

T-10391

T-10391

INSTREAM

MP-108

RA

Name Deschutes River Conservancy

By + COID

Address 700 NW Hill Street  
Bend, OR, 97701  
541-382-4077 x21

Change in USE/PDU

Date filed 5-18-07

Date of hearing \_\_\_\_\_

Place of hearing \_\_\_\_\_

Date of order 2-26-08 Vol. 74, page 249

Date for application of water \_\_\_\_\_

Proof mailed \_\_\_\_\_

Proof received \_\_\_\_\_

Certificate issued \_\_\_\_\_ Vol. \_\_\_\_\_, page \_\_\_\_\_

83896

DESCRIPTION OF WATER RIGHT

Name of stream Deschutes River

Trib. of Columbia River County of Deschutes

Use Irrigation

Quantity of water \_\_\_\_\_ No. of acres \_\_\_\_\_

Name of ditch \_\_\_\_\_

Date of priority 10/31/1900 + 12/2/1907

In name of COID

\_\_\_\_\_ Adjudication, Vol. \_\_\_\_\_, page \_\_\_\_\_

App. No. \_\_\_\_\_ Per. No. \_\_\_\_\_ Cert. No. 76358

Certificate cancelled \_\_\_\_\_

Notation made on record by \_\_\_\_\_

FEES PAID

| Date        | Amount    | Receipt No. |
|-------------|-----------|-------------|
| 5/18/07     | 475.00    | 87649       |
| TOTAL . . . |           |             |
|             | Cert. Fee |             |

FEES REFUNDED

| Date | Amount | Check No. |
|------|--------|-----------|
|      |        |           |

REMARKS

COID/BOR/Deschutes Co Planning Dept/City of Redmond Planning Dept.  
City of Bend Planning Division/Jefferson Co. Planning Dept.  
Confederated Tribes of Warm Springs Planning Dept.  
Public Notice: 5/29/2007  
Contractor: Terrance Anthony

N/C

# Water Rights Platcard Report

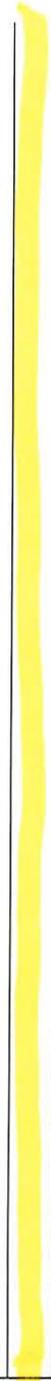
Meridian: WILLAMETTE Township: 15 South Range: 13 East Section: 3 Records per Page: 100 Search

| Water Right  | Changing Xfers   | Priority   | Use        | Use Status | DLC | Gov't Lot | QQ(40): Q(160): | NE NE | NW NE | SW NE | SE NE | NE NW | NW NW | SW NW | SE NW | NE SW | NW SW | SW SW | SE SW | NE SE | NW SE | SW SE | SE SE | Unkown QQ |
|--|--|------------|------------|------------|-----|-----------|-----------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-----------|
| <u>Select</u> Cert:55977 RR CN<br>Additional Info:<br>JOHN POWELL<br>Decree: CROOKED RIVER<br>Cert: 55977                              | T7605  | 12/31/1869 | DOMESTIC   | CN         |     | 3         |                 |       |       |       | *     |       |       |       | *     |       |       |       |       |       |       |       |       |           |
| <u>Select</u> Cert:55977 OR WD<br>Additional Info:<br>BRIAN BARNEY<br>Decree: CROOKED RIVER<br>Cert: 55977                             | T8760  | 12/31/1869 | DOMESTIC   | WD         |     | 3         |                 |       |       |       | *     |       |       |       | *     |       |       |       |       |       |       |       |       |           |
| <u>Select</u> Inchoate: T 8760 (REG) WD<br>Additional Info:<br>OCHOCO IRRIGATION DISTRICT<br>Decree: CROOKED RIVER                     |  | 12/31/1869 | DOMESTIC   | WD         |     | 3         |                 |       |       |       | (*)   |       |       |       | (*)   |       |       |       |       |       |       |       |       |           |
| <u>Select</u> Cert:29052 CF CN<br>Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F)<br>Cert: 29052 | IL4, IL7, IL73, T7513, T4397, T3176, Z5, T6123, T6295, T4591, T5989, T4626, T5303, T3030, T2572, T3465, T2707, T2425, T7574            |            | IRRIGATION | CN         |     |           | 8               | 29    | 33    | 24    | 28    | 31-2  | 27    | 27    | 35    | 35    | 32    | 39    | 3     | 18    | 25    |       |       |           |
| <u>Select</u> Cert:63682 OR *<br>Additional Info:<br>ORVAIL BUCKNER<br>App: G9840<br>Permit: G10313<br>Cert: 63682                     |  | 11/30/1983 | IRRIGATION |            |     |           |                 |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       | 30    |           |
| <u>Select</u> Cert:76358 CF *<br>Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F)<br>Cert: 76358  | T9283, T9769, T9440, T9462, T9441, IL187, IL142, CW39, CW42, T9721, T9722, T9723, T9605, T10224, T9784, T9785, T10259, T10257, T10258, |            | IRRIGATION |            |     |           | 19              | 29    | 31    | 27    | 29    | 31.6  | 26.5  | 24    | 34.5  | 34    | 27.1  | 32.6  | 3     | 30.56 | 24.2  |       |       |           |

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| <u>Select</u> Inchoate: T 9314 CF (DST) *   | IRRIGATION |                | (19) | (29) | (31) | (27) | (29) | (31.6) | (26.5) | (24) | (34.5) | (34) | (27.1) | (32.6) | (3) | (30.56) | (24.2) |   |
| Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F) |            |                |      |      |      |      |      |        |        |      |        |      |        |        |     |         |        |   |
| <u>Select</u> Inchoate: T 9423 (DRO) WD   | IRRIGATION | WD             | (19) | (29) | (31) | (27) | (29) | (31.6) | (26.5) | (24) | (34.5) | (34) | (27.1) | (32.6) | (3) | (30.56) | (24.2) |   |
| Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F) |            |                |      |      |      |      |      |        |        |      |        |      |        |        |     |         |        |   |
| <u>Select</u> Inchoate: T 9424 (DRO) WD   | IRRIGATION | WD             | (19) | (29) | (31) | (27) | (29) | (31.6) | (26.5) | (24) | (34.5) | (34) | (27.1) | (32.6) | (3) | (30.56) | (24.2) |   |
| Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F) |            |                |      |      |      |      |      |        |        |      |        |      |        |        |     |         |        |   |
| <u>Select</u> Inchoate: T 9553 (IS ) WD   | IRRIGATION | WD             | (19) | (29) | (31) | (27) | (29) | (31.6) | (26.5) | (24) | (34.5) | (34) | (27.1) | (32.6) | (3) | (30.56) | (24.2) |   |
| Additional Info:<br>BRIAN STEVENS<br>Decree: DESCHUTES RIVER (F)                      |            |                |      |      |      |      |      |        |        |      |        |      |        |        |     |         |        |   |
| <u>Select</u> Inchoate: T 9555 (IS ) WD   | IRRIGATION | WD             | (19) | (29) | (31) | (27) | (29) | (31.6) | (26.5) | (24) | (34.5) | (34) | (27.1) | (32.6) | (3) | (30.56) | (24.2) |   |
| Additional Info:<br>BRIAN STEVENS<br>Decree: DESCHUTES RIVER (F)                      |            |                |      |      |      |      |      |        |        |      |        |      |        |        |     |         |        |   |
| <u>Select</u> Inchoate: T 9214 (REG) WD   | IRRIGATION | WD             | (19) | (29) | (31) | (27) | (29) | (31.6) | (26.5) | (24) | (34.5) | (34) | (27.1) | (32.6) | (3) | (30.56) | (24.2) |   |
| Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F) |            |                |      |      |      |      |      |        |        |      |        |      |        |        |     |         |        |   |
| <u>Select</u> Inchoate: T 9597 CF (REG) WD  | IRRIGATION | WD             | (19) | (29) | (31) | (27) | (29) | (31.6) | (26.5) | (24) | (34.5) | (34) | (27.1) | (32.6) | (3) | (30.56) | (24.2) |   |
| Additional Info:<br>EAGLE CREST INC.<br>Decree: DESCHUTES RIVER (F)                   |            |                |      |      |      |      |      |        |        |      |        |      |        |        |     |         |        |   |
| <u>Select</u> App:G 14908 *   | 1/13/1999  | MUNICIPAL USES | *    | *    | *    | *    | *    | *      | *      | *    | *      | *    | *      | *      | *   | *       | *      | * |
| Additional Info:<br>CITY OF REDMOND<br>App: G14908                                    |            |                |      |      |      |      |      |        |        |      |        |      |        |        |     |         |        |   |



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| Select <b>Cert:76358 CF *</b><br><br>Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F)<br>Cert: 76358 | T9283,<br>T9769,<br>T9440,<br>T9462,<br>T9441,<br>IL187,<br>IL142,<br>CW39,<br>CW42,<br>T9721,<br>T9722,<br>T9723,<br>T9605,<br>T10224,<br>T9784,<br>T9785,<br>T10259,<br>T10257,<br>T10258,<br>T10256,<br>T10267,<br>T10276,<br>T10274,<br>T10278,<br>IL823,<br>IL824,<br>IL825,<br>IL495,<br>IL496,<br>IL497,<br>IL498,<br>IL520,<br>IL521,<br>IL522,<br>IL523,<br>IL524,<br>IL525,<br>IL526,<br>IL527,<br>IL528,<br>IL529,<br>IL530,<br>IL531,<br>IL532,<br>IL533,<br>IL534,<br>IL535,<br>IL536,<br>IL537,<br>IL538,<br>IL539,<br>IL540,<br>IL542,<br>IL543,<br>IL544,<br>IL545,<br>IL546,<br>IL547,<br>IL548, | STORAGE |  |  | 0.6 |  |  |  | 0.5 |  |  |  |  |  |  |  |  |  |  |

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| <u>Select</u> Inchoate: T 9314 CF (DST) *   | STORAGE |    |  | (0.6) | (0.5) |  |  |  |
| Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F) |         |    |  |       |       |  |  |  |
| <u>Select</u> Inchoate: T 9423 (DRO) WD   | STORAGE | WD |  | (0.6) | (0.5) |  |  |  |
| Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F) |         |    |  |       |       |  |  |  |



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|                 |                       |                                      |  |                                    |                            |
|-----------------|-----------------------|--------------------------------------|--|------------------------------------|----------------------------|
| Acreage Legend: | 12.25 Regular acreage | 12.25 Acreage is on a canceled right | (12.25) Acreage is part of a transfer and has not been proven up on yet (inchoate) | [12.25] Acreage has been suspended | * Acreage is not specified |
|-----------------|-----------------------|--------------------------------------|--|------------------------------------|----------------------------|

**Water Rights Platcard Report**

*Need to check amount of SOP to be cancelled - match? - checking as poss wris error (wr's error)*

Meridian: WILLAMETTE Township: 15 South Range: 13 East Section: 19 Records per Page: 100 Search

| Water Right  | Changing Xfers   | Priority  | Use        | Use Status | DLC | Gov't Lot | QQ(40) Q(160) | NE NE | NW NE | SW NE | SE NE | NE NW | NW NW | SW NW | SE NW | NE SW | NW SW | SW SW | SE SW | NE SE | NW SE | SW SE | SE SE | Unkown QQ |
|--|--|-----------|------------|------------|-----|-----------|---------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-----------|
| <u>Select</u> Cert:29052 CF CN<br><br>Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F)<br>Cert: 29052 | IL4, IL7, IL73, T7513, T4397, T3176, Z5, T6123, T6295, T4591, T5989, T4626, T5303, T3030, T2572, T3465, T2707, T2425, T7574  |           | IRRIGATION | CN         |     |           |               | 34    | 31    | 20    | 21    | 32    | 20    | 28    | 23.5  | 5.8   | 18    | 17    |       |       |       |       |       |           |
| <u>Select</u> Cert:64030 OR *<br><br>Additional Info:<br>LAVETTA WELCH<br>App: G10659<br>Permit: G9760<br>Cert: 64030                      |  | 2/23/1982 | IRRIGATION |            |     |           |               |       | 3.6   |       |       |       |       |       |       |       |       |       |       |       |       |       |       |           |
| <u>Select</u> Cert:76358 CF *<br><br>Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F)<br>Cert: 76358  | T9283, T9769, T9440, T9462, T9441, IL187, IL142, CW39, CW42, T9721, T9722, T9723, T9605, T10224, T9784, T9785, T10259, T10257, T10258, T10256, T10267, T10276, T10274, T10278, IL823, IL824, IL825, IL495, IL496, IL497, IL498, IL520, IL521, IL522, IL523, IL524, IL525, IL526, |           | IRRIGATION |            |     |           |               | 32.3  | 31    | 14.6  | 26.8  | 32    | 20    | 35.7  | 17.8  | 6.2   | 19.4  | 18.6  |       |       |       |       |       |           |

*subject right*

*3.6 ac - lot 1100 SW SW still there? (listed on pg 40) or 76714 (pg 40) listed on but not on cert 76358 election*







T9983,  
T9981,  
T9982,  
T9984,  
T9985,  
T10004,  
T10018,  
T10035,  
T10036,  
T10058

*76358 - subject right*

|   |            |                |        |      |        |        |      |      |        |        |       |        |        |   |   |   |   |   |   |   |   |   |
|---|------------|----------------|--------|------|--------|--------|------|------|--------|--------|-------|--------|--------|---|---|---|---|---|---|---|---|---|
| <u>Select</u> <b>Inchoate: T 9314 CF (DST) *</b>                                      | IRRIGATION |                | (32.3) | (31) | (14.6) | (26.8) | (32) | (20) | (35.7) | (17.8) | (6.2) | (19.4) | (18.6) |   |   |   |   |   |   |   |   |   |
| Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F) |            |                |        |      |        |        |      |      |        |        |       |        |        |   |   |   |   |   |   |   |   |   |
| <u>Select</u> <b>Inchoate: T 9423 (DRO) WD</b>  | IRRIGATION | WD             | (32.3) | (31) | (14.6) | (26.8) | (32) | (20) | (35.7) | (17.8) | (6.2) | (19.4) | (18.6) |   |   |   |   |   |   |   |   |   |
| Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F) |            |                |        |      |        |        |      |      |        |        |       |        |        |   |   |   |   |   |   |   |   |   |
| <u>Select</u> <b>Inchoate: T 9424 (DRO) WD</b>  | IRRIGATION | WD             | (32.3) | (31) | (14.6) | (26.8) | (32) | (20) | (35.7) | (17.8) | (6.2) | (19.4) | (18.6) |   |   |   |   |   |   |   |   |   |
| Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F) |            |                |        |      |        |        |      |      |        |        |       |        |        |   |   |   |   |   |   |   |   |   |
| <u>Select</u> <b>Inchoate: T 9553 (IS ) WD</b>  | IRRIGATION | WD             | (32.3) | (31) | (14.6) | (26.8) | (32) | (20) | (35.7) | (17.8) | (6.2) | (19.4) | (18.6) |   |   |   |   |   |   |   |   |   |
| Additional Info:<br>BRIAN STEVENS<br>Decree: DESCHUTES RIVER (F)                      |            |                |        |      |        |        |      |      |        |        |       |        |        |   |   |   |   |   |   |   |   |   |
| <u>Select</u> <b>Inchoate: T 9555 (IS ) WD</b>  | IRRIGATION | WD             | (32.3) | (31) | (14.6) | (26.8) | (32) | (20) | (35.7) | (17.8) | (6.2) | (19.4) | (18.6) |   |   |   |   |   |   |   |   |   |
| Additional Info:<br>BRIAN STEVENS<br>Decree: DESCHUTES RIVER (F)                      |            |                |        |      |        |        |      |      |        |        |       |        |        |   |   |   |   |   |   |   |   |   |
| <u>Select</u> <b>Inchoate: T 9214 (REG) WD</b>  | IRRIGATION | WD             | (32.3) | (31) | (14.6) | (26.8) | (32) | (20) | (35.7) | (17.8) | (6.2) | (19.4) | (18.6) |   |   |   |   |   |   |   |   |   |
| Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F) |            |                |        |      |        |        |      |      |        |        |       |        |        |   |   |   |   |   |   |   |   |   |
| <u>Select</u> <b>Inchoate: T 9597 CF (REG) WD</b>                                     | IRRIGATION | WD             | (32.3) | (31) | (14.6) | (26.8) | (32) | (20) | (35.7) | (17.8) | (6.2) | (19.4) | (18.6) |   |   |   |   |   |   |   |   |   |
| Additional Info:<br>EAGLE CREST INC.<br>Decree: DESCHUTES RIVER (F)                   |            |                |        |      |        |        |      |      |        |        |       |        |        |   |   |   |   |   |   |   |   |   |
| <u>Select</u> <b>App:G 14908 *</b>  | 1/13/1999  | MUNICIPAL USES | *      | *    | *      | *      | *    | *    | *      | *      | *     | *      | *      | * | * | * | * | * | * | * |   |   |
| Additional Info:<br>CITY OF REDMOND<br>App: G14908                                    |            |                |        |      |        |        |      |      |        |        |       |        |        |   |   |   |   |   |   |   |   |   |
| <u>Select</u> <b>App:G 15850 MF</b>   | 10/8/2002  | MUNICIPAL USES | MF     |      | x      | x      |      |      |        | x      | x     | x      | x      | x | x | x | x | x | x | x |   |   |
| Additional Info:<br>MARY MELOY<br>App: G15850   |            |                |        |      |        |        |      |      |        |        |       |        |        |   |   |   |   |   |   |   |   |   |
| <u>Select</u> <b>Cert:47491 OR CN</b>   | 9/5/1969   | MUNICIPAL USES | CN     |      |        |        |      |      |        |        |       |        |        |   |   |   |   | x | x | x | x | x |
| Additional Info:<br>CITY OF REDMOND<br>App: G4981<br>Permit: G4700<br>Cert: 47491     |            |                |        |      |        |        |      |      |        |        |       |        |        |   |   |   |   |   |   |   |   |   |
| <u>Select</u> <b>Cert:64139 OR CN</b>   | 9/25/1985  | MUNICIPAL USES | CN     |      |        |        |      |      |        |        |       |        |        |   |   |   |   | x | x |   | x | x |
| Additional Info:<br>CITY OF REDMOND<br>App: G11439<br>Permit: G10544<br>Cert: 64139   |            |                |        |      |        |        |      |      |        |        |       |        |        |   |   |   |   |   |   |   |   |   |

|   |        |            |                  |    |   |   |   |   |   |   |   |   |   |   |   |   |     |     |     |     |       |       |
|---|--------|------------|------------------|----|---|---|---|---|---|---|---|---|---|---|---|---|-----|-----|-----|-----|-------|-------|
| <u>Select</u> <b>Cert:80232 CF CN</b>   | T10162 | 9/5/1969   | MUNICIPAL USES   | CN |   |   |   |   |   |   |   |   |   |   |   |   | *   | *   | *   | *   | *     |       |
| Additional Info:<br>CITY OF REDMOND<br>App: G4981<br>Permit: G4700<br>Cert: 80232       |        |            |                  |    |   |   |   |   |   |   |   |   |   |   |   |   |     |     |     |     |       |       |
| <u>Select</u> <b>Cert:80233 CF CN</b>   | T10162 | 9/25/1985  | MUNICIPAL USES   | CN |   |   |   |   |   |   |   |   |   |   |   |   | *   | *   |     | *   | *     |       |
| Additional Info:<br>CITY OF REDMOND<br>App: G11439<br>Permit: G10544<br>Cert: 80233     |        |            |                  |    |   |   |   |   |   |   |   |   |   |   |   |   |     |     |     |     |       |       |
| <u>Select</u> <b>Permit:G 12401 *</b>   | T10163 | 11/25/1991 | MUNICIPAL USES   |    | * | * | * | * | * | * | * | * | * | * | * | * | *   | *   | *   | *   | *     |       |
| Additional Info:<br>CITY OF REDMOND<br>App: G12731<br>Permit: G12401                    |        |            |                  |    |   |   |   |   |   |   |   |   |   |   |   |   |     |     |     |     |       |       |
| <u>Select</u> <b>Inchoate: T 10162 CF (REG) *</b>                                       |        | 9/5/1969   | MUNICIPAL USES   |    |   |   |   |   |   |   |   |   |   |   |   |   | (*) | (*) | (*) | (*) | (*)   |       |
| Additional Info:<br>PATRICK DORNING<br>App: G4981<br>Permit: G4700                      |        |            |                  |    |   |   |   |   |   |   |   |   |   |   |   |   |     |     |     |     |       |       |
| <u>Select</u> <b>Inchoate: T 10162 CF (REG) *</b>                                       |        | 9/25/1985  | MUNICIPAL USES   |    |   |   |   |   |   |   |   |   |   |   |   |   | (*) | (*) |     | (*) | (*)   |       |
| Additional Info:<br>PATRICK DORNING<br>App: G11439<br>Permit: G10544                    |        |            |                  |    |   |   |   |   |   |   |   |   |   |   |   |   |     |     |     |     |       |       |
| <u>Select</u> <b>Permit:G 6793 *</b>  |        | 3/27/1975  | MUNICIPAL USES   |    |   |   |   |   |   |   |   |   |   |   |   |   | *   | *   |     | *   | *     |       |
| Additional Info:<br>CITY OF REDMOND<br>App: G6865<br>Permit: G6793                      |        |            |                  |    |   |   |   |   |   |   |   |   |   |   |   |   |     |     |     |     |       |       |
| <u>Select</u> <b>Cert:82751 OR *</b>  |        | 11/7/1979  | MUNICIPAL USES   |    |   |   |   |   |   |   |   |   |   |   |   |   | *   | *   |     | *   |       |       |
| Additional Info:<br>CITY OF REDMOND<br>App: G9462<br>Permit: G8866<br>Cert: 82751       |        |            |                  |    |   |   |   |   |   |   |   |   |   |   |   |   |     |     |     |     |       |       |
| <u>Select</u> <b>Inchoate: T 9423 (DRO) WD</b>  |        | 2/28/1913  | POND MAINTENANCE | WD |   |   |   |   |   |   |   |   |   |   |   |   |     |     |     |     | (0.2) |       |
| Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>App: S13180<br>Permit: S23256 |        |            |                  |    |   |   |   |   |   |   |   |   |   |   |   |   |     |     |     |     |       |       |
| <u>Select</u> <b>Inchoate: T 9424 (DRO) WD</b>  |        | 2/28/1913  | POND MAINTENANCE | WD |   |   |   |   |   |   |   |   |   |   |   |   |     |     |     |     |       | (0.2) |
| Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>App: S13180                   |        |            |                  |    |   |   |   |   |   |   |   |   |   |   |   |   |     |     |     |     |       |       |
| <u>Select</u> <b>Inchoate: T 9553 (IS ) WD</b>  |        | 2/28/1913  | POND MAINTENANCE | WD |   |   |   |   |   |   |   |   |   |   |   |   |     |     |     |     |       | (0.2) |
| Additional Info:<br>BRIAN STEVENS<br>App: S13180  |        |            |                  |    |   |   |   |   |   |   |   |   |   |   |   |   |     |     |     |     |       |       |
| <u>Select</u> <b>Inchoate: T 9555 (IS ) WD</b>  |        | 2/28/1913  | POND MAINTENANCE | WD |   |   |   |   |   |   |   |   |   |   |   |   |     |     |     |     |       | (0.2) |
| Additional Info:<br>BRIAN STEVENS<br>App: S13180<br>Permit: S23256                      |        |            |                  |    |   |   |   |   |   |   |   |   |   |   |   |   |     |     |     |     |       |       |

|  |           |                  |    |       |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|--|-----------|------------------|----|-------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| <u>Select</u> Inchoate: T 9214 (REG) WD  | 2/28/1913 | POND MAINTENANCE | WD | (0.2) |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>App: S13180  |           |                  |    |       |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| <u>Select</u> Cert:76714 CF *  | 2/28/1913 | POND MAINTENANCE |    | 0.2   |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>App: S13180<br>Permit: S23256<br>Cert: 76714   |           |                  |    |       |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| IL495,<br>IL496,<br>IL497,<br>IL498,<br>IL516,<br>IL517,<br>IL518,<br>IL519,<br>IL520,<br>IL521,<br>IL522,<br>IL523,<br>IL524,<br>IL525,<br>IL526,<br>IL527,<br>IL528,<br>IL529,<br>IL530,<br>IL531,<br>IL532,<br>IL533,<br>IL534,<br>IL535,<br>IL536,<br>IL537,<br>IL538,<br>IL539,<br>IL540,<br>IL542,<br>IL543,<br>IL544,<br>IL545,<br>IL546,<br>IL547,<br>IL548,<br>IL549,<br>IL567,<br>IL568,<br>IL569,<br>IL570,<br>IL571,<br>IL581,<br>IL584,<br>IL599,<br>IL600,<br>IL608,<br>IL611,<br>IL619,<br>IL626,<br>IL627,<br>IL631,<br>IL632,<br>IL633,<br>IL635,<br>IL636,<br>IL637,<br>IL638,<br>IL639,<br>IL640,<br>IL641,<br>IL645,<br>IL368,<br>IL369,<br>IL370,<br>IL372,<br>IL373,<br>IL374,<br>IL375,<br>IL376,<br>IL377, |           |                  |    |       |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |

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|---|--|--|------------|--|--|--|--|------------|--|--|--|--|--|--|--|
| <p><u>Select</u> <b>Permit:G 15866 *</b><br/>                 Additional Info:<br/>                 BENTWOOD ESTATES WATER DISTRICT<br/>                 App: G14867<br/>                 Permit: G15866</p>                | <p>11/16/1998 QUASI-MUNICIPAL<br/>                 USES</p>  |  |            |  |  |  |  |            |  |  |  |  |  |  |  |
| <p><u>Select</u> <b>Cert:76358 CF *</b><br/>                 Additional Info:<br/>                 CENTRAL OREGON IRRIGATION DISTRICT<br/>                 Decree: DESCHUTES RIVER (F)<br/>                 Cert: 76358</p> | <p>T9283,<br/>                 T9769,<br/>                 T9440,<br/>                 T9462,<br/>                 T9441,<br/>                 IL187,<br/>                 IL142,<br/>                 CW39,<br/>                 CW42,<br/>                 T9721,<br/>                 T9722,<br/>                 T9723,<br/>                 T9605,<br/>                 T10224,</p> |  | <p>0.2</p> |  |  |  |  | <p>1.2</p> |  |  |  |  |  |  |  |















N/A

### Water Rights Platcard Report

Meridian: WILLAMETTE Township: 15 South Range: 13 East Section: 20 Records per Page: 100 Search

| Water Right  | Changing Xfers  | Priority | Use        | Use Status | DLC | Gov't Lot | QQ(40):<br>Q(160): | NE<br>NE | NW<br>NE | SW<br>NE | SE<br>NE | NE<br>NW | NW<br>NW | SW<br>NW | SE<br>NW | NE<br>SW | NW<br>SW | SW<br>SW | SE<br>SW | NE<br>SE | NW<br>SE | SW<br>SE | SE<br>SE | Unkwn<br>QQ |
|--|---|----------|------------|------------|-----|-----------|--------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|-------------|
| <u>Select</u> Cert:29052 CF CN<br>Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F)<br>Cert: 29052 | IL4, IL7,<br>IL73,<br>T7513,<br>T4397,<br>T3176,<br>T524,<br>Z5,<br>T6123,<br>T6295,<br>T4591,<br>T5989,<br>T4626,<br>T5303,<br>T3030,<br>T2572,<br>T3465,<br>T2707,<br>T2425,<br>T7574   |          | IRRIGATION | CN         |     |           |                    | 21.5     | 25       | 32       | 33       | 33       | 37       | 31       | 35       | 40       | 10       | 4        | 36       | 33.5     | 21       | 29       | 19       |             |
| <u>Select</u> Cert:76358 CF *<br>Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F)<br>Cert: 76358  | T9283,<br>T9769,<br>T9440,<br>T9462,<br>T9441,<br>IL187,<br>IL142,<br>CW39,<br>CW42,<br>T9721,<br>T9722,<br>T9723,<br>T9605,<br>T10224,<br>T9784,<br>T9785,<br>T10259,<br>T10257,<br>T10258,<br>T10256,<br>T10267,<br>T10276,<br>T10274,<br>T10278,<br>IL823,<br>IL824,<br>IL825,<br>IL495,<br>IL496,<br>IL497,<br>IL498,<br>IL520,<br>IL521,<br>IL522,<br>IL523,<br>IL524,<br>IL525,<br>IL526,<br>IL527,<br>IL528,<br>IL529,<br>IL530,<br>IL531,<br>IL532,<br>IL533,<br>IL534, |          | IRRIGATION |            |     |           |                    | 5.65     |          | 10.48    | 9.51     |          | 8.7      | 5        | 1        | 12.03    | 2        | 3        |          | 10.01    | 6.38     | 3.8      | 4.01     |             |

Subject right

10.01  
x feet  
- 2.33 ac

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N/C

Water Rights Platcard Report

Meridian: WILLAMETTE Township: 15 South Range: 13 East Section: 4 Records per Page: 100 Search

| Water Right  | Changing Xfers  | Priority   | Use        | Use Status | DLC | Gov't Lot | QQ(40): Q(160): | NE NE | NW NE | SW NE | SE NE | NE NW | NW NW | SW NW | SE NW | NE SW | NW SW | SW SW | SE SW | NE SE | NW SE | SW SE | SE SE | Unkown QQ |
|--|---|------------|------------|------------|-----|-----------|-----------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-----------|
| <u>Select</u> Cert:55977 RR CN<br>Additional Info:<br>JOHN POWELL<br>Decree: CROOKED RIVER<br>Cert: 55977                              | T7605   | 12/31/1869 | DOMESTIC   | CN         |     | 3         |                 |       |       |       |       | *     | *     |       |       |       |       |       |       |       |       |       |       |           |
| <u>Select</u> Cert:55977 OR WD<br>Additional Info:<br>BRIAN BARNEY<br>Decree: CROOKED RIVER<br>Cert: 55977                             | T8760   | 12/31/1869 | DOMESTIC   | WD         |     | 3         |                 |       |       |       |       | *     | *     |       |       |       |       |       |       |       |       |       |       |           |
| <u>Select</u> Inchoate: T 8760 (REG) WD<br>Additional Info:<br>OCHOCO IRRIGATION DISTRICT<br>Decree: CROOKED RIVER                     |   | 12/31/1869 | DOMESTIC   | WD         |     | 3         |                 |       |       |       |       | (*)   | (*)   |       |       |       |       |       |       |       |       |       |       |           |
| <u>Select</u> Cert:29052 CF CN<br>Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F)<br>Cert: 29052 | IL4, IL7,<br>IL73,<br>T7513,<br>T4397,<br>T3176,<br>Z5,<br>T6123,<br>T6295,<br>T4591,<br>T5989,<br>T4626,<br>T5303,<br>T3030,<br>T2572,<br>T3465,<br>T2707,<br>T2425,<br>T7574  |            | IRRIGATION | CN         |     |           |                 | 30    | 26.5  | 27.5  | 34    | 37    | 30    | 15    | 34    | 31    | 21    | 33    | 31.6  | 35    | 36    | 34.2  | 37    |           |
| <u>Select</u> Cert:76358 CF *<br>Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F)<br>Cert: 76358  | T9283,<br>T9769,<br>T9440,<br>T9462,<br>T9441,<br>IL187,<br>IL142,<br>CW39,<br>CW42,<br>T9721,<br>T9722,<br>T9723,<br>T9605,<br>T10224,<br>T9784,<br>T9785,<br>T10259,<br>T10257,<br>T10258,<br>T10256,<br>T10267,<br>T10276,<br>T10274,<br>T10278,<br>IL823,<br>IL824,<br>IL825,<br>IL495,<br>IL496,<br>IL497,<br>IL498,<br>IL520, |            | IRRIGATION |            |     |           |                 | 21.65 | 23.35 | 4.1   | 23.6  | 35.5  | 34.5  | 18.8  | 27.2  |       | 18.9  | 36.6  | 19.9  | 11.31 | 8.2   | 17    | 21.25 |           |

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| Select | Inchoate: T 9314 CF (DST) *   |                  | IRRIGATION     |    | (21.65) | (23.35) | (4.1) | (23.6) | (35.5) | (34.5) | (18.8) | (27.2) |   | (18.9) | (36.6) | (19.9) | (11.31) | (8.2) | (17) | (21.25) |
|--------|---|------------------|----------------|----|---------|---------|-------|--------|--------|--------|--------|--------|---|--------|--------|--------|---------|-------|------|---------|
|        | Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F) |                  |                |    |         |         |       |        |        |        |        |        |   |        |        |        |         |       |      |         |
| Select | Inchoate: T 9423 (DRO) WD   |                  | IRRIGATION     | WD | (21.65) | (23.35) | (4.1) | (23.6) | (35.5) | (34.5) | (18.8) | (27.2) |   | (18.9) | (36.6) | (19.9) | (11.31) | (8.2) | (17) | (21.25) |
|        | Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F) |                  |                |    |         |         |       |        |        |        |        |        |   |        |        |        |         |       |      |         |
| Select | Inchoate: T 9424 (DRO) WD   |                  | IRRIGATION     | WD | (21.65) | (23.35) | (4.1) | (23.6) | (35.5) | (34.5) | (18.8) | (27.2) |   | (18.9) | (36.6) | (19.9) | (11.31) | (8.2) | (17) | (21.25) |
|        | Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F) |                  |                |    |         |         |       |        |        |        |        |        |   |        |        |        |         |       |      |         |
| Select | Inchoate: T 9553 (IS ) WD   |                  | IRRIGATION     | WD | (21.65) | (23.35) | (4.1) | (23.6) | (35.5) | (34.5) | (18.8) | (27.2) |   | (18.9) | (36.6) | (19.9) | (11.31) | (8.2) | (17) | (21.25) |
|        | Additional Info:<br>BRIAN STEVENS<br>Decree: DESCHUTES RIVER (F)                      |                  |                |    |         |         |       |        |        |        |        |        |   |        |        |        |         |       |      |         |
| Select | Inchoate: T 9555 (IS ) WD   |                  | IRRIGATION     | WD | (21.65) | (23.35) | (4.1) | (23.6) | (35.5) | (34.5) | (18.8) | (27.2) |   | (18.9) | (36.6) | (19.9) | (11.31) | (8.2) | (17) | (21.25) |
|        | Additional Info:<br>BRIAN STEVENS<br>Decree: DESCHUTES RIVER (F)                      |                  |                |    |         |         |       |        |        |        |        |        |   |        |        |        |         |       |      |         |
| Select | Inchoate: T 9214 (REG) WD   |                  | IRRIGATION     | WD | (21.65) | (23.35) | (4.1) | (23.6) | (35.5) | (34.5) | (18.8) | (27.2) |   | (18.9) | (36.6) | (19.9) | (11.31) | (8.2) | (17) | (21.25) |
|        | Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F) |                  |                |    |         |         |       |        |        |        |        |        |   |        |        |        |         |       |      |         |
| Select | Inchoate: T 9597 CF (REG) WD  |                  | IRRIGATION     | WD | (21.65) | (23.35) | (4.1) | (23.6) | (35.5) | (34.5) | (18.8) | (27.2) |   | (18.9) | (36.6) | (19.9) | (11.31) | (8.2) | (17) | (21.25) |
|        | Additional Info:<br>EAGLE CREST INC.<br>Decree: DESCHUTES RIVER (F)                   |                  |                |    |         |         |       |        |        |        |        |        |   |        |        |        |         |       |      |         |
| Select | App:G 14908 *   | 1/13/1999        | MUNICIPAL USES |    | *       | *       | *     | *      | *      | *      | *      | *      | * | *      | *      | *      | *       | *     | *    | *       |
|        | Additional Info:<br>CITY OF REDMOND<br>App: G14908                                    |                  |                |    |         |         |       |        |        |        |        |        |   |        |        |        |         |       |      |         |
| Select | App:G 15850 MF  | 10/8/2002        | MUNICIPAL USES | MF | *       | *       | *     | *      | *      | *      | *      | *      | * | *      | *      | *      | *       | *     | *    | *       |
|        | Additional Info:<br>MARY MELOY<br>App: G15850   |                  |                |    |         |         |       |        |        |        |        |        |   |        |        |        |         |       |      |         |
| Select | Cert:47491 OR CN  | 9/5/1969         | MUNICIPAL USES | CN |         |         |       |        |        |        |        |        | * |        | *      | *      |         |       |      |         |
|        | Additional Info:<br>CITY OF REDMOND<br>App: G4981<br>Permit: G4700<br>Cert: 47491     |                  |                |    |         |         |       |        |        |        |        |        |   |        |        |        |         |       |      |         |
| Select | Cert:64139 OR CN  | 9/25/1985        | MUNICIPAL USES | CN | *       | *       | *     | *      | *      | *      | *      | *      | * | *      | *      | *      | *       | *     | *    | *       |
|        | Additional Info:<br>CITY OF REDMOND<br>App: G11439<br>Permit: G10544<br>Cert: 64139   |                  |                |    |         |         |       |        |        |        |        |        |   |        |        |        |         |       |      |         |
| Select | Cert:80232 CF CN  | T10162 9/5/1969  | MUNICIPAL USES | CN |         |         |       |        |        |        |        |        | * |        | *      | *      |         |       |      |         |
|        | Additional Info:<br>CITY OF REDMOND<br>App: G4981<br>Permit: G4700<br>Cert: 80232     |                  |                |    |         |         |       |        |        |        |        |        |   |        |        |        |         |       |      |         |
| Select | Cert:80233 CF CN  | T10162 9/25/1985 | MUNICIPAL USES | CN | *       | *       | *     | *      | *      | *      | *      | *      | * | *      | *      | *      | *       | *     | *    | *       |
|        | Additional Info:<br>CITY OF REDMOND<br>App: G11439<br>Permit: G10544<br>Cert: 80233   |                  |                |    |         |         |       |        |        |        |        |        |   |        |        |        |         |       |      |         |

