# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A
T-10856, Deschutes County	)	TEMPORARY CHANGES IN PLACE
	)	OF USE AND POINT OF DIVERSION

### **Authority**

ORS 540.505 to 540.580 establish the process in which a water right holder may submit a request to temporarily transfer the place of use and, if necessary to convey the water to the temporary place of use, the point of diversion 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.

#### **Applicants**

BEND METRO PARKS & RECREATION 200 NW PACIFIC PARK LANE BEND, OR 97702 ARNOLD IRRIGATION DISTRICT 19604 BUCK CANYON RD BEND, OR 97702

### **Findings of Fact**

- On April 21, 2009, BEND METRO PARKS & RECREATION and ARNOLD IRRIGATION DISTRICT filed an application to temporarily change the place of use and point of diversion (necessary to convey water to the temporary place of use) under Certificates 74197 and 76714 for a period of one year. The Department assigned the application number T-10856.
- 2. The portion of the first right to be temporarily transferred is as follows:

Certificate: 74197 in the name of Arnold Irrigation District (confirmed by the

Deschutes River decree)

Use: IRRIGATION of 9.24 ACRES
Priority Date: February 1, 1905; April 25, 1905

Rate: Limited to not more than the rate specified by source and a total diversion

not to exceed 125.0 cfs from all sources. Maximum of 15.42 acre-feet for

each acre irrigated during the irrigation season of each year.

Source: DESCHUTES RIVER tributary to the Columbia River

This is a final 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 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.

**Authorized Points of Diversion:** 

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	11 E	WM	13	NE SW	DIVERSION 6 – 2710 FEET SOUTH AND 2830 FEET WEST FROM THE NE CORNER OF SECTION 13
18 S	11 E	WM	27	NE SW	DIVERSION 1 – ARNOLD CANAL – 2800 FEET SOUTH AND 3740 FEET WEST FROM THE NE CORNER OF SECTION 27

**Authorized Place of Use:** 

	IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot		
18 S	11 E	WM	13	NW SE	2.14	1200		
18 S	12 E	WM	3	SW SW	4.13	5600		
18 S	12 E	WM	3	SW SW	1.62	5900		
18 S	12 E	WM	3	SW SW	1.35	6000		
	_			Total:	9.24			

3. Temporary Transfer Application T-10856 proposes to temporarily change the place of use of the right to:

	IRRIGATION								
Twp	Twp Rng Mer Sec Q-Q Acres Tax								
18 S	12E	WM	5	NE SE	0.25	700			
18 S	12 E	WM	5	NW SW	0.18	700			
18 S	12 E	WM	5	NW SW	0.47	800			
18 S	12 E	WM	5	NE SW	0.03	800			
18 S	12 E	WM	5	NW SW	8.31	801			
11				Total:	9.24				

4. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-10856 proposes to change point of diversion to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	12 E	WM	5	SE NW	SOUTH 65 DEGREES 46 MINUTES 27 SECONDS WEST, 3621.45 FEET FROM THE NE CORNER OF SECTION 5

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

Certificate: 74197 in the name of Central Oregon Irrigation District (perfected under

Permit S-23256)

Use: SUPPLEMENTAL IRRIGATION of 9.24 ACRES

Priority Date: February 28, 1913

Rate: 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.

**Authorized Points of Diversion:** 

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	11 E	WM	13	NE SW	ARNOLD 6 – 2710 FEET SOUTH AND 2830 FEET WEST FROM THE NE CORNER OF SECTION 13
18 S	11 E	WM	27	NE SW	ARNOLD IRRIGATION DISTRICT MAIN CANAL – 2800 FEET SOUTH AND 3740 FEET WEST FROM THE NE CORNER OF SECTION 27
21 S	8 E	WM	17	NE NE	CRANE PRAIRIE RESERVOIR DAM

**Authorized Place of Use:** 

	IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot		
18 S	11 E	WM	13	NW SE	2.14	1200		
18 S	12 E	WM	3	SWSW	4.13	5600		
18 S	12 E	WM	3	SW SW	1.62	5900		
18 S	12 E	WM	3	SW SW	1.35	6000		
				Total:	9.24			

6. Temporary Transfer Application T-10856 proposes to temporarily change the place of use of the right to:

	IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot		
18 S	12E	WM	5	NE SE	0.25	700		
18 S	12 E	WM	5	NW SW	0.18	700		
18 S	12 E	WM	5	NWSW	0.47	800		
18 S	12 E	WM	5	NE SW	0.03	800		
18 S	12 E	WM	5	NW SW	8.31	801		
				Total:	9.24			

7. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-10856 proposes to change point of diversion to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	12 E	WM	5	SE NW	SOUTH 65 DEGREES 46 MINUTES 27 SECONDS WEST, 3621.45 FEET FROM THE NE CORNER OF SECTION 5

8. Notice of the application for temporary transfer was published on May 5, 2009, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.

## Temporary Transfer Review Criteria

- 9. The right was leased instream under L-519 and L-926 during the years 2004 to 2008 and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610..
- 10. A pump sufficient to use the full amount of water allowed under the existing right is present.

- 11. The proposed change would not result in enlargement of the right.
- 12. The proposed change would not result in injury to other water rights. This finding is made through an abbreviated review recognizing that the transfer may be revoked under ORS 540.523(6) if the Department later finds that the transfer is causing injury to any existing water right.

#### Conclusions of Law

The temporary changes in place of use and point of diversion as proposed in Temporary Transfer Application T-10856 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

### Now, therefore, it is ORDERED:

- 1. The temporary changes in place of use and point of diversion as proposed in Temporary Transfer Application T-10856 are approved.
- 2. The former place of use **shall not** be irrigated as part of this water right during the 2009, irrigation season.
- 3. The use shall revert to the authorized place of use at the end of the 2009 irrigation season.
- 4. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
- 5. A subsequent application for permanent transfer of Certificates 74197 and 76714 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
- 6. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificates 74197 and 76714.
- 7. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
- 8. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
- 9. The water user shall maintain the meters or measuring devices in good working order.
- 10. The water user shall measure and report to the district the amount used for the lands involved in this transfer.
- 11. The use of the remaining water right described by Certificates 74197 and 76714 shall continue to be in accordance with the terms and conditions of Certificates 74197 and 76714.

Dated at Salem, Oregon this \_\_\_\_\_\_ day of June, 2009.

Phillip C. Ward, Director

Mailing Date: JUN 1 2 2009