes County, dated March 24, 1933.

Source: DESCHUTES RIVER, a tributary of the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	12 E	WM	5	SE NW	POD #13 - SOUTH 65° 46' 27" WEST 3621.45 FEET FROM THE NE CORNER OF SECTION 5

Certificate: 76714 in the name of CENTRAL OREGON IRRIGATION DISTRICT (perfected under Permit S-23256, as modified by Sp. Ord Vol.74, P. 270, and confirmed by Sp. Ord. Vol. 100, P. 76)

Use: SUPPLEMENTAL IRRIGATION OF 6.31 ACRES

Priority Date: FEBRUARY 28, 1913

Limit/Duty: The water right evidenced by certificate 76714 allows the use of up to 50,000 AF 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.

Source: CRANE PRAIRIE RESERVOIR (CONSTRUCTED UNDER PERMIT R-1687), a tributary of DESCHUTES RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
21 S	8 E	WM	17	NE NE	CRANE PRAIRIE RESERVOIR DAM
18 S	12 E	WM	5	SE NW	SOUTH 65° 46' 27" WEST 3621.56 FEET FROM THE NE CORNER OF SECTION 5

Authorized Place of Use:

Twp	Rng	Mer	Sec	Tax Lot	Q-Q	Certificate (acres)	
						83571 (IR)	76714 (IS)
18 S	12 E	WM	5	101	NW SW	2.22	2.22
18 S	12 E	WM	6	101	NE SE	1.12	1.12
18 S	12 E	WM	6	2200	NE SE	2.48	2.48
18 S	12 E	WM	6	2200	NW SE	0.21	0.21
18 S	12 E	WM	6	2200	SW SE	0.28	0.28
Total						6.31	6.31

8. Transfer Application T-12461 proposes to change the points of diversion for the two above described water rights southwest approximately 2900 feet upstream to an existing Riverbend Park pump station located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	12 E	WM	5	NW SW	POD #17 - SOUTH 6° 24' 37" EAST 783.10 FEET FROM THE WEST ¼ CORNER OF SECTION 5

9. 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 described as:

Seasons of Use: Season 1: April 1 through April 30 and October 1 through October 31
Season 2: May 1 through May 14 and September 15 through September 30
Season 3: May 15 through September 14

Transfer Review Criteria [OAR 690-380-4010(2)]

10. Water has been used within the five-year period prior to submittal of the transfer application 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.
11. A diversion structure, pumps and delivery system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-12461.
12. The proposed changes would not result in enlargement of the rights.
13. The rate and duty allowed under the existing water right Certificate 83571 (under the terms of the decree) for each acre irrigated by the Central Oregon Irrigation District main canal systems reflect a 45% transmission loss. The lands not served by from the district main canal systems, but by direct pumping from the Deschutes River, are not allowed the 45% transmission loss.
14. Transfer Application T-12461 proposes to move the points 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 stored water from reservoir releases are coming down river and October 15-31 when the stored water is no longer being released.
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 during the periods from April 1-15 and October 15-31 of each year. However, in establishing the flow rate evidenced in the water right subject to transfer, Certificate 83571, the Central Oregon Irrigation District has agreed 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 periods from April 1-15 and October 15-31. As conditioned in Finding of Fact #14 above, the Department finds the proposed transfer will not result injury to other rights.
16. The City of Bend Metro Parks and Recreation District is a municipality as defined in ORS Chapter 540.510(3)(b), Chapter 261 and a water supplier defined in ORS 448.115. Therefore, pursuant to OAR 690-380-3000(13)(b), the applicant is not required to provide a report of ownership information.

Conclusions of Law

The changes in points of diversion proposed in Transfer Application T-12461 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 points of diversion proposed in Transfer Application T-12461 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. Water right Certificates 83571 and 76714 are modified. The Department will issue superseding certificates describing these rights when it determines that it is necessary for record keeping.
4. The quantity of water diverted at the new points of diversion shall not exceed the quantity of water lawfully available at the original points of diversion.
5. 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 of April 1 through October 31, outside of the operational season of Central Oregon Irrigation District, when water is not be delivered by the District.
6. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device at the new point of diversion.
 - b. The water user shall maintain the meter or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
7. Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.

The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2019**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner 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.

Dated at Salem, Oregon this 22 day of March 2018.



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing date: MAR 26 2018