*also cert 763586*

|   |  |            |  |         |         |       |        |        |        |        |        |     |        |        |        |         |       |      |         |     |  |
|---|--|------------|--|---------|---------|-------|--------|--------|--------|--------|--------|-----|--------|--------|--------|---------|-------|------|---------|-----|--|
| <u>Select</u> Permit:G 12401 *  | T10163   | 11/25/1991 | MUNICIPAL USES                         | *       | *       | *     | *      | *      | *      | *      | *      | *   | *      | *      | *      | *       | *     | *    | *       | *   |  |
| <u>Additional Info:</u><br>CITY OF REDMOND<br>App: G12731<br>Permit: G12401                                   |  |            |  |         |         |       |        |        |        |        |        |     |        |        |        |         |       |      |         |     |  |
| <u>Select</u> Inchoate: T 10162 CF (REG) *  |  | 9/5/1969   | MUNICIPAL USES                         |         |         |       |        |        |        |        |        |     |        | (*)    | (*)    | (*)     |       |      |         |     |  |
| <u>Additional Info:</u><br>PATRICK DORNING<br>App: G4981<br>Permit: G4700                                     |  |            |  |         |         |       |        |        |        |        |        |     |        |        |        |         |       |      |         |     |  |
| <u>Select</u> Inchoate: T 10162 CF (REG) *  |  | 9/25/1985  | MUNICIPAL USES                         | (*)     | (*)     | (*)   | (*)    | (*)    | (*)    | (*)    | (*)    | (*) | (*)    | (*)    | (*)    | (*)     | (*)   | (*)  | (*)     | (*) |  |
| <u>Additional Info:</u><br>PATRICK DORNING<br>App: G11439<br>Permit: G10544                                   |  |            |  |         |         |       |        |        |        |        |        |     |        |        |        |         |       |      |         |     |  |
| <u>Select</u> Permit:G 6793 *   |  | 3/27/1975  | MUNICIPAL USES                         | *       | *       | *     | *      | *      | *      | *      | *      | *   | *      | *      | *      | *       | *     | *    | *       | *   |  |
| <u>Additional Info:</u><br>CITY OF REDMOND<br>App: G6865<br>Permit: G6793                                     |  |            |  |         |         |       |        |        |        |        |        |     |        |        |        |         |       |      |         |     |  |
| <u>Select</u> Cert:82751 OR *   |  | 11/7/1979  | MUNICIPAL USES                         | *       | *       | *     | *      | *      | *      | *      | *      | *   | *      | *      | *      | *       | *     | *    | *       | *   |  |
| <u>Additional Info:</u><br>CITY OF REDMOND<br>App: G9462<br>Permit: G8866<br>Cert: 82751                      |  |            |  |         |         |       |        |        |        |        |        |     |        |        |        |         |       |      |         |     |  |
| <u>Select</u> Inchoate: T 9423 (DRO) WD   |  | 2/28/1913  | SUPPLEMENTAL WD IRRIGATION (Suppl'mtl) | (21.65) | (23.35) | (4.1) | (23.6) | (35.5) | (34.5) | (18.8) | (27.2) |     | (18.9) | (36.6) | (19.9) | (11.31) | (8.2) | (17) | (21.25) |     |  |
| <u>Additional Info:</u><br>CENTRAL OREGON IRRIGATION DISTRICT<br>App: S13180<br>Permit: S23256                |  |            |  |         |         |       |        |        |        |        |        |     |        |        |        |         |       |      |         |     |  |
| <u>Select</u> Inchoate: T 9424 (DRO) WD   |  | 2/28/1913  | SUPPLEMENTAL WD IRRIGATION (Suppl'mtl) | (21.65) | (23.35) | (4.1) | (23.6) | (35.5) | (34.5) | (18.8) | (27.2) |     | (18.9) | (36.6) | (19.9) | (11.31) | (8.2) | (17) | (21.25) |     |  |
| <u>Additional Info:</u><br>CENTRAL OREGON IRRIGATION DISTRICT<br>App: S13180                                  |  |            |  |         |         |       |        |        |        |        |        |     |        |        |        |         |       |      |         |     |  |
| <u>Select</u> Inchoate: T 9553 (IS ) WD   |  | 2/28/1913  | SUPPLEMENTAL WD IRRIGATION (Suppl'mtl) | (21.65) | (23.35) | (4.1) | (23.6) | (35.5) | (34.5) | (18.8) | (27.2) |     | (18.9) | (36.6) | (19.9) | (11.31) | (8.2) | (17) | (21.25) |     |  |
| <u>Additional Info:</u><br>BRIAN STEVENS<br>App: S13180   |  |            |  |         |         |       |        |        |        |        |        |     |        |        |        |         |       |      |         |     |  |
| <u>Select</u> Inchoate: T 9555 (IS ) WD   |  | 2/28/1913  | SUPPLEMENTAL WD IRRIGATION (Suppl'mtl) | (21.65) | (23.35) | (4.1) | (23.6) | (35.5) | (34.5) | (18.8) | (27.2) |     | (18.9) | (36.6) | (19.9) | (11.31) | (8.2) | (17) | (21.25) |     |  |
| <u>Additional Info:</u><br>BRIAN STEVENS<br>App: S13180<br>Permit: S23256                                     |  |            |  |         |         |       |        |        |        |        |        |     |        |        |        |         |       |      |         |     |  |
| <u>Select</u> Inchoate: T 9214 (REG) WD   |  | 2/28/1913  | SUPPLEMENTAL WD IRRIGATION (Suppl'mtl) | (21.65) | (23.35) | (4.1) | (23.6) | (35.5) | (34.5) | (18.8) | (27.2) |     | (18.9) | (36.6) | (19.9) | (11.31) | (8.2) | (17) | (21.25) |     |  |
| <u>Additional Info:</u><br>CENTRAL OREGON IRRIGATION DISTRICT<br>App: S13180                                  |  |            |  |         |         |       |        |        |        |        |        |     |        |        |        |         |       |      |         |     |  |
| <u>Select</u> Cert:76714 CF *   | IL495,<br>IL496,<br>IL497,<br>CENTRAL OREGON IRRIGATION DISTRICT<br>App: S13180<br>Permit: S23256<br>Cert: 76714 | 2/28/1913  | SUPPLEMENTAL IRRIGATION (Suppl'mtl)    | 21.65   | 23.35   | 4.1   | 23.6   | 35.5   | 34.5   | 18.8   | 27.2   |     | 18.9   | 36.6   | 19.9   | 11.31   | 8.2   | 17   | 21.25   |     |  |
| <u>Additional Info:</u><br>CENTRAL OREGON IRRIGATION DISTRICT<br>App: S13180<br>Permit: S23256<br>Cert: 76714 |  |            |  |         |         |       |        |        |        |        |        |     |        |        |        |         |       |      |         |     |  |

*Supplemental right to be cancelled*





N/C

**Water Rights Platcard Report**

Meridian: WILLAMETTE Township: 15 South Range: 13 East Section: 8 Records per Page: 10 Search

| Water Right  | Changing Xfers  | Priority | Use        | Use Status | DLC | Gov't Lot | QQ(40):<br>Q(160): | NE<br>NE | NW<br>NE | SW<br>NE | SE<br>NE | NE<br>NW | NW<br>NW | SW<br>NW | SE<br>NW | NE<br>SW | NW<br>SW | SW<br>SW | SE<br>SW | NE<br>SE | NW<br>SE | SW<br>SE | SE<br>SE | Unkown<br>QQ |
|--|---|----------|------------|------------|-----|-----------|--------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|--------------|
| <u>Select</u> Cert:29052 CF CN<br><br>Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F)<br>Cert: 29052 | IL4, IL7,<br>IL73,<br>T7513,<br>T4397,<br>T3176,<br>Z5,<br>T6123,<br>T6295,<br>T4591,<br>T5989,<br>T4626,<br>T5303,<br>T3030,<br>T2572,<br>T3465,<br>T2707,<br>T2425,<br>T7574  |          | IRRIGATION | CN         |     |           |                    | 36       | 38       | 38       | 37       | 36.6     | 38       | 39       | 38.4     | 22       | 29       | 30       | 35       | 35       | 39       | 36       | 34       |              |
| <u>Select</u> Cert:76358 CF *<br><br>Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F)<br>Cert: 76358  | T9283,<br>T9769,<br>T9440,<br>T9462,<br>T9441,<br>IL187,<br>IL142,<br>CW39,<br>CW42,<br>T9721,<br>T9722,<br>T9723,<br>T9605,<br>T10224,<br>T9784,<br>T9785,<br>T10259,<br>T10257,<br>T10258,<br>T10256,<br>T10267,<br>T10276,<br>T10274,<br>T10278,<br>IL823,<br>IL824,<br>IL825,<br>IL495,<br>IL496,<br>IL497,<br>IL498,<br>IL520,<br>IL521,<br>IL522,<br>IL523,<br>IL524,<br>IL525,<br>IL526,<br>IL527,<br>IL528,<br>IL529,<br>IL530,<br>IL531,<br>IL532,<br>IL533,<br>IL534,<br>IL535, |          | IRRIGATION |            |     |           | 32.3               | 37.2     | 38       | 28.3     | 34       | 26       | 37       | 35.8     | 21.57    | 30.38    | 29       | 38.25    | 10       | 38.1     | 36       | 32       |          |              |



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T9883,  
T9898,  
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IL464,  
T10390,  
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IL803,  
IL804,  
IL807,  
T10155,  
CW29,  
T9983,  
T9981,  
T9982,  
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T10004,  
T10018,  
T10035,  
T10036,  
T10058

Select **Inchoate: T 9314 CF (DST) \***

IRRIGATION

(32.3) (37.2) (38) (28.3) (34) (26) (37) (35.8) (21.57) (30.38) (29) (38.25) (10) (38.1) (36) (32)

Additional Info:  
CENTRAL OREGON IRRIGATION DISTRICT

|   |                              |                          |        |        |      |        |      |      |      |        |         |         |      |         |      |        |      |      |  |
|---|------------------------------|--------------------------|--------|--------|------|--------|------|------|------|--------|---------|---------|------|---------|------|--------|------|------|--|
| Decree: DESCHUTES RIVER (F)   |                              |                          |        |        |      |        |      |      |      |        |         |         |      |         |      |        |      |      |  |
| Select  | Inchoate: T 9423 (DRO) WD    | IRRIGATION WD            | (32.3) | (37.2) | (38) | (28.3) | (34) | (26) | (37) | (35.8) | (21.57) | (30.38) | (29) | (38.25) | (10) | (38.1) | (36) | (32) |  |
| Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F) |                              |                          |        |        |      |        |      |      |      |        |         |         |      |         |      |        |      |      |  |
| Select  | Inchoate: T 9424 (DRO) WD    | IRRIGATION WD            | (32.3) | (37.2) | (38) | (28.3) | (34) | (26) | (37) | (35.8) | (21.57) | (30.38) | (29) | (38.25) | (10) | (38.1) | (36) | (32) |  |
| Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F) |                              |                          |        |        |      |        |      |      |      |        |         |         |      |         |      |        |      |      |  |
| Select  | Inchoate: T 9553 (IS ) WD    | IRRIGATION WD            | (32.3) | (37.2) | (38) | (28.3) | (34) | (26) | (37) | (35.8) | (21.57) | (30.38) | (29) | (38.25) | (10) | (38.1) | (36) | (32) |  |
| Additional Info:<br>BRIAN STEVENS<br>Decree: DESCHUTES RIVER (F)                      |                              |                          |        |        |      |        |      |      |      |        |         |         |      |         |      |        |      |      |  |
| Select  | Inchoate: T 9555 (IS ) WD    | IRRIGATION WD            | (32.3) | (37.2) | (38) | (28.3) | (34) | (26) | (37) | (35.8) | (21.57) | (30.38) | (29) | (38.25) | (10) | (38.1) | (36) | (32) |  |
| Additional Info:<br>BRIAN STEVENS<br>Decree: DESCHUTES RIVER (F)                      |                              |                          |        |        |      |        |      |      |      |        |         |         |      |         |      |        |      |      |  |
| Select  | Inchoate: T 9214 (REG) WD    | IRRIGATION WD            | (32.3) | (37.2) | (38) | (28.3) | (34) | (26) | (37) | (35.8) | (21.57) | (30.38) | (29) | (38.25) | (10) | (38.1) | (36) | (32) |  |
| Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F) |                              |                          |        |        |      |        |      |      |      |        |         |         |      |         |      |        |      |      |  |
| Select  | Inchoate: T 9597 CF (REG) WD | IRRIGATION WD            | (32.3) | (37.2) | (38) | (28.3) | (34) | (26) | (37) | (35.8) | (21.57) | (30.38) | (29) | (38.25) | (10) | (38.1) | (36) | (32) |  |
| Additional Info:<br>EAGLE CREST INC.<br>Decree: DESCHUTES RIVER (F)                   |                              |                          |        |        |      |        |      |      |      |        |         |         |      |         |      |        |      |      |  |
| Select  | App:G 14908 *                | 1/13/1999 MUNICIPAL USES | *      | *      | *    | *      | *    | *    | *    | *      | *       | *       | *    | *       | *    | *      | *    | *    |  |
| Additional Info:<br>CITY OF REDMOND<br>App: G14908                                    |                              |                          |        |        |      |        |      |      |      |        |         |         |      |         |      |        |      |      |  |
| 1 2 3 4   |                              |                          |        |        |      |        |      |      |      |        |         |         |      |         |      |        |      |      |  |

Acreage Legend: 12.25 Regular acreage    ±2.25 Acreage is on a canceled right    (12.25) Acreage is part of a transfer and has not been proven up on yet (Inchoate)    [12.25] Acreage has been suspended    \* Acreage is not specified

# Water Rights Platcard Report

Meridian: WILLAMETTE Township: 15 South Range: 13 East Section: 8 Records per Page: 10 Search

| Water Right  | Changing Xfers | Priority   | Use                 | Use Status | DLC | Gov't Lot | QQ(40):<br>QQ(160): | NE<br>NE | NW<br>NE | SW<br>NE | SE<br>NE | NE<br>NW | NW<br>NW | SW<br>NW | SE<br>NW | NE<br>SW | NW<br>SW | SW<br>SW | SE<br>SW | NE<br>SE | NW<br>SE | SW<br>SE | SE<br>SE | Unkown<br>QQ |
|--|----------------|------------|---------------------|------------|-----|-----------|---------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|--------------|
| <u>Select</u> <b>App:G 15850 MF</b><br><u>Additional Info:</u><br>MARY MELOY<br>App: G15850  |                | 10/8/2002  | MUNICIPAL<br>USES   | <b>MF</b>  |     |           |                     | *        |          |          | *        |          |          |          |          | *        | *        | *        | *        | *        | *        | *        | *        |              |
| <u>Select</u> <b>Cert:64139 OR CN</b><br><u>Additional Info:</u><br>CITY OF REDMOND<br>App: G11439<br>Permit: G10544<br>Cert: 64139              |                | 9/25/1985  | MUNICIPAL<br>USES   | <b>CN</b>  |     |           |                     | *        |          |          | *        |          |          |          |          | *        |          |          |          | *        | *        | *        | *        |              |
| <u>Select</u> <b>Cert:80233 CF CN</b><br><u>Additional Info:</u><br>CITY OF REDMOND<br>App: G11439<br>Permit: G10544<br>Cert: 80233              | T10162         | 9/25/1985  | MUNICIPAL<br>USES   | <b>CN</b>  |     |           |                     | *        |          |          | *        |          |          |          |          | *        |          |          |          | *        | *        | *        | *        |              |
| <u>Select</u> <b>Permit:G 12401 *</b><br><u>Additional Info:</u><br>CITY OF REDMOND<br>App: G12731<br>Permit: G12401                             | T10163         | 11/25/1991 | MUNICIPAL<br>USES   |            |     |           |                     | *        | *        | *        | *        | *        | *        | *        | *        | *        | *        | *        | *        | *        | *        | *        | *        |              |
| <u>Select</u> <b>Inchoate: T 10162 CF (REG) *</b><br><u>Additional Info:</u><br>PATRICK DORNING<br>App: G11439<br>Permit: G10544                 |                | 9/25/1985  | MUNICIPAL<br>USES   |            |     |           |                     | (*)      |          |          | (*)      |          |          |          |          | (*)      |          |          |          | (*)      | (*)      | (*)      | (*)      |              |
| <u>Select</u> <b>Permit:G 6793 *</b><br><u>Additional Info:</u><br>CITY OF REDMOND<br>App: G6865<br>Permit: G6793                                |                | 3/27/1975  | MUNICIPAL<br>USES   |            |     |           |                     | *        |          |          | *        |          |          |          |          |          |          |          |          | *        |          |          | *        |              |
| <u>Select</u> <b>Cert:82751 OR *</b><br><u>Additional Info:</u><br>CITY OF REDMOND<br>App: G9462<br>Permit: G8866<br>Cert: 82751                 |                | 11/7/1979  | MUNICIPAL<br>USES   |            |     |           |                     | *        |          |          | *        |          |          |          |          |          |          |          |          | *        |          |          | *        |              |
| <u>Select</u> <b>Inchoate: T 9423 (DRO) WD</b><br><u>Additional Info:</u><br>CENTRAL OREGON IRRIGATION DISTRICT<br>App: S13180<br>Permit: S23256 |                | 2/28/1913  | POND<br>MAINTENANCE | <b>WD</b>  |     |           |                     | {0-8}    |          |          |          |          |          | {0-3}    |          |          |          |          |          |          |          | {0-9}    |          |              |



# Water Rights Platcard Report

Meridian: WILLAMETTE Township: 15 South Range: 13 East Section: 8 Records per Page: 10 Search

| Water Right   | Changing Xfers   | Priority  | Use              | Use Status | DLC | Gov't Lot | QQ(40): NE | NW | SW | SE | NE | NW | SW  | SE | NE | NW | SW | SE | NE | NW | SW | SE  | Unkown QQ |
|---|--|-----------|------------------|------------|-----|-----------|------------|----|----|----|----|----|-----|----|----|----|----|----|----|----|----|-----|-----------|
| <u>Select</u> <b>Inchoate: T 9555 (IS ) WD</b><br><br><u>Additional Info:</u><br>BRIAN STEVENS<br>App: S13180<br>Permit: S23256                           |  | 2/28/1913 | POND MAINTENANCE | WD         |     |           |            |    |    |    |    |    |     |    |    |    |    |    |    |    |    |     |           |
| <u>Select</u> <b>Inchoate: T 9214 (REG) WD</b><br><br><u>Additional Info:</u><br>CENTRAL OREGON IRRIGATION DISTRICT<br>App: S13180                        |  | 2/28/1913 | POND MAINTENANCE | WD         |     |           |            |    |    |    |    |    |     |    |    |    |    |    |    |    |    |     |           |
| <u>Select</u> <b>Cert:76714 CF *</b><br><br><u>Additional Info:</u><br>CENTRAL OREGON IRRIGATION DISTRICT<br>App: S13180<br>Permit: S23256<br>Cert: 76714 | IL495,<br>IL496,<br>IL497,<br>IL498,<br>IL516,<br>IL517,<br>IL518,<br>IL519,<br>IL520,<br>IL521,<br>IL522,<br>IL523,<br>IL524,<br>IL525,<br>IL526,<br>IL527,<br>IL528,<br>IL529,<br>IL530,<br>IL531,<br>IL532,<br>IL533,<br>IL534,<br>IL535,<br>IL536,<br>IL537,<br>IL538,<br>IL539,<br>IL540,<br>IL542,<br>IL543,<br>IL544,<br>IL545,<br>IL546,<br>IL547,<br>IL548,<br>IL549,<br>IL567,<br>IL568,<br>IL569,<br>IL570,<br>IL571,<br>IL581, | 2/28/1913 | POND MAINTENANCE |            |     |           | 0.8        |    |    |    |    |    | 0.3 |    |    |    |    |    |    |    |    | 0.9 |           |



|   |   |         |     |  |     |  |  |     |  |  |
|---|---|---------|-----|--|-----|--|--|-----|--|--|
|   | IL679,<br>IL772,<br>IL773,<br>IL435,<br>IL436,<br>IL437,<br>IL438,<br>IL439,<br>IL440,<br>IL441,<br>IL442,<br>IL446,<br>IL447,<br>IL449,<br>IL450,<br>IL451   |         |     |  |     |  |  |     |  |  |
| Select <b>Cert:76358 CF *</b><br><br>Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F)<br>Cert: 76358 | T9283,<br>T9769,<br>T9440,<br>T9462,<br>T9441,<br>IL187,<br>IL142,<br>CW39,<br>CW42,<br>T9721,<br>T9722,<br>T9723,<br>T9605,<br>T10224,<br>T9784,<br>T9785,<br>T10259,<br>T10257,<br>T10258,<br>T10256,<br>T10267,<br>T10276,<br>T10274,<br>T10278,<br>IL823,<br>IL824,<br>IL825,<br>IL495,<br>IL496,<br>IL497,<br>IL498,<br>IL520,<br>IL521,<br>IL522,<br>IL523,<br>IL524,<br>IL525,<br>IL526,<br>IL527,<br>IL528,<br>IL529,<br>IL530,<br>IL531,<br>IL532,<br>IL533,<br>IL534,<br>IL535,<br>IL536,<br>IL537,<br>IL538, | STORAGE | 0.8 |  | 0.3 |  |  | 0.9 |  |  |







IL760,  
IL761,  
IL762,  
IL763,  
IL764,  
IL765,  
IL776,  
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IL804,  
IL807,  
T10155,  
CW29,  
T9983,  
T9981,  
T9982,  
T9984,  
T9985,  
T10004,  
T10018,  
T10035,  
T10036,  
T10058

|   |         |    |       |  |       |  |  |       |  |  |  |  |  |  |  |  |  |  |  |  |
|---|---------|----|-------|--|-------|--|--|-------|--|--|--|--|--|--|--|--|--|--|--|--|
| <u>Select</u> Inchoate: T 9314 CF (DST) *   | STORAGE |    | (0.8) |  | (0.3) |  |  | (0.9) |  |  |  |  |  |  |  |  |  |  |  |  |
| Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F) |         |    |       |  |       |  |  |       |  |  |  |  |  |  |  |  |  |  |  |  |
| <u>Select</u> Inchoate: T 9423 (DRO) WD   | STORAGE | WD | (0.8) |  | (0.3) |  |  | (0.9) |  |  |  |  |  |  |  |  |  |  |  |  |
| Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F) |         |    |       |  |       |  |  |       |  |  |  |  |  |  |  |  |  |  |  |  |
| <u>Select</u> Inchoate: T 9424 (DRO) WD   | STORAGE | WD | (0.8) |  | (0.3) |  |  | (0.9) |  |  |  |  |  |  |  |  |  |  |  |  |
| Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F) |         |    |       |  |       |  |  |       |  |  |  |  |  |  |  |  |  |  |  |  |
| <u>Select</u> Inchoate: T 9553 (IS ) WD   | STORAGE | WD | (0.8) |  | (0.3) |  |  | (0.9) |  |  |  |  |  |  |  |  |  |  |  |  |
| Additional Info:<br>BRIAN STEVENS<br>Decree: DESCHUTES RIVER (F)                      |         |    |       |  |       |  |  |       |  |  |  |  |  |  |  |  |  |  |  |  |
| <u>Select</u> Inchoate: T 9555 (IS ) WD   | STORAGE | WD | (0.8) |  | (0.3) |  |  | (0.9) |  |  |  |  |  |  |  |  |  |  |  |  |
| Additional Info:<br>BRIAN STEVENS<br>Decree: DESCHUTES RIVER (F)                      |         |    |       |  |       |  |  |       |  |  |  |  |  |  |  |  |  |  |  |  |
| <u>Select</u> Inchoate: T 9214 (REG) WD   | STORAGE | WD | (0.8) |  | (0.3) |  |  | (0.9) |  |  |  |  |  |  |  |  |  |  |  |  |
| Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>Decree: DESCHUTES RIVER (F) |         |    |       |  |       |  |  |       |  |  |  |  |  |  |  |  |  |  |  |  |

1 2 3 4

Acreage Legend: 12.25 Regular acreage    ~~12.25~~ Acreage is on a canceled right    (12.25) Acreage is part of a transfer and has not been proven up on yet (inchoate)    [12.25] Acreage has been suspended    \* Acreage is not specified

# Water Rights Platcard Report

Meridian: WILLAMETTE Township: 15 South Range: 13 East Section: 8 Records per Page: 10 Search

| Water Right   | Changing Xfers   | Priority  | Use                                 | Use Status | DLC | Gov't Lot | QQ(40): Q(160): | NE NE  | NW NE  | SW NE | SE NE  | NE NW | NW NW | SW NW | SE NW  | NE SW   | NW SW   | SW SW | SE SW   | NE SE | NW SE  | SW SE | SE SE | Unkwn QQ |
|---|--|-----------|-------------------------------------|------------|-----|-----------|-----------------|--------|--------|-------|--------|-------|-------|-------|--------|---------|---------|-------|---------|-------|--------|-------|-------|----------|
| <u>Select</u> <b>Inchoate: T 9597 CF (REG) WD</b><br>Additional Info:<br>EAGLE CREST INC.<br>Decree: DESCHUTES RIVER (F)                        |  |           | STORAGE                             | WD         |     |           |                 |        | (0.8)  |       |        |       |       | (0.3) |        |         |         |       |         |       |        |       | (0.9) |          |
| <u>Select</u> <b>Inchoate: T 9423 (DRO) WD</b><br>Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>App: S13180<br>Permit: S23256       |  | 2/28/1913 | SUPPLEMENTAL IRRIGATION (Suppl'mtl) | WD         |     |           |                 | (32.3) | (37.2) | (38)  | (28.3) | (34)  | (26)  | (37)  | (35.8) | (21.57) | (30.38) | (29)  | (38.25) | (10)  | (38.1) | (36)  | (32)  |          |
| <u>Select</u> <b>Inchoate: T 9423 (DRO) WD</b><br>Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>App: S13180                         |  | 2/28/1913 | SUPPLEMENTAL IRRIGATION (Suppl'mtl) | WD         |     |           |                 | (32.3) | (37.2) | (38)  | (28.3) | (34)  | (26)  | (37)  | (35.8) | (21.57) | (30.38) | (29)  | (38.25) | (10)  | (38.1) | (36)  | (32)  |          |
| <u>Select</u> <b>Inchoate: T 9553 (IS ) WD</b><br>Additional Info:<br>BRIAN STEVENS<br>App: S13180  |  | 2/28/1913 | SUPPLEMENTAL IRRIGATION (Suppl'mtl) | WD         |     |           |                 | (32.3) | (37.2) | (38)  | (28.3) | (34)  | (26)  | (37)  | (35.8) | (21.57) | (30.38) | (29)  | (38.25) | (10)  | (38.1) | (36)  | (32)  |          |
| <u>Select</u> <b>Inchoate: T 9555 (IS ) WD</b><br>Additional Info:<br>BRIAN STEVENS<br>App: S13180<br>Permit: S23256                            |  | 2/28/1913 | SUPPLEMENTAL IRRIGATION (Suppl'mtl) | WD         |     |           |                 | (32.3) | (37.2) | (38)  | (28.3) | (34)  | (26)  | (37)  | (35.8) | (21.57) | (30.38) | (29)  | (38.25) | (10)  | (38.1) | (36)  | (32)  |          |
| <u>Select</u> <b>Inchoate: T 9214 (REG) WD</b><br>Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>App: S13180                         |  | 2/28/1913 | SUPPLEMENTAL IRRIGATION (Suppl'mtl) | WD         |     |           |                 | (32.3) | (37.2) | (38)  | (28.3) | (34)  | (26)  | (37)  | (35.8) | (21.57) | (30.38) | (29)  | (38.25) | (10)  | (38.1) | (36)  | (32)  |          |
| <u>Select</u> <b>Cert: 76714 CF *</b><br>Additional Info:<br>CENTRAL OREGON IRRIGATION DISTRICT<br>App: S13180<br>Permit: S23256<br>Cert: 76714 | IL495,<br>IL496,<br>IL497,<br>IL498,<br>IL516,<br>IL517,<br>IL518,<br>IL519,<br>IL520,<br>IL521,<br>IL522,<br>IL523,<br>IL524,<br>IL525,<br>IL526,<br>IL527,<br>IL528,<br>IL529,<br>IL530,<br>IL531,<br>IL532,<br>IL533,<br>IL534,<br>IL535,<br>IL536,<br>IL537,<br>IL538,<br>IL539,<br>IL540,<br>IL542, | 2/28/1913 | SUPPLEMENTAL IRRIGATION (Suppl'mtl) |            |     |           |                 | 32.3   | 37.2   | 38    | 28.3   | 34    | 26    | 37    | 35.8   | 21.57   | 30.38   | 29    | 38.25   | 10    | 38.1   | 36    | 32    |          |

*Supplemental  
- to be  
cancelled*

*Maybe  
Primary*





## Sarah Henderson

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**From:** Laura Snedaker  
**Sent:** Thursday, August 09, 2007 2:45 PM  
**To:** Sarah Henderson  
**Subject:** COID certificate w/transfers

Sarah:

When you get a chance, would you please get me a fresh copy of the pages attached to the COID certificate that show the transfers and leases that have affected that water right, Certificate 87358?

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

8/10/2007

**Laura Snedaker**


---

**From:** Leslie Clark [lesliec@coid.org]  
**Sent:** Tuesday, November 20, 2007 3:28 PM  
**To:** Laura Snedaker  
**Cc:** 'Zach Tillman'; Bob Rice; Susan Douthit  
**Subject:** RE: Instream Transfer T-10300 (MP-95)

Sorry, I had a meeting. Steve was challenged with "deficiency". He had missed most of the meeting 11/8 when we discussed it and wondered if another word could be used. The fact of the matter is it is a deficient water right. Please use the language as agreed on 11/8 and issue the documents.

Thank you,

Leslie

---

**From:** Laura Snedaker [mailto:snedaklk@wrdd.state.or.us]  
**Sent:** Tuesday, November 20, 2007 12:40 PM  
**To:** Leslie Clark  
**Cc:** Zach Tillman; Bob Rice; Susan Douthit  
**Subject:** FW: Instream Transfer T-10300 (MP-95)  
**Importance:** High

Leslie:

Chatted with Bob a bit and the language used in T-10391 was the correct language (this is the same language that was shared with COID on 11/8) and should have also been in T-10300. Not sure what happened there. I understand that you have some concerns with the word "deficiency" and with that in mind; Bob, Susan, and I were wondering if you might like to talk this afternoon sometime. Maybe we could arrange a conference call if you're available. We're all available at this end up until 3PM this afternoon. Let us know what you would like to do.

Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

---

**From:** Laura Snedaker  
**Sent:** Tuesday, November 20, 2007 11:35 AM  
**To:** 'Leslie Clark'  
**Cc:** 'Zach Tillman'  
**Subject:** RE: Instream Transfer T-10300 (MP-95)

Leslie:

I checked back at the PDF's I sent you the other day. I see exactly what you're talking about. Not sure how that happened but both were supposed to be identical in terms of the description of the right. I used the language Bob brought back from the November 8<sup>th</sup> meeting. I'm checking with him to make sure I have the correct language.

11/21/2007

Will get back to you with more shortly.

Laura

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Oregon Water Resources Department  
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---

**From:** Leslie Clark [mailto:[lesliec@coid.org](mailto:lesliec@coid.org)]  
**Sent:** Tuesday, November 20, 2007 11:21 AM  
**To:** Laura Snedaker  
**Cc:** 'Zach Tillman'  
**Subject:** RE: Instream Transfer T-10300 (MP-95)

The attachment to this email for T-10300 is different from the one you sent me yesterday (11/19); it had the old language in it.

Excerpt from 11/19/07 email sent @ 4:38 p.m....

"4. Certificate 83571 reflects modifications (reductions) that have been made to this water right as a result of conserved water projects, instream transfers, and other transfers. Consequently, the rate and duty for the portion of the right to be transferred is different that what was described under Certificate 76358. The rates and duty described in Finding of Fact #4 reflect the amounts by which Certificate 83571 will be reduced as a result of this transfer. These amounts were determined by identifying the maximum rates that could be applied simultaneously to all lands (acres and acres equivalent) that receive water from POD #11, which is less than the maximum seasonal rate and duty limitations."

I agree with the language in your 11/20 email sent @ 8:20 am. Using this language the District agrees and asks the Dept to proceed.

---

**From:** Laura Snedaker [mailto:[snedaklk@wrd.state.or.us](mailto:snedaklk@wrd.state.or.us)]  
**Sent:** Tuesday, November 20, 2007 8:20 AM  
**To:** Leslie Clark  
**Cc:** Zach Tillman  
**Subject:** RE: Instream Transfer T-10300 (MP-95)

Leslie – am I missing something? The language in 10300 matches 10391. Both have what I understand was the agreed upon language that came out of the November 8<sup>th</sup> meeting. I've attached both redlined drafts.

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

---

**From:** Leslie Clark [mailto:[lesliec@coid.org](mailto:lesliec@coid.org)]  
**Sent:** Tuesday, November 20, 2007 7:59 AM  
**To:** Laura Snedaker

11/21/2007

**Subject:** FW: Instream Transfer T-10300 (MP-95)

Laura,

My apologies, I needed another cup of coffee before I read these!!! T-10300 should use the language in T-10391. Once modified the District will approve.

---

**From:** Leslie Clark [mailto:lesliec@coid.org]  
**Sent:** Tuesday, November 20, 2007 7:50 AM  
**To:** 'Laura Snedaker'; 'Zach Tillman'  
**Subject:** RE: Instream Transfer T-10300 (MP-95)

The language in #4 of this FO is different from the language used in T-10391 DPD #5; I prefer the language in T-10300 ("deficient" is not a word we want to use with our patrons). Can you modify T-10391 #5 to reflect the language in T-10300 #4?

---

**From:** Laura Snedaker [mailto:snedaklk@wrd.state.or.us]  
**Sent:** Monday, November 19, 2007 4:38 PM  
**To:** Leslie Clark; Zach Tillman  
**Subject:** Instream Transfer T-10300 (MP-95)

Good Afternoon:

I wanted to check in with you guys on this transfer. It sounds like we're ready to move forward on several of COID's transfers, including this one, consistent with the discussion between COID and the Department on November 8<sup>th</sup>.

In looking back through the file, and before moving forward, it looks like we just needed concurrence with the redlined changes in the draft FO I sent previously. Concurrence needs to come from both COID and DRC.

I've attached another draft with the updated language based on the November 8<sup>th</sup> meeting.

Thanks much!  
Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

\_\_\_\_\_ NOD32 2672 (20071120) Information \_\_\_\_\_

This message was checked by NOD32 antivirus system.  
<http://www.eset.com>

11/21/2007

**Laura Snedaker**

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**From:** Leslie Clark [lesliec@coid.org]  
**Sent:** Tuesday, November 20, 2007 7:41 AM  
**To:** Laura Snedaker; 'Zach Tillman'  
**Subject:** RE: Instream Transfer T-10391 (MP-108)

Laura,

The District approves the DPD; please proceed.

Thank you for all your efforts and patience as we worked through this.

Leslie

---

**From:** Laura Snedaker [mailto:snedaklk@wrd.state.or.us]  
**Sent:** Monday, November 19, 2007 4:08 PM  
**To:** Leslie Clark; Zach Tillman  
**Subject:** Instream Transfer T-10391 (MP-108)

Good Afternoon:

I wanted to check in with you guys on this transfer. It sounds like we're ready to move forward on several of COID's transfers, including this one, consistent with the discussion between COID and the Department on November 8<sup>th</sup>.

In looking back through the file, and before moving forward, it looks like we just needed concurrence on Finding of Fact #20 and whether you concurred with the redlined findings in the previous draft.

Zach, I think you've given your concurrence with Finding of Fact #20 but Leslie, I think, had asked to hold off until after the November 8<sup>th</sup> meeting.

I've attached another draft with the updated language based on the November 8<sup>th</sup> meeting.

Laura

Laura Snedaker  
Senior Water Resources Coordinator  
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725 Summer Street NE, Suite A  
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\_\_\_\_\_ NOD32 2672 (20071120) Information \_\_\_\_\_

This message was checked by NOD32 antivirus system.  
<http://www.eset.com>

11/20/2007

**Laura Snedaker**

---

**From:** Bob Rice  
**Sent:** Friday, November 09, 2007 10:10 AM  
**To:** Laura Snedaker; 'Dorothy Pedersen'  
**Cc:** Susan Douthit  
**Subject:** COID Transfer priority list

Laura and Dorothy,

COID has three transfers that they want FO issued on before January 1<sup>st</sup>. (There are funding concerns with having the orders issued.) These orders are: T-10292, T-10300, and T-10391.

Susan, Bob D., and I had a good meeting with Leslie, Steve, Lisa, and Adam. They liked the "deficiency" language that we developed. I want to make sure Debbie is OK with the language, and then we need to finalize the rate calculator. Once those two events take place, we should be ready to start issuing FO's on the COID transfers.

In circumstances where a PD has been issued, we indicated that we would send COID a red-lined "Draft Final Order" (via e-mail), so that they can see the changes in the PD due to the issuance of their new certificate. If you have any questions, please let Susan and I know.

Also, you may want to have Susan due an extra quick review (not the "peer" review) of COID orders, to make sure they are all consistent with what we've told them.

--Bob

Bob Rice  
Field Services Division  
Water Resources Department  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1266  
(503) 986-0885  
Fax: 503.986.0903  
www.wrd.state.or.us

---

**From:** Leslie Clark [mailto:lesliec@coid.org]  
**Sent:** Thursday, November 08, 2007 3:22 PM  
**To:** Bob Rice  
**Subject:** Transfer priority list

Bob,

Thank you so much for coming over, it was a very productive day! I appreciate your patience and willingness to work with us on the language in the instream orders. When the new language and rate calculator is approved we would like to have final determinations on T-10292, T-10300 and T-10391.

I was pleasantly surprised to learn the Dept has been discussing how to assist the District in converting to e maps/transfers. With open communication and coordination I hope we can make it work as it would be of great benefit to all of us.

Thanks again!

Leslie

11/13/2007

**Laura Snedaker**

**From:** Leslie Clark [lesliec@coid.org]  
**Sent:** Tuesday, October 02, 2007 11:29 AM  
**To:** Laura Snedaker; 'Zach Tillman'  
**Cc:** Tammy Harty  
**Subject:** DPD for T-10391 & T-10224

Thank you for the DPD. As you know the new certificate has caused a revision in the rate calculations and the District wants to understand how the Dept has determined that revision. Adam Sussman and I are meeting with Bob Rice on October 16<sup>th</sup> to review the process. The District will hold off on approval of the DPD (and any additional proposed DPD) until after that discussion. I hope this is not too big of an inconvenience to anyone, but I believe it is best to come to a consensus at the beginning so we can have a clean process going forward.

Please let me know if you have any questions or concerns.

Leslie

---

**Laura Snedaker**

**From:** Zach Tillman [zach@deschutesriver.org]  
**Sent:** Monday, October 01, 2007 4:45 PM  
**To:** Laura Snedaker; leslic@coid.org  
**Subject:** RE: DPD for T-10391

Hi Laura,

The instream rates in #20 match those in my records; so yes it looks correct to me. I will also send the original affidavit out in tomorrow's mail.  
Let me know if there is anything else you need. Thanks.

Zach

Zachary Tillman, DRC  
541-382-4077, x.21  
zach@deschutesriver.org

**From:** Laura Snedaker [mailto:snedaklk@wrđ.state.or.us]  
**Sent:** Monday, October 01, 2007 3:53 PM  
**To:** Zach Tillman; leslic@coid.org  
**Subject:** RE: DPD for T-10391

Hey good Afternoon to you both.

Leslie the maps you sent over are just what we needed. Thanks much. And for catching the acreage typo the cover letter for the DPD. The number of acres in that quarter quarter should have been identified as 4.1.

Zach, the revised Title and Lien report corrects the property description.

On the affidavit, we just need to have an original sent over to our office with both pages. No need to include the attachments again.

The numbering in the DPD somehow got a little wonky, as Zach pointed out. Not sure what happened there. I've fixed the numbering. I've also made some changes to the DPD (see redlined version attached) based upon the issuance of a new certificate for COID. Please let us know if you concur with the redlined changes.

Zach, the finding #17 that I was asking for concurrence on is the one addressing the instream shaping (this is now finding #20 as a result of updating the DPD to include info on the new cert). Because the numbering was skewed there were two #17's. That's now fixed. Please let us know if you (and COID) concur with the proposed shaping described in finding #20.

The other finding that was labeled as #17 in the DPD previously sent addressed the cancellation of the supplemental water right (this is now finding #7). Zach asked a question to confirm whether this was consistent with COIDs cancellation request. It is consistent. The description and findings related to cancellation of the supplemental right are consistent COID's request and with other transfers processed for COID where the supplemental right has not been included in transfer and is being cancelled. Here the supplemental right will be reduced by the number of acres being cancelled. This transfer process will not address the right to store water (a separate water right).

Feel free to give me a buzz if you have any more questions. Thanks much!

Laura

Laura Snedaker

10/3/2007

Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

---

**From:** Zach Tillman [mailto:[zach@deschutesriver.org](mailto:zach@deschutesriver.org)]  
**Sent:** Wednesday, September 26, 2007 5:04 PM  
**To:** Laura Snedaker  
**Subject:** RE: DPD for T-10391

Hi Laura,

Thanks for the DPD, looks mostly straightforward. Leslie addressed the Items #2 & #3 from the cover letter (mapping issues) earlier today, so I'll dive right in on the rest.

**Item # 1:** The numbering system for the findings of fact are a little wonky. We certainly agree w/finding #12. Before agreeing w/finding #17, I want to make sure you've seen Exhibit B which has very specific language describing how COID would like this issue handled. It sounds like finding #17 is saying the same thing; I just want to make sure we're on the same page: The Right to Store water for IS will remain the same. The Right to Use water for IS will be reduced by the amount of the transfer (cancelled). Please confirm.

**Item # 4:** See attached "Tri Cty Report (corrected)" for the corrected doc

**Item # 5:** See attached "T-10391 corrected affidavit" for the corrected doc.

Also, please always send hard copies to the DRC. As co-applicant, COID is obviously entitled to any hard copies they want, but the DRC is the transfer agent and should therefore receive hard copies by default. Our address is provided on the application for this reason.

When you have had a chance to review the docs & maps received from Leslie & I, please confirm. Thanks.

Zach

Zachary Tillman, DRC  
541-382-4077, x.21  
[zach@deschutesriver.org](mailto:zach@deschutesriver.org)

---

**From:** Laura Snedaker [mailto:[snedaklk@wrd.state.or.us](mailto:snedaklk@wrd.state.or.us)]  
**Sent:** Tuesday, September 25, 2007 1:40 PM  
**To:** Leslie Clark; Zach Tillman  
**Subject:** DPD for T-10391

Good Afternoon to you both,

Attached is the draft preliminary determination for instream transfer T-10391. A hard copy has been placed in the mail and sent over to COID.

Please give me a call if you have any questions.

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A

10/3/2007

**Laura Snedaker**

**From:** Laura Snedaker  
**Sent:** Monday, October 01, 2007 3:53 PM  
**To:** 'Zach Tillman'; Leslie - COID (lesliec@coid.org)  
**Subject:** RE: DPD for T-10391  
**Attachments:** 10391-dpd-approve-iswr-MP108-RA(redline).pdf

Hey good Afternoon to you both.

Leslie the maps you sent over are just what we needed. Thanks much. And for catching the acreage typo the cover letter for the DPD. The number of acres in that quarter quarter should have been identified as 4.1.

Zach, the revised Title and Lien report corrects the property description.

On the affidavit, we just need to have an original sent over to our office with both pages. No need to include the attachments again.

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Feel free to give me a buzz if you have any more questions. Thanks much!

Laura

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Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

**From:** Zach Tillman [mailto:[zach@deschutesriver.org](mailto:zach@deschutesriver.org)]  
**Sent:** Wednesday, September 26, 2007 5:04 PM  
**To:** Laura Snedaker  
**Subject:** RE: DPD for T-10391

Hi Laura,

10/1/2007

Thanks for the DPD, looks mostly straightforward. Leslie addressed the Items #2 & #3 from the cover letter (mapping issues) earlier today, so I'll dive right in on the rest.

**Item # 1:** The numbering system for the findings of fact are a little wonky. We certainly agree w/finding #12. Before agreeing w/finding #17, I want to make sure you've seen Exhibit B which has very specific language describing how COID would like this issue handled. It sounds like finding #17 is saying the same thing; I just want to make sure we're on the same page: The Right to Store water for IS will remain the same. The Right to Use water for IS will be reduced by the amount of the transfer (cancelled). Please confirm.

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Also, please always send hard copies to the DRC. As co-applicant, COID is obviously entitled to any hard copies they want, but the DRC is the transfer agent and should therefore receive hard copies by default. Our address is provided on the application for this reason.

When you have had a chance to review the docs & maps received from Leslie & I, please confirm. Thanks.

Zach

Zachary Tillman, DRC  
541-382-4077, x.21  
[zach@deschutesriver.org](mailto:zach@deschutesriver.org)

---

**From:** Laura Snedaker [mailto:[snedaklk@wrd.state.or.us](mailto:snedaklk@wrd.state.or.us)]  
**Sent:** Tuesday, September 25, 2007 1:40 PM  
**To:** Leslie Clark; Zach Tillman  
**Subject:** DPD for T-10391

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Please give me a call if you have any questions.

Thanks, Laura

Laura Snedaker  
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Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

10/1/2007

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

|   |   |   |
|---|---|---|
| In the Matter of Instream Transfer        | ) | <b>D R A F T</b><br>PRELIMINARY DETERMINATION<br>PROPOSING APPROVAL OF A<br>CHANGE IN PLACE OF USE AND<br>CHARACTER OF USE, PARTIAL<br>CANCELLATION OF A<br>SUPPLEMENTAL WATER RIGHT,<br>AND PRELIMINARY AWARD OF<br>MITIGATION CREDITS |
| Application T-10391 and Mitigation Credit | ) |   |
| Project MP-108, Deschutes County          | ) |   |
|   | ) |   |
|   | ) |   |
|   | ) |   |
|   | ) |   |
|   | ) |   |
|   | ) |   |

**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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

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**

|                                    |                             |
|------------------------------------|-----------------------------|
| CENTRAL OREGON IRRIGATION DISTRICT | DESCHUTES RIVER CONSERVANCY |
| 1055 SW LAKE COURT                 | 700 NW HILL STREET          |
| REDMOND OR 97756                   | BEND, OREGON 97701          |

**Findings of Fact**

**Background**

1. On May 18, 2007, the Central Oregon Irrigation District (COID) and Deschutes River Conservancy (DRC) 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-10391.
2. This instream transfer application originally proposed to change the character of use to instream use for fish and wildlife habitat enhancement; pollution abatement; navigation; and recreation. The applicants amended the application on May 22, 2007, to remove navigation from the list of proposed uses.
3. On September 26, 2007, Certificate 83571 was issued superseding Certificate 76358.

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3.4. That portion of the right to be transferred is as follows:

**Certificate:** 8357176358 in the name of Central Oregon Irrigation District  
**Use:** Irrigation of 39.58 acres  
**Priority Date:** October 31, 1900 and December 2, 1907  
**Season of Use:** April 1 to November 1 further limited as follows:  
 April 1 to May 1 and Oct 1 to Nov 1 described herein as Season 1  
 May 1 to May 15 and Sept 15 to Oct 1 described herein as Season 2  
 May 15 to Sept 15 described herein as Season 3

**Quantity:**

**Rate:** 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<sup>th</sup> CFS per acre

**Duty:** Not to exceed 9.91 acre-feet (AF) per acre per year.

| Priority Date    | Season 1              | Season 2              | Season 3              | Duty                              |
|------------------|-----------------------|-----------------------|-----------------------|-----------------------------------|
| October 31, 1900 | <u>0.4950.494</u> CFS | <u>0.6600.658</u> CFS | <u>0.8710.870</u> CFS | <u>392.24</u><br><u>391.27</u> AF |
| December 2, 1907 |                       |                       | <u>0.3510.349</u> CFS |                                   |

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The rate and duty limitations quantities listed above 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):**

| Township | Range | Meridian | Sec | ¼ ¼  | Location |       |  |
|----------|-------|----------|-----|------|----------|-------|--|
| 17       | S     | 12       | E   | W.M. | 29       | SE NE | POD #11 (COID NORTH CANAL):<br>850 FEET NORTH AND 630 FEET<br>WEST FROM THE EAST ¼<br>CORNER OF SECTION 29 |

**Authorized Places of Use:**

| Township | Range | Meridian | Sec | ¼ ¼ | Tax Lot | Acres            |
|----------|-------|----------|-----|-----|---------|------------------|
| 15       | S     | 13       | E   | WM  | 3       | NW SW 1401 6.40  |
| 15       | S     | 13       | E   | WM  | 4       | SW NE 500 1.70   |
| 15       | S     | 13       | E   | WM  | 8       | NE NW 1000 1.50  |
| 15       | S     | 13       | E   | WM  | 8       | SE NW 1000 8.00  |
| 15       | S     | 13       | E   | WM  | 19      | SW NE 701 0.20   |
| 15       | S     | 13       | E   | WM  | 19      | SE NW 701 4.45   |
| 15       | S     | 13       | E   | WM  | 19      | SW SW 1200 15.00 |
| 15       | S     | 13       | E   | WM  | 20      | NE SE 1501 2.33  |

5. Certificate 83571 reflects modifications (reductions) that have been made to this water right as a result of conserved water projects, instream transfers, and other transfers. Consequently, the rate and duty for the portion of the right to be transferred is different that what was described under Certificate 76358. The rates and duty described in Finding of Fact #3 reflect the amounts by which Certificate 83571 will be reduced as a result of this transfer. These amounts were determined by identifying the maximum rates that could be applied simultaneously to all lands (acres and acres equivalent) that receive water from POD #11, which is less than the maximum seasonal rate and duty limitations.

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4.6. A total of 215.73 AF of water, excluding transmission losses, may be beneficially used annually for primary irrigation under the portion of existing Certificate ~~76358-83571~~ proposed for transfer.

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5.7. Supplemental right, Certificate 76714, is appurtenant to the same lands from which the primary right under Certificate ~~76358-83571~~ is proposed to be transferred to instream use. The applicant intends that the affected portion of Certificate 76714 be cancelled upon issuance of the Final Order approving T-10391.

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6.8. The applicants are not the owners of the lands to which the water right described in Finding of Fact #34 is appurtenant. However, water right conveyance agreements have been completed and interest in the water rights has been conveyed to COID from each landowner described in the table below. The portion of this right to be transferred was appurtenant to lands owned by the identified land landowners at the time interest in the water right was conveyed through a Quit Claim, a water right conveyance agreement.

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| Landowner                       | Water Right Interest Holder | T       | R       | S | Q-Q   | Current Tax Lot |
|---------------------------------|-----------------------------|---------|---------|---|-------|-----------------|
| David M. and Gail L. Wagenblast | COID                        | 15<br>S | 13<br>E | 3 | NW SW | 1401            |
| James C. and Tari R. Bradley    | COID                        | 15<br>S | 13<br>E | 4 | SW NE | 500             |
| CHW Enterprises LLC             | COID                        | 15<br>S | 13<br>E | 8 | NE NW | 1000            |
| CHW Enterprises LLC             | COID                        | 15      | 13      | 8 | SE NW | 1000            |

|                            |      |         |         |    |       |      |
|----------------------------|------|---------|---------|----|-------|------|
|                            |      | S       | E       |    |       |      |
| High Ridge Development LLC | COID | 15<br>S | 13<br>E | 19 | SW NE | 701  |
| High Ridge Development LLC | COID | 15<br>S | 13<br>E | 19 | SE NW | 701  |
| Redmond Investments LLC    | COID | 15<br>S | 13<br>E | 19 | SW SW | 1200 |
| Tri-County Builders Corp.  | COID | 15<br>S | 13<br>E | 20 | NE SE | 1501 |

7.9. Application T-10391 proposes to change the character of use to instream use for fish and wildlife habitat enhancement; recreation; and pollution abatement.

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8.10. Application T-10300 proposes to change the place of use of the right to create the following instream reach:

Reach: From COID North Canal POD #11 (described in Finding of Fact #34) to Lake Billy Chinook.

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9.11. The applicant proposes the quantities of water to be transferred and protected instream as follows:

| Certificate       | Priority Date    | Rate Instream   | Volume Instream |
|-------------------|------------------|---|-----------------|
| <u>7635883571</u> | October 31, 1900 | Season 1: 0.272 CFS<br>Season 2: 0.363 CFS<br>Season 3: 0.672 CFS | 215.73 AF       |

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10.12. There are existing instream water rights within the same reach as that proposed for the new instream water right. All of the existing instream water rights were established under ORS 537.348, the instream transfer process, and ORS 537.470, the allocation of conserved water process. 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 POD #11 to Lake Billy Chinook, which if approved will have a priority date of September 19, 1990.

11.13. The applicant proposes that any instream water right established as a result of this instream transfer to be additive to 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 applicant also proposes that any instream water right established as a result of this instream transfer replace a portion of any existing 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.

12.14. The applicant has requested to protect water instream under the October 31, 1900 priority date. Water is diverted at the point 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 by the applicant 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.

15. Notice of the application for transfer was published on May 29, 2007, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
16. On September 25, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10391 to the applicants. The draft Preliminary Determination set forth a deadline of October 24, 2007, for the applicants to respond. The additional information requested by the Department was received on September 26, 2007, and October \_\_, 2007. On October 1, 2007, the Department also sent a second red-lined draft Preliminary Determination to the applicant with modifications based upon the information provided and due to the issuance of Certificate 83571. On October \_\_, 2007, the applicants gave their consent to the draft Preliminary Determination and the red-lined changes.

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

~~13. Notice of the application for transfer was published on May 29, 2007, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.~~

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~~14.17. \_\_\_\_\_~~ Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.

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~~15.18.~~ 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 Application T-10391.

~~16.19.~~ The period during which water is requested to be protected instream requires modification to prevent injury and enlargement. At the full rates and duty allowed by the water right to be transferred instream, water may be protected instream for a period of 209 days. The period requested by the applicant is 214 days.

~~17.20.~~ Based on the previous Finding of Fact, on \_\_\_\_\_, the applicant agreed to modify the quantities to be transferred and protected instream as follows:

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Reach: COID North Canal POD #11 (as described in Finding of Fact #34) to Lake Billy Chinook

| Certificate               | Priority Date    | Instream Period                       | Instream Rate | Instream volume |
|---------------------------|------------------|---------------------------------------|---------------|-----------------|
| <del>763588357</del><br>1 | October 31, 1900 | Season 1 (modified to end October 26) | 0.272 CFS     | 215.73          |
|                           |                  | Season 2                              | 0.363 CFS     |                 |
|                           |                  | Season 3                              | 0.672 CFS     |                 |

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~~18-21~~. The proposed change, as modified, would not result in enlargement of the right.

~~19-22~~. The proposed change, as modified, would not result in injury to other water rights.

~~20-23~~. The amount and timing of the proposed instream flow are allowable within the limits and use of the original water right.

~~21-24~~. The protection of flows within the proposed reach 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) Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.

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~~22-25~~. 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 habitat, aquatic life, recreation, aesthetics, and minimizing pollution. 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 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.

~~23-26~~. By adding to other water rights leased or transferred instream at the same location, or created through the conserved water statutes, the instream right will provide protection for additional streamflows necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement.

~~24-27~~. By replacing a portion of instream rights created at the request of state agencies or under the minimum streamflow conversion process, the instream right will provide protection for streamflows previously identified as necessary for conservation, maintenance and

enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement under earlier priority dates.

25.28. During the period April 1 through October 26 any instream water right established by this transfer application may 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.

26.29. The total monthly quantities of water to be protected under the proposed instream right, in addition to the existing instream water rights, within the proposed reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

**Partial Cancellation of a Water Right**

27.30. There is an existing supplemental right, Certificate 76714, appurtenant to the portion of lands on which Certificate ~~76358-83571~~ 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-10391. The portion of Certificate 76714 to be cancelled has been quit claimed to COID.

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28.31. Consistent with OAR 690-380-2250, the Department is notifying the applicant of the Department's intent to cancel the portions of the supplemental water right described below unless within 30 days of the date of this notification, the applicant modifies the application to include the supplemental right or withdraws the application.

29.32. That portion of the supplemental water right to be cancelled is as follows:

**Certificate:** 76714 in the name of Central Oregon Irrigation District  
**Use:** Supplemental Irrigation of 39.58 acres  
**Priority Date:** February 28, 1913  
**Source:** Crane Prairie Reservoir, constructed under permit R-1687, tributary to the Deschutes River

**Authorized PODs:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼ |    | Location  |
|----------|---|-------|---|----------|-----|-----|----|---|
| 21       | S | 8     | E | W.M.     | 17  | NE  | NE | CRANE PRAIRIE RESERVOIR DAM   |
| 17       | S | 12    | E | W.M.     | 29  | SE  | NE | POD #11 (COID NORTH CANAL):<br>850 FEET NORTH AND 630 FEET<br>EAST FROM THE NORTH ¼<br>CORNER OF SECTION 29 |

**Authorized Places of Use:**

| Township | Range | Meridian | Sec | ¼ ¼ |   | Tax Lot | Acres |      |      |
|----------|-------|----------|-----|-----|---|---------|-------|------|------|
| 15       | S     | 13       | E   | WM  | 3 | NW      | SW    | 1401 | 6.40 |

| Township |   | Range |   | Meridian | Sec | ¼ ¼ |    | Tax Lot | Acres |
|----------|---|-------|---|----------|-----|-----|----|---------|-------|
| 15       | S | 13    | E | WM       | 4   | SW  | NE | 500     | 1.70  |
| 15       | S | 13    | E | WM       | 8   | NE  | NW | 1000    | 1.50  |
| 15       | S | 13    | E | WM       | 8   | SE  | NW | 1000    | 8.00  |
| 15       | S | 13    | E | WM       | 19  | SW  | NE | 701     | 0.20  |
| 15       | S | 13    | E | WM       | 19  | SE  | NW | 701     | 4.45  |
| 15       | S | 13    | E | WM       | 19  | SW  | SW | 1200    | 15.00 |
| 15       | S | 13    | E | WM       | 20  | NE  | SE | 1501    | 2.33  |

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30-33. The Department has information that POD #11 (COID North Canal) described in Certificates ~~76358-83571~~ 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 |    | Location  |
|----------|---|-------|---|----------|-----|-----|----|---|
| 17       | S | 12    | E | W.M.     | 29  | SE  | NE | POD # 11 (COID NORTH CANAL):<br>850 FEET NORTH & 630 FEET<br>WEST FROM THE EAST ¼<br>CORNER OF SECTION 29 |

*Preliminary Award of Deschutes Basin Mitigation Credits*

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31-34. COID and the DRC (the Applicant) have requested this instream transfer application be used to establish mitigation credits in the Deschutes Ground Water Study Area. The Applicant has requested that any mitigation credits generated from this project be assigned to COID and the DRC.

32-35. The Department assigned this mitigation credit project number MP-108.

33-36. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300 (6) on May 29, 2007. No comments were received in response to this notice.

34-37. 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 May 29, 2007. Comments were received from ODFW and OPRD. ODFW identified that this project will provide effective instream protection of flows during the irrigation season and also identified, along with general comments on the mitigation program, that instream flow protection is needed during the months outside of the irrigation season. OPRD identified that this instream transfer will enhance aesthetics and add water needed for recreation (boating opportunities). OPRD deferred to ODFW for appropriate timing of when flows should be protected instream.

35-38. The Department is unable to expand the period during which instream flows may be protected outside of the irrigation season, as recommended by ODFW, without causing injury to other water rights. The shaping proposed by the instream transfer application does protect water instream over almost the entire irrigation season at the maximum rates

possible. Therefore, no modifications were made to the lease based upon comments received.

**36.39.** The proposed transfer of 39.58 acres of irrigation use to instream use will provide 71.2 acre-feet of mitigation water. Therefore, 71.2 mitigation credits (1.0 mitigation credit = 1.0 AF of mitigation water) may be awarded to this mitigation credit project and assigned to COID and the DRC. 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 and/or General Zones of Impact.

**37.40.** A total of 215.73 AF is proposed to be transferred to instream use and 71.2 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.

**38.41.** The Department shall award final mitigation credits upon completion of the approved project by the applicant and verification by the Department that the project is complete. The issuance of a certificate(s) for the proposed instream water right shall result in completion of the project and verification that the project is complete.

**Determination and Proposed Action**

The changes in character of use and place of use to instream use proposed in application T-10391 appear to be 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 rights should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved and the abandoned rights will be cancelled.

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

*If application T-10391 is approved, the final order will include the following:*

1. *The changes in character of use and place of use to instream use proposed in application T-10391 are approved.*
2. *Water Right Certificate ~~76358-83571~~ 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 ~~76358-83571~~ 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 76358 by the following:*

| Priority Date    | Season 1                     | Season 2                     | Season 3                     | Duty              |
|------------------|------------------------------|------------------------------|------------------------------|-------------------|
| October 31, 1900 | <del>0.4950.494</del><br>CFS | <del>0.6600.658</del><br>CFS | <del>0.8710.870</del><br>CFS | <del>392.24</del> |
| December 2, 1907 |                              |                              | <del>0.3510.349</del><br>CFS | 391.27 AF         |

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3. *The portion of Certificate 76714 that has been abandoned is cancelled. Water right certificate 76714 is modified. The Department shall issue a new water right certificate on a determination that it is necessary to produce a certificate to confirm that portion of the water right not affected by the cancellation described in Finding of Fact #3229. Modification of this supplemental water right shall reduce by 39.58 acres the number of acres to which stored water may be applied for supplemental irrigation under the right.*
4. *The instream water right shall provide for the protection of streamflows 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:*

*Reach 1: from COID North Canal POD #11 (as described in Finding of Fact #34) to Lake Billy Chinook.*

| <i>Priority Date</i>    | <i>Period Protected Instream</i>                                  | <i>Instream Rate</i> | <i>Instream Volume</i> |
|-------------------------|---|----------------------|------------------------|
| <i>October 31, 1900</i> | <i>April 1 through April 30 and October 1 through October 26</i>  | <i>0.272 CFS</i>     | <i>215.73 AF</i>       |
|                         | <i>May 1 through May 14 and September 15 through September 30</i> | <i>0.363 CFS</i>     |                        |
|                         | <i>May 15 through September 14</i>                                | <i>0.672 CFS</i>     |                        |

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. *Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion.*
7. *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.*
8. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to other conditions and limitations as may be germane to instream rights, that are contained in Certificate 76358 and any related decree.*
9. *The former place of use of the transferred water shall no longer receive water as part of these rights.*
10. ***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, will result in completion of the project and verification by the Department that the project is complete. If completed as proposed, mitigation credits, in the amount of 71.2 credits, as described herein, may be awarded to this mitigation project and assigned to***

*COID and the DRC. 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 General Zones of Impact.*

*11. 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.*

Dated at Salem, Oregon this \_\_\_\_\_ day of \_\_\_\_\_ 2007.

**D R A F T**

\_\_\_\_\_  
Phillip C. Ward, Director

This draft Preliminary Determination was prepared by a Reimbursement Authority contractor. If you have questions about the information in this document, you may reach Laura Snedaker at 503-986-0884 or [Laura.K.Snedaker@wrdd.state.or.us](mailto:Laura.K.Snedaker@wrdd.state.or.us).

**Laura Snedaker**

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**From:** Dave Nelson  
**Sent:** Monday, December 17, 2007 11:41 AM  
**To:** Laura Snedaker  
**Subject:** RE: T10391 PD docs

Yep.

---

**From:** Laura Snedaker  
**Sent:** Monday, December 17, 2007 10:54 AM  
**To:** Dave Nelson  
**Subject:** FW: T10391 PD docs

Dave – Did this get all wrapped up?

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

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**From:** Terrance Anthony [mailto:[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)]  
**Sent:** Thursday, December 06, 2007 10:08 PM  
**To:** Laura Snedaker  
**Subject:** Re: T10391 PD docs

OK-I just faxed it back to you.

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

----- Original Message -----

**From:** [Laura Snedaker](#)  
**To:** [Terrance Anthony](#)  
**Cc:** [Dave Nelson](#)  
**Sent:** Thursday, December 06, 2007 11:34 AM  
**Subject:** RE: T10391 PD docs

Terry:

Got you fax. Hard to read (faint copy like you said) but I can tell this isn't what we were looking for. I've attached a copy of the deliverables cover page that should have been sent to you originally. This is what we need back with everything checked off and with your signature.

Laura

Laura Snedaker

12/17/2007

Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

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**From:** Terrance Anthony [mailto:[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)]  
**Sent:** Wednesday, December 05, 2007 9:18 PM  
**To:** Laura Snedaker  
**Subject:** Re: T10391 PD docs

Laura-  
If you mean the review checklist, I thought I'd sent that in along with the DPD materials awhile back-? I only have one fairly light copy but I'll fax you what I have.

thanks,  
Terry

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

----- Original Message -----

**From:** Laura Snedaker  
**To:** Terrance Anthony  
**Cc:** [Dave Nelson](#) ; [Salem Opeifa](#) ; [Dorothy Pedersen](#)  
**Sent:** Wednesday, December 05, 2007 1:13 PM  
**Subject:** RE: T10391 PD docs

Hi Terry:

Thanks for getting these deliverables to us. Everything looks good. I think all we need at this point is the deliverables cover page. Once we get that, it sounds like Dave will be able to cut the check.

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

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**From:** Terrance Anthony [mailto:[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)]  
**Sent:** Thursday, November 29, 2007 6:05 PM  
**To:** Laura Snedaker  
**Subject:** T10391 PD docs

Laura,

Attached are the final PD documents for T-10391. Please verify eligibility start date for mitigation credits on

12/17/2007

the new certificate, as well as the phone number on the notice (template differs from T-10300).

Also, on the PD itself I noticed a few errors/omissions:

Finding 10 still refers to T10300

Findings 16 & 20 need a date inserted

Order item #2 still refers to certificate 76358

I'm not sure of the date in question, so if its OK I'll defer to you to make all of the above changes.

I plan to send in my invoice tomorrow morning, but if you need anything else just let me know.

Thanks much,

Terry

Terrance Anthony

ph 503.282.1953

fax 503.493.2512

[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)





**Laura Snedaker**

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**From:** Terrance Anthony [conservationstrategies@comcast.net]  
**Sent:** Thursday, November 29, 2007 6:05 PM  
**To:** Laura Snedaker  
**Subject:** T10391 PD docs  
**Attachments:** 10391-pd-notice.doc; 10391-cf-iswr.doc; 10391-pd-cover.doc

Laura,

Attached are the final PD documents for T-10391. Please verify eligibility start date for mitigation credits on the new certificate, as well as the phone number on the notice (template differs from T-10300).

Also, on the PD itself I noticed a few errors/omissions:

- Finding 10 still refers to T10300

- Findings 16 & 20 need a date inserted

- Order item #2 still refers to certificate 76358

I'm not sure of the date in question, so if its OK I'll defer to you to make all of the above changes.

I plan to send in my invoice tomorrow morning, but if you need anything else just let me know.

Thanks much,

Terry

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

12/3/2007

**Notice of Preliminary Determination for  
Water Right Transfer T-10391 (Mitigation Credit Project MP-108)**

T-10391 filed by Central Oregon Irrigation District and the Deschutes River Conservancy (700 NW Hill St., Bend, OR 97701), proposes a change in place of use/character of use under Certificate 83571. The right allows the use of 0.494 cubic feet per second (cfs) (April 1 to May 1 and Oct 1 to Nov 1); 0.658 cfs (May 1 to May 15 and Sept 15 to Oct 1); and 1.219 (May 15 to Sept 15) (priority dates October 31, 1900 and December 2, 1907) from a diversion (COID North Canal) in Sec. 29, T17S, R12E, W.M. (Deschutes River Basin) for irrigation in Sections 3, 4, 8, 19 and 20 in T15S, R13E, W.M. The applicant proposes to change the place of use and character of use to instream use in the Deschutes River (from COID North Canal to Lake Billy Chinook), at a maximum of 0.672 cfs, and to establish mitigation credits in the Deschutes Groundwater Study Area. The applicant also proposed a cancellation of a portion of supplemental rights under Certificate 76714. The application was amended with respect to the instream period and beneficial use. The Water Resources Department has concluded that the proposed transfer appears to be consistent with the requirements of ORS Chapter 540 and OAR 690-380-5000. The Department has also concluded that the proposed transfer appears to result in mitigation credits pursuant to OAR 690-521-0300 & OAR 690-521-0400.

Any person may file, jointly or severally, with the Department a protest or standing statement within 30 days after the date of final publication of notice in the Department's weekly notice or of this newspaper notice, whichever is later. A protest form and additional information on filing protests may be obtained by calling (503) 986-0852. The last date of newspaper publication is [DATE OF LAST PUBLICATION]. If no protests are filed, the Department will issue a final order consistent with the preliminary determination.

STATE OF OREGON

COUNTY OF

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

STATE OF OREGON  
WATER RESOURCES DEPARTMENT

confirms the right to use the waters of the Deschutes River, a tributary of the Columbia, to maintain instream flows for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Deschutes County. The decree is of record at Salem in the Order Record of the Water Resources Director, in Volume 12, at Page 282 and in volume 16, at pages 1 and 390. The date of priority is October 31, 1900.

The description of the stream reach in which flows are to be maintained is as follows:

Reach: From the location of the diversion authorized previously under Certificate 83571, located approximately at:

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

To the Lake Billy Chinook

The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed:

| Instream Period | April 1 through April 30 and<br>October 1 through October 26 | May 1 through May 14 and<br>September 15 through September 30 | May 15 through<br>September 14 |
|-----------------|--|---|--------------------------------|
| Instream Rate   | 0.272 Cubic Foot per Second (CFS)                            | 0.363 CFS   | 0.672 CFS                      |

or its equivalent in case of rotation during the period from April 1 through October 26 of each year.

Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the originally authorized diversion as adjusted for stream channel losses and gains calculated based on available data and the use of senior appropriators.

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 shall be in addition to instream water rights established pursuant to ORS 537.348 or 537.470, during the period April 1 through October 26 of each year, unless otherwise specified by a subsequent order establishing a new instream water right under these statutes.

This certificate is issued to confirm a change in character of use and place of use approved by an order of the Water Resources Director approving Transfer T-10391, and supersedes Certificate 83571, State Record of Water Right Certificates.

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 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.

Mitigation Credit Award

|                             |  |
|-----------------------------|--|
| Mitigation Project:         | MP-108   |
| Mitigation Credits Awarded: | 71.2   |
| Zone of Impact:             | These mitigation credits may be used to satisfy a mitigation obligation within the Middle Deschutes Zone of Impact and/or General Zone of Impact |

Each mitigation credit equals 1.0 AF of mitigation water, as determined by the Department.

The number of mitigation credits awarded is a portion of the total volume transferred instream, being 215.73 AF. The remaining balance of water dedicated to instream use, and not used to satisfy the mitigation obligation of a ground water permit (and subsequent certificate(s)), will benefit instream flows.

The mitigation credits or mitigation water established by this instream water right may be used to satisfy a mitigation obligation of a ground water permit application(s) and/or a ground water permit(s)/ certificate(s) within the Deschutes Ground Water Study Area pursuant to the Deschutes Ground Water Mitigation Rules.

Mitigation credits are valid beginning January 1, 2008, and are then valid until used to satisfy a mitigation obligation of a ground water permit applicant and/or ground water permit/certificate holder.

The right to the use of the water for the above purpose is restricted to beneficial use in the place of use described and is subject to all other conditions and limitations contained in said decree.

WITNESS the signature of the Water Resources Director, affixed \_\_\_\_\_.

\_\_\_\_\_  
Phillip C. Ward, Director

Recorded in State Record of Water Right Certificates numbered \*\*\*\*\*

December 3, 2007

Zach Tillman  
Deschutes River Conservancy  
700 NW Hill Street  
Bend, Oregon 97701

Leslie Clark  
Central Oregon Irrigation District  
1055 SW Lake Court  
Redmond, OR 97756

SUBJECT: Instream Transfer Application T-10391 / Mitigation Credit Project MP-108

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-10391 **Error! Reference source not found.** This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication simultaneously with issuance of the Preliminary Determination. The notice initiates a 30-day period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision.

Because of the change in character of use, the applicant is responsible for giving public notice of the transfer changes in a local newspaper having a general circulation in the area of the water right. The notice must be published at least once a week for three consecutive weeks. We have prepared the notice for you (enclosed). The deadline for individuals to file protests or standing statements is 30 days after the date of last publication. Please have the newspaper insert the date of last publication in the proper place. After publication, the Department needs to receive an affidavit specifying the dates the notice was published. Typically, the newspaper will prepare and mail an original *affidavit of publication* to the Department, however you will want to request specifically that they do so. The newspaper can mail the affidavit to me at the address above.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me at if I may be of assistance.

Sincerely,

Laura Snedaker  
Field Services Division

cc: District 11 Watermaster—Jeremy Giffen

encs

**Laura Snedaker**

**From:** Laura Snedaker  
**Sent:** Friday, November 23, 2007 11:12 AM  
**To:** 'Terrance Anthony'  
**Cc:** Salem Opeifa  
**Subject:** RE: T-10391 status  
**Importance:** High  
**Attachments:** 10300-pd-cover-approve-RA.doc; 10300-pd-notice.doc; 10300-cf-82571-xxxxx-MP95-RA.doc; 10391-pd-approve-iswr-MP108-RA.doc

Terry:

It looks like we're ready for the final deliverables on this transfer, including the certificate, the PD cover letter, the PD notice language, etc. At this point, it looks like we just need these final items and then you should be clear to submit your final invoice.

Give me a buzz or e-mail if you have questions. I've attached examples from T-10300. I've also attached the revised draft PD for T-10391 as a reference. Made a few changes based on the issuance of a new certificate and a clarification on when credits may become available.

Laura

Laura Snedaker  
 Senior Water Resources Coordinator  
 Oregon Water Resources Department  
 725 Summer Street NE, Suite A  
 Salem, OR 97301-1271  
 Phone: (503) 986-0884  
 Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

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**From:** Terrance Anthony [mailto:[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)]  
**Sent:** Monday, November 19, 2007 7:44 PM  
**To:** Laura Snedaker  
**Subject:** Re: T-10391 status

OK, thanks.

Terrance Anthony  
 ph 503.282.1953  
 fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

----- Original Message -----

**From:** Laura Snedaker  
**To:** Terrance Anthony  
**Cc:** Salem Opeifa  
**Sent:** Monday, November 19, 2007 3:09 PM  
**Subject:** RE: T-10391 status

Terry – what we needed to get resolved was resolved at the November 8<sup>th</sup> meeting with COID. I'm checking back with them now to make sure they concur with the DPD, which they were holding off on until after

11/23/2007

November 8<sup>th</sup>. I'll let you know as soon as I know.

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

---

**From:** Terrance Anthony [mailto:[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)]  
**Sent:** Wednesday, November 14, 2007 10:05 PM  
**To:** Laura Snedaker  
**Subject:** Re: T-10391 status

Hi Laura,

Was anything resolved at the meeting on November 8?

Terry

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

----- Original Message -----

**From:** [Laura Snedaker](#)  
**To:** [Terrance Anthony](#)  
**Cc:** [Salem Opeifa](#)  
**Sent:** Tuesday, October 23, 2007 8:14 AM  
**Subject:** RE: T-10391 status

Terry:

We're still waiting to hear back from COID and the DRC on the draft Preliminary Determination. There's a discussion scheduled between the Department and the applicants on November 8<sup>th</sup> to discuss their new certificate and how changes, based on the new certificate, are being identified in subsequent transfer review documents. We probably want to wait until after that meeting to see if there's anything else we need to do on this transfer before you turn in your final invoice. I don't think there will be anything but won't know for sure until after that meeting.

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

**From:** Terrance Anthony [mailto:conservationstrategies@comcast.net]  
**Sent:** Monday, October 22, 2007 11:38 AM  
**To:** Laura Snedaker  
**Subject:** Re: T-10391 status

OK

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

----- Original Message -----

**From:** Laura Snedaker  
**To:** Terrance Anthony  
**Cc:** Salem Opeifa  
**Sent:** Monday, October 22, 2007 8:49 AM  
**Subject:** RE: T-10391 status

Hi Terry:

I've been out of the office for the last couple of weeks. Give me a couple days to get back into the groove and I can let you know where we are on this file and what we might need at this point.

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

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**From:** Terrance Anthony [mailto:conservationstrategies@comcast.net]  
**Sent:** Thursday, October 18, 2007 10:27 PM  
**To:** Laura Snedaker  
**Cc:** Salem Opeifa  
**Subject:** T-10391 status

Laura,

We got the revised work order signed. Am I clear to submit an invoice for T-10391?

Terry

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

## Laura Snedaker

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**From:** Laura Snedaker  
**Sent:** Wednesday, December 05, 2007 1:19 PM  
**To:** 'Terrance Anthony'  
**Cc:** Dave Nelson; Salem Opeifa; Dorothy Pedersen  
**Subject:** RE: T10391 PD docs

Hi Terry:

Thanks for getting these deliverables to us. Everything looks good. I think all we need at this point is the deliverables cover page. Once we get that, it sounds like Dave will be able to cut the check.

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

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**From:** Terrance Anthony [mailto:[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)]  
**Sent:** Thursday, November 29, 2007 6:05 PM  
**To:** Laura Snedaker  
**Subject:** T10391 PD docs

Laura,

Attached are the final PD documents for T-10391. Please verify eligibility start date for mitigation credits on the new certificate, as well as the phone number on the notice (template differs from T-10300).

Also, on the PD itself I noticed a few errors/omissions:

- Finding 10 still refers to T10300
- Findings 16 & 20 need a date inserted
- Order item #2 still refers to certificate 76358

I'm not sure of the date in question, so if its OK I'll defer to you to make all of the above changes.

I plan to send in my invoice tomorrow morning, but if you need anything else just let me know.

Thanks much,

Terry

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

12/5/2007

**Laura Snedaker**

---

**From:** Laura Snedaker  
**Sent:** Monday, November 19, 2007 4:13 PM  
**To:** 'Leslie Clark'; 'Zach Tillman'  
**Subject:** Instream Transfer T-10391 (MP-108)  
**Attachments:** 10391-dpd-approve-iswr-MP108-RA(redline).pdf

Good Afternoon:

I wanted to check in with you guys on this transfer. It sounds like we're ready to move forward on several of COID's transfers, including this one, consistent with the discussion between COID and the Department on November 8<sup>th</sup>.

In looking back through the file, and before moving forward, it looks like we just needed concurrence on Finding of Fact #20 and whether you concurred with the redlined findings in the previous draft.

Zach, I think you've given your concurrence with Finding of Fact #20 but Leslie, I think, had asked to hold off until after the November 8<sup>th</sup> meeting.

I've attached another draft with the updated language based on the November 8<sup>th</sup> meeting.

Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

11/19/2007

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

|   |   |                  |
|---|---|------------------|
| In the Matter of Instream Transfer        | ) | <b>D R A F T</b> |
| Application T-10391 and Mitigation Credit | ) |                  |
| Project MP-108, Deschutes County          | ) |                  |
|   | ) |                  |
|   | ) |                  |
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PRELIMINARY DETERMINATION  
PROPOSING APPROVAL OF A  
CHANGE IN PLACE OF USE AND  
CHARACTER OF USE, PARTIAL  
CANCELLATION OF A  
SUPPLEMENTAL WATER RIGHT,  
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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

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**

|                                    |                             |
|------------------------------------|-----------------------------|
| CENTRAL OREGON IRRIGATION DISTRICT | DESCHUTES RIVER CONSERVANCY |
| 1055 SW LAKE COURT                 | 700 NW HILL STREET          |
| REDMOND OR 97756                   | BEND, OREGON 97701          |

**Findings of Fact**

**Background**

1. On May 18, 2007, the Central Oregon Irrigation District (COID) and Deschutes River Conservancy (DRC) 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-10391.
2. This instream transfer application originally proposed to change the character of use to instream use for fish and wildlife habitat enhancement; pollution abatement; navigation; and recreation. The applicants amended the application on May 22, 2007, to remove navigation from the list of proposed uses.

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3. On September 26, 2007, Certificate 83571 was issued superseding Certificate 76358.

3.4. That portion of the right to be transferred is as follows:

**Certificate:** ~~83571~~76358 in the name of Central Oregon Irrigation District

**Use:** Irrigation of 39.58 acres

**Priority Date:** October 31, 1900 and December 2, 1907

**Season of Use:** April 1 to November 1 further limited as follows:

April 1 to May 1 and Oct 1 to Nov 1 described herein as Season 1

May 1 to May 15 and Sept 15 to Oct 1 described herein as Season 2

May 15 to Sept 15 described herein as Season 3

**Maximum Quantity (Rate) that can be applied to an acre:**~~Quantity:~~

**Rate:**—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<sup>th</sup> CFS per acre

**Maximum Duty that can be applied to an acre:** \_\_\_\_\_

**Duty:**—Not to exceed 9.91 acre-feet (AF) per acre per year.

| Priority Date    | Season 1  | Season 2  | Season 3  | Duty      |
|------------------|-----------|-----------|-----------|-----------|
| October 31, 1900 | 0.495 CFS | 0.660 CFS | 0.871 CFS | 392.24 AF |
| December 2, 1907 |           |           | 0.351 CFS |           |

The above listed rates and duty quantities listed 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.

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**Source:** The Deschutes River, tributary to the Columbia River

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

| Township | Range | Meridian | Sec  | ¼ ¼ | Location  |
|----------|-------|----------|------|-----|---|
| 17       | S     | 12 E     | W.M. | 29  | SE NE<br>POD #11 (COID NORTH CANAL);<br>850 FEET NORTH AND 630 FEET<br>WEST FROM THE EAST ¼<br>CORNER OF SECTION 29 |

**Authorized Places of Use:**

| Township | Range | Meridian | Sec | ¼ ¼ | Tax Lot | Acres            |
|----------|-------|----------|-----|-----|---------|------------------|
| 15       | S     | 13       | E   | WM  | 3       | NW SW 1401 6.40  |
| 15       | S     | 13       | E   | WM  | 4       | SW NE 500 1.70   |
| 15       | S     | 13       | E   | WM  | 8       | NE NW 1000 1.50  |
| 15       | S     | 13       | E   | WM  | 8       | SE NW 1000 8.00  |
| 15       | S     | 13       | E   | WM  | 19      | SW NE 701 0.20   |
| 15       | S     | 13       | E   | WM  | 19      | SE NW 701 4.45   |
| 15       | S     | 13       | E   | WM  | 19      | SW SW 1200 15.00 |
| 15       | S     | 13       | E   | WM  | 20      | NE SE 1501 2.33  |

5. 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 PODs (described in Finding of Fact #4), the portion of the right involved in this transfer would be limited as described in the tables below. These rates and duty are also the quantities by which Certificate 83571 shall be reduced, if this transfer is approved.

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| Priority Date    | Season 1  | Season 2  | Season 3  | Duty      |
|------------------|-----------|-----------|-----------|-----------|
| October 31, 1900 | 0.494 CFS | 0.658 CFS | 0.870 CFS | 391.27 AF |
| December 2, 1907 |           |           | 0.349 CFS |           |

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4.6. A total of 215.73 AF of water, excluding transmission losses, may be beneficially used annually for primary irrigation under the portion of existing Certificate ~~76358-83571~~ proposed for transfer.

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5.7. Supplemental right, Certificate 76714, is appurtenant to the same lands from which the primary right under Certificate ~~76358-83571~~ is proposed to be transferred to instream use. The applicant intends that the affected portion of Certificate 76714 be cancelled upon issuance of the Final Order approving T-10391.

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6.8. The applicants are not the owners of the lands to which the water right described in Finding of Fact #34 is appurtenant. However, water right conveyance agreements have been completed and interest in the water rights has been conveyed to COID 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.

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| Landowner                       | Water Right Interest Holder | T       | R       | S | Q-Q   | Current Tax Lot |
|---------------------------------|-----------------------------|---------|---------|---|-------|-----------------|
| David M. and Gail L. Wagenblast | COID                        | 15<br>S | 13<br>E | 3 | NW SW | 1401            |

|                              |      |         |         |    |       |      |
|------------------------------|------|---------|---------|----|-------|------|
| James C. and Tari R. Bradley | COID | 15<br>S | 13<br>E | 4  | SW NE | 500  |
| CHW Enterprises LLC          | COID | 15<br>S | 13<br>E | 8  | NE NW | 1000 |
| CHW Enterprises LLC          | COID | 15<br>S | 13<br>E | 8  | SE NW | 1000 |
| High Ridge Development LLC   | COID | 15<br>S | 13<br>E | 19 | SW NE | 701  |
| High Ridge Development LLC   | COID | 15<br>S | 13<br>E | 19 | SE NW | 701  |
| Redmond Investments LLC      | COID | 15<br>S | 13<br>E | 19 | SW SW | 1200 |
| Tri-County Builders Corp.    | COID | 15<br>S | 13<br>E | 20 | NE SE | 1501 |

7.9. Application T-10391 proposes to change the character of use to instream use for fish and wildlife habitat enhancement; recreation; and pollution abatement.

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8.10. Application T-10300 proposes to change the place of use of the right to create the following instream reach:

Reach: From COID North Canal POD #11 (described in Finding of Fact #34) to Lake Billy Chinook.

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9.11. The applicant proposes the quantities of water to be transferred and protected instream as follows:

| Certificate       | Priority Date    | Rate Instream   | Volume Instream |
|-------------------|------------------|---|-----------------|
| <u>7635883571</u> | October 31, 1900 | Season 1: 0.272 CFS<br>Season 2: 0.363 CFS<br>Season 3: 0.672 CFS | 215.73 AF       |

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10.12. There are existing instream water rights within the same reach as that proposed for the new instream water right. All of the existing instream water rights were established under ORS 537.348, the instream transfer process, and ORS 537.470, the allocation of conserved water process. 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 POD #11 to Lake Billy Chinook, which if approved will have a priority date of September 19, 1990.

11.13. The applicant proposes that any instream water right established as a result of this instream transfer to be additive to 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 applicant also proposes that any instream water right established as a result of this instream transfer replace a portion of any existing 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.

~~12-14.~~ The applicant has requested to protect water instream under the October 31, 1900 priority date. Water is diverted at the point 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 by the applicant 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.

~~15.~~ Notice of the application for transfer was published on May 29, 2007, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.

~~16.~~ On September 25, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10391 to the applicants. The draft Preliminary Determination set forth a deadline of October 24, 2007, for the applicants to respond. The additional information requested by the Department was received on September 26, 2007, and October 4, 2007. On October 1, 2007, the Department also sent a second 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 \_\_\_\_\_, 2007, the applicants gave their consent to the draft Preliminary Determination and the red-lined changes.

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

~~13.~~ Notice of the application for transfer was published on May 29, 2007, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.

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~~14-17.~~ \_\_\_\_\_ Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.

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~~15-18.~~ 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 Application T-10391.

~~16-19.~~ The period during which water is requested to be protected instream requires modification to prevent injury and enlargement. At the full rates and duty allowed by the water right to be transferred instream, water may be protected instream for a period of 209 days. The period requested by the applicant is 214 days.

~~17-20.~~ Based on the previous Finding of Fact, on November \_\_\_\_\_, 2007, the applicant agreed to modify the quantities to be transferred and protected instream as follows:

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Reach: COID North Canal POD #11 (as described in Finding of Fact #34) to Lake Billy Chinook

| Certificate    | Priority Date    | Instream Period                       | Instream Rate | Instream volume |
|----------------|------------------|---------------------------------------|---------------|-----------------|
| 763588357<br>1 | October 31, 1900 | Season 1 (modified to end October 26) | 0.272 CFS     | 215.73          |
|                |                  | Season 2                              | 0.363 CFS     |                 |
|                |                  | Season 3                              | 0.672 CFS     |                 |

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18-21. The proposed change, as modified, would not result in enlargement of the right.

19-22. The proposed change, as modified, would not result in injury to other water rights.

20-23. The amount and timing of the proposed instream flow are allowable within the limits and use of the original water right.

21-24. The protection of flows within the proposed reach 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) Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.

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22-25. 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 habitat, aquatic life, recreation, aesthetics, and minimizing pollution. 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 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.

23-26. By adding to other water rights leased or transferred instream at the same location, or created through the conserved water statutes, the instream right will provide protection for additional streamflows necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement.

24-27. By replacing a portion of instream rights created at the request of state agencies or under the minimum streamflow conversion process, the instream right will provide protection for streamflows previously identified as necessary for conservation, maintenance and

enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement under earlier priority dates.

25-28. During the period April 1 through October 26 any instream water right established by this transfer application may 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.

26-29. The total monthly quantities of water to be protected under the proposed instream right, in addition to the existing instream water rights, within the proposed reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

***Partial Cancellation of a Water Right***

27-30. There is an existing supplemental right, Certificate 76714, appurtenant to the portion of lands on which Certificate ~~76358~~ 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-10391. The portion of Certificate 76714 to be cancelled has been quit claimed to COID.

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28-31. Consistent with OAR 690-380-2250, the Department is notifying the applicant of the Department's intent to cancel the portions of the supplemental water right described below unless within 30 days of the date of this notification, the applicant modifies the application to include the supplemental right or withdraws the application.

29-32. That portion of the supplemental water right to be cancelled is as follows:

**Certificate:** 76714 in the name of Central Oregon Irrigation District  
**Use:** Supplemental Irrigation of 39.58 acres  
**Priority Date:** February 28, 1913  
**Source:** Crane Prairie Reservoir, constructed under permit R-1687, tributary to the Deschutes River

**Authorized PODs:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Location  |
|----------|---|-------|---|----------|-----|-------|---|
| 21       | S | 8     | E | W.M.     | 17  | NE NE | CRANE PRAIRIE RESERVOIR DAM   |
| 17       | S | 12    | E | W.M.     | 29  | SE NE | POD #11 (COID NORTH CANAL);<br>850 FEET NORTH AND 630 FEET<br>EAST FROM THE NORTH ¼<br>CORNER OF SECTION 29 |

**Authorized Places of Use:**

| Township | Range | Meridian | Sec | ¼ ¼ | Tax Lot | Acres           |
|----------|-------|----------|-----|-----|---------|-----------------|
| 15       | S     | 13       | E   | WM  | 3       | NW SW 1401 6.40 |

| Township | Range |    | Meridian | Sec | ¼ ¼ |       | Tax Lot | Acres |
|----------|-------|----|----------|-----|-----|-------|---------|-------|
| 15       | S     | 13 | E        | WM  | 4   | SW NE | 500     | 1.70  |
| 15       | S     | 13 | E        | WM  | 8   | NE NW | 1000    | 1.50  |
| 15       | S     | 13 | E        | WM  | 8   | SE NW | 1000    | 8.00  |
| 15       | S     | 13 | E        | WM  | 19  | SW NE | 701     | 0.20  |
| 15       | S     | 13 | E        | WM  | 19  | SE NW | 701     | 4.45  |
| 15       | S     | 13 | E        | WM  | 19  | SW SW | 1200    | 15.00 |
| 15       | S     | 13 | E        | WM  | 20  | NE SE | 1501    | 2.33  |

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30-33. The Department has information that POD #11 (COID North Canal) described in Certificates ~~76358-83571~~ 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 |       | Location  |
|----------|-------|----|----------|------|-----|-------|---|
| 17       | S     | 12 | E        | W.M. | 29  | SE NE | POD # 11 (COID NORTH CANAL):<br>850 FEET NORTH & 630 FEET<br>WEST FROM THE EAST ¼<br>CORNER OF SECTION 29 |

*Preliminary Award of Deschutes Basin Mitigation Credits*

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31-34. COID and the DRC (the Applicant) have requested this instream transfer application be used to establish mitigation credits in the Deschutes Ground Water Study Area. The Applicant has requested that any mitigation credits generated from this project be assigned to COID and the DRC.

32-35. The Department assigned this mitigation credit project number MP-108.

33-36. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300 (6) on May 29, 2007. No comments were received in response to this notice.

34-37. 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 May 29, 2007. Comments were received from ODFW and OPRD. ODFW identified that this project will provide effective instream protection of flows during the irrigation season and also identified, along with general comments on the mitigation program, that instream flow protection is needed during the months outside of the irrigation season. OPRD identified that this instream transfer will enhance aesthetics and add water needed for recreation (boating opportunities). OPRD deferred to ODFW for appropriate timing of when flows should be protected instream.

35-38. The Department is unable to expand the period during which instream flows may be protected outside of the irrigation season, as recommended by ODFW, without causing injury to other water rights. The shaping proposed by the instream transfer application does protect water instream over almost the entire irrigation season at the maximum rates

possible. Therefore, no modifications were made to the lease based upon comments received.

36.39. The proposed transfer of 39.58 acres of irrigation use to instream use will provide 71.2 acre-feet of mitigation water. Therefore, 71.2 mitigation credits (1.0 mitigation credit = 1.0 AF of mitigation water) may be awarded to this mitigation credit project and assigned to COID and the DRC. 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 and/or General Zones of Impact.

37.40. A total of 215.73 AF is proposed to be transferred to instream use and 71.2 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.

38.41. The Department shall award final mitigation credits upon completion of the approved project by the applicant and verification by the Department that the project is complete. The issuance of a certificate(s) for the proposed instream water right shall result in completion of the project and verification that the project is complete.

**Determination and Proposed Action**

The changes in character of use and place of use to instream use proposed in application T-10391 appear to be 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 rights should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved and the abandoned rights will be cancelled.

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

*If application T-10391 is approved, the final order will include the following:*

1. *The changes in character of use and place of use to instream use proposed in application T-10391 are approved.*
2. *Water Right Certificate ~~76358-83571~~ 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 ~~76358-83571~~ 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 76358 by the following:*

| Priority Date    | Season 1                     | Season 2                     | Season 3                     | Duty                 |
|------------------|------------------------------|------------------------------|------------------------------|----------------------|
| October 31, 1900 | <del>0.4950.494</del><br>CFS | <del>0.6600.658</del><br>CFS | <del>0.8710.870</del><br>CFS | <del>392.24</del>    |
| December 2, 1907 |                              |                              | <del>0.3510.349</del><br>CFS | <del>391.27 AF</del> |

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3. *The portion of Certificate 76714 that has been abandoned is cancelled. Water right certificate 76714 is modified. The Department shall issue a new water right certificate on a determination that it is necessary to produce a certificate to confirm that portion of the water right not affected by the cancellation described in Finding of Fact #3229. Modification of this supplemental water right shall reduce by 39.58 acres the number of acres to which stored water may be applied for supplemental irrigation under the right.*
4. *The instream water right shall provide for the protection of streamflows 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:*

*Reach 1: from COID North Canal POD #11 (as described in Finding of Fact #34) to Lake Billy Chinook.*

| <i>Priority Date</i>    | <i>Period Protected Instream</i>  | <i>Instream Rate</i> | <i>Instream Volume</i> |
|-------------------------|---|----------------------|------------------------|
| <i>October 31, 1900</i> | <i>April 1 through April 30 and<br/>October 1 through October 26</i>      | <i>0.272 CFS</i>     | <i>215.73 AF</i>       |
|                         | <i>May 1 through May 14 and<br/>September 15 through<br/>September 30</i> | <i>0.363 CFS</i>     |                        |
|                         | <i>May 15 through September 14</i>  | <i>0.672 CFS</i>     |                        |

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. *Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion.*
7. *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.*
8. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to other conditions and limitations as may be germane to instream rights, that are contained in Certificate 76358 and any related decree.*
9. *The former place of use of the transferred water shall no longer receive water as part of these rights.*
10. ***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, will result in completion of the project and verification by the Department that the project is complete. If completed as proposed, mitigation credits, in the amount of 71.2 credits, as described herein, may be awarded to this mitigation project and assigned to***

*COID and the DRC. 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 General Zones of Impact.*

*11. 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.*

Dated at Salem, Oregon this \_\_\_\_\_ day of \_\_\_\_\_ 2007.

**D R A F T**

\_\_\_\_\_  
Phillip C. Ward, Director

This draft Preliminary Determination was prepared by a Reimbursement Authority contractor. If you have questions about the information in this document, you may reach Laura Snedaker at 503-986-0884 or [Laura.K.Snedaker@wrdd.state.or.us](mailto:Laura.K.Snedaker@wrdd.state.or.us).

**Laura Snedaker**

---

**From:** Laura Snedaker  
**Sent:** Tuesday, October 23, 2007 9:14 AM  
**To:** 'Terrance Anthony'  
**Cc:** Salem Opeifa  
**Subject:** RE: T-10391 status

Terry:

We're still waiting to hear back from COID and the DRC on the draft Preliminary Determination. There's a discussion scheduled between the Department and the applicants on November 8<sup>th</sup> to discuss their new certificate and how changes, based on the new certificate, are being identified in subsequent transfer review documents. We probably want to wait until after that meeting to see if there's anything else we need to do on this transfer before you turn in your final invoice. I don't think there will be anything but won't know for sure until after that meeting.

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

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**From:** Terrance Anthony [<mailto:conservationstrategies@comcast.net>]  
**Sent:** Monday, October 22, 2007 11:38 AM  
**To:** Laura Snedaker  
**Subject:** Re: T-10391 status

OK

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

----- Original Message -----

**From:** Laura Snedaker  
**To:** Terrance Anthony  
**Cc:** Salem Opeifa  
**Sent:** Monday, October 22, 2007 8:49 AM  
**Subject:** RE: T-10391 status

Hi Terry:

I've been out of the office for the last couple of weeks. Give me a couple days to get back into the groove and I can let you know where we are on this file and what we might need at this point.

Thanks, Laura

10/23/2007

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

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**From:** Terrance Anthony [mailto:[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)]  
**Sent:** Thursday, October 18, 2007 10:27 PM  
**To:** Laura Snedaker  
**Cc:** Salem Opeifa  
**Subject:** T-10391 status

Laura,

We got the revised work order signed. Am I clear to submit an invoice for T-10391?

Terry

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

**Laura Snedaker**

**From:** Laura Snedaker  
**Sent:** Friday, September 21, 2007 12:52 PM  
**To:** 'Terrance Anthony'  
**Subject:** T-10391 - final edits on DPD and cover letter  
**Importance:** High  
**Attachments:** 10391-dpd-approve-iswr-MP108-RA(9-21-07).doc; 10391-dpd-cover-iswr-MP108-RA (9-21-07).doc

Terry:

I wanted to share with you some edits I made on the latest draft of the DPD and the cover letter. I think between you and I that we've covered everything that we need to cover. But give me a call if you have any thoughts you want to share, questions, or anything else we need to address before I move this along to the next stage in the process. Next step will be to share the DPD with COID and the DRC.

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)



# Oregon

Theodore R. Kulongoski, Governor

## Water Resources Department

725 Summer Street NE, Suite A

Salem, OR 97301-1271

503-986-0900

FAX 503-986-0904

September 11, 2007

Deschutes River Conservancy  
Attn: Zachary Tillman  
700 Nw Hill Street  
Bend, Oregon 97701

Central Oregon Irrigation District  
Attn: Steve Johnson  
1055 Sw Lake Court  
Redmond Or 97756

SUBJECT: Instream Transfer Application T-10391 and Mitigation Credit Project MP-108

Enclosed find a draft of our Preliminary Determination regarding transfer application T-10391 / mitigation credit project MP-108. The document reflects the Department's conclusion that, based on the information currently available, the transfer will be approved. This draft is intended to provide you with an opportunity to comment on our findings and conclusions should you wish to do so. Please review the draft carefully to evaluate whether the document is consistent with your intent in seeking the transfer, and whether you agree with the proposed action.

In addition, the following information or application materials are needed to complete the review of the transfer application:

- The application contains some conflicting information with regard to season of use and priority date. The draft Preliminary Determination includes an assumption that the proposed instream water right will conform to the 209-day restriction placed on season of use of a previous instream lease as described in the COID calculations exhibit, but with the sole priority date of October 31, 1900 as listed on Form C. Please provide your concurrence with the assumption made in Finding of Fact #11 and the proposed shaping of the instream use provided in Finding of Fact # .
- The application map for Tri-County Builders Corporation (T15S, R13E, Section 20, NE SE, Lot 1501) shows a total of 6.56 acres, including the 2.33 acres to be transferred to instream use. However, it appears based upon Department records that there are 7.26 acres (before the transfer) in this quarter quarter. Please provide clarification and, if necessary, a revised application map showing the correct number of acres to be transferred and remaining.
- The application map for James and Tari Bradley (T15S, R13E, Section 4, SW NE, Lot 500) shows a total of 3.3 acres, including the 1.7 acres to be transferred to instream use. However, it appears based upon Department records that there are 3.3 acres (before the transfer) in this quarter quarter. Please provide clarification and, if necessary, a revised application map showing the correct number of acres to be transferred and remaining.

In addition to transfer of primary rights under Certificate 76358, the Final Order will include the cancellation of supplemental water rights under Certificate 76714 and award of mitigation credits in the Deschutes Groundwater Study Area.

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Comment [LKS1]: I thought we could take this out since this info doesn't really need to be in the cover letter for the DPD.

At this time, if the lienholders identified in the title reports that have not previously been notified of the transfer, you must send notice of the transfer to them and submit copies of each such notice to the Department, along with a notarized statement indicating that the lienholder consents to the transfer. This applies specifically to the lands owned by CHW Enterprises LLC. You will also be required to determine whether liens exist for unpaid taxes identified on the title reports for lands owned by James C. Bradley and Tara R. Bradley, and Redmond Investments LLC, and provide documentation of notice and consent if appropriate.

- The title and lien report for the lands owned by Tri-County Builders Corporation appears to contain a scrivener's error in the legal description (the Partition Plat appears to be number 1991-5 and not 1995-5 as identified in the title and lien report). A letter from the title company acknowledging the typo or a corrected title report is needed.
- In addition, and the Affidavit of Use for Tri-County Builders Corporation these same lands lacks information pertaining to the purpose or delivery system for the water right. A complete affidavit of use needs to be provided but the attachments do not need to be resubmitted. Please have the respective affiants provide clarification for these items.

Additional Land Use Information forms will be required for the City of Bend and Jefferson County as both have jurisdiction over the proposed place of use. Please submit these at the same time as your response to this draft Preliminary Determination.

Because of the change in character of use, the applicant is responsible for publishing notice of the transfer in a local newspaper having a general circulation in the area of the water right. The notice must be published at least once a week for three consecutive weeks. We will provide a copy of the required notice to you upon issuance of the Preliminary Determination.

Issuance of the Preliminary Determination will occur shortly after we receive both your written response and the report of ownership and lien information. If we do not receive your response and the report by September 30, a Preliminary Determination may be issued denying the application as incomplete.

Please do not hesitate to contact me at 503-986-0884 or Laura.K.Snedaker@wrđ.state.or.us if you have questions or if I may be of assistance.

Sincerely,

Laura K. Snedaker  
Field Services Division

cc: Jeremy Giffen, District 11 Watermaster

enc

**Comment [LKS2]:** Because the water rights have been quit claimed we're not concerned about lien holders unless there are trust deeds that identify, along with the property, that the water rights have been conveyed to the trustee in trust until the terms of the trust deed are satisfied. Give me a call and I can share some info on this if you like. We might also be concerned about lien holders if the quit claims didn't all line up right and include both the primary and supplemental right, in the case of COID.

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**Comment [LKS3]:** For instream transfers, we're no longer requiring land use information forms. We've modified our practice to better match the process described in our Land Use Procedures Guide. For instream transfer, applicants need to provide notice to affected local governments (all of them along the proposed reach of the instream use) before submitting the transfer (and include copies of that notice with the transfer application) and then we provide notice to those same governments that the transfer has been received and provide them a 30 day comment period.

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

|   |   |                  |
|---|---|------------------|
| In the Matter of Instream Transfer        | ) | <b>D R A F T</b> |
| Application T-10391 and Mitigation Credit | ) |                  |
| Project MP-108, Deschutes County          | ) |                  |
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PRELIMINARY DETERMINATION  
PROPOSING APPROVAL OF A  
CHANGE IN PLACE OF USE AND  
CHARACTER OF USE, PARTIAL  
CANCELLATION OF A  
SUPPLEMENTAL WATER RIGHT,  
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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

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**

|                                    |                             |
|------------------------------------|-----------------------------|
| CENTRAL OREGON IRRIGATION DISTRICT | DESCHUTES RIVER CONSERVANCY |
| 1055 SW LAKE COURT                 | 700 NW HILL STREET          |
| REDMOND OR 97756                   | BEND, OREGON 97701          |

**Findings of Fact**

**Background**

1. On May 18, 2007, the Central Oregon Irrigation District (COID) and Deschutes River Conservancy (DRC) 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-10391.
2. This instream transfer application originally proposed to change the character of use to instream use for fish and wildlife habitat enhancement; pollution abatement; navigation; and recreation. The applicants amended the application on May 22, 2007, to remove navigation from the list of proposed uses.
3. That portion of the right to be transferred is as follows:

**Certificate:** 76358 in the name of Central Oregon Irrigation District  
**Use:** Irrigation of 39.58 acres  
**Priority Date:** October 31, 1900 and December 2, 1907  
**Season of Use:** April 1 to November 1 further limited as follows:  
 April 1 to May 1 and Oct 1 to Nov 1 described herein as Season 1  
 May 1 to May 15 and Sept 15 to Oct 1 described herein as Season 2  
 May 15 to Sept 15 described herein as Season 3

**Quantity:**

**Rate Limits:** Season 1: limited to 1/80<sup>th</sup>-cubic foot per second (CFS)fs per 80.0 acres

Season 2: limited to 1/60<sup>th</sup> CFS-efs per 60.0 acres

Season 3: limited to 1/32.4<sup>th</sup> CFS-efs per 32.4 acres

**Duty:**—Not to exceed 9.91 acre-feet (AF) per acre per year.

| Priority Date    | Season 1  | Season 2  | Season 3  | Duty      |
|------------------|-----------|-----------|-----------|-----------|
| October 31, 1900 | 0.495 CFS | 0.660 CFS | 0.871 CFS | 397.14 AF |
| December 2, 1907 |           |           | 0.351 CFS |           |

The quantities listed 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):**

| Township | Range | Meridian | Sec  | ¼ ¼ | Location  |
|----------|-------|----------|------|-----|---|
| 17       | S     | 12 E     | W.M. | 29  | SE NE<br>POD #11 (COID NORTH CANAL):<br>850 FEET NORTH AND 630 FEET<br>WEST FROM THE EAST ¼<br>CORNER OF SECTION 29 |

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**Authorized Places of Use:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼ |    | Tax Lot | Acres |
|----------|---|-------|---|----------|-----|-----|----|---------|-------|
| 15       | S | 13    | E | WM       | 3   | NW  | SW | 1401    | 6.40  |
| 15       | S | 13    | E | WM       | 4   | SW  | NE | 500     | 1.70  |
| 15       | S | 13    | E | WM       | 8   | NE  | NW | 1000    | 1.50  |
| 15       | S | 13    | E | WM       | 8   | SE  | NW | 1000    | 8.00  |
| 15       | S | 13    | E | WM       | 19  | SW  | NE | 701     | 0.20  |
| 15       | S | 13    | E | WM       | 19  | SE  | NW | 701     | 4.45  |
| 15       | S | 13    | E | WM       | 19  | SW  | SW | 1200    | 15.00 |
| 15       | S | 13    | E | WM       | 20  | NE  | SE | 1501    | 2.33  |

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4. A total of 215.73 acre-feet (AF) of water, excluding transmission losses, may be beneficially used annually for primary irrigation under the portion of existing Certificate 76358 proposed for transfer.
5. Supplemental right, Certificate 76714, is appurtenant to the same lands from which the primary right under Certificate 76358 is proposed to be transferred to instream use. The applicant intends that the affected portion of Certificate 76714 be cancelled upon issuance of the Final Order approving T-10391.
6. 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 to COID 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.

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| Landowner                       | Water Right Interest Holder | T   | R   | S  | Q-Q   | Current Tax Lot |
|---------------------------------|-----------------------------|-----|-----|----|-------|-----------------|
| David M. and Gail L. Wagenblast | COID                        | 15S | 13E | 3  | NW SW | 1401            |
| James C. and Tari R. Bradley    | COID                        | 15S | 13E | 4  | SW NE | 500             |
| CHW Enterprises LLC             | COID                        | 15S | 13E | 8  | NE NW | 1000            |
| CHW Enterprises LLC             | COID                        | 15S | 13E | 8  | SE NW | 1000            |
| High Ridge Development LLC      | COID                        | 15S | 13E | 19 | SW NE | 701             |
| High Ridge Development LLC      | COID                        | 15S | 13E | 19 | SE NW | 701             |
| Redmond Investments LLC         | COID                        | 15S | 13E | 19 | SW SW | 1200            |
| Tri-County Builders Corp.       | COID                        | 15S | 13E | 20 | NE SE | 1501            |

7. Application T-10391 proposes to change the character of use to instream use for fish and wildlife habitat enhancement; recreation; and pollution abatement.
8. Application T-10300 proposes to change the place of use of the right to create the following instream reach:

Reach 4: From COID North Canal POD #11 (described in Finding of Fact #3) to Lake Billy Chinook

9. The applicant proposes the quantities of water to be transferred and protected instream as follows:

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| Certificate | Priority Date    | Rate Instream   | Volume Instream |
|-------------|------------------|---|-----------------|
| 76358       | October 31, 1900 | Season 1: 0.272 CFS<br>Season 2: 0.363 CFS<br>Season 3: 0.672 CFS | 215.73 AF       |

9. There are existing instream water rights within, ~~for~~ the same reach as that proposed for the new instream water right. All of the existing instream water rights were established under ORS 537.348, the instream transfer process, and ORS 537.470, the allocation of conserved water process. 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 POD #11 to Lake Billy Chinook, which if approved will have a priority date of September 19, 1990.
10. The applicant proposes that any instream water right established as a result of this instream transfer to be additive to 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 applicant also proposes that any instream water right established as a result of this instream transfer replace a portion of any existing 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.
11. The applicant has requested to protect water instream under the October 31, 1900 priority date. Water is diverted at the point 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 by the applicant to be transferred instream do not include the 45% transmission loss. The Department finds that water may be protected instream solely under the 1900 priority date.

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

10. Notice of the application for transfer was published on May 29, 2007, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
11. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.

12. 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 Application T-10391.
13. The period during which water is requested to be protected instream requires modification to prevent injury and enlargement. At the full rates and duty allowed by the water right to be transferred instream, water may be protected instream for a period of 209 days. The period requested by the applicant is 214 days.
14. Based on the previous Finding of Fact, on \_\_\_\_\_, the applicant agreed to modify the quantities to be transferred and protected instream as follows:

Reach: COID North Canal POD #11 (as described in Finding of Fact #3) to Lake Billy Chinook

| Certificate | Priority Date    | Instream Period                       | Instream Rate | Instream volume |
|-------------|------------------|---------------------------------------|---------------|-----------------|
| 76358       | October 31, 1900 | Season 1 (modified to end October 26) | 0.272 CFS     | 215.73          |
|             |                  | Season 2                              | 0.363 CFS     |                 |
|             |                  | Season 3                              | 0.672 CFS     |                 |

Comment [T1]: Insert date

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16.15. \_\_\_\_\_ The proposed change, as modified, would not result in enlargement of the right.

17.16. \_\_\_\_\_ The proposed change, as modified, would not result in injury to other water rights.

18.17. \_\_\_\_\_ The amount and timing of the proposed instream flow and the timing of the proposed instream flow are allowable within the limits and use of the original water right.

19.18. \_\_\_\_\_ The protection of flows within the proposed reach 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) Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.

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20.19. \_\_\_\_\_ 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 habitat, aquatic life, recreation, aesthetics, and minimizing pollution. 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 pending instream water right application, which are at times not met during 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.

21.20. By adding to other water rights leased or transferred instream at the same location, or created through the conserved water statutes, the instream right will provide protection for additional streamflows necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement.

22.21. By replacing a portion of instream rights created at the request of state agencies or under the minimum streamflow conversion process, the instream right will provide protection for streamflows previously identified as necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement under earlier priority dates.

23.22. During the period April 1 through October 26 any instream water right established by this transfer application may 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.

24.23. The total monthly quantities of water to be protected under the proposed instream right, in addition to the existing instream water rights, within the proposed reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

#### *Partial Cancellation of a Water Right*

25.24. There is an existing supplemental right, Certificate 76714, appurtenant to the portion of lands on which Certificate 76358 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-10391. The portion of Certificate 76714 to be cancelled has been quit claimed to the COID.

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26.25. Consistent with OAR 690-380-2250, the Department is notifying the applicant of the Department's intent to cancel the portions of the supplemental water right described below unless within 30 days of the date of this notification, the applicant modifies the application to include the supplemental right or withdraws the application.

27.26. That portion of the supplemental water right to be cancelled is as follows:

**Certificate:** 76714 in the name of Central Oregon Irrigation District  
**Use:** Supplemental Irrigation of 39.58 acres  
**Priority Date:** February 28, 1913  
**Source:** Crane Prairie Reservoir, constructed under permit R-1687, tributary to the Deschutes River

**Authorized PODs:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼ |    | Location  |
|----------|---|-------|---|----------|-----|-----|----|---|
| 21       | S | 8     | E | W.M.     | 17  | NE  | NE | CRANE PRAIRIE RESERVOIR DAM   |
| 17       | S | 12    | E | W.M.     | 29  | SE  | NE | POD #11 (COID NORTH CANAL):<br>850 FEET NORTH AND 630 FEET<br>EAST FROM THE NORTH ¼<br>CORNER OF SECTION 29 |

**Authorized Places of Use:**

| Township | Range | Meridian | Sec | ¼ ¼ |    | Tax Lot | Acres |      |       |
|----------|-------|----------|-----|-----|----|---------|-------|------|-------|
| 15       | S     | 13       | E   | WM  | 3  | NW      | SW    | 1401 | 6.40  |
| 15       | S     | 13       | E   | WM  | 4  | SW      | NE    | 500  | 1.70  |
| 15       | S     | 13       | E   | WM  | 8  | NE      | NW    | 1000 | 1.50  |
| 15       | S     | 13       | E   | WM  | 8  | SE      | NW    | 1000 | 8.00  |
| 15       | S     | 13       | E   | WM  | 19 | SW      | NE    | 701  | 0.20  |
| 15       | S     | 13       | E   | WM  | 19 | SE      | NW    | 701  | 4.45  |
| 15       | S     | 13       | E   | WM  | 19 | SW      | SW    | 1200 | 15.00 |
| 15       | S     | 13       | E   | WM  | 20 | NE      | SE    | 1501 | 2.33  |

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28:27. The Department has information that POD #11 (COID North Canal) described in Certificates 76358 and 76714 is the same diversion point. The location coordinates described in Certificate 76714 contains errors. The location coordinates should be:

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

**Preliminary Award of Deschutes Basin Mitigation Credits**

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29:28. \_\_\_\_\_ COID and the DRC (the Applicant) have requested this instream transfer application be used to establish mitigation credits in the Deschutes Ground Water Study Area. The Applicant has requested that any mitigation credits generated from this project be assigned to COID and the DRC.

30:29. \_\_\_\_\_ The Department assigned this mitigation credit project number MP-108.

31.30. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300 (6) on May 29, 2007. No comments were received in response to this notice.

32.31. 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 May 29, 2007. Comments were received from ODFW and OPRD. ODFW identified that this project will provide effective instream protection of flows during the irrigation season and also identified, along with general comments on the mitigation program, that instream flow protection is needed during the months outside of the irrigation season. OPRD identified that this instream transfer will enhance aesthetics and add water needed for recreation (boating opportunities). OPRD deferred to ODFW for appropriate timing of when flows should be protected instream.

33.32. The Department is unable to expand the period during which instream flows may be protected outside of the irrigation season, as recommended by ODFW, without causing injury to other water rights. The shaping proposed by the instream transfer lease application does protect water instream over almost the entire irrigation season at the maximum rates possible. Therefore, no modifications were made to the lease based upon comments received.

34.33. The proposed transfer of 39.58 acres of irrigation use to instream use will provide 71.2 acre-feet of mitigation water. Therefore, 71.2 mitigation credits (1.0 mitigation credit = 1.0 AF of mitigation water) may be awarded to this mitigation credit project and assigned to COID and the DRC. 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 and/or General Zones of Impact.

35.34. A total of 215.73 AF is proposed to be transferred to instream use and 71.2 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.

36.35. The Department shall award final mitigation credits upon completion of the approved project by the applicant and verification by the Department that the project is complete. The issuance of a certificate(s) for the proposed instream water right shall result in completion of the project and verification that the project is complete.

#### **Determination and Proposed Action**

The changes in character of use and place of use to instream use proposed in application T-10391 appear to be 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 rights should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved and the abandoned rights will be cancelled.

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

If application T- is approved, the final order will include the following:

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2.1. The changes in character of use and place of use to instream use proposed in application T-10391 are approved.

3.2. Water Right Certificate 76358 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 76358 on a determination that it is necessary to produce a certificate to confirm that portion of the right not involved in this transfer. Modification of this water right shall reduce by 39.58 acres the number of acres to which stored water may be applied for irrigation under the right. Approval of this transfer shall reduce the amount of water lawfully available under the remaining portion of Certificate 76358 by the following:

| Priority Date    | Season 1  | Season 2  | Season 3  | Duty      |
|------------------|-----------|-----------|-----------|-----------|
| October 31, 1900 | 0.495 CFS | 0.660 CFS | 0.871 CFS | 392.24 AF |
| December 2, 1907 |           |           | 0.351 CFS |           |

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4.3. The portion of Certificate 76714 that has been abandoned is cancelled. Water right certificate 76714 is modified. The Department shall issue a new water right certificate on a determination that it is necessary to produce a certificate to confirm that portion of the water right not affected by the cancellation described in Finding of Fact #28. Modification of this supplemental water right shall reduce by 39.58 acres the number of acres to which stored water may be applied for supplemental irrigation under the right.

4.4. The instream water right shall provide for the protection of streamflows 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:

Reach 1: from COID North Canal POD #11 (as described in Finding of Fact #3) to Lake Billy Chinook.

| Priority Date    | Period Protected Instream  | Instream Rate | Instream Volume |
|------------------|--|---------------|-----------------|
| October 31, 1900 | April 1 through April 30 and<br>October 1 through October 26     | 0.272 CFS     | 215.73 AF       |
|                  | May 1 through May 14 and<br>September 15 through<br>September 30 | 0.363 CFS     |                 |
|                  | May 15 through September 14                                      | 0.672 CFS     |                 |

7.5. *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.*

8.6. *Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion.*

9.7. *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.*

10.8. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to other conditions and limitations as may be germane to instream rights, that are contained in Certificate 76358 and any related decree.*

11.9. *The former place of use of the transferred water shall no longer receive water as part of these rights.*

12.10. ***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, will result in completion of the project and verification by the Department that the project is complete. If completed as proposed, mitigation credits, in the amount of 71.2 credits, as described herein, may be awarded to this mitigation project and assigned to COID and the DRC. 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 General Zones of Impact.***

13.11. *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.*

Dated at Salem, Oregon this \_\_\_\_\_ day of \_\_\_\_\_ 2007.

**D R A F T**

\_\_\_\_\_  
Phillip C. Ward, Director

**Laura Snedaker**

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**From:** Laura Snedaker  
**Sent:** Wednesday, August 29, 2007 11:18 AM  
**To:** 'Terrance Anthony'  
**Cc:** Dorothy Pedersen  
**Subject:** RE: T-10391 DPD

Terry:

I did a quick read through of the latest DPD and everything looks good. Thanks a bunch! And I've heard back from the Watermaster – no return flow issues on this transfer. What I need now are your work notes, marked up application, plat cards, etc? The items are all listed on the deliverables cover in the lower section. These items are needed for staff here to peer review the DPD.

As for the rest of the deliverables, including the instream certificate, the PD cover letter, etc, I'll touch base with you after we get any comments on the DPD back from the applicant.

In the meantime, I'll let you know if there's any further work that needs to get done before we send out the DPD to the applicant.

Thanks much!  
Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

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**From:** Terrance Anthony [mailto:[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)]  
**Sent:** Tuesday, August 28, 2007 10:41 PM  
**To:** Laura Snedaker  
**Cc:** Dorothy Pedersen  
**Subject:** T-10391 DPD

Laura,

Attached is the DPD for the T-10391 transfer modified per your requests. There are a couple blanks still to fill in. Let me know if you want anything else.

PS I will be out of town Thursday thru Tuesday

Terry

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

8/29/2007

**Laura Snedaker**

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**From:** Terrance Anthony [conservationstrategies@comcast.net]  
**Sent:** Tuesday, August 28, 2007 10:41 PM  
**To:** Laura Snedaker  
**Cc:** Dorothy Pedersen  
**Subject:** T-10391 DPD  
**Attachments:** 10391-dpd-approve-iswr-MP108-RA.doc

Laura,

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PS I will be out of town Thursday thru Tuesday

Terry

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

8/29/2007

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

|   |   |                  |
|---|---|------------------|
| In the Matter of Instream Transfer        | ) | <b>D R A F T</b> |
| Application T-10391 and Mitigation Credit | ) |                  |
| Project MP-108, Deschutes County          | ) |                  |
|   | ) |                  |
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|   | ) |                  |

**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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

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**

|                                    |                             |
|------------------------------------|-----------------------------|
| CENTRAL OREGON IRRIGATION DISTRICT | DESCHUTES RIVER CONSERVANCY |
| 1055 SW LAKE COURT                 | 700 NW HILL STREET          |
| REDMOND OR 97756                   | BEND, OREGON 97701          |

**Findings of Fact**

**Background**

1. On May 18, 2007, the Central Oregon Irrigation District (COID) and Deschutes River Conservancy (DRC) 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-10391.
2. This instream transfer application originally proposed to change the character of use to instream use for fish and wildlife habitat enhancement; pollution abatement; navigation; and recreation. The applicants amended the application on May 22, 2007, to remove navigation from the list of proposed uses.
3. That portion of the right to be transferred is as follows:

**Certificate:** 76358 in the name of Central Oregon Irrigation District

**Use:** Irrigation of 39.58 acres

**Priority Date:** October 31, 1900 and December 2, 1907

**Season of Use:** April 1 to November 1 further limited as follows:

April 1 to May 1 and Oct 1 to Nov 1 described herein as Season 1

May 1 to May 15 and Sept 15 to Oct 1 described herein as Season 2

May 15 to Sept 15 described herein as Season 3

**Rate Limits:** Season 1: 1 cfs per 80.0 acres

Season 2: 1 cfs per 60.0 acres

Season 3: 1 cfs per 32.4 acres

**Duty:** Not to exceed 9.91 acre-feet per acre per year.

| Priority Date    | Season 1  | Season 2  | Season 3  | Duty      |
|------------------|-----------|-----------|-----------|-----------|
| October 31, 1900 | 0.495 CFS | 0.660 CFS | 0.871 CFS | 397.14 AF |
| December 2, 1907 |           |           | 0.351 CFS |           |

The quantities listed 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):**

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Location   |
|----------|---|-------|---|----------|-----|-------|--|
| 17       | S | 12    | E | W.M.     | 29  | SE NE | POD #11 (COID NORTH CANAL):<br>850 FEET NORTH AND 630 FEET<br>WEST FROM THE EAST ¼<br>CORNER OF SECTION 29 |

**Authorized Places of Use:**

| Township | Range |    | Meridian | Sec | ¼ ¼ |       | Tax Lot | Acres |
|----------|-------|----|----------|-----|-----|-------|---------|-------|
| 15       | S     | 13 | E        | WM  | 3   | NW SW | 1401    | 6.40  |
| 15       | S     | 13 | E        | WM  | 4   | SW NE | 500     | 1.70  |
| 15       | S     | 13 | E        | WM  | 8   | NE NW | 1000    | 1.50  |
| 15       | S     | 13 | E        | WM  | 8   | SE NW | 1000    | 8.00  |
| 15       | S     | 13 | E        | WM  | 19  | SW NE | 701     | 0.20  |
| 15       | S     | 13 | E        | WM  | 19  | SE NW | 701     | 4.45  |
| 15       | S     | 13 | E        | WM  | 19  | SW SW | 1200    | 15.00 |
| 15       | S     | 13 | E        | WM  | 20  | NE SE | 1501    | 2.33  |

4. A total of 215.73 acre-feet (AF) of water, excluding transmission losses, may be beneficially used annually for primary irrigation under the portion of existing Certificate 76358 proposed for transfer.
5. Supplemental right, Certificate 76714, is appurtenant to the same lands from which the primary right under Certificate 76358 is proposed to be transferred to instream use. The applicant intends that the affected portion of Certificate 76714 be cancelled upon issuance of the Final Order approving T-10391.
6. 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 to COID from each landowner described in the table below. The portion of this right to be transferred was appurtenant to lands owned by the identified land landowners at the time interest in the water right was conveyed through a Quit Claim, a water right conveyance agreement.

| Landowner                       | Water Right Interest Holder | T   | R   | S  | Q-Q   | Current Tax Lot |
|---------------------------------|-----------------------------|-----|-----|----|-------|-----------------|
| David M. and Gail L. Wagenblast | COID                        | 15S | 13E | 3  | NW SW | 1401            |
| James C. and Tari R. Bradley    | COID                        | 15S | 13E | 4  | SW NE | 500             |
| CHW Enterprises LLC             | COID                        | 15S | 13E | 8  | NE NW | 1000            |
| CHW Enterprises LLC             | COID                        | 15S | 13E | 8  | SE NW | 1000            |
| High Ridge Development LLC      | COID                        | 15S | 13E | 19 | SW NE | 701             |
| High Ridge Development LLC      | COID                        | 15S | 13E | 19 | SE NW | 701             |
| Redmond Investments LLC         | COID                        | 15S | 13E | 19 | SW SW | 1200            |
| Tri-County Builders Corp.       | COID                        | 15S | 13E | 20 | NE SE | 1501            |

7. Application T-10391 proposes to change the character of use to instream use for fish and wildlife habitat enhancement; recreation; and pollution abatement.
8. Application T-10300 proposes to change the place of use of the right to create the following instream reach:

Reach 1: From COID North Canal POD #11 (described in Finding of Fact #3) to Lake Billy Chinook

9. The applicant proposes the quantities of water to be transferred and protected instream as follows:

| Certificate | Priority Date    | Rate Instream   | Volume Instream |
|-------------|------------------|---|-----------------|
| 76358       | October 31, 1900 | Season 1: 0.272 CFS<br>Season 2: 0.363 CFS<br>Season 3: 0.672 CFS | 215.73 AF       |

9. There are existing instream water rights, for the same reach as that proposed for the new instream water right. All of the existing instream water rights were established under ORS 537.348, the instream transfer process, and ORS 537.470, the allocation of conserved water process. 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 POD #11 to Lake Billy Chinook, which if approved will have a priority date of September 19, 1990.
10. The applicant proposes that any instream water right established as a result of this instream transfer to be additive to 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 applicant also proposes that any instream water right established as a result of this instream transfer replace a portion of any existing 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.
11. The applicant has requested to protect water instream under the October 31, 1900 priority date. Water is diverted at the point 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 by the applicant to be transferred instream do not include the 45% transmission loss. The Department finds that water may be protected instream solely under the 1900 priority date.

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

10. Notice of the application for transfer was published on May 29, 2007 pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
11. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.

12. 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 Application T-10391.
13. The period during which water is requested to be protected instream requires modification to prevent injury and enlargement. At the full rates and duty allowed by the water right to be transferred instream, water may be protected instream for a period of 209 days. The period requested by the applicant is 214 days.
14. Based on the previous Finding of Fact, on the applicant agreed to modify the quantities to be transferred and protected instream as follows:

**Comment [T1]:** Insert date

1. Reach: COID North Canal POD #11 (as described in Finding of Fact #3) to Lake Billy Chinook

| Certificate | Priority Date    | Instream Period                       | Instream Rate | Instream volume |
|-------------|------------------|---------------------------------------|---------------|-----------------|
| 76358       | October 31, 1900 | Season 1 (modified to end October 26) | 0.272 CFS     | 215.73          |
|             |                  | Season 2                              | 0.363 CFS     |                 |
|             |                  | Season 3                              | 0.672 CFS     |                 |

15. add return flow finding here – if needed – awaiting info from the Watermaster
16. The proposed change, as modified, would not result in enlargement of the right.
17. The proposed change, as modified, would not result in injury to other water rights.
18. The amount of the proposed instream flow and the timing of the proposed instream flow are allowable within the limits and use of the original water right.
19. The protection of flows within the proposed reach 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) Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.
20. 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

**Comment [Laura Kat2]:** May need to be modified if it's found that we need to address any return flows within the proposed reach -- I'll pass any information I obtain from the Watermaster on this issue along.

use of water for fish habitat, aquatic life, recreation, aesthetics, and minimizing pollution. 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 pending instream water right application, which are at times not met during 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.

21. By adding to other water rights leased or transferred instream at the same location, or created through the conserved water statutes, the instream right will provide protection for additional streamflows necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement.
22. By replacing a portion of instream rights created at the request of state agencies or under the minimum streamflow conversion process, the instream right will provide protection for streamflows previously identified as necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement under earlier priority dates.
23. During the period April 1 through October 26 any instream water right established by this transfer application may 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.
24. The total monthly quantities of water to be protected under the proposed instream right, in addition to the existing instream water rights, within the proposed reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

***Partial Cancellation of a Water Right***

25. There is an existing supplemental right, Certificate 76714, appurtenant to the portion of lands on which Certificate 76358 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-10391. The portion of Certificate 76714 to be cancelled has been quit claimed to the COID.
26. Consistent with OAR 690-380-2250, the Department is notifying the applicant of the Department's intent to cancel the portions of the supplemental water right described below unless within 30 days of the date of this notification, the applicant modifies the application to include the supplemental right or withdraws the application.
27. That portion of the supplemental water right to be cancelled is as follows:

**Certificate:** 76714 in the name of Central Oregon Irrigation District  
**Use:** Supplemental Irrigation of 39.58 acres  
**Priority Date:** February 28, 1913  
**Source:** Crane Prairie Reservoir, constructed under permit R-1687, tributary to the Deschutes River

**Authorized PODs:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Location  |
|----------|---|-------|---|----------|-----|-------|---|
| 21       | S | 8     | E | W.M.     | 17  | NE NE | CRANE PRAIRIE RESERVOIR DAM   |
| 17       | S | 12    | E | W.M.     | 29  | SE NE | POD #11 (COID NORTH CANAL):<br>850 FEET NORTH AND 630 FEET<br>EAST FROM THE NORTH ¼<br>CORNER OF SECTION 29 |

**Authorized Places of Use:**

| Township | Range | Meridian | Sec | ¼ ¼ | Tax Lot | Acres |      |       |
|----------|-------|----------|-----|-----|---------|-------|------|-------|
| 15       | S     | 13       | E   | WM  | 3       | NW SW | 1401 | 6.40  |
| 15       | S     | 13       | E   | WM  | 4       | SW NE | 500  | 1.70  |
| 15       | S     | 13       | E   | WM  | 8       | NE NW | 1000 | 1.50  |
| 15       | S     | 13       | E   | WM  | 8       | SE NW | 1000 | 8.00  |
| 15       | S     | 13       | E   | WM  | 19      | SW NE | 701  | 0.20  |
| 15       | S     | 13       | E   | WM  | 19      | SE NW | 701  | 4.45  |
| 15       | S     | 13       | E   | WM  | 19      | SW SW | 1200 | 15.00 |
| 15       | S     | 13       | E   | WM  | 20      | NE SE | 1501 | 2.33  |

28. The Department has information that POD #11 (COID North Canal) described in Certificates 76358 and 76714 is the same diversion point. The location coordinates described in Certificate 76714 contains errors. The location coordinates should be:

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Location  |
|----------|---|-------|---|----------|-----|-------|---|
| 17       | S | 12    | E | W.M.     | 29  | SE NE | POD # 11 (COID NORTH CANAL):<br>850 FEET NORTH & 630 FEET<br><u>WEST</u> FROM THE <u>EAST</u> ¼<br>CORNER OF SECTION 29 |

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

29. COID and the DRC (the Applicant) have requested this instream transfer application be used to establish mitigation credits in the Deschutes Ground Water Study Area. The Applicant has requested that any mitigation credits generated from this project be assigned to COID and the DRC.
30. The Department assigned this mitigation credit project number MP-108.

31. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300 (6) on May 29, 2007. No comments were received in response to this notice.
32. 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 May 29, 2007. Comments were received from ODFW and OPRD. ODFW identified that this project will provide effective instream protection of flows during the irrigation season and also identified, along with general comments on the mitigation program, that instream flow protection is needed during the months outside of the irrigation season. OPRD identified that this instream transfer will enhance aesthetics and add water needed for recreation (boating opportunities). OPRD deferred to ODFW for appropriate timing of when flows should be protected instream.
33. The Department is unable to expand the period during which instream flows may be protected outside of the irrigation season, as recommended by ODFW, without causing injury to other water rights. The shaping proposed by the instream lease application does protect water instream over almost the entire irrigation season at the maximum rates possible. Therefore, no modifications were made to the lease based upon comments received.
34. The proposed transfer of 39.58 acres of irrigation use to instream use will provide 71.2 acre-feet of mitigation water. Therefore, 71.2 mitigation credits (1.0 mitigation credit = 1.0 AF of mitigation water) may be awarded to this mitigation credit project and assigned to COID and the DRC. 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 and/or General Zones of Impact.
35. A total of 215.73 AF is proposed to be transferred to instream use and 71.2 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.
36. The Department shall award final mitigation credits upon completion of the approved project by the applicant and verification by the Department that the project is complete. The issuance of a certificate(s) for the proposed instream water right shall result in completion of the project and verification that the project is complete.

#### **Determination and Proposed Action**

The changes in character of use and place of use to instream use proposed in application T-10391 appear to be 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 rights should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved and the abandoned rights will be cancelled.

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

If application T- is approved, the final order will include the following:

2. The changes in character of use and place of use to instream use proposed in application T-10391 are approved.
3. Water Right Certificate 76358 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 76358 on a determination that it is necessary to produce a certificate to confirm that portion of the right not involved in this transfer. Modification of this water right shall reduce by 39.58 acres the number of acres to which stored water may be applied for irrigation under the right. Approval of this transfer shall reduce the amount of water lawfully available under the remaining portion of Certificate 76358 by the following:

| Priority Date    | Season 1  | Season 2  | Season 3  | Duty      |
|------------------|-----------|-----------|-----------|-----------|
| October 31, 1900 | 0.495 CFS | 0.660 CFS | 0.871 CFS | 392.24 AF |
| December 2, 1907 |           |           | 0.351 CFS |           |

4. The portion of Certificate 76714 that has been abandoned is cancelled. Water right certificate 76714 is modified. The Department shall issue a new water right certificate on a determination that it is necessary to produce a certificate to confirm that portion of the water right not affected by the cancellation described in Finding of Fact #28. Modification of this supplemental water right shall reduce by 39.58 acres the number of acres to which stored water may be applied for supplemental irrigation under the right.
1. The instream water right shall provide for the protection of streamflows 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:

Reach 1: from COID North Canal POD #11 (as described in Finding of Fact #3) to Lake Billy Chinook.

| Priority Date    | Period Protected Instream  | Instream Rate | Instream Volume |
|------------------|--|---------------|-----------------|
| October 31, 1900 | April 1 through April 30 and<br>October 1 through October 26     | 0.272 CFS     | 215.73 AF       |
|                  | May 1 through May 14 and<br>September 15 through<br>September 30 | 0.363 CFS     |                 |
|                  | May 15 through September 14                                      | 0.672 CFS     |                 |

7. *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.*
8. *Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion.*
9. *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.*
10. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to other conditions and limitations as may be germane to instream rights, that are contained in Certificate 76358 and any related decree.*
11. *The former place of use of the transferred water shall no longer receive water as part of these rights.*
12. ***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, will result in completion of the project and verification by the Department that the project is complete. If completed as proposed, mitigation credits, in the amount of 71.2 credits, as described herein, may be awarded to this mitigation project and assigned to COID and the DRC. 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 General Zones of Impact.***
13. *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.*

Dated at Salem, Oregon this \_\_\_\_\_ day of \_\_\_\_\_ 2007.

**D R A F T**

\_\_\_\_\_  
Phillip C. Ward, Director

**Laura Snedaker**

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**From:** Laura Snedaker  
**Sent:** Wednesday, August 29, 2007 8:25 AM  
**To:** 'Terrance Anthony'  
**Subject:** RE: T-10391 DPD docs

Terry:

Did you check the plat cards for conflicts and make notes? Generally, what we do here is print out the plat cards, make notes on them as we check for conflicts, and then put those in the file as part of our review materials.

Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

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**From:** Terrance Anthony [mailto:[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)]  
**Sent:** Tuesday, August 28, 2007 10:44 PM  
**To:** Laura Snedaker  
**Subject:** Re: T-10391 DPD docs

Laura,

How are we to do platcards on the COID transfers? The usual way would seem to result in a monstrous amount of paper.

Do you want the instream certificate prepared at this time?

Terry

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

----- Original Message -----

**From:** [Laura Snedaker](mailto:Laura.Snedaker@owrd.org)  
**To:** [Terrance Anthony](mailto:Terrance.Anthony@owrd.org)  
**Sent:** Wednesday, August 22, 2007 3:46 PM  
**Subject:** RE: T-10391 DPD docs

Thanks. And when you're done with the DPD, would you please send in your work notes, marked up application, plat cards, etc? I've been talking with Dorothy about when certain items need to be submitted and we've identified that these work items are necessary for us on this end to peer review the application and DPD. The items I'm requesting are all identified on the deliverables cover in the lower section.

Thanks much!

8/29/2007

Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

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**From:** Terrance Anthony [mailto:[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)]  
**Sent:** Tuesday, August 21, 2007 8:13 PM  
**To:** Laura Snedaker  
**Subject:** Re: T-10391 DPD docs

OK. I'll take a look and get back to you.

Terry

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

----- Original Message -----

**From:** Laura Snedaker  
**To:** Terrance Anthony  
**Cc:** Dorothy Pedersen  
**Sent:** Tuesday, August 21, 2007 9:46 AM  
**Subject:** RE: T-10391 DPD docs

Terry:

I really started to go through your draft DPD yesterday and noticed that you did a lot of restructuring (for example, the analysis section). And I think you added a few findings. We really need documents to follow a consistent format. I've attached an example of a PD (previously provided) produced for a very similar transfer of COID's water right to instream use, which is also a mitigation project. I chatted with Dorothy a bit yesterday afternoon and we agreed that we need to have the document you put together rearranged such that it follows the regular DPD format and similar language.

Please take a look at the attached example for T-10300 and give me a buzz if you have any questions. For example, the instream use can be structured such that it's all under the 1900 priority date. In Finding of Fact #21 in the DPD that you put together it's structured such that water is protected under the 1900 and 1907 priority dates. And for comparison see Finding of Fact #17 in the attached example from transfer T-10300.

And I wasn't sure where Findings of Fact #30 and 24 came from.

Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

8/29/2007

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**From:** Terrance Anthony [mailto:[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)]  
**Sent:** Friday, August 03, 2007 2:27 PM  
**To:** Laura Snedaker  
**Subject:** T-10391 DPD docs

Laura,

Attached are DPD documents for T-10391 (COID/DRC). I based the DPD largely on T-10300 but of course I had to make some additional interpretations. I'm sure you will want to review it carefully, and let me know if you have any questions or need any changes. Bob alerted me to the need for additional land use information forms for a similar Swalley instream transfer, so that request has been included into the cover letter.

I have 24 hours into this so far, so I anticipate I will need to adjust my estimate before we are done. I would prefer to wait until a response from the applicant to determine how much additional work is needed. Call if we need to discuss.

-Thanks.

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

**Laura Snedaker**

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**From:** Laura Snedaker  
**Sent:** Wednesday, August 29, 2007 9:02 AM  
**To:** 'Terrance Anthony'  
**Subject:** RE: T-10300 - FYI

Terry:

Actually, this isn't your transfer (T-10300). I sent this e-mail to you in error. I'm working with you on T-10391. If you're going over in hours on T-10391, you should probably touch base with Salem right away so that he can give a heads up to the applicant and see if they're willing to pay additional fees.

As a general side note, I chatted with Dorothy and we don't have contractors prepare the PD's. We do, however, have you guys make changes needed to the DPD in response to comments from the applicant after we send them a copy of the DPD for their review.

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

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**From:** Terrance Anthony [mailto:[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)]  
**Sent:** Tuesday, August 28, 2007 10:55 PM  
**To:** Laura Snedaker  
**Subject:** Re: T-10300 - FYI

Laura,

Does that mean you will be handling the PD?

I have 31.0 hours into the project so far (not counting my initial review and response to your comments, which I won't bill for). That is 6 hours above my estimate. If I do the PD and ISWR certificate as well, that will probably add 2 hours. Can I proceed with an amendment to my work order based on these revised estimates?

Terry

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

----- Original Message -----

**From:** Laura Snedaker  
**To:** Terrance Anthony  
**Sent:** Wednesday, August 22, 2007 3:41 PM  
**Subject:** RE: T-10300 - FYI

8/29/2007

Terry:

Just chatted with Dorothy. Sounds like we're ready to have you submit hard copies of your checklist, marked up application, processing notes, etc – along with the deliverables cover that Dorothy provided to you originally. And it's time to submit your final invoice.

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

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**From:** Terrance Anthony [mailto:[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)]  
**Sent:** Monday, July 16, 2007 9:48 PM  
**To:** Laura Snedaker  
**Subject:** Re: T-10300 - FYI

Thanks, Laura.

I was going to ask you if you wanted me to prepare the instream certificate because I don't recall Bob Rice asking for that on T-10356. I'm starting to work on the DPD and it all looks pretty clean so far. I'll be in touch again before end of the week.

Terry

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

----- Original Message -----

**From:** Laura Snedaker  
**To:** Terrance Anthony  
**Sent:** Monday, July 16, 2007 3:22 PM  
**Subject:** T-10300 - FYI

Terry:

I thought I would share the edits that I completed on the PD cover letter, the PD notice, and the draft certificate for T-10300. I made a few technical changes but also made a number of streamlining/formatting changes.

The main thing I wanted to point out on the Certificate is that all instream water rights are held by the State of Oregon. The draft that was sent in had the Deschutes River Conservancy as the water right holder. I just wanted to point this out and make sure this was something you knew for future reference.

Thanks,  
Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department

8/29/2007

**Laura Snedaker**

---

**From:** Laura Snedaker  
**Sent:** Wednesday, September 05, 2007 8:05 AM  
**To:** 'Terrance Anthony'  
**Cc:** Dorothy Pedersen  
**Subject:** FW: T-10391 DPD

Terry:

This is just a quick reminder to send in the deliverables described in my previous e-mail below if you haven't done so already.

Thanks much!  
Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

---

**From:** Laura Snedaker  
**Sent:** Wednesday, August 29, 2007 11:18 AM  
**To:** 'Terrance Anthony'  
**Cc:** Dorothy Pedersen  
**Subject:** RE: T-10391 DPD

Terry:

I did a quick read through of the latest DPD and everything looks good. Thanks a bunch! And I've heard back from the Watermaster – no return flow issues on this transfer. What I need now are your work notes, marked up application, plat cards, etc? The items are all listed on the deliverables cover in the lower section. These items are needed for staff here to peer review the DPD.

As for the rest of the deliverables, including the instream certificate, the PD cover letter, etc, I'll touch base with you after we get any comments on the DPD back from the applicant.

In the meantime, I'll let you know if there's any further work that needs to get done before we send out the DPD to the applicant.

Thanks much!  
Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

9/5/2007

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**From:** Terrance Anthony [mailto:[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)]  
**Sent:** Tuesday, August 28, 2007 10:41 PM  
**To:** Laura Snedaker  
**Cc:** Dorothy Pedersen  
**Subject:** T-10391 DPD

Laura,

Attached is the DPD for the T-10391 transfer modified per your requests. There are a couple blanks still to fill in. Let me know if you want anything else.

PS I will be out of town Thursday thru Tuesday

Terry

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

9/5/2007

**Laura Snedaker**

---

**From:** Terrance Anthony [conservationstrategies@comcast.net]  
**Sent:** Wednesday, August 29, 2007 9:35 PM  
**To:** Salem Opeifa  
**Cc:** Laura Snedaker  
**Subject:** T-10391

Salem,

I have 31.0 hours into the T-10391 transfer project so far, and the remaining work will probably take around 2 hours. My original estimate was 25 hours.

Consequently I'd like to request an amendment to my work order based on a revised estimate of 33.0 hours. Please call if you have any questions.

Thanks,

Terry

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

8/30/2007

**Laura Snedaker**

---

**From:** Laura Snedaker  
**Sent:** Tuesday, September 11, 2007 12:14 PM  
**To:** 'Terrance Anthony'  
**Subject:** RE: T-10391 DPD

Terry:

Got the first round of the deliverables for this transfer in the mail yesterday. Looks like we just need the plat cards and the results of your conflict check.

Then I can start reviewing the transfer and draft PD and get back to you with any needed changes or additions.

Thanks much!  
Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

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**From:** Terrance Anthony [mailto:[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)]  
**Sent:** Wednesday, September 05, 2007 7:25 PM  
**To:** Laura Snedaker  
**Cc:** Dorothy Pedersen  
**Subject:** Re: T-10391 DPD

Laura,

Sorry to be late getting these to you--I just returned from vacation, and prior to that I was having problems with Internet Explorer crashing when I try to download the platcard pages because these pages are apparently quite large files. I will put the rest of the things in the mail to you tomorrow and follow with the platcards as soon as I can.

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

----- Original Message -----

**From:** [Laura Snedaker](mailto:Laura.Snedaker@oregon.gov)  
**To:** [Terrance Anthony](mailto:Terrance.Anthony@oregon.gov)  
**Cc:** Dorothy Pedersen  
**Sent:** Wednesday, September 05, 2007 8:04 AM  
**Subject:** FW: T-10391 DPD

Terry:

This is just a quick reminder to send in the deliverables described in my previous e-mail below if you haven't done so already.

9/11/2007

Thanks much!  
Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

---

**From:** Laura Snedaker  
**Sent:** Wednesday, August 29, 2007 11:18 AM  
**To:** 'Terrance Anthony'  
**Cc:** Dorothy Pedersen  
**Subject:** RE: T-10391 DPD

Terry:

I did a quick read through of the latest DPD and everything looks good. Thanks a bunch! And I've heard back from the Watermaster – no return flow issues on this transfer. What I need now are your work notes, marked up application, plat cards, etc? The items are all listed on the deliverables cover in the lower section. These items are needed for staff here to peer review the DPD.

As for the rest of the deliverables, including the instream certificate, the PD cover letter, etc, I'll touch base with you after we get any comments on the DPD back from the applicant.

In the meantime, I'll let you know if there's any further work that needs to get done before we send out the DPD to the applicant.

Thanks much!  
Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
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---

**From:** Terrance Anthony [mailto:[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)]  
**Sent:** Tuesday, August 28, 2007 10:41 PM  
**To:** Laura Snedaker  
**Cc:** Dorothy Pedersen  
**Subject:** T-10391 DPD

Laura,

Attached is the DPD for the T-10391 transfer modified per your requests. There are a couple blanks still to fill in. Let me know if you want anything else.

PS I will be out of town Thursday thru Tuesday

9/11/2007

**Laura Snedaker**

---

**From:** Laura Snedaker  
**Sent:** Wednesday, August 22, 2007 3:47 PM  
**To:** 'Terrance Anthony'  
**Subject:** RE: T-10391 DPD docs

Thanks. And when you're done with the DPD, would you please send in your work notes, marked up application, plat cards, etc? I've been talking with Dorothy about when certain items need to be submitted and we've identified that these work items are necessary for us on this end to peer review the application and DPD. The items I'm requesting are all identified on the deliverables cover in the lower section.

Thanks much!  
Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

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**From:** Terrance Anthony [mailto:[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)]  
**Sent:** Tuesday, August 21, 2007 8:13 PM  
**To:** Laura Snedaker  
**Subject:** Re: T-10391 DPD docs

OK. I'll take a look and get back to you.

Terry

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

----- Original Message -----

**From:** [Laura Snedaker](mailto:Laura.Snedaker@owrd.org)  
**To:** Terrance Anthony  
**Cc:** [Dorothy Pedersen](mailto:Dorothy.Pedersen@owrd.org)  
**Sent:** Tuesday, August 21, 2007 9:46 AM  
**Subject:** RE: T-10391 DPD docs

Terry:

I really started to go through your draft DPD yesterday and noticed that you did a lot of restructuring (for example, the analysis section). And I think you added a few findings. We really need documents to follow a consistent format. I've attached an example of a PD (previously provided) produced for a very similar transfer of COID's water right to instream use, which is also a mitigation project. I chatted with Dorothy a bit yesterday afternoon and we agreed that we need to have the document you put together rearranged such that it follows the regular DPD format and similar language.

Please take a look at the attached example for T-10300 and give me a buzz if you have any questions. For

8/22/2007

example, the instream use can be structured such that it's all under the 1900 priority date. In Finding of Fact #21 in the DPD that you put together it's structured such that water is protected under the 1900 and 1907 priority dates. And for comparison see Finding of Fact #17 in the attached example from transfer T-10300.

And I wasn't sure where Findings of Fact #30 and 24 came from.

Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

---

**From:** Terrance Anthony [<mailto:conservationstrategies@comcast.net>]  
**Sent:** Friday, August 03, 2007 2:27 PM  
**To:** Laura Snedaker  
**Subject:** T-10391 DPD docs

Laura,

Attached are DPD documents for T-10391 (COID/DRC). I based the DPD largely on T-10300 but of course I had to make some additional interpretations. I'm sure you will want to review it carefully, and let me know if you have any questions or need any changes. Bob alerted me to the need for additional land use information forms for a similar Swalley instream transfer, so that request has been included into the cover letter.

I have 24 hours into this so far, so I anticipate I will need to adjust my estimate before we are done. I would prefer to wait until a response from the applicant to determine how much additional work is needed. Call if we need to discuss.

-Thanks.

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

8/22/2007

**Laura Snedaker**

---

**From:** Laura Snedaker  
**Sent:** Thursday, August 23, 2007 1:03 PM  
**To:** 'Terrance Anthony'  
**Cc:** Dorothy Pedersen  
**Subject:** RE: T-10391 DPD docs  
**Attachments:** 10391-dpd-approve-iswr-MP108-RA(annotated-redlined).doc

Terry:

I made a number of comments on your draft of the DPD. Hopefully they all make sense. And I know that this may be a pain (because I can see that you put a lot of thought into the DPD) but the format for these DPD documents really needs to be consistent between all DPD documents produced by the Department. We've put together templates so that our documents will be consistent whether the document was produced by an RA contractor, someone here in the Salem office, or someone out in one of our field offices. Consistency is very important. A lot of the comments I made were with that in mind. Also, the templates contain a lot of boiler plate language that shouldn't be adjusted unless there's a very good reason, such as the boiler plate just doesn't fit the transfer. The language in the templates went through a very thorough review process.

Please let me know if you have any questions as you're going through my comments and making adjustments to the DPD for T-10391.

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

---

**From:** Terrance Anthony [mailto:[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)]  
**Sent:** Wednesday, August 22, 2007 11:00 PM  
**To:** Laura Snedaker  
**Cc:** Dorothy Pedersen  
**Subject:** Re: T-10391 DPD docs

Laura,

My intent was simply to be thorough [it's easier for you to delete things than to add them] and let a logical structure dictate the flow [background...criteria....analysis of background against criteria...related issues...conclusions]. I'm sending you back an annotated version to answer some of your questions. If some of these make sense then let me know and I'm sure we can arrive at a mutually agreeable DPD. Or if you would prefer that I just re-do it to conform to T-10300, I can do that too.

Terry

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512

8/23/2007

[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

----- Original Message -----

**From:** [Laura Snedaker](#)

**To:** [Terrance Anthony](#)

**Cc:** [Dorothy Pedersen](#)

**Sent:** Tuesday, August 21, 2007 9:46 AM

**Subject:** RE: T-10391 DPD docs

Terry:

I really started to go through your draft DPD yesterday and noticed that you did a lot of restructuring (for example, the analysis section). And I think you added a few findings. We really need documents to follow a consistent format. I've attached an example of a PD (previously provided) produced for a very similar transfer of COID's water right to instream use, which is also a mitigation project. I chatted with Dorothy a bit yesterday afternoon and we agreed that we need to have the document you put together rearranged such that it follows the regular DPD format and similar language.

Please take a look at the attached example for T-10300 and give me a buzz if you have any questions. For example, the instream use can be structured such that it's all under the 1900 priority date. In Finding of Fact #21 in the DPD that you put together it's structured such that water is protected under the 1900 and 1907 priority dates. And for comparison see Finding of Fact #17 in the attached example from transfer T-10300.

And I wasn't sure where Findings of Fact #30 and 24 came from.

Laura

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---

**From:** [Terrance Anthony \[mailto:conservationstrategies@comcast.net\]](mailto:Terrance Anthony [mailto:conservationstrategies@comcast.net])

**Sent:** Friday, August 03, 2007 2:27 PM

**To:** [Laura Snedaker](#)

**Subject:** T-10391 DPD docs

Laura,

Attached are DPD documents for T-10391 (COID/DRC). I based the DPD largely on T-10300 but of course I had to make some additional interpretations. I'm sure you will want to review it carefully, and let me know if you have any questions or need any changes. Bob alerted me to the need for additional land use information forms for a similar Swalley instream transfer, so that request has been included into the cover letter.

I have 24 hours into this so far, so I anticipate I will need to adjust my estimate before we are done. I would prefer to wait until a response from the applicant to determine how much additional work is needed. Call if we need to discuss.

-Thanks.

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

8/23/2007

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

|   |   |                  |
|---|---|------------------|
| In the Matter of Instream Transfer        | ) | <b>D R A F T</b> |
| Application T-10391 and Mitigation Credit | ) |                  |
| Project MP-108, -Deschutes County         | ) |                  |
|   | ) |                  |
|   | ) |                  |
|   | ) |                  |
|   | ) |                  |
|   | ) |                  |
|   | ) |                  |
|   | ) |                  |
|   | ) |                  |

PRELIMINARY DETERMINATION  
PROPOSING APPROVAL OF A  
CHANGE IN PLACE OF USE AND  
CHARACTER OF USE, PARTIAL  
CANCELLATION OF A  
SUPPLEMENTAL 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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

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**

|                                    |                             |
|------------------------------------|-----------------------------|
| CENTRAL OREGON IRRIGATION DISTRICT | DESCHUTES RIVER CONSERVANCY |
| 1055 SW LAKE COURT                 | 700 NW HILL STREET          |
| REDMOND OR 97756                   | BEND, OREGON 97701          |

**Findings of Fact**

**Background**

1. On May 18, 2007, the Central Oregon Irrigation District (COID) and Deschutes River Conservancy (DRC) 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-10391.

**ADD HERE**—any AMENDMENTS received prior to issuance of DPD, or a result of applicant's review of the DPD Modifications to Application

2. The applicants amended the application on May 22, 2007, to remove navigation from the list of proposed uses. **Do I need to mention the uses originally proposed here? See #8**

**Comment [Laura Kat1]:** See finding of fact #2 on T-10300.

3. That portion of the right to be transferred is as follows:

**Certificate:** 76358 in the name of Central Oregon Irrigation District  
**Use:** Irrigation of 39.58 acres  
**Priority Date:** October 31, 1900 and December 2, 1907  
**Source:** The Deschutes River, tributary to the Columbia River  
**Season of Use:** April 1 to November 1 with variable rate/duty limitations  
**The certificate does not refer to "Season 1, Season 2 ..."etc, which is why I chose not to use that terminology**

**Comment [Laura Kat2]:** Terry, go ahead and use the references to Season 1, Season 2, etc as they are used in T-10300 – we just use these as way of abbreviating the description of the sub seasons within the irrigation season.

**Rate Limits:** 1 cfs per 80.0 acres from April 1 to May 1 and Oct 1 to Nov 1  
 1 cfs per 60.0 acres from May 1 to May 15 and Sept 15 to Oct 1  
 1 cfs per 32.4 acres from May 15 to Sept 15

**Duty:** Not to exceed 9.91 acre-feet per acre per year. Duty figures include the consumptive portion of the right as well as transmission losses of 45% allowed by the decree of the Circuit Court of Deschutes County dated March 24, 1933.

**Comment [Laura Kat3]:** Move this to under the rate/duty table below – see T-10300 for the specific language to use.

Duty Limits:

| Period of Use                        | Rate (cfs) | Calculated Volume (acre-feet) | Priority Date |
|--------------------------------------|------------|-------------------------------|---------------|
| April 1 to May 1 and Oct 1 to Nov 1  | 0.495      | 59.861                        | Oct. 31, 1900 |
| May 1 to May 15 and Sept 15 to Oct 1 | 0.660      | 39.253                        | Oct. 31, 1900 |
| May 15 to Sept 15                    | 0.871      | 212.495                       | Oct. 31, 1900 |
| May 15 to Sept 15                    | 0.351      | 85.535                        | Dec 2, 1907   |
| Totals                               | N/A        | 397.144                       | N/A           |

**This table format allows for a breakdown volume by season. Not needed?**

**Comment [Laura Kat4]:** Not needed – can use format similar to that in T-10300.

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

| Township |   | Range |   | Meridian | Sec | ¼ ¼ |    | Location  |  |
|----------|---|-------|---|----------|-----|-----|----|---|--|
| 17       | S | 12    | E | W.M.     | 29  | SE  | NE | POD #11 (COID North Canal): 850 feet North and 630 feet West from the East ¼ corner of Section 29 |  |

**Authorized Places of Use:**

| Township | Range |    | Meridian | Sec | ¼ ¼ |    | Tax Lot | Acres |       |
|----------|-------|----|----------|-----|-----|----|---------|-------|-------|
| 15       | S     | 13 | E        | WM  | 8   | NE | NW      | 1000  | 1.50  |
| 15       | S     | 13 | E        | WM  | 8   | SE | NW      | 1000  | 8.00  |
| 15       | S     | 13 | E        | WM  | 3   | NW | SW      | 1401  | 6.40  |
| 15       | S     | 13 | E        | WM  | 19  | SW | SW      | 1200  | 15.00 |
| 15       | S     | 13 | E        | WM  | 19  | SW | NE      | 701   | 0.20  |
| 15       | S     | 13 | E        | WM  | 19  | SE | NW      | 701   | 4.45  |
| 15       | S     | 13 | E        | WM  | 4   | SW | NE      | 500   | 1.70  |
| 15       | S     | 13 | E        | WM  | 20  | NE | SE      | 1501  | 2.33  |

4. ADD HERE—if available information from applicant, decree, or other sources better describes the right. Additional Information or Re-Descriptions
5. |
6. |
7. Application T-10391 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 other ecological values; recreation; and pollution abatement.
8. |
9. The applicant proposes the quantities of water to be transferred and protected instream as follows quantity proposed for transfer is 215.73 acre-feet at the following rates and periods of use:

| Period of Use                        | Rate (cfs) | Volume (acre-feet) | Priority Date |
|--------------------------------------|------------|--------------------|---------------|
| April 1 to May 1 and Oct 1 to Oct 26 | 0.272      | 30.22              | Oct. 31, 1900 |
| May 1 to May 15 and Sept 15 to Oct 1 | 0.363      | 21.59              | Oct. 31, 1900 |
| May 15 to Sept 15                    | 0.672      | 163.92             | Oct. 31, 1900 |

Again, is this more information than is needed?

- 6.—The proposed place of use is a continuous instream reach from the existing point of diversion at COID North Canal in the SE ¼ of the NE ¼ of Section 29,

**Comment [Laura Kat5]:** Add here a finding to address the quantity of water that may be used beneficially— see finding of fact #4 in T-10300 and modify to fit this transfer.

**Comment [Laura Kat6]:** Add the ownership finding similar to that found in T-10300 (see finding of fact #6).

**Comment [Laura Kat7]:** Add finding similar to Finding of Fact #89 in T-10300 with regard to the proposed reach.

**Comment [Laura Kat8]:** The application actually requests to protect water over the full irrigation season, which runs through October 31.

**Comment [Laura Kat9]:** Change table to mimic the similar table from T-10300 (see finding of fact #9). A volume breakdown by season is not necessary.

**Comment [Laura Kat10]:** Yep, more info than needed.

Township 17 South, Range 12 East, W.M.) located at approximately River Mile 165 to Lake Billy Chinook at River Mile 120.

**Comment [Laura Kat11]:** Move to finding of fact #8 spot and see finding of fact #8 in T-10300.

10. ~~The proposed beneficial uses of the new instream water right are: a) conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values; b) recreation; and c) pollution abatement.~~

11. |

**Comment [Laura Kat12]:** Add here from T-10300 findings of fact #10 through 12. This information is part of the background info.

12. Notice of the application for transfer was published on May 29, 2007 pursuant to OAR 690-380-4000. No comments were filed in response to the notice. Also,

there is no finding here that the applicant requested cancellation of the supplemental right, because technically they did not do so. Rather they assumed it would be cancelled, and of course they are right. Hence I could not use the same language as in T-10300, but instead I just went with the findings in #32-34, which mirror T-10300

**Comment [Laura Kat13]:** Terry – We generally view the Exhibit B attached to the application as the applicants request to cancel a portion of this certificate. You can go ahead and include the finding – see Finding of Fact 1 on T-10300.

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

I separated the approval criteria from the analysis, because I see them as separate things, one following from the other. Seems this section could easily be deleted as it was stated in the preamble—it's the analysis that matters.

**Comment [Laura Kat14]:** Terry – The template put together by the Department was done with a lot of thought. We really need all transfers to follow a consistent format. We may revise the template down the road but that is something the Department will do. And if we do, we'll get you (and our other contractors) an updated template. Until then, the established format needs to be followed. I've marked findings that either need to be moved to the "instream transfer review criteria" section or the "background" section.

13. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
14. 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 Application T-10391.
15. add return flow finding here – if needed – awaiting info from the Watermaster
- 16.
- 17.
18. The proposed change, as modified, would not result in enlargement of the right.
19. The proposed change, as modified, would not result in injury to other water rights.
20. The amount of the proposed instream flow and the timing of the proposed instream flow are allowable within the limits and use of the original water right.
21. The protection of flows within the proposed reach at the authorized point of diversion 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) Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.

**Comment [Laura Kat15]:** May need to be modified if it's found that we need to address any return flows within the proposed reach – I'll pass any information I obtain from the Watermaster on this issue along.

22.

23. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

24. By replacing a portion of instream rights created at the request of state agencies or under the minimum streamflow conversion process, the instream right will provide protection for streamflows previously identified as necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement under earlier priority dates.

25. By adding to other water rights leased or transferred instream at the same location, or created through the conserved water statutes, the instream right will provide protection for additional streamflows necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement.

**Analysis**

26. The applicants listed above are not the owners of the lands attached to the water rights proposed for transfer. However, water right conveyance agreements have been completed and the interests in the water rights listed under Certificate 76358 and Certificate 76714 have been duly conveyed through a Quit Claim procedure from the rightful owners to the Central Oregon Irrigation District. **I can easily move this to the background section if you wish. Do you need the applicants named specifically? (though that doesn't appear to me to be standard practice for transfers)**

**Comment [Laura Kat16]:** A separate analysis section is not needed – the analysis section is the "instream transfer review criteria section." Please move findings to appropriate spots following the format used for T-10300.

27. The water rights to be transferred instream are not subject to forfeiture.

28. If the maximum rates of diversion are applied over the entire authorized 214-day season of use, the cumulative duty limits of Certificate 76358 exceed the 9.91 acre-feet per acre allowed duty for the water right, creating the potential for injury and enlargement. In order to stay within the allowed per-acre duty of the water right, transfer of the full rate limits of Certificate 76358 instream would

**Comment [Laura Kat17]:** Move to background section – this isn't review criteria for the instream transfer part of things. Also, please structure finding similar to that found in T-10300. We generally have been identifying the name of the individual/organization from which the water right has been quit claimed and to whom it has been quit claimed. This becomes important especially when we have to make additional findings beyond just this finding. I don't think we need to do anything more in this case than what you see in T-10300.

require the season of use to be restricted to a period of 209 days, as follows (modifications in bold):

| Period of Use                        | Rate (cfs) | Volume (acre-feet) | Priority Date |
|--------------------------------------|------------|--------------------|---------------|
| April 1 to May 1 and Oct 1 to Oct 26 | 0.495      | 54.954             | Oct. 31, 1900 |
| May 1 to May 15 and Sept 15 to Oct 1 | 0.660      | 39.253             | Oct. 31, 1900 |
| May 15 to Sept 15                    | 0.871      | 212.495            | Oct. 31, 1900 |
| May 15 to Sept 15                    | 0.351      | 85.535             | Dec 2, 1907   |
| Totals                               | N/A        | 392.237            | N/A           |

**Comment [Laura Kat18]:** Move to finding of fact #16 slot and modify to match finding of fact #17 (T-10300). In addition, the volume available for transfer to instream use is only 4.45 af/acre – not 9.91, which includes the transmission loss. I know you have a finding below that was to address the transmission loss but that finding needs to be in the background section, which will be before we make findings on what the instream use may look like.

**Comment [Laura Kat19]:** Move to finding of fact #17 slot and see finding of fact #18 in T-10300. Volume breakdown by season is not needed – use table similar to that found in T-10300. Also, since there should be a priority date finding in the background section, a breakdown by priority date is not needed here.

**Comment [Laura Kat20]:** Any return flow or channel loss finding would be made prior to this table and incorporated therein. A separate table later in the document is not needed and can be very confusing. We prefer to have one table showing what the applicant requested and one table showing what may be allowed.

**Comment [Laura Kat21]:** The applicant has not yet agreed to a modification. We generally include the language contained in Finding of fact #18 (T-10300) and leave the date blank in the DPD. Then fill this date in later for the PD.

**Comment [Laura Kat22]:** Move to background section and see finding of fact #12 in T-10300.

**Comment [Laura Kat23]:** Move to background section in finding of fact #5 slot and use language similar to that found in finding of fact 4 (T-10300). We've updated this language since T-9883.

**Comment [Laura Kat24]:** I think this may relate to a transfer that had a reach extending to the mouth of the Deschutes River. The proposed reach is only down to only down to Lake Billy Chinook. I am working on getting some information on return flows and will get you that information once I hear back from the Watermaster. For now, let's delete this finding and I've added a place holder for a return flow finding. Generally, we haven't had return flow issues for reaches only on the middle Deschutes between Bend and Lake Billy Chinook.

This table combines T-10300 findings #16 & 17, but prior to reduction for channel losses in anticipation of the following findings. By contrast, T-10300 reduces the period of use only after the channel losses are accounted for. This way seems to me to be more intuitive, but I will do it the other way if you like.

I had no information that the applicant already agreed to a modification of the rates and season (as in T-10300 #17), so that is not stated (Supplemental Form C and Exhibit C of the application states the period of instream use to extend to 11/1.)

29.

30. Water is diverted at the point of diversion during the period May 15 to September 15 under both the 1900 and 1907 priority dates. The quantity of water diverted under the 1907 priority date during this time period makes up a balance of water allowed by the decree for transmission losses. The quantities of water proposed to be transferred instream do not include the 45% allowable transmission loss; therefore the rights to be transferred instream can be protected solely under the 1900 priority date, as proposed.

31. After removal of the transmission component (176.51 acre-feet), which is non-transferable, a total of 215.73 acre-feet of water is available for beneficial use annually under the portion of existing Certificate 76358 proposed for transfer, as proposed. Upon issuance of the Final Order the transmission component will become available to the next eligible water right holder. **This comes from T-9883 (also a DRC/COID instream txfr), finding #10.**

~~27. Case law considers return flows, which constitute a non-consumptive portion of the water right, to be generally available to junior appropriators once they re-enter the stream. Best available science indicates that return flows from irrigated lands in the upper Deschutes river basin constitute approximately 25% of water diverted from the river, and re-enter the Deschutes River between river mile 120 and river mile 100. I can't find what document I pulled the 25% from but I seem to recall it was either a hydrogeo study or another transfer (?). Anyway, if I can't find it then we should strike it. Thus return flows associated with the rights to be~~

transferred cannot be protected instream below river mile 120 without the potential for injury and enlargement to junior water right holders. However the consumptive portion of the original right can be fully protected within the proposed instream reach, without injury. This finding confirms that the proposed instream reach is appropriate. Could be omitted if you like.

28. ~~After allowing for the above restrictions and modifications, the quantities water to be transferred instream would be protected follows: This is the proposed instream right with only the 1900 priority date. Finding #21 is an interim calculation.~~

**Comment [Laura Kat25]:** This finding is not needed given that the above paragraph should be in the background section and that there should only be on conclusion table in the "instream transfer review criteria section" in this case. There may be times when we do have to prepare multiple tables but not for this specific transfer

Reach #1 — POD to Lake Billy Chinook (RM 120)

| Period of Use                        | Rate (cfs) | Volume (acre-feet) | Priority Date |
|--------------------------------------|------------|--------------------|---------------|
| April 1 to May 1 and Oct 1 to Oct 26 | 0.272      | 30.22              | Oct. 31, 1900 |
| May 1 to May 15 and Sept 15 to Oct 1 | 0.363      | 21.59              | Oct. 31, 1900 |
| May 15 to Sept 15                    | 0.672      | 163.92             | Oct. 31, 1900 |
| Totals                               | N/A        | 215.73             | N/A           |

32. Within the reach proposed by the applicant, there are several existing instream water rights, which include the use of water for fish habitat, aquatic life, recreation, aesthetics, and minimizing pollution. These existing instream water rights were established under ORS 537.341 (state agency process), ORS 537.346 (minimum streamflow conversion), ORS 537.348 (the instream transfer process), and/or ORS 537.470 (the allocation of conserved water process). There is also a pending instream water right application filed by the Oregon Department of Fish & Wildlife pursuant to ORS 537.341 for anadromous and resident fish rearing, which if approved will have a priority date of September 19, 1990.

**Comment [Laura Kat26]:** Move to background section.

33. 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. In addition to flows for the designated Scenic Waterway and the pending instream water right application, which are at times not met during 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. **Here in #26-27 I disaggregated two items that seemed unrelated. I can re-aggregate them if you like.**

**Comment [Laura Kat27]:** Move to the finding of fact #22 slot.

34. This new instream water right created by this transfer can be expected to provide the ecological, hydrological and recreational beneficial uses that are proposed. Thus the new instream water right may be additive to other instream water rights created under ORS 537.348 (instream transfers) and ORS 537.470 (allocation of conserved water) within the same reach, and may replace with an earlier priority

**Comment [Laura Kat28]:** Please separate back out. And have this finding follow the one above and be similar to findings of fact #24 and 25 (as separate findings) from T-10300.

date a portion of any existing or future junior instream water right established under ORS 537.341 (state agency process) and ORS 537.346 (minimum streamflow conversion) within the same reach. **This finding consolidates #23 and 24 from T-10300 because I see them as fundamentally linked. I will go ahead and separate them out again if you like.**

35. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

~~By augmenting existing instream flows, this transfer would establish mitigation credits in the Deschutes Ground Water Study Area that would be available to future activities which impact instream flows. The purpose of this finding is to establish a basis for subsequent pursuit and award of mitigation credits based on the previous determination of transferable quantities to instream use (#25).~~

**Comment [Laura Kat29]:** This finding is not needed. Identification of the establishment of mitigation credits is not done until we get to that section of the report. This section is only for evaluation of instream criteria.

~~ADD HERE— Descriptions of any deficiencies and any resolution. Deficiencies and Resolution~~

**Partial Cancellation of a Water Right**

36. The authorized places of use described above also have supplemental water rights under Certificate 76714 for water stored in the Crane Prairie Reservoir operated by the federal Bureau of Reclamation. Pursuant to ORS 540.510 and OAR 690-380-2250, these supplemental rights are ineligible for transfer to instream use. **A finding that these rights were quitclaimed to COID is stated in #19**

**Comment [Laura Kat30]:** Modify to be similar to Finding of fact #26 in T-10300. this finding is following a set process.

37. The applicant has not submitted an affidavit certifying that the affected portions under Certificate 76714 have been abandoned. OAR 690-380-2250 requires the Department to notify the applicant of the Department's intent to cancel the corresponding acres in the supplemental water right, and provides due process for the applicant to respond. If the applicant does not respond, upon issuance of the Final Order the supplemental rights will be cancelled and the stored water will become available to the next eligible water right holder.

**Comment [Laura Kat31]:** Modify to similar to finding of fact #27 in T-10300. This finding is following a set process. You have extra stuff here that should not be here and information missing that should be here. The language developed for these two findings was drafted based on our rule process for addressing supplemental rights that are not included as part of the transfer.

38. That portion of the supplemental water right to be cancelled is as follows:

**Certificate:** 76714 in the name of Central Oregon Irrigation District  
**Use:** Supplemental Irrigation of 39.58 acres  
**Priority Date:** February 28, 1913  
**Source:** Crane Prairie Reservoir, constructed under permit R-1687, tributary to the Deschutes River

**Authorized PODs:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Location                    |
|----------|---|-------|---|----------|-----|-------|-----------------------------|
| 21       | S | 8     | E | W.M.     | 17  | NE NE | CRANE PRAIRIE RESERVOIR DAM |

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Location  |
|----------|---|-------|---|----------|-----|-------|---|
| 17       | S | 12    | E | W.M.     | 29  | SE NE | POD #11 (COID NORTH CANAL):<br>850 FEET NORTH AND 630 FEET<br><del>EASTWEST</del> FROM THE EAST ¼<br>CORNER OF SECTION 29 |

**Authorized Places of Use:**

| Township | Range | Meridian | Sec | ¼ ¼ | Tax Lot | Acres |      |       |
|----------|-------|----------|-----|-----|---------|-------|------|-------|
| 15       | S     | 13       | E   | WM  | 8       | NE NW | 1000 | 1.50  |
| 15       | S     | 13       | E   | WM  | 8       | SE NW | 1000 | 8.00  |
| 15       | S     | 13       | E   | WM  | 3       | NW SW | 1401 | 6.40  |
| 15       | S     | 13       | E   | WM  | 19      | SW SW | 1200 | 15.00 |
| 15       | S     | 13       | E   | WM  | 19      | SW NE | 701  | 0.20  |
| 15       | S     | 13       | E   | WM  | 19      | SE NW | 701  | 4.45  |
| 15       | S     | 13       | E   | WM  | 4       | SW NE | 500  | 1.70  |
| 15       | S     | 13       | E   | WM  | 20      | NE SE | 1501 | 2.33  |

I will insert finding #29 from T-10300 here (i.e. Error in C-76714 POD description)

Comment [Laura Kat32]: Great! Thanks.

**Preliminary Award of Deschutes Basin Mitigation Credits**

39. COID and the DRC (the Applicant) have requested this instream transfer application be used to establish mitigation credits in the Deschutes Ground Water Study Area. The Applicant has requested that any mitigation credits generated from this project be assigned to COID and the DRC.
40. The Department assigned this mitigation credit project number MP-108.
41. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300 (6) on May 29, 2007. No comments were received in response to this notice.
42. 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 May 29, 2007. Comments were received from ODFW and OPRD. ODFW identified that this project will provide effective instream protection of flows during the irrigation season and also identified, along with general comments on the mitigation program, that instream flow protection is needed during the months outside of the irrigation season. OPRD identified that this instream transfer will enhance aesthetics and add water needed for recreation (boating opportunities). OPRD deferred to ODFW for appropriate timing of when flows should be protected instream.

43. The Department is unable to expand the period during which instream flows may be protected outside of the irrigation season, as recommended by ODFW, without causing injury to other water rights. The shaping proposed by the instream lease application does protect water instream over almost the entire irrigation season at the maximum rates possible. Therefore, no modifications were made to the lease based upon comments received.
44. The proposed transfer of 39.58 acres of irrigation use to instream use will provide 71.2 acre-feet of mitigation water. Therefore, 71.2 mitigation credits (1.0 mitigation credit = 1.0 AF of mitigation water) may be awarded to this mitigation credit project and assigned to COID and the DRC. 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 and/or General Zones of Impact.
45. A total of 215.73 AF is proposed to be transferred to instream use and 71.2 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.
46. The Department shall award final mitigation credits upon completion of the approved project by the applicant and verification by the Department that the project is complete. The issuance of a certificate(s) for the proposed instream water right shall result in completion of the project and verification that the project is complete.

#### Determination and Proposed Action

The changes in character of use and place of use to instream use proposed in application T- appear to be 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 supplemental rights should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved and the supplemental rights will be cancelled.

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

**Comment [Laura Kat33]:** Modify back to original language – see T-10300 – this is boiler plate language that should not be changed.

*If application T- is approved, the final order will include the following:*

1. *The changes in character of use and place of use to instream use proposed in application T- are approved.*
2. *Water Right Certificate 76358 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 76358 on a determination that it is necessary to produce a certificate to confirm that portion of the right not involved in this transfer. Modification of this water right shall*

reduce by 39.58 acres the number of acres to which stored water may be applied for irrigation under the right. Approval of this transfer shall reduce the amount of water lawfully available under the remaining portion of Certificate 76358 by the following:

| Period of Use                        | Rate (cfs) | Volume (acre-feet) | Priority Date |
|--------------------------------------|------------|--------------------|---------------|
| April 1 to May 1 and Oct 1 to Oct 26 | 0.495      | 54.954             | Oct. 31, 1900 |
| May 1 to May 15 and Sept 15 to Oct 1 | 0.660      | 39.253             | Oct. 31, 1900 |
| May 15 to Sept 15                    | 0.871      | 212.495            | Oct. 31, 1900 |
| May 15 to Sept 15                    | 0.351      | 85.535             | Dec 2, 1907   |
| Totals                               | N/A        | 392.237            | N/A           |

**Comment [Laura Kat34]:** Modify to match table from #2 in T-10300 with appropriate modifications to fit this transfer. Table is more complicated that it needs to be.

*If you don't want all this information I will simplify it.*

**Comment [Laura Kat35]:** I think I've got it.

*The following should continue as #3, 4 etc but I can't seem to fix the formatting problem...*

**Comment [Laura Kat36]:** Modify to be similar to #2 in T-10300. Some of this is basically boiler plate language.

3. *The corresponding portion of Certificate 76714 which is supplemental to the acres in Certificate 76358 proposed for transfer to instream use, is cancelled. Water right certificate 76714 is modified. The Department shall issue a new water right certificate on a determination that it is necessary to produce a certificate to confirm that portion of the water right not affected by the cancellation. Modification of this supplemental water right shall reduce by 39.58 acres the number of acres to which stored water may be applied for supplemental irrigation under the right.*
4. *The instream water right shall provide for the protection of streamflows 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.*
5. *The instream water right shall provide for the protection of streamflows from COID North Canal at approximately river mile 165 to Lake Billy Chinook at river mile 120.*
6. *The quantities of water to be protected under the instream water right are as follows:*

**Comment [Laura Kat37]:** Modify #4, 5, and 6 to match #4 in T-10300 with appropriate adjustments to fit this transfer. This can be simplified down to one item. Also, the instream table needs to be in italics.

Reach #1      POD to Lake Billy Chinook (RM 120)

| Period of Use                        | Rate (cfs) | Volume (acre-feet) | Priority Date |
|--------------------------------------|------------|--------------------|---------------|
| April 1 to May 1 and Oct 1 to Oct 26 | 0.272      | 30.22              | Oct. 31, 1900 |
| May 1 to May 15 and Sept 15 to Oct 1 | 0.363      | 21.59              | Oct. 31, 1900 |
| May 15 to Sept 15                    | 0.672      | 163.92             | Oct. 31, 1900 |
| Totals                               | N/A        | 215.73             | N/A           |

7. *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.*

8. |

Comment [Laura Kat38]: Add in #8 from T-10300.

8. ~~*Stream channel losses and gains calculated based on available data and the use of senior appropriators will determine the amount of water to which this right is entitled downstream from the original point of diversion within the specified stream reach.*~~

Comment [Laura Kat39]: This one can be deleted since there isn't an issue in this reach with stream channel losses and gains.

9. *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.*

Comment [Laura Kat40]: Add tag line at end of sentence from #9 in T-10300 that addresses future orders.

10. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to other conditions and limitations as may be germane to instream rights, that are contained in Certificate 76358 and any related decree.*

11. *The former place of use of the transferred water shall no longer receive water as part of these rights.*

12. ***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, will result in completion of the project and verification by the Department that the project is complete. If completed as proposed, mitigation credits, in the amount of 71.2 credits, as described herein, may be awarded to this mitigation project and assigned to COID and the DRC. 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 General Zones of Impact.***

13. *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.*

Dated at Salem, Oregon this \_\_\_\_\_ day of \_\_\_\_\_ 2007.

**D R A F T**

\_\_\_\_\_  
Phillip C. Ward, Director

**Laura Snedaker**

---

**From:** Laura Snedaker  
**Sent:** Tuesday, August 21, 2007 9:46 AM  
**To:** 'Terrance Anthony'  
**Cc:** Dorothy Pedersen  
**Subject:** RE: T-10391 DPD docs  
**Attachments:** 10300-pd-iswr-MP-95.doc; 10391-dpd-approve-iswr-MP108-RA(original).doc

Terry:

I really started to go through your draft DPD yesterday and noticed that you did a lot of restructuring (for example, the analysis section). And I think you added a few findings. We really need documents to follow a consistent format. I've attached an example of a PD (previously provided) produced for a very similar transfer of COID's water right to instream use, which is also a mitigation project. I chatted with Dorothy a bit yesterday afternoon and we agreed that we need to have the document you put together rearranged such that it follows the regular DPD format and similar language.

Please take a look at the attached example for T-10300 and give me a buzz if you have any questions. For example, the instream use can be structured such that it's all under the 1900 priority date. In Finding of Fact #21 in the DPD that you put together it's structured such that water is protected under the 1900 and 1907 priority dates. And for comparison see Finding of Fact #17 in the attached example from transfer T-10300.

And I wasn't sure where Findings of Fact #30 and 24 came from.

Laura

Laura Snedaker  
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Oregon Water Resources Department  
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Salem, OR 97301-1271  
Phone: (503) 986-0884  
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**From:** Terrance Anthony [mailto:[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)]  
**Sent:** Friday, August 03, 2007 2:27 PM  
**To:** Laura Snedaker  
**Subject:** T-10391 DPD docs

Laura,

Attached are DPD documents for T-10391 (COID/DRC). I based the DPD largely on T-10300 but of course I had to make some additional interpretations. I'm sure you will want to review it carefully, and let me know if you have any questions or need any changes. Bob alerted me to the need for additional land use information forms for a similar Swalley instream transfer, so that request has been included into the cover letter.

I have 24 hours into this so far, so I anticipate I will need to adjust my estimate before we are done. I would prefer to wait until a response from the applicant to determine how much additional work is needed. Call if we need to discuss.

-Thanks.

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

8/21/2007

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

In the Matter of Instream Transfer )  
Application T-10391 and Mitigation Credit )  
Project MP-108, Deschutes County )

**D R A F T**

) PRELIMINARY DETERMINATION  
) PROPOSING APPROVAL OF A  
) CHANGE IN PLACE OF USE AND  
) CHARACTER OF USE, CANCEL-  
LATION OF SUPPLEMENTAL 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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

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**

CENTRAL OREGON IRRIGATION DISTRICT  
1055 SW LAKE COURT  
REDMOND OR 97756

DESCHUTES RIVER CONSERVANCY  
700 NW HILL STREET  
BEND, OREGON 97701

**Findings of Fact**

**Background**

1. On May 18, 2007, the Central Oregon Irrigation District (COID) and Deschutes River Conservancy (DRC) 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-10391.
2. ADD HERE - any AMENDMENTS received prior to issuance of DPD, or a result of applicant's review of the DPD. [Modifications to Application](#)
3. The applicants amended the application on May 22, 2007, to remove navigation from the list of proposed uses.
4. That portion of the right to be transferred is as follows:

**Certificate:** 76358 in the name of Central Oregon Irrigation District  
**Use:** Irrigation of 39.58 acres  
**Priority Date:** October 31, 1900 and December 2, 1907  
**Source:** The Deschutes River, tributary to the Columbia River  
**Season of Use:** April 1 to November 1 with variable rate/duty limitations  
**Rate Limits:** 1 cfs per 80.0 acres from April 1 to May 1 and Oct 1 to Nov 1  
 1 cfs per 60.0 acres from May 1 to May 15 and Sept 15 to Oct 1  
 1 cfs per 32.4 acres from May 15 to Sept 15  
**Duty:** Not to exceed 9.91 acre-feet per acre per year. Duty figures include the consumptive portion of the right as well as transmission losses of 45% allowed by the decree of the Circuit Court of Deschutes County dated March 24, 1933.

**Duty Limits:**

| Period of Use                        | Rate (cfs) | Calculated Volume (acre-feet) | Priority Date |
|--------------------------------------|------------|-------------------------------|---------------|
| April 1 to May 1 and Oct 1 to Nov 1  | 0.495      | 59.861                        | Oct. 31, 1900 |
| May 1 to May 15 and Sept 15 to Oct 1 | 0.660      | 39.253                        | Oct. 31, 1900 |
| May 15 to Sept 15                    | 0.871      | 212.495                       | Oct. 31, 1900 |
| May 15 to Sept 15                    | 0.351      | 85.535                        | Dec 2, 1907   |
| Totals                               | N/A        | 397.144                       | N/A           |

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

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Location  |
|----------|---|-------|---|----------|-----|-------|---|
| 17       | S | 12    | E | W.M.     | 29  | SE NE | POD #11 (COID North Canal): 850 feet North and 630 feet West from the East ¼ corner of Section 29 |

**Authorized Places of Use:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼ |    | Tax Lot | Acres |
|----------|---|-------|---|----------|-----|-----|----|---------|-------|
| 15       | S | 13    | E | WM       | 8   | NE  | NW | 1000    | 1.50  |
| 15       | S | 13    | E | WM       | 8   | SE  | NW | 1000    | 8.00  |
| 15       | S | 13    | E | WM       | 3   | NW  | SW | 1401    | 6.40  |
| 15       | S | 13    | E | WM       | 19  | SW  | SW | 1200    | 15.00 |
| 15       | S | 13    | E | WM       | 19  | SW  | NE | 701     | 0.20  |
| 15       | S | 13    | E | WM       | 19  | SE  | NW | 701     | 4.45  |
| 15       | S | 13    | E | WM       | 4   | SW  | NE | 500     | 1.70  |
| 15       | S | 13    | E | WM       | 20  | NE  | SE | 1501    | 2.33  |

5. **ADD HERE – if available information from applicant, decree, or other sources better describes the right.** [Additional Information](#) or [Re-Descriptions](#)
6. The quantity proposed for transfer is 215.73 acre-feet at the following rates and periods of use:

| Period of Use                        | Rate (cfs) | Volume (acre-feet) | Priority Date |
|--------------------------------------|------------|--------------------|---------------|
| April 1 to May 1 and Oct 1 to Oct 26 | 0.272      | 30.22              | Oct. 31, 1900 |
| May 1 to May 15 and Sept 15 to Oct 1 | 0.363      | 21.59              | Oct. 31, 1900 |
| May 15 to Sept 15                    | 0.672      | 163.92             | Oct. 31, 1900 |

7. The proposed place of use is a continuous instream reach from the existing point of diversion at COID North Canal in the SE ¼ of the NE ¼ of Section 29, Township 17 South, Range 12 East, W.M.) located at approximately River Mile 165 to Lake Billy Chinook at River Mile 120.
8. The proposed beneficial uses of the new instream water right are: a) conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values; b) recreation; and c) pollution abatement.
9. Notice of the application for transfer was published on May 29, 2007 pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

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

10. Water has been used within the last five years according to the terms and conditions of the rights, and 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 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 Application T-10391.
12. The proposed change would not result in enlargement of the right.
13. The proposed change would not result in injury to other water rights.
14. The amount of the proposed instream flow and the timing of the proposed instream flow are allowable within the limits and use of the original water right.
15. The protection of flows at the authorized point of diversion 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 known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
  - d) Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.
16. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.
17. By replacing a portion of instream rights created at the request of state agencies or under the minimum streamflow conversion process, the instream right will provide protection for streamflows previously identified as necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement under earlier priority dates.
18. By adding to other water rights leased or transferred instream at the same location, or created through the conserved water statutes, the instream right will provide protection for additional streamflows necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement.

### *Analysis*

19. The applicants listed above are not the owners of the lands attached to the water rights proposed for transfer. However, water right conveyance agreements have been completed and the interests in the water rights listed under Certificate 76358 and Certificate 76714 have been duly conveyed through a Quit Claim procedure from the rightful owners to the Central Oregon Irrigation District.

20. The water rights to be transferred instream are not subject to forfeiture.
21. If the maximum rates of diversion are applied over the entire authorized 214-day season of use, the cumulative duty limits of Certificate 76358 exceed the 9.91 acre-feet per acre allowed duty for the water right, creating the potential for injury and enlargement. In order to stay within the allowed per-acre duty of the water right, transfer of the full rate limits of Certificate 76358 instream would require the season of use to be restricted to a period of 209 days, as follows (modifications in bold):

| Period of Use                               | Rate (cfs) | Volume (acre-feet) | Priority Date |
|---|------------|--------------------|---------------|
| April 1 to May 1 and <b>Oct 1 to Oct 26</b> | 0.495      | <b>54.954</b>      | Oct. 31, 1900 |
| May 1 to May 15 and Sept 15 to Oct 1        | 0.660      | 39.253             | Oct. 31, 1900 |
| May 15 to Sept 15                           | 0.871      | 212.495            | Oct. 31, 1900 |
| May 15 to Sept 15                           | 0.351      | 85.535             | Dec 2, 1907   |
| Totals                                      | N/A        | <b>392.237</b>     | N/A           |

22. Water is diverted at the point of diversion during the period May 15 to September 15 under both the 1900 and 1907 priority dates. The quantity of water diverted under the 1907 priority date during this time period makes up a balance of water allowed by the decree for transmission losses. The quantities of water proposed to be transferred instream do not include the 45% allowable transmission loss; therefore the rights to be transferred instream can be protected solely under the 1900 priority date, as proposed.
23. After removal of the transmission component (176.51 acre-feet), which is non-transferable, a total of 215.73 acre-feet of water is available for beneficial use annually under the portion of existing Certificate 76358 proposed for transfer, as proposed. Upon issuance of the Final Order the transmission component will become available to the next eligible water right holder.
24. Case law considers return flows, which constitute a non-consumptive portion of the water right, to be generally available to junior appropriators once they re-enter the stream. Best-available science indicates that return flows from irrigated lands in the upper Deschutes river basin constitute approximately 25% of water diverted from the river, and re-enter the Deschutes River between river mile 120 and river mile 100. Thus return flows associated with the rights to be transferred cannot be protected instream below river mile 120 without the potential for injury and enlargement to junior water right holders. However the consumptive portion of the original right can be fully protected within the proposed instream reach, without injury.
25. After allowing for the above restrictions and modifications, the quantities water to be transferred instream would be protected follows:

Reach #1      POD to Lake Billy Chinook (RM 120)

| Period of Use                        | Rate (cfs) | Volume (acre-feet) | Priority Date |
|--------------------------------------|------------|--------------------|---------------|
| April 1 to May 1 and Oct 1 to Oct 26 | 0.272      | 30.22              | Oct. 31, 1900 |
| May 1 to May 15 and Sept 15 to Oct 1 | 0.363      | 21.59              | Oct. 31, 1900 |
| May 15 to Sept 15                    | 0.672      | 163.92             | Oct. 31, 1900 |
| Totals                               | N/A        | 215.73             | N/A           |

26. Within the reach proposed by the applicant, there are several existing instream water rights, which include the use of water for fish habitat, aquatic life, recreation, aesthetics, and minimizing pollution. These existing instream water rights were established under ORS 537.341 (state agency process), ORS 537.346 (minimum streamflow conversion), ORS 537.348 (the instream transfer process), and/or ORS 537.470 (the allocation of conserved water process). There is also a pending instream water right application filed by the Oregon Department of Fish & Wildlife pursuant to ORS 537.341 for anadromous and resident fish rearing, which if approved will have a priority date of September 19, 1990.
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. In addition to flows for the designated Scenic Waterway and the pending instream water right application, which are at times not met during 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.
28. This new instream water right created by this transfer can be expected to provide the ecological, hydrological and recreational beneficial uses that are proposed. Thus the new instream water right may be additive to other instream water rights created under ORS 537.348 (instream transfers) and ORS 537.470 (allocation of conserved water) within the same reach, and may replace with an earlier priority date a portion of any existing or future junior instream water right established under ORS 537.341 (state agency process) and ORS 537.346 (minimum streamflow conversion) within the same reach.
29. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.
30. By augmenting existing instream flows, this transfer would establish mitigation credits in the Deschutes Ground Water Study Area that would be available to future activities which impact instream flows.
31. ADD HERE – Descriptions of any deficiencies and any resolution. [Deficiencies and Resolution](#)

**Partial Cancellation of a Water Right**

32. The authorized places of use described above also have supplemental water rights under Certificate 76714 for water stored in the Crane Prairie Reservoir operated by the federal Bureau of Reclamation. Pursuant to ORS 540.510 and OAR 690-380-2250, these supplemental rights are ineligible for transfer to instream use.
33. The applicant has not submitted an affidavit certifying that the affected portions under Certificate 76714 have been abandoned. OAR 690-380-2250 requires the Department to notify the applicant of the Department's intent to cancel the corresponding acres in the supplemental water right, and provides due process for the applicant to respond. If the applicant does not respond, upon issuance of the Final Order the supplemental rights will be cancelled and the stored water will become available to the next eligible water right holder.

34. That portion of the supplemental water right to be cancelled is as follows:

**Certificate:** 76714 in the name of Central Oregon Irrigation District  
**Use:** Supplemental Irrigation of 39.58 acres  
**Priority Date:** February 28, 1913  
**Source:** Crane Prairie Reservoir, constructed under permit R-1687, tributary to the Deschutes River

**Authorized PODs:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Location  |
|----------|---|-------|---|----------|-----|-------|---|
| 21       | S | 8     | E | W.M.     | 17  | NE NE | CRANE PRAIRIE RESERVOIR DAM   |
| 17       | S | 12    | E | W.M.     | 29  | SE NE | POD #11 (COID North Canal): 850 feet North and 630 feet West from the East ¼ corner of Section 29 |

**Authorized Places of Use:**

| Township | Range | Meridian | Sec | ¼ ¼ | Tax Lot | Acres |      |       |
|----------|-------|----------|-----|-----|---------|-------|------|-------|
| 15       | S     | 13       | E   | WM  | 8       | NE NW | 1000 | 1.50  |
| 15       | S     | 13       | E   | WM  | 8       | SE NW | 1000 | 8.00  |
| 15       | S     | 13       | E   | WM  | 3       | NW SW | 1401 | 6.40  |
| 15       | S     | 13       | E   | WM  | 19      | SW SW | 1200 | 15.00 |
| 15       | S     | 13       | E   | WM  | 19      | SW NE | 701  | 0.20  |
| 15       | S     | 13       | E   | WM  | 19      | SE NW | 701  | 4.45  |
| 15       | S     | 13       | E   | WM  | 4       | SW NE | 500  | 1.70  |
| 15       | S     | 13       | E   | WM  | 20      | NE SE | 1501 | 2.33  |

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

35. [REDACTED] (the Applicant) has requested this instream transfer application be used to establish mitigation credits in the Deschutes Ground Water Study Area. The Applicant has requested that any mitigation credits generated from this project be assigned to [REDACTED].
36. The Department assigned this mitigation credit project number MP-[REDACTED].
37. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300 (6) on [REDACTED]. No comments were received in response to this notice. Or Comments were received from [REDACTED].
38. The Department consulted with representatives from ODFW, DEQ, Oregon Parks and Recreation Department, 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 [REDACTED]. No comments were received in response to this notice. Or Comments were received from [REDACTED].
39. No changes were made to the instream transfer as a result of comments received or consultation with the above named agencies. Or describe changes.
40. The proposed transfer of [REDACTED] to instream use will provide [REDACTED] acre-feet of mitigation water. Or As part of the public notice of the mitigation project, the Department identified that the project may result in \_\_\_ mitigation credits. Based upon continued evaluation of the project and \_\_\_ (any other reason), the amount of mitigation credits that may be awarded to this project have been reduced. The Department finds that [REDACTED]. Therefore, [REDACTED] mitigation credits (1.0 mitigation credit = 1.0 AF of mitigation water) may be awarded to this mitigation credit project and assigned to [REDACTED]. 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 [REDACTED] Zone of Impact.
41. A total of [REDACTED] AF is proposed to be transferred to instream use and [REDACTED] 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.
42. The Department shall award final mitigation credits upon completion of the approved project by the applicant and verification by the Department that the project is complete. The issuance of a certificate(s) for the proposed instream water right shall result in completion of the project and verification that the project is complete.

### **Determination and Proposed Action**

The changes in character of use and place of use to instream use proposed in application T- appear to be 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 supplemental rights should be cancelled. If

protests are not filed pursuant to OAR 690-380-4030, the application will be approved and the supplemental rights will be cancelled.

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

If application T- is approved, the final order will include the following:

1. The changes in character of use and place of use to instream use proposed in application T- are approved.
2. Water Right Certificate 76358 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 76358 on a determination that it is necessary to produce a certificate to confirm that portion of the right not involved in this transfer. Modification of this water right shall reduce by 39.58 acres the number of acres to which stored water may be applied for irrigation under the right. Approval of this transfer shall reduce the amount of water lawfully available under the remaining portion of Certificate 76358 by the following:

| Period of Use                        | Rate (cfs) | Volume (acre-feet) | Priority Date |
|--------------------------------------|------------|--------------------|---------------|
| April 1 to May 1 and Oct 1 to Oct 26 | 0.495      | 54.954             | Oct. 31, 1900 |
| May 1 to May 15 and Sept 15 to Oct 1 | 0.660      | 39.253             | Oct. 31, 1900 |
| May 15 to Sept 15                    | 0.871      | 212.495            | Oct. 31, 1900 |
| May 15 to Sept 15                    | 0.351      | 85.535             | Dec 2, 1907   |
| Totals                               | N/A        | 392.237            | N/A           |

1. The corresponding portion of Certificate 76714 which is supplemental to the acres in Certificate 76358 proposed for transfer to instream use, is cancelled. Water right certificate 76714 is modified. The Department shall issue a new water right certificate on a determination that it is necessary to produce a certificate to confirm that portion of the water right not affected by the cancellation. Modification of this supplemental water right shall reduce by 39.58 acres the number of acres to which stored water may be applied for supplemental irrigation under the right.
2. The instream water right shall provide for the protection of streamflows 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.
3. The instream water right shall provide for the protection of streamflows from COID North Canal at approximately river mile 165 to Lake Billy Chinook at river mile 120.
4. The quantities of water to be protected under the instream water right are as follows:

Reach #1      POD to Lake Billy Chinook (RM 120)

| Period of Use                        | Rate (cfs) | Volume (acre-feet) | Priority Date |
|--------------------------------------|------------|--------------------|---------------|
| April 1 to May 1 and Oct 1 to Oct 26 | 0.272      | 30.22              | Oct. 31, 1900 |
| May 1 to May 15 and Sept 15 to Oct 1 | 0.363      | 21.59              | Oct. 31, 1900 |
| May 15 to Sept 15                    | 0.672      | 163.92             | Oct. 31, 1900 |
| Totals                               | N/A        | 215.73             | N/A           |

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.*
3. *Stream channel losses and gains calculated based on available data and the use of senior appropriators will determine the amount of water to which this right is entitled downstream from the original point of diversion within the specified stream reach.*
4. *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.*
5. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to other conditions and limitations as may be germane to instream rights, that are contained in Certificate 76358 and any related decree.*
6. *The former place of use of the transferred water shall no longer receive water as part of these rights.*
7. ***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, will result in completion of the project and verification by the Department that the project is complete. If completed as proposed, mitigation credits, in the amount of [REDACTED] credits, as described herein, may be awarded to this mitigation project and assigned to [REDACTED]. 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 [REDACTED] Zone of Impact.***
8. ***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.***

Dated at Salem, Oregon this \_\_\_\_\_ day of [REDACTED] 2007.

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

|   |   |                                 |
|---|---|---------------------------------|
| In the Matter of Instream Transfer        | ) | PRELIMINARY DETERMINATION       |
| Application T-10300 and Mitigation Credit | ) | PROPOSING APPROVAL OF A         |
| Project MP-95, Deschutes County           | ) | CHANGE IN PLACE OF USE AND      |
|   | ) | CHARACTER OF USE, PARTIAL       |
|   | ) | CANCELLATION OF CERTIFICATE     |
|   | ) | 76714, 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 690-521-0100 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.

**Applicant**

|                                    |                             |
|------------------------------------|-----------------------------|
| CENTRAL OREGON IRRIGATION DISTRICT | DESCHUTES RIVER CONSERVANCY |
| 1055 SW LAKE COURT                 | 700 NW HILL STREET          |
| REDMOND, OR 97756                  | BEND, OREGON 97701          |

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.

## Findings of Fact

### Background

1. On January 29, 2007, Central Oregon Irrigation District (COID) and Deschutes River Conservancy (DRC) filed an application to change the place of use and character of use under Certificate 76358 to instream use. COID and the DRC also requested to cancel the corresponding portion of Certificate 76714 for supplemental irrigation upon issuance of the final order approving the transfer. The Department assigned the application number T-10300.
2. This instream transfer application originally proposed to change the character of use to instream use for fish and wildlife habitat enhancement; pollution abatement; navigation; and recreation. On July 18, 2007, the applicant amended the application to exclude navigation as an instream beneficial use.
3. The portion of the right to be transferred is as follows:

**Certificate:** 76358 in the name of Central Oregon Irrigation District

**Use:** Irrigation of 39.40 acres

**Priority Date:** October 31, 1900 and December 2, 1907

**Season of Use:** April 1 to November 1, further limited as follows:

April 1 to May 1 & October 1 to November 1 described herein as Season 1

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 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)

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

| Priority Date    | Season 1  | Season 2  | Season 3  | Duty      |
|------------------|-----------|-----------|-----------|-----------|
| October 31, 1900 | 0.493 CFS | 0.657 CFS | 0.863 CFS | 390.45 AF |
| December 2, 1907 |           |           | 0.353 CFS |           |

**The quantities listed 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):**

| Township | Range | Meridian | Sec | ¼ ¼  | Location |       |  |
|----------|-------|----------|-----|------|----------|-------|--|
| 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 |
|----------|---|-------|---|----------|-----|-----|----|---------|-------|
| 14       | S | 13    | E | WM       | 16  | NW  | SW | 1000    | 0.20  |
| 14       | S | 13    | E | WM       | 16  | NW  | SW | 1018    | 0.15  |
| 14       | S | 13    | E | WM       | 16  | NW  | SW | 1019    | 0.15  |
| 15       | S | 13    | E | WM       | 20  | NW  | SE | 6100    | 0.50  |
| 15       | S | 13    | E | WM       | 3   | NW  | NE | 501     | 8.00  |
| 15       | S | 13    | E | WM       | 3   | SW  | SE | 1701    | 18.40 |
| 15       | S | 13    | E | WM       | 30  | NE  | SW | 1401    | 12.00 |

4. A total of 214.75 acre-feet (AF) of water, excluding transmission losses, may be beneficially used annually for primary irrigation under the portion of existing Certificate 76358 proposed for transfer.
5. Supplemental right, Certificate 76714, is appurtenant to the same lands from which the primary right under Certificate 76358 is proposed to be transferred to instream use. The applicant requested that the affected portion of Certificate 76714 be cancelled upon issuance of the Final Order approving T-10300.
6. 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 to COID 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.

| Landowner                 | Water Right Interest Holder | T   | R   | S  | Q-Q   | Current Tax Lot |
|---------------------------|-----------------------------|-----|-----|----|-------|-----------------|
| Gilbert L. Daniels        | COID                        | 14S | 13E | 16 | NW SW | 1000,1018 &1019 |
| Darren & Phyllis Kosanke  | COID                        | 15S | 13E | 20 | NW SE | 6100            |
| Bryan Ball                | COID                        | 15S | 13E | 3  | NW NE | 501             |
| Windridge Homes, Inc.     | COID                        | 15S | 13E | 3  | SW SE | 1701            |
| Craig J. & Susan L. Davis | COID                        | 15S | 13E | 30 | NE SW | 1401            |

7. Application T-10300 proposes to change the character of use to instream use for fish and wildlife habitat enhancement; pollution abatement; and recreation.
8. Application T-10300 proposes to change the place of use of the right to create the following instream reach:

Reach: From COID North Canal POD #11 (described in Finding of Fact #3) to Lake Billy Chinook.

9. The applicant proposes the quantities of water to be transferred and protected instream as follows:

| Certificate | Priority Date    | Rate Instream   | Volume Instream |
|-------------|------------------|---|-----------------|
| 76358       | October 31, 1900 | Season 1: 0.271 CFS<br>Season 2: 0.361 CFS<br>Season 3: 0.669 CFS | 214.75 AF       |

10. There are existing instream water rights, for the same reach as that proposed for the new instream water right. All of the existing instream water rights were established under ORS 537.348, the instream transfer process, and ORS 537.470, the allocation of conserved water process. 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 POD #11 to Lake Billy Chinook, which if approved will have a priority date of September 19, 1990.
11. The applicant proposes that any instream water right established as a result of this instream transfer to be additive to 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 applicant also proposes that any instream water right established as a result of this instream transfer replace a portion of any existing 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.
12. The applicant has requested to protect water instream under the October 31, 1900 priority date. Water is diverted at the point 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 #9, do not include the 45% transmission loss. The Department finds that water may be protected instream solely under the 1900 priority date.

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

13. Notice of the application for transfer was published on February 6, 2007, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
14. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
15. 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 Application T-10300.

16. The period during which water is requested to be protected instream requires modification to prevent injury and enlargement. At the full rates and duty allowed by the water right to be transferred instream, water may be protected instream for a period of 209 days. The period requested by the applicant as described in Finding of Fact #9 is 214 days.
17. Based upon Finding of Fact #16, on July 18, 2007, the applicant agreed to modify the quantities to be transferred and protected instream as follows:

Reach: COID North Canal POD #11 (as described in Finding of Fact #3) to Lake Billy Chinook

| Certificate | Priority Date    | Instream Period                       | Instream Rate | Instream Volume |
|-------------|------------------|---------------------------------------|---------------|-----------------|
| 76358       | October 31, 1900 | Season 1 (modified to end October 26) | 0.271 CFS     | 214.75 AF       |
|             |                  | Season 2                              | 0.361 CFS     |                 |
|             |                  | Season 3                              | 0.669 CFS     |                 |

18. The proposed change, as modified, would not result in enlargement of the right.
19. The proposed change, as modified, would not result in injury to other water rights.
20. The amount of the proposed instream flow and the timing of the proposed instream flow is allowable within the limits and use of the original water right.
21. The protection of flows within the proposed reach 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 stream flow to the river bed downstream from the point of diversion; and
  - d) Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.
22. 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 habitat, aquatic life, recreation, aesthetics, and minimizing pollution. 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 pending instream water right application, which are at times not met during 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.

23. By adding to other instream water rights located within the same reach proposed by this instream transfer application, the instream right will provide protection for additional streamflows necessary for fish and wildlife habitat enhancement, pollution abatement, and recreation.
24. During the period April 1 through October 26 any instream water right established by this transfer application may 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.
25. The total monthly quantities of water to be protected under the proposed instream right, in addition to the existing instream water rights, within the proposed reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

***Partial Cancellation of a Water Right***

26. There is an existing supplemental right, Certificate 76714, appurtenant to the portion of lands on which Certificate 76358 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-10300. The portion of Certificate 76714 to be cancelled has been quit claimed to the DRC.
27. Consistent with OAR 690-380-2250, the Department is notifying the applicant of the Department's intent to cancel the portions of the supplemental water right described below unless within 30 days of the date of this notification, the applicant modifies the application to include the supplemental right or withdraws the application.
28. The portion of the right to be cancelled is as follows:

**Certificate:** 76714 in the name of Central Oregon Irrigation District  
**Use:** Supplemental Irrigation of 39.40 acres  
**Priority Date:** February 28, 1913  
**Source:** Crane Prairie Reservoir, constructed under permit R-1687, tributary to the Deschutes River

**Authorized POD:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Location  |
|----------|---|-------|---|----------|-----|-------|---|
| 21       | S | 8     | E | W.M.     | 17  | NE NE | CRANE PRAIRIE RESERVOIR DAM   |
| 17       | S | 12    | E | W.M.     | 29  | SE NE | POD # 11 (COID NORTH CANAL):<br>850 FEET NORTH & 630 FEET<br>EAST FROM THE N¼ CORNER OF<br>SECTION 29 |

**Authorized Place of Use:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼ |    | Tax Lot | Acres |
|----------|---|-------|---|----------|-----|-----|----|---------|-------|
| 14       | S | 13    | E | WM       | 16  | NW  | SW | 1000    | 0.20  |
| 14       | S | 13    | E | WM       | 16  | NW  | SW | 1018    | 0.15  |
| 14       | S | 13    | E | WM       | 16  | NW  | SW | 1019    | 0.15  |
| 15       | S | 13    | E | WM       | 20  | NW  | SE | 6100    | 0.50  |
| 15       | S | 13    | E | WM       | 3   | NW  | NE | 501     | 8.00  |
| 15       | S | 13    | E | WM       | 3   | SW  | SE | 1701    | 18.40 |
| 15       | S | 13    | E | WM       | 30  | NE  | SW | 1401    | 12.00 |

29. The Department has information that POD #11 (COID North Canal) described in Certificates 76358 and 76714 is the same diversion point. The location coordinates described in Certificate 76714 contains errors. The location coordinates should be:

| Township |   | Range |   | Meridian | Sec | ¼ ¼ |    | Location  |
|----------|---|-------|---|----------|-----|-----|----|---|
| 17       | S | 12    | E | W.M.     | 29  | SE  | NE | POD # 11 (COID NORTH CANAL):<br>850 FEET NORTH & 630 FEET<br>WEST FROM THE <u>E</u> ¼ CORNER OF<br>SECTION 29 |

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

30. COID and the DRC (the Applicant) have requested this instream transfer application be used to establish mitigation credits in the Deschutes Ground Water Study Area. The Applicant has requested that any mitigation credits generated from this project be assigned jointly to COID and the DRC.
31. The Department assigned this mitigation credit project number MP-95.
32. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300(6) on February 6, 2007. No comments were received in response to this notice.
33. 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 February 7, 2007. Comments were received from OPRD. Comments were supportive of the proposed instream water right and identified that as more permanent instream water rights are established, the potential for summertime recreation on the river will improve.
34. No changes were made to the instream transfer as a result of comments received or consultation with the above named agencies.
35. The proposed transfer of 39.4 acres of irrigation to instream use will provide 70.9 acre-feet of mitigation water. The Department finds that 70.9 mitigation credits (1.0 mitigation credit = 1.0 AF of mitigation water) may be awarded to this mitigation credit project and assigned to

COID and the DRC. 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 and General Zones of Impact.

36. A total of 214.75 AF is proposed to be transferred to instream use and 70.9 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.
37. The Department shall award final mitigation credits upon completion of the approved project by the applicant and verification by the Department that the project is complete. The issuance of a certificate(s) for the proposed instream water right shall result in completion of the project and verification that the project is complete.

**Determination and Proposed Action**

The changes in character of use and place of use to instream use proposed in application T-10300 appear to be 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 rights should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved and the abandoned rights will be cancelled.

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

*If application T-10300 is approved, the final order will include the following:*

1. *The changes in character of use and place of use to instream use proposed in application T-10300 are approved.*
2. *Water Right Certificate 76358 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 76358 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 76358 by the following amounts:*

| <i>Priority Date</i>    | <i>Season 1</i>  | <i>Season 2</i>  | <i>Season 3</i>  | <i>Duty</i>      |
|-------------------------|------------------|------------------|------------------|------------------|
| <i>October 31, 1900</i> | <i>0.493 CFS</i> | <i>0.657 CFS</i> | <i>0.863 CFS</i> | <i>390.45 AF</i> |
| <i>December 2, 1907</i> |                  |                  | <i>0.353 CFS</i> |                  |

3. *The portion of Certificate 76714 that has been abandoned is cancelled. Water right certificate 76714 is modified. The Department shall issue a new water right certificate on a determination that it is necessary to produce a certificate to confirm that portion of the water right not affected by the cancellation described in Finding of Fact #28. Modification of this supplemental water right shall reduce by 39.40 acres the number of acres to which stored water may be applied for supplemental irrigation under the right.*

4. *The instream water right shall provide for the protection of streamflows 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:*

*Reach: From COID North Canal POD #11 (as described in Finding of Fact #3) to Lake Billy Chinook.*

| <i>Priority Date</i>    | <i>Period Protected Instream</i>  | <i>Instream Rate</i> | <i>Instream Volume</i> |
|-------------------------|---|----------------------|------------------------|
| <i>October 31, 1900</i> | <i>April 1 through April 30 and<br/>October 1 through October 26</i>      | <i>0.271 CFS</i>     | <i>214.75 AF</i>       |
|                         | <i>May 1 through May 14 and<br/>September 15 through September<br/>30</i> | <i>0.361 CFS</i>     |                        |
|                         | <i>May 15 through September 14</i>  | <i>0.669 CFS</i>     |                        |

7. *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.*
8. *Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion.*
9. *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.*
10. *The former place of use of the transferred water shall no longer receive water as part of these rights.*
11. ***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 proposed, will result in completion of the project and verification by the Department that the project is complete. If completed as proposed, mitigation credits, in the amount of 70.9 credits, as described herein, may be awarded to this mitigation project and assigned to COID and the DRC. 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 Zone of Impact and/or General Zone of Impact. Any mitigation credits awarded will be available for use beginning in the first year water is protected instream under a new instream water right.***
12. *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.*

*13. 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 \_\_\_\_\_ day of August 2007.

\_\_\_\_\_  
Phillip C. Ward, Director

This Preliminary Determination was prepared a Reimbursement Authority contractor. If you have questions about the information in this document, you may reach Laura Snedaker at 503-986-0884 or [Laura.K.Snedaker@wrд.state.or.us](mailto:Laura.K.Snedaker@wrд.state.or.us).

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.

**Laura Snedaker**

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**From:** Terrance Anthony [conservationstrategies@comcast.net]  
**Sent:** Friday, August 03, 2007 2:27 PM  
**To:** Laura Snedaker  
**Subject:** T-10391 DPD docs  
**Attachments:** T10391 Contact List.doc; T10391 rate calcs.xls; T10391-dpd.doc; T10391-dpd\_cover.doc

Laura,

Attached are DPD documents for T-10391 (COID/DRC). I based the DPD largely on T-10300 but of course I had to make some additional interpretations. I'm sure you will want to review it carefully, and let me know if you have any questions or need any changes. Bob alerted me to the need for additional land use information forms for a similar Swalley instream transfer, so that request has been included into the cover letter.

I have 24 hours into this so far, so I anticipate I will need to adjust my estimate before we are done. I would prefer to wait until a response from the applicant to determine how much additional work is needed. Call if we need to discuss.

-Thanks.

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

8/6/2007

**Contacts for Application T-10391**

**Applicant:**

Deschutes River Conservancy  
700 NW Hill Street  
Bend, OR 97701  
Attn: Zachary Tillman  
Phone 541-382-4077  
Fax 541-382-4078  
zach@deschutesriver.org

**Agent:**

None

**Receiving Landowner:**

Oregon Water Resources Dept.

**CWRE:**

None

**District #11 Watermaster – Jeremy Giffin**

**Affected Local and Tribal Governments:**

Deschutes County Community Development  
117 NW Lafayette Ave  
Bend OR 97701

Jefferson County  
66 SE D St  
Madras OR 97741

City of Bend  
PO Box 431  
Bend OR 97709

Confederated Tribes of Warm Springs  
1198 Minnow Street  
Warm Springs, OR 97761

**Commenters:**

None

**Irrigation Districts:**

Central Oregon Irrigation District  
1055 SW Lake Court  
Redmond, OR 97756

| Reach 1 | rate season | time period           | certificated rate limit | decimal equivalent (cfs/acre) | acres to be transferred | duration of rate season (days) | cumulative calc'd allowable rate to be transferred (cfs) | volume/rate conversion factor (AF/cfs/day) | calculated hypothetical transferrable volume (AF) | share of hypothetical transferrable volume | calculated allowable transferrable volume (from Table 1) | calculated actual volume to be transferred (AF) | duration of rate season (days) | calc'd actual volume per day to be transferred (AF) | volume/rate conversion factor (AF/cfs/day) | calculated actual rate to be transferred (cfs) |
|---------|-------------|-----------------------|-------------------------|-------------------------------|-------------------------|--------------------------------|--|--|---|--|--|---|--------------------------------|---|--|--|
|         | Season 1    | April 1-30 & Oct 1-31 | 1 cfs/80.0 acres        | 0.0125                        | 39.5800                 | 56.0000                        | 0.4948   | 1.9835                                     | 54.9540   | 0.1401                                     | 215.7308   | 30.2248   | 56.0000                        | 0.5397  | 1.9835                                     | 0.2721   |
|         | Season 2    | May 1-14 & Sep 15-30  | 1 cfs/60.0 acres        | 0.0167                        | 39.5800                 | 30.0000                        | 0.6597   | 1.9835                                     | 39.2530   | 0.1001                                     | 215.7308   | 21.5892   | 30.0000                        | 0.7196  | 1.9835                                     | 0.3628   |
|         | Season 3    | May 15 to Sept 14     | 1 cfs/32.4 acres        | 0.0309                        | 39.5800                 | 123.0000                       | 1.2216   | 1.9835                                     | 298.0303  | 0.7598                                     | 215.7308   | 163.9169  | 123.0000                       | 1.3327  | 1.9835                                     | 0.6719   |
|         |             |                       |                         |                               |                         | 209                            |  |  | 392.2373  | 1  |  | 215.7308  | 209                            |   |  |  |

Table 1

| certificated duty (AF/ac) | allowed consumptive portion* | calculated consumptive duty (AF/ac) | total acres to be transferred | calculated allowable transferrable volume (AF) |
|---------------------------|------------------------------|-------------------------------------|-------------------------------|--|
| 9.91                      | 55.00%                       | 5.4505                              | 39.5800                       | 215.7308                                       |

0.55000072

\*balance is the authorized non-consumptive component for purpose of transmission

August 3, 2007

Deschutes River Conservancy  
Attn: Zachary Tillman  
700 Nw Hill Street  
Bend, Oregon 97701

Central Oregon Irrigation District  
Attn: Steve Johnson  
1055 Sw Lake Court  
Redmond Or 97756

SUBJECT: Instream Transfer Application T-10391 and Mitigation Credit Project MP-108

Enclosed find a draft of our Preliminary Determination regarding transfer application T-10391 / mitigation credit project MP-108. The document reflects the Department's conclusion that, based on the information currently available, the transfer will be approved. This draft is intended to provide you with an opportunity to comment on our findings and conclusions should you wish to do so. Please review the draft carefully to evaluate whether the document is consistent with your intent in seeking the transfer, and whether you agree with the proposed action.

*re word*

The application contains some conflicting information with regard to season of use and priority date. The draft Preliminary Determination includes an assumption that the proposed instream water right will conform to the 209-day restriction placed on season of use of a previous instream lease as described in the COID calculations exhibit, but with the sole priority date of October 31, 1900 as listed on Form C. In addition to transfer of primary rights under Certificate 76358, the Final Order will include the cancellation of supplemental water rights under Certificate 76714 and award of mitigation credits in the Deschutes Groundwater Study Area.

*N/A - JOC*

At this time, if the lienholders identified in the title reports that have not previously been notified of the transfer, you must send notice of the transfer to them and submit copies of each such notice to the Department, along with a notarized statement indicating that the lienholder consents to the transfer. This applies specifically to the lands owned by CHW Enterprises LLC. You will also be required to determine whether liens exist for unpaid taxes identified on the title reports for lands owned by James C. Bradley and Tara R. Bradley, and Redmond Investments LLC, and provide documentation of notice and consent if appropriate.

The title report for the lands owned by Tri-County Builders Corporation appears to contain a scrivener's error in the legal description, and the Affidavit of Use for these same lands lacks information pertaining to the purpose or delivery system for the water right. Please have the respective affiants provide clarification for these items.

*N/A -*

Additional Land Use Information forms will be required for the City of Bend and Jefferson County as both have jurisdiction over the proposed place of use. Please submit these at the same time as your response to this draft Preliminary Determination.

Because of the change in character of use, the applicant is responsible for publishing notice of the transfer in a local newspaper having a general circulation in the area of the water right. The notice must be published at least once a week for three consecutive weeks. We will provide a copy of the required notice to you upon issuance of the Preliminary Determination.

Issuance of the Preliminary Determination will occur shortly after we receive both your written response and the report of ownership and lien information. If we do not receive your response and the report by September 30, a Preliminary Determination may be issued denying the application as incomplete.

*no delay yr*  
Please do not hesitate to contact me at 503-986-0884 or [Laura.K.Snedaker@wrd.state.or.us](mailto:Laura.K.Snedaker@wrd.state.or.us) if you have questions or if I may be of assistance.

Sincerely,

SP  
Laura Snedaker  
Field Services Division

cc: Jeremy Giffen, District 11 Watermaster

enc

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

In the Matter of Instream Transfer )  
Application T-10391 and Mitigation Credit )  
Project MP-108, Deschutes County )  
)  
)

**D R A F T**  
PRELIMINARY DETERMINATION  
PROPOSING APPROVAL OF A  
CHANGE IN PLACE OF USE AND  
CHARACTER OF USE, CANCEL-  
LATION OF SUPPLEMENTAL 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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

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**

CENTRAL OREGON IRRIGATION DISTRICT  
1055 SW LAKE COURT  
REDMOND OR 97756

DESCHUTES RIVER CONSERVANCY  
700 NW HILL STREET  
BEND, OREGON 97701

## Findings of Fact

### Background

1. On May 18, 2007, the Central Oregon Irrigation District (COID) and Deschutes River Conservancy (DRC) 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-10391.
2. ADD HERE - any AMENDMENTS received prior to issuance of DPD, or a result of applicant's review of the DPD. [Modifications to Application](#)
3. The applicants amended the application on May 22, 2007, to remove navigation from the list of proposed uses.
4. That portion of the right to be transferred is as follows:

**Certificate:** 76358 in the name of Central Oregon Irrigation District

**Use:** Irrigation of 39.58 acres

**Priority Date:** October 31, 1900 and December 2, 1907

**Source:** The Deschutes River, tributary to the Columbia River

**Season of Use:** April 1 to November 1 with variable rate/duty limitations

**Rate Limits:** 1 cfs per 80.0 acres from April 1 to May 1 and Oct 1 to Nov 1  
 1 cfs per 60.0 acres from May 1 to May 15 and Sept 15 to Oct 1  
 1 cfs per 32.4 acres from May 15 to Sept 15

**Duty:** Not to exceed 9.91 acre-feet per acre per year. Duty figures include the consumptive portion of the right as well as transmission losses of 45% allowed by the decree of the Circuit Court of Deschutes County dated March 24, 1933.

**Duty Limits:**

| Period of Use                        | Rate (cfs) | Calculated Volume (acre-feet) | Priority Date |
|--------------------------------------|------------|-------------------------------|---------------|
| April 1 to May 1 and Oct 1 to Nov 1  | 0.495      | 59.861                        | Oct. 31, 1900 |
| May 1 to May 15 and Sept 15 to Oct 1 | 0.660      | 39.253                        | Oct. 31, 1900 |
| May 15 to Sept 15                    | 0.871      | 212.495                       | Oct. 31, 1900 |
| May 15 to Sept 15                    | 0.351      | 85.535                        | Dec 2, 1907   |
| Totals                               | N/A        | 397.144                       | N/A           |

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

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Location  |
|----------|---|-------|---|----------|-----|-------|---|
| 17       | S | 12    | E | W.M.     | 29  | SE NE | POD #11 (COID North Canal): 850 feet North and 630 feet West from the East ¼ corner of Section 29 |

**Authorized Places of Use:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼ |    | Tax Lot | Acres |
|----------|---|-------|---|----------|-----|-----|----|---------|-------|
| 15       | S | 13    | E | WM       | 8   | NE  | NW | 1000    | 1.50  |
| 15       | S | 13    | E | WM       | 8   | SE  | NW | 1000    | 8.00  |
| 15       | S | 13    | E | WM       | 3   | NW  | SW | 1401    | 6.40  |
| 15       | S | 13    | E | WM       | 19  | SW  | SW | 1200    | 15.00 |
| 15       | S | 13    | E | WM       | 19  | SW  | NE | 701     | 0.20  |
| 15       | S | 13    | E | WM       | 19  | SE  | NW | 701     | 4.45  |
| 15       | S | 13    | E | WM       | 4   | SW  | NE | 500     | 1.70  |
| 15       | S | 13    | E | WM       | 20  | NE  | SE | 1501    | 2.33  |

5. **ADD HERE – if available information from applicant, decree, or other sources better describes the right.** [Additional Information](#) or [Re-Descriptions](#)
6. The quantity proposed for transfer is 215.73 acre-feet at the following rates and periods of use:

| Period of Use                        | Rate (cfs) | Volume (acre-feet) | Priority Date |
|--------------------------------------|------------|--------------------|---------------|
| April 1 to May 1 and Oct 1 to Oct 26 | 0.272      | 30.22              | Oct. 31, 1900 |
| May 1 to May 15 and Sept 15 to Oct 1 | 0.363      | 21.59              | Oct. 31, 1900 |
| May 15 to Sept 15                    | 0.672      | 163.92             | Oct. 31, 1900 |

7. The proposed place of use is a continuous instream reach from the existing point of diversion at COID North Canal in the SE ¼ of the NE ¼ of Section 29, Township 17 South, Range 12 East, W.M.) located at approximately River Mile 165 to Lake Billy Chinook at River Mile 120.
8. The proposed beneficial uses of the new instream water right are: a) conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values; b) recreation; and c) pollution abatement.
9. Notice of the application for transfer was published on May 29, 2007 pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

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

10. Water has been used within the last five years according to the terms and conditions of the rights, and 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 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 Application T-10391.
12. The proposed change would not result in enlargement of the right.
13. The proposed change would not result in injury to other water rights.
14. The amount of the proposed instream flow and the timing of the proposed instream flow are allowable within the limits and use of the original water right.
15. The protection of flows at the authorized point of diversion 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 known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
  - d) Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.
16. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.
17. By replacing a portion of instream rights created at the request of state agencies or under the minimum streamflow conversion process, the instream right will provide protection for streamflows previously identified as necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement under earlier priority dates.
18. By adding to other water rights leased or transferred instream at the same location, or created through the conserved water statutes, the instream right will provide protection for additional streamflows necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement.

### *Analysis*

19. The applicants listed above are not the owners of the lands attached to the water rights proposed for transfer. However, water right conveyance agreements have been completed and the interests in the water rights listed under Certificate 76358 and Certificate 76714 have been duly conveyed through a Quit Claim procedure from the rightful owners to the Central Oregon Irrigation District.

20. The water rights to be transferred instream are not subject to forfeiture.
21. If the maximum rates of diversion are applied over the entire authorized 214-day season of use, the cumulative duty limits of Certificate 76358 exceed the 9.91 acre-feet per acre allowed duty for the water right, creating the potential for injury and enlargement. In order to stay within the allowed per-acre duty of the water right, transfer of the full rate limits of Certificate 76358 instream would require the season of use to be restricted to a period of 209 days, as follows (modifications in bold):

| Period of Use                               | Rate (cfs) | Volume (acre-feet) | Priority Date |
|---|------------|--------------------|---------------|
| April 1 to May 1 and <b>Oct 1 to Oct 26</b> | 0.495      | <b>54.954</b>      | Oct. 31, 1900 |
| May 1 to May 15 and Sept 15 to Oct 1        | 0.660      | 39.253             | Oct. 31, 1900 |
| May 15 to Sept 15                           | 0.871      | 212.495            | Oct. 31, 1900 |
| May 15 to Sept 15                           | 0.351      | 85.535             | Dec 2, 1907   |
| Totals                                      | N/A        | <b>392.237</b>     | N/A           |

22. Water is diverted at the point of diversion during the period May 15 to September 15 under both the 1900 and 1907 priority dates. The quantity of water diverted under the 1907 priority date during this time period makes up a balance of water allowed by the decree for transmission losses. The quantities of water proposed to be transferred instream do not include the 45% allowable transmission loss; therefore the rights to be transferred instream can be protected solely under the 1900 priority date, as proposed.
23. After removal of the transmission component (176.51 acre-feet), which is non-transferable, a total of 215.73 acre-feet of water is available for beneficial use annually under the portion of existing Certificate 76358 proposed for transfer, as proposed. Upon issuance of the Final Order the transmission component will become available to the next eligible water right holder.
24. Case law considers return flows, which constitute a non-consumptive portion of the water right, to be generally available to junior appropriators once they re-enter the stream. Best-available science indicates that return flows from irrigated lands in the upper Deschutes river basin constitute approximately 25% of water diverted from the river, and re-enter the Deschutes River between river mile 120 and river mile 100. Thus return flows associated with the rights to be transferred cannot be protected instream below river mile 120 without the potential for injury and enlargement to junior water right holders. However the consumptive portion of the original right can be fully protected within the proposed instream reach, without injury.
25. After allowing for the above restrictions and modifications, the quantities water to be transferred instream would be protected follows:

Reach #1      POD to Lake Billy Chinook (RM 120)

| Period of Use                        | Rate (cfs) | Volume (acre-feet) | Priority Date |
|--------------------------------------|------------|--------------------|---------------|
| April 1 to May 1 and Oct 1 to Oct 26 | 0.272      | 30.22              | Oct. 31, 1900 |
| May 1 to May 15 and Sept 15 to Oct 1 | 0.363      | 21.59              | Oct. 31, 1900 |
| May 15 to Sept 15                    | 0.672      | 163.92             | Oct. 31, 1900 |
| Totals                               | N/A        | 215.73             | N/A           |

26. Within the reach proposed by the applicant, there are several existing instream water rights, which include the use of water for fish habitat, aquatic life, recreation, aesthetics, and minimizing pollution. These existing instream water rights were established under ORS 537.341 (state agency process), ORS 537.346 (minimum streamflow conversion), ORS 537.348 (the instream transfer process), and/or ORS 537.470 (the allocation of conserved water process). There is also a pending instream water right application filed by the Oregon Department of Fish & Wildlife pursuant to ORS 537.341 for anadromous and resident fish rearing, which if approved will have a priority date of September 19, 1990.
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. In addition to flows for the designated Scenic Waterway and the pending instream water right application, which are at times not met during 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.
28. This new instream water right created by this transfer can be expected to provide the ecological, hydrological and recreational beneficial uses that are proposed. Thus the new instream water right may be additive to other instream water rights created under ORS 537.348 (instream transfers) and ORS 537.470 (allocation of conserved water) within the same reach, and may replace with an earlier priority date a portion of any existing or future junior instream water right established under ORS 537.341 (state agency process) and ORS 537.346 (minimum streamflow conversion) within the same reach.
29. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.
30. By augmenting existing instream flows, this transfer would establish mitigation credits in the Deschutes Ground Water Study Area that would be available to future activities which impact instream flows.
31. ADD HERE – Descriptions of any deficiencies and any resolution. [Deficiencies and Resolution](#)

***Partial Cancellation of a Water Right***

32. The authorized places of use described above also have supplemental water rights under Certificate 76714 for water stored in the Crane Prairie Reservoir operated by the federal Bureau of Reclamation. Pursuant to ORS 540.510 and OAR 690-380-2250, these supplemental rights are ineligible for transfer to instream use.
33. The applicant has not submitted an affidavit certifying that the affected portions under Certificate 76714 have been abandoned. OAR 690-380-2250 requires the Department to notify the applicant of the Department's intent to cancel the corresponding acres in the supplemental water right, and provides due process for the applicant to respond. If the applicant does not respond, upon issuance of the Final Order the supplemental rights will be cancelled and the stored water will become available to the next eligible water right holder.
34. That portion of the supplemental water right to be cancelled is as follows:  
**Certificate:** 76714 in the name of Central Oregon Irrigation District  
**Use:** Supplemental Irrigation of 39.58 acres  
**Priority Date:** February 28, 1913  
**Source:** Crane Prairie Reservoir, constructed under permit R-1687, tributary to the Deschutes River

**Authorized PODs:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Location  |
|----------|---|-------|---|----------|-----|-------|---|
| 21       | S | 8     | E | W.M.     | 17  | NE NE | CRANE PRAIRIE RESERVOIR DAM   |
| 17       | S | 12    | E | W.M.     | 29  | SE NE | POD #11 (COID North Canal): 850 feet North and 630 feet West from the East ¼ corner of Section 29 |

**Authorized Places of Use:**

| Township | Range | Meridian | Sec | ¼ ¼ | Tax Lot | Acres |      |       |
|----------|-------|----------|-----|-----|---------|-------|------|-------|
| 15       | S     | 13       | E   | WM  | 8       | NE NW | 1000 | 1.50  |
| 15       | S     | 13       | E   | WM  | 8       | SE NW | 1000 | 8.00  |
| 15       | S     | 13       | E   | WM  | 3       | NW SW | 1401 | 6.40  |
| 15       | S     | 13       | E   | WM  | 19      | SW SW | 1200 | 15.00 |
| 15       | S     | 13       | E   | WM  | 19      | SW NE | 701  | 0.20  |
| 15       | S     | 13       | E   | WM  | 19      | SE NW | 701  | 4.45  |
| 15       | S     | 13       | E   | WM  | 4       | SW NE | 500  | 1.70  |
| 15       | S     | 13       | E   | WM  | 20      | NE SE | 1501 | 2.33  |

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

35. [REDACTED] (the Applicant) has requested this instream transfer application be used to establish mitigation credits in the Deschutes Ground Water Study Area. The Applicant has requested that any mitigation credits generated from this project be assigned to [REDACTED].
36. The Department assigned this mitigation credit project number MP-[REDACTED].
37. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300 (6) on [REDACTED]. No comments were received in response to this notice. Or Comments were received from [REDACTED].
38. The Department consulted with representatives from ODFW, DEQ, Oregon Parks and Recreation Department, 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 [REDACTED]. No comments were received in response to this notice. Or Comments were received from [REDACTED].
39. No changes were made to the instream transfer as a result of comments received or consultation with the above named agencies. Or describe changes.
40. The proposed transfer of [REDACTED] to instream use will provide [REDACTED] acre-feet of mitigation water. Or As part of the public notice of the mitigation project, the Department identified that the project may result in [REDACTED] mitigation credits. Based upon continued evaluation of the project and [REDACTED] (any other reason), the amount of mitigation credits that may be awarded to this project have been reduced. The Department finds that [REDACTED]. Therefore, [REDACTED] mitigation credits (1.0 mitigation credit = 1.0 AF of mitigation water) may be awarded to this mitigation credit project and assigned to [REDACTED]. 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 [REDACTED] Zone of Impact.
41. A total of [REDACTED] AF is proposed to be transferred to instream use and [REDACTED] 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.
42. The Department shall award final mitigation credits upon completion of the approved project by the applicant and verification by the Department that the project is complete. The issuance of a certificate(s) for the proposed instream water right shall result in completion of the project and verification that the project is complete.

### **Determination and Proposed Action**

The changes in character of use and place of use to instream use proposed in application T- appear to be 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 supplemental rights should be cancelled. If

protests are not filed pursuant to OAR 690-380-4030, the application will be approved and the supplemental rights will be cancelled.

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

*If application T- is approved, the final order will include the following:*

1. *The changes in character of use and place of use to instream use proposed in application T- are approved.*
2. *Water Right Certificate 76358 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 76358 on a determination that it is necessary to produce a certificate to confirm that portion of the right not involved in this transfer. Modification of this water right shall reduce by 39.58 acres the number of acres to which stored water may be applied for irrigation under the right. Approval of this transfer shall reduce the amount of water lawfully available under the remaining portion of Certificate 76358 by the following:*

| Period of Use                        | Rate (cfs) | Volume (acre-feet) | Priority Date |
|--------------------------------------|------------|--------------------|---------------|
| April 1 to May 1 and Oct 1 to Oct 26 | 0.495      | 54.954             | Oct. 31, 1900 |
| May 1 to May 15 and Sept 15 to Oct 1 | 0.660      | 39.253             | Oct. 31, 1900 |
| May 15 to Sept 15                    | 0.871      | 212.495            | Oct. 31, 1900 |
| May 15 to Sept 15                    | 0.351      | 85.535             | Dec 2, 1907   |
| Totals                               | N/A        | 392.237            | N/A           |

1. *The corresponding portion of Certificate 76714 which is supplemental to the acres in Certificate 76358 proposed for transfer to instream use, is cancelled. Water right certificate 76714 is modified. The Department shall issue a new water right certificate on a determination that it is necessary to produce a certificate to confirm that portion of the water right not affected by the cancellation. Modification of this supplemental water right shall reduce by 39.58 acres the number of acres to which stored water may be applied for supplemental irrigation under the right.*
2. *The instream water right shall provide for the protection of streamflows 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.*
3. *The instream water right shall provide for the protection of streamflows from COID North Canal at approximately river mile 165 to Lake Billy Chinook at river mile 120.*
4. *The quantities of water to be protected under the instream water right are as follows:*

Reach #1      POD to Lake Billy Chinook (RM 120)

| Period of Use                        | Rate (cfs) | Volume (acre-feet) | Priority Date |
|--------------------------------------|------------|--------------------|---------------|
| April 1 to May 1 and Oct 1 to Oct 26 | 0.272      | 30.22              | Oct. 31, 1900 |
| May 1 to May 15 and Sept 15 to Oct 1 | 0.363      | 21.59              | Oct. 31, 1900 |
| May 15 to Sept 15                    | 0.672      | 163.92             | Oct. 31, 1900 |
| Totals                               | N/A        | 215.73             | N/A           |

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.*
3. *Stream channel losses and gains calculated based on available data and the use of senior appropriators will determine the amount of water to which this right is entitled downstream from the original point of diversion within the specified stream reach.*
4. *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.*
5. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to other conditions and limitations as may be germane to instream rights, that are contained in Certificate 76358 and any related decree.*
6. *The former place of use of the transferred water shall no longer receive water as part of these rights.*
7. ***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, will result in completion of the project and verification by the Department that the project is complete. If completed as proposed, mitigation credits, in the amount of [redacted] credits, as described herein, may be awarded to this mitigation project and assigned to [redacted]. 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 [redacted] Zone of Impact.***
8. ***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.***

Dated at Salem, Oregon this \_\_\_\_\_ day of [redacted] 2007.

**Laura Snedaker**

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**From:** Laura Snedaker  
**Sent:** Thursday, August 02, 2007 11:49 AM  
**To:** 'Terrance Anthony'  
**Subject:** RE: T-10391  
**Attachments:** 10391-application.pdf

Terry:

Attached is a copy of the transfer application with the application maps. Are these the maps you were asking about?

I also looked up T-9113 on the web page. This transfer was approved by Special Order Volume 56, Page 1030 (signed 10/3/2002). I also found the order identifying that satisfactory proof was made under this transfer – see Special Order Volume 65, Page 467 (signed 7/25/2005).

And the dated aerial photo submitted as part of the affidavit is dated 7/22/2004.

It looks like the dots may be connected as far as showing that the water right had been used in the last five years prior to the transfer being submitted. Do you agree?

I think this is what you needed. Let me know if you need anything else. Sorry it took me a little while to get back to you.

Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

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**From:** Terrance Anthony [mailto:[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)]  
**Sent:** Wednesday, July 25, 2007 10:10 PM  
**To:** Laura Snedaker  
**Subject:** T-10391

Laura,

Could I get final proof maps for the lands involved in T-10391? These were not included in the packet sent to me.

The High Ridge Development property is potentially problematic. T-9113 authorized transfer of water rights to 0.2 acres in SW NE and 0.45 acres in SE NW T15R13S19 that are now involved in T-10391. Those acres were supposed to be proven up by Oct 2004, but C-76358 does not show them. These same acres were Quitclaimed in July 2006 and the delivery system was disabled at that time, leaving only 1-2 seasons of possible use. The COID WM attested in March 2007 that these rights were beneficially used on the T-9113 "to" lands within the last 5 yrs. Also, theoretically they could have been used in 2002 on the T-9113 "from" lands and still be valid and transferrable from that POU. Is that sufficient or do we need to verify the rights were beneficially used on the T-9113 "from" lands in 2002 and/or proved up on the T-9113 "to" lands by 2004?

8/2/2007

Terry

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

----- Original Message -----

**From:** [Laura Snedaker](#)  
**To:** [Terrance Anthony](#)  
**Sent:** Monday, July 23, 2007 11:55 AM  
**Subject:** RE: T-10300 - FYI

Terry:

Are you asking about putting together a draft instream certificate for T-10391? If so, the answer is yes, we do need you to put together a draft instream certificate. It should be one of the deliverables on all transfers where we're issuing a confirming (in this case instream certificate) and (possibly) a remaining right (in this case – no remaining right issued at this time).

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

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**From:** Terrance Anthony [<mailto:conservationstrategies@comcast.net>]  
**Sent:** Monday, July 16, 2007 9:48 PM  
**To:** Laura Snedaker  
**Subject:** Re: T-10300 - FYI

Thanks, Laura.

I was going to ask you if you wanted me to prepare the instream certificate because I don't recall Bob Rice asking for that on T-10356. I'm starting to work on the DPD and it all looks pretty clean so far. I'll be in touch again before end of the week.

Terry

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

----- Original Message -----

**From:** [Laura Snedaker](#)  
**To:** [Terrance Anthony](#)  
**Sent:** Monday, July 16, 2007 3:22 PM  
**Subject:** T-10300 - FYI

Terry:

8/2/2007

I thought I would share the edits that I completed on the PD cover letter, the PD notice, and the draft certificate for T-10300. I made a few technical changes but also made a number of streamlining/formatting changes.

The main thing I wanted to point out on the Certificate is that all instream water rights are held by the State of Oregon. The draft that was sent in had the Deschutes River Conservancy as the water right holder. I just wanted to point this out and make sure this was something you knew for future reference.

Thanks,  
Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

**Laura Snedaker**

**From:** Laura Snedaker  
**Sent:** Tuesday, July 10, 2007 4:42 PM  
**To:** 'Terrance Anthony'  
**Subject:** Materials for Instream Transfer T-10391 / Mitigation Project MP-108  
**Attachments:** 10391-wm-rev.pdf; Contact List.dot; \_dpd-iswr.dot; tran-decree.dot; \_dpd-cov-approve.dot; pd-notice-sw.dot; pd-cov-fav-nni-sw.dot; DeficLet.dot; supplemental-lang.dot; 10300-dpd-iswr-MP-95.doc; 10300-dpd-cover-MP-95.doc; 10058-pd-cov-mp57.doc; 10058-pd-notice-mp57 (with Laura's comments).doc; 10058-cf-76358-82635-ISWR-MP57.doc; COID instream rate calculator (ID use - protected-1900 pri date).xls; ISWR's for Deschutes River.xls

Terry:

I've attached the Watermaster evaluation for this instream transfer. I assume you already have a copy of the application.

I've also attached:

Contact list  
Template for Instream DPD  
Template for instream certificate  
Template for DPD cover letter  
Template for PD notice  
Template for PD cover letter  
Template for deficiency letter – if needed

Example Materials attached:  
DPD for T-10300  
DPD cover for T-10300  
PD cover for T-10058  
PD Notice for T-10058  
ISWR certificate for T-10058

Other helpful materials:  
Rate Calculator for COID  
Spreadsheet of instream water rights on Deschutes River

Please give me a call if you have questions about any of the attachments. In putting together the DPD and other materials you can leave findings and information related to the mitigation project side of things blank. I'll be making those findings and putting appropriate information into each document.

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

7/10/2007

## Laura Snedaker

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**From:** Laura Snedaker  
**Sent:** Tuesday, July 10, 2007 9:14 AM  
**To:** 'Terrance Anthony'  
**Cc:** 'Dorothy Pedersen'  
**Subject:** RE: Work Order -COID [T-10391]

Terry:

I will get you updated templates sometime today or tomorrow at the latest.

Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

-----Original Message-----

**From:** Salem Opeifa  
**Sent:** Tuesday, July 10, 2007 9:09 AM  
**To:** Terrance Anthony  
**Cc:** Laura Snedaker; 'Dorothy Pedersen'  
**Subject:** Work Order -COID [T-10391]

Terry,  
here is the work order for the above project.

**Laura Snedaker**

---

**From:** Salem Opeifa  
**Sent:** Tuesday, July 10, 2007 9:09 AM  
**To:** Terrance Anthony  
**Cc:** Laura Snedaker; 'Dorothy Pedersen'  
**Subject:** Work Order -COID [T-10391]

**Attachments:** WORK ORDER R07-068N.pdf



WORK ORDER  
07-068N.pdf (43 KB)

Terry,  
here is the work order for the above project.

# WORK ORDER

Work Order #: **R07-068N** to Price Agreement # **R07-068**

## Water Right Contract Work

This Work Order hereby incorporates by reference all of the terms and conditions contained in the Price Agreement between the State of Oregon acting by and through Oregon Water Resources Department and **Terrance Anthony**.

| Contractor Data  | Water Resource Data   |
|--|---|
| Project Contact: Terrance Anthony<br>Title:<br>Address: 2532 NE 32 <sup>nd</sup> Court<br>Portland, OR 97212<br>Phone: (503) 282-1953<br>Fax: (503) 493-2512<br>E-Mail: conservationstrategies@comcast.net | Project Officer: Dorothy Pedersen<br>Field Services Division<br>Address: 725 Summer Street NE, Suite A<br>Salem, OR 97301-1266<br>Phone: (503) 986-0890<br>Fax: (503) 986-0903<br>E-Mail: Dorothy.I.Pedersen@wrdd.state.or.us |

Work Order Effective Date: **July 10, 2007**.

**Part I. General Information.** This Work Order is in effect between the contractor and the Department for the processing of water right applications as described in the Master Agreement (R07-068)

**Part II. Work; Acceptance Criteria; Deliverables and Delivery Schedule:** – See Exhibit A (Statement of Work for delivery schedule.

**Part III. Special Considerations.** There is no Special Consideration related to this Work Order.

**Part IV. Payment Provisions.** Unless otherwise specified, payments related to this Work Order shall be made only upon receipt and approval of the final product - The Product includes all deliverables - the Final Check List, Electronic and Paper Reports.

Payment for this work shall be processed upon receiving related invoice and the completed Deliverable Cover Sheet.

**Part V. Travel and Other Expenses.**  
Agency shall not reimburse Contractor for any travel expense under this Contract.

**Part VI. Contract Amendments.**

The Agency reserves the right to amend the Contract for the Anticipated Amendments, listed below, in accordance with the rules of OAR 125-246-0560.

**ANTICIPATED AMENDMENTS**  
None. Unless specified by the Agency.

Exhibit A  
**Statement of Work**  
**Reimbursement authority**  
**Itemized Estimate**  
**For**  
**Transfer**

|   |
|---|
| Application Number: T-10391                         |
| Name of Applicant: COID/Deschutes River Conservancy |

|                              | Item  | Time        |
|------------------------------|---|-------------|
| 1                            | Review of application for completeness.   | 5.0         |
| 2                            | Review of "From" lands to confirm consistency with existing right(s) and ownership.   | 6.0         |
| 3                            | Review of "To" lands for conflicts and preparation of draft deficiency letter <i>(if necessary)</i> .                             | 4.0         |
| 4                            | Preparation of draft preliminary determination, DPD cover letter and contact list.  | 6.5         |
| 5                            | Preparation of PD public notice, PD cover letter (and remaining right certificate(s) if necessary), and processing documentation. | 3.5         |
| <b>Total Estimated Time:</b> |   | <b>25.0</b> |

**Total estimated cost is 25.0 hours at \$90.00 per hour = \$2,250.00**

- **Estimated date of completion for the Draft Preliminary Determination once a Work Order has been executed is no later than: July 24, 2006\***

*\*Dates are contingent on the Applicant's expeditious resolution of any deficiency.*

Contractor shall notify OWRD in advance if more than 25.0 hours is needed to complete the work described in the Statement of Work above.

Invoices for this Work Order shall be sent to:

Salem Opeifa  
Loan Servicing Specialist  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271

**CONTRACTOR, YOU WILL NOT BE PAID FOR SERVICES RENDERED PRIOR TO NECESSARY APPROVALS.**

Agency may terminate this Work Order:

- a. Immediately upon written notice if the Department fails to receive funding from the Applicant.
- b. Upon receiving a written Termination Notice from the Applicant.

Contractor will be paid for all work performed up to the time of the written Termination Notice but not to exceed the total amount of this Work Order.

**ACCEPTANCE OF TERMS BY CONTRACTOR:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**APPROVED BY AGENCY:**

\_\_\_\_\_  
Tracy Loudon  
Administrator  
Administrative Services  
Oregon Water Resources Department

\_\_\_\_\_  
Date

\_\_\_\_\_  
Reviewed as to Legal Sufficiency by Assistant Attorney General  
*(All work orders more than \$75,000 must be approved by the AG's Office)*

\_\_\_\_\_  
Date

**Laura Snedaker**

---

**From:** Salem Opeifa  
**Sent:** Monday, July 09, 2007 3:56 PM  
**To:** Laura Snedaker  
**Cc:** Zach Tillman  
**Subject:** RE: T-10391 for DRC

The payment came in on Friday, though it was posted to a different account. I will put the work order together first thing in the morning. This means you may go ahead with all that you need to do to move the project forward.

Thanks for all your effort.

---

**From:** Laura Snedaker  
**Sent:** Monday, July 09, 2007 11:56 AM  
**To:** Salem Opeifa  
**Subject:** T-10391 for DRC

Salem:

I wanted to check in with you and see where we were on a RA contract for T-10391.

Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

## Shipping Checklist for Reimbursement Authority File

File T- 10391 Applicant: Deschutes River Conservancy

Agent/Contact: Zachary Tillman - DEC

Ship to Contractor: Terrance Anthony - Conservation Strategies

### Items included:

- Copy of front of file folder
- Reimbursement Authority Estimate Application
- Transfer Application form
- Transfer map
- Evidence of use affidavit
- Supporting documentation for evidence of use
- Land-use Information form
- Lot book report (or deed if instream or temporary transfer, or application received before 7/1/03)
- Certificate or copy of decree for each right to be transferred
- Final Proof map or decree map for each right to be transferred
- Well logs (if change in POA, SW POD-to-GW POA change)
- Watermaster review (all transfers)
- ODFW review (if change in POD) *> Will be sent later*
- GW review (if  $\Delta$ POA, or POD-to-POA change)
- Review checklist
- Final Deliverable cover sheet
- Itemized Estimate sheet for contractor

### Additional things to check:

- All regular application processing fees paid
- Reimbursement Authority \$125 fee paid for preparing estimate
- Date of WRD initial Public Notice 5/29/2007

Number of sheets copied 63

File contents copied by L. Paschke Date 5/23/07

**Reimbursement Authority Process  
Itemized Estimate Sheet  
for  
Water Rights Transfer**

Application Number T-10391

Name of Applicant: Deschutes River Conservancy

**Proposed Timeline**

|  |  |
|--|--|
| 5/29/07                                    | Public Notice (start of 30-day comment period).  |
| 7/12/07                                    | Completion of draft preliminary determination--1 week after contracts signed and removal of deficiencies, but not before the end of the Public Notice comment period and receipt of all agency reviews (Watermaster, groundwater and ODFW as applicable).  |
| 8/17/07                                    | Deadline for applicant review of draft preliminary determination--30 days or more after draft PD mailed to applicant, depending on issues to be resolved.  |
| 5 working days after DPD comments received | <b>Completion of contract work:</b> Submittal of PD cover letter, PD public notice (and remaining rights certificates if applicable)--within 5 business days after comments received from applicant that the draft is satisfactory, or after the end of the period for applicant to comment on draft PD and remedy deficiencies. |

*For purposes of water right transfers, all deliverables must be in **Microsoft Word** except remaining right certificates for which electronic copies of the existing certificates are currently available in WordPerfect.*

**Estimate**

|                              | <b>Item</b>   | <b>Time</b> |
|------------------------------|---|-------------|
| 1                            | Review of application for completeness.   |             |
| 2                            | Review of "From" lands to confirm consistency with existing right(s) and ownership.   |             |
| 3                            | Review of "To" lands for conflicts and preparation of draft deficiency letter (if necessary).                                     |             |
| 4                            | Preparation of draft preliminary determination, DPD cover letter and contact list.  |             |
| 5                            | Preparation of PD public notice, PD cover letter (and remaining right certificate(s) if necessary), and processing documentation. |             |
| <b>Total Estimated Time:</b> |   |             |

(Indicate the estimated amount of time, in ½ hour increments, needed to complete each item listed.)

Prior to preparing an estimate, contact Department staff if work could not be performed consistent with the proposed timeline. In developing the estimate, review the transfer application, transfer map, existing certificate, and final proof map. Pay particular attention to the clarity of the existing rights and the complexity of the request.

Name of Consultant: Conservation Strategies

Authorized Representative: \_\_\_\_\_

Date: \_\_\_\_\_

# T-10391 Review Checklist

## Application

- The type of change is clearly indicated.
- The application is appropriately signed.
- Appropriate fees were paid.  If overpayment, Refund Request to be sent with FO
- Land use form matches affected tax lots and is signed by proper official. (*from ALL affected Govt's*)
- Ditch company, district and/or BOR, sent a copy of the application and map, if appropriate.
- All required attachments received.

## Water right subject to transfer

- Certificated right or Proof accepted "to the satisfaction..."
- The right been exercised according to terms & conditions of certificate.
- Delivery system has the capacity to fully divert the rate/duty of the right.
- No information in record that suggests forfeiture.
- No conflicts identified on the plat cards and plat card reports printed.
- Affidavits prepared for rights that need to be canceled or diminished.

## Application Map

- The map has an original CWRE signature.
- The map size and scale accurate and appropriate per OAR 690-380-3100(1)(b)(c)&(d).
- All authorized and proposed POD's/POA's and POU's shown and clearly labeled.
- Metes and bounds for the POD's/POA's are properly described on the map.
- The POD/POA dimensions & ¼ ¼ on map match the transfer application and certificate descriptions.
- Map acres match the tabulation on the certificate.
- Have final proof maps/decree maps for the rights.  Application map matches certificate FPS.
- Have necessary aerial photos.

## Determining the "From" and "To" Lands (*make working copy of application and certificates to mark on*)

- Only the authorized POD's/POA's and POU's to be transferred are listed.
- Application & certificate tabulations match. (*Mark on appl. and cert. copies and note corrections needed*)
- Marked on certificate the acreage being transferred, cancelled and remaining by ¼ ¼.

## Ownership

- The deed/ROLI matches the "from" lands. (Don't need to check "to" lands.)
- Have current tax lot map. (*If transfer application is several years old, contact assessor's office*)
- The applicant is the owner of the "from" lands.
- All owners on the deed/ROLI have signed the application.
- If necessary, there is a notarized, signed statement of consent from landowners other than applicant.
- If necessary, there is a copy of written notification to each lien holder identified on ROLI.
- Agent has authorization to make decisions.

## Evaluation (materials needed for peer reviewer in bold)

- |   |                                      |                                    |  |  |
|---|--------------------------------------|------------------------------------|--|--|
| <input type="checkbox"/> application complete | <input type="checkbox"/> map         | <input type="checkbox"/> FPS       | <input type="checkbox"/> evidence of use | <input type="checkbox"/> land-use form |
| <input type="checkbox"/> deed/ROLI            | <input type="checkbox"/> certificate | <input type="checkbox"/> fees paid | <input type="checkbox"/> well logs       | <input type="checkbox"/> plat card     |
| <input type="checkbox"/> audit                | <input type="checkbox"/> dpd         |                                    |  |  |

- Reviews/comments/conditions received?  Watermaster  ODFW  GW
- Headgate  When in the judgment  Prior to diverting  Existing and maintain
- Measuring Devices  When in the judgment  Prior to diverting  Existing and maintain

Injury: Y N      Enlargement: Y N

Conditions to avoid enlargement/injury –

**Reimbursement Authority  
Final Deliverables Cover Sheet  
for  
Transfers**

Transfer # T-10391

Applicant: Deschutes River Conservancy

**The following items have been submitted electronically\*:**

- Contact List
- Draft Preliminary Determination (DPD)
- DPD Cover Letter
- PD Notice
- PD Cover Letter
- Remaining Right Certificates (one for each right that is not entirely affected by the transfer)
- Instream Water Right Certificate (if required)

**\*NOTE:** Transfer documents should be submitted in MS Word format preferably, or "rich text" format.

**The following items are enclosed:**

- Marked copy of transfer application
- (for POU changes) Plat Card Report marked to indicate any other rights on the "From" lands
- (for POU changes) Plat Card Report marked to indicate rights overlapping proposed POU
- Notes or sketches, maps, etc. from evaluation of changes, injury evaluation, etc. that will help document what was considered in reaching the findings and determination in the Preliminary Determination.
- Copies of each certificate that is only partially included in the transfer, marked as needed to show what portion of the right is being affected, and what remains unchanged.
  
- Signature of Contractor:** \_\_\_\_\_ **Date:** \_\_\_\_\_

***For WRD use only:***

**WRD approval by:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**WATER RESOURCES DEPARTMENT  
REIMBURSEMENT AUTHORITY ESTIMATE APPLICATION**

*House Bill 2551(2003 Oregon Laws) authorizes the Oregon Water Resources Department to expedite or enhance regulatory processes voluntarily requested under the agreement. The voluntary agreement can be entered into with any person requesting services and agreeing to pay the Department's costs of providing the service.*

*The Department has established a pool of qualified contractors to perform expedited services for water right transfers, water right permits extensions, and water right certificates.*

The purpose of this application is to obtain an estimate from the next qualified contractor in the appropriate pool. There is a non-refundable application fee of \$125.00 per request. The contractor will provide an estimate of the cost and of the time required to process and develop a recommendation on the request of a: *(check one)*:

| <u>REQUEST</u>                      | <u>TYPE</u>               | <u>FILE NUMBER</u> |
|-------------------------------------|---------------------------|--------------------|
| <input checked="" type="checkbox"/> | Transfer Application      | _____              |
| <input type="checkbox"/>            | Certificate Request       | _____              |
| <input type="checkbox"/>            | Extension of Time Request | _____              |

| <u>Applicant Information</u> |  | <u>Applicant's Representative/Contact</u> |
|------------------------------|--|---|
| Name: (Please Print)         | Deschutes River Conservancy & Central Oregon Irrigation District | Zachary Tillman - DRC                     |
| Address:                     | 700 NW Hill St.  |   |
|                              | Bend, OR 97701   |   |
| Phone:                       | 541-382-4077 x.21  |   |
| Fax:                         | 541-382-4078   |   |
| E-Mail Address:              | zach@deschutesriver.org  |   |

I understand the following:

- There is a non-refundable application fee of \$125.00 per request.
- That upon receipt of my non-refundable application fee in the amount of \$ 125.00, OWRD will assign my request to the next contractor in the pool of contractors performing expedited services.
- That this fee covers the copying, the mailing cost, as well as the cost for the contractor to evaluate and provide the estimate for processing of the request.
- That OWRD will provide all pertinent information to the assigned contractor within three (3) business days.
- That OWRD will, within fourteen (14) days, notify me in writing of the estimates of costs and time frame for the expedited service.
- That upon receiving the estimates I may agree or decline to enter into a formal contract to pay the estimated cost in advance to initiate the expedited service.
- An incomplete or inaccurate application may delay the process and increase the cost to process my request.
- Expedited processing does not guarantee a favorable review of my request.
- Send completed Application and payment to:

**OWRD – Reimbursement Authority Program**  
725 Summer St. NE, Suite A  
Salem, OR 97301-1266.

I certify that I am the (check one)  Applicant  Applicant's Representative  Other (Please specify) \_\_\_\_\_

Signature: Zachary Tillman Name: Zachary Tillman

| <u>OWRD USE ONLY</u>                         |   |
|--|---|
| Contractor Assigned: <u>Terrence Anthony</u> | Total Amount Paid: \$ <u>125<sup>00</sup></u> |
| OWRD Approval: _____                         |   |

**RECEIVED**

Revised 6/21/2004

MAY 18 2007

10391

**Reimbursement Authority Process  
Itemized Estimate Sheet  
for  
Water Rights Transfer**

|  |
|--|
| Application Number T-10391                     |
| Name of Applicant: Deschutes River Conservancy |

**Proposed Timeline**

|  |  |
|--|--|
| 5/29/07                                    | Public Notice (start of 30-day comment period).  |
| 7/12/07                                    | Completion of draft preliminary determination--1 week after contracts signed and removal of deficiencies, but not before the end of the Public Notice comment period and receipt of all agency reviews (Watermaster, groundwater and ODFW as applicable).  |
| 8/17/07                                    | Deadline for applicant review of draft preliminary determination--30 days or more after draft PD mailed to applicant, depending on issues to be resolved.  |
| 5 working days after DPD comments received | <b>Completion of contract work:</b> Submittal of PD cover letter, PD public notice (and remaining rights certificates if applicable)--within 5 business days after comments received from applicant that the draft is satisfactory, or after the end of the period for applicant to comment on draft PD and remedy deficiencies. |

*For purposes of water right transfers, all deliverables must be in Microsoft Word except remaining right certificates for which electronic copies of the existing certificates are currently available in WordPerfect.*

**Estimate**

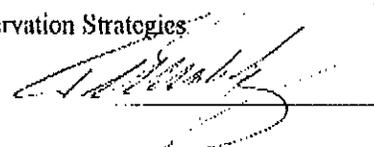
|                              | <b>Item</b>   | <b>Time</b> |
|------------------------------|---|-------------|
| 1                            | Review of application for completeness.   | 5.0         |
| 2                            | Review of "From" lands to confirm consistency with existing right(s) and ownership.   | 6.0         |
| 3                            | Review of "To" lands for conflicts and preparation of draft deficiency letter (if necessary).                                     | 4.0         |
| 4                            | Preparation of draft preliminary determination, DPD cover letter and contact list.  | 7.5         |
| 5                            | Preparation of PD public notice, PD cover letter (and remaining right certificate(s) if necessary), and processing documentation. | 3.5         |
| <b>Total Estimated Time:</b> |   | <b>25.0</b> |

(Indicate the estimated amount of time, in 1/2 hour increments, needed to complete each item listed.)

Prior to preparing an estimate, contact Department staff if work could not be performed consistent with the proposed timeline. In developing the estimate, review the transfer application, transfer map, existing certificate, and final proof map. Pay particular attention to the clarity of the existing rights and the complexity of the request.

Name of Consultant: Conservation Strategies

Authorized Representative: \_\_\_\_\_



Date: \_\_\_\_\_

6-7-07



4. The water right was exercised for the authorized purpose described below (e.g., crops grown):  
Irrigated pasture grass

5. The water delivery system used to apply water as authorized by the right is described below:  
Delivered through sub-lateral C-2-1. Water quitclaimed off in December 2005 and the delivery was removed.

6. One or more of the following documentation supporting the above statements is attached:

- Copy of a water right certificate that was issued within the last five years (not a remaining right certificate),
- Copies of receipts from sales of irrigated crops or for expenditures relating to the use of water,
- Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers,
- Dated aerial photographs of the lands or other photographs containing sufficient detail to establish the location and date of the photograph,
- Dedicated power usage records or receipts,
- Instream lease number \_\_\_\_\_,
- Other: \_\_\_\_\_

Cary D. Penkellow  
Signature of Affiant

9/26/07  
Date

Signed and sworn to (or affirmed) before me this 26<sup>th</sup> day of September, 2007.



Leslie Clark  
Notary Public for Oregon

**RECEIVED**  
**OCT 04 2007**

**WATER RESOURCES DEPT**  
**SALEM, OREGON**

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more space. Supporting documentation must be attached.

**Laura Snedaker**

**From:** Zach Tillman [zach@deschutesriver.org]  
**Sent:** Wednesday, September 26, 2007 5:04 PM  
**To:** Laura Snedaker  
**Subject:** RE: DPD for T-10391  
**Attachments:** Tri Cty Report (corrected).pdf; T-10391\_corrected affidavit.pdf; Exhibit B (Suppl. Cancellation).doc

Hi Laura,

Thanks for the DPD, looks mostly straightforward. Leslie addressed the Items #2 & #3 from the cover letter (mapping issues) earlier today, so I'll dive right in on the rest.

*Wrong* *fixed thing*  
**Item # 1:** The numbering system for the findings of fact are a little wonky. We certainly agree w/finding #12. Before agreeing w/finding #17, I want to make sure you've seen Exhibit B which has very specific language describing how COID would like this issue handled. It sounds like finding #17 is saying the same thing; I just want to make sure we're on the same page: The Right to Store water for IS will remain the same. The Right to Use water for IS will be reduced by the amount of the transfer (cancelled). Please confirm.

**Item # 4:** See attached "Tri Cty Report (corrected)" for the corrected doc

**Item # 5:** See attached "T-10391 corrected affidavit" for the corrected doc.

✓ Also, please always send hard copies to the DRC. As co-applicant, COID is obviously entitled to any hard copies they want, but the DRC is the transfer agent and should therefore receive hard copies by default. Our address is provided on the application for this reason.

When you have had a chance to review the docs & maps received from Leslie & I, please confirm. Thanks.

Zach

Zachary Tillman, DRC  
 541-382-4077, x.21  
[zach@deschutesriver.org](mailto:zach@deschutesriver.org)

---

**From:** Laura Snedaker [mailto:snedaklk@wrd.state.or.us]  
**Sent:** Tuesday, September 25, 2007 1:40 PM  
**To:** Leslie Clark; Zach Tillman  
**Subject:** DPD for T-10391

Good Afternoon to you both,

Attached is the draft preliminary determination for instream transfer T-10391. A hard copy has been placed in the mail and sent over to COID.

Please give me a call if you have any questions.

Thanks, Laura

Laura Snedaker  
 Senior Water Resources Coordinator  
 Oregon Water Resources Department  
 725 Summer Street NE, Suite A  
 Salem, OR 97301-1271  
 Phone: (503) 986-0884  
 Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

9/27/2007

  
**AmeriTitle**  
Part Of The JELD-WEN Family  
**IRRIGATION DISTRICT REPORT**

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**SEP 26 2007**  
**WATER RESOURCES DEPT.**  
**SALEM, OREGON**

CENTRAL OREGON IRRIGATION DISTRICT  
2598 N HWY 97  
REDMOND, OR 97756

Attn: LESLIE CLARK

November 15, 2005  
Title Number : 084599  
Title Officer : DEBBY DAVIDSON  
Fee : \$150.00  
Corrected Report #2

We have searched our Tract Indices as to the following described property:

Parcel 1, Partition Plat No. 1991-5, Deschutes County, Oregon.

and dated as of November 8, 2005 at 7:30 a.m.

We find that the last deed of record runs to:

*TRI-COUNTY BUILDERS CORPORATION, an Oregon Corporation*

We also find the following apparent encumbrances within ten years prior to the effective date hereof:

1. Deed of Trust, including the terms and provisions thereof, to secure an indebtedness of the amount herein stated.  
Amount: \$256,800.00  
Dated: June 28, 2005  
Recorded: July 1, 2005  
Volume-Page: 2005-41934, Deschutes County Records  
Grantor: Tri-County Builders Corporation  
Trustee: Western Title & Escrow Company  
Beneficiary: Bank of the Cascades  
(Said Deed of Trust is a Line of Credit Deed of Trust)

We have also searched our General Index for judgments and state and federal tax liens against the above named grantees and find the following:

NONE

We also find the following unpaid taxes and city liens:

Taxes assessed under Code No. 2-001 Map and Tax Lot Number 15 13 20DA 01501  
Account No. 179008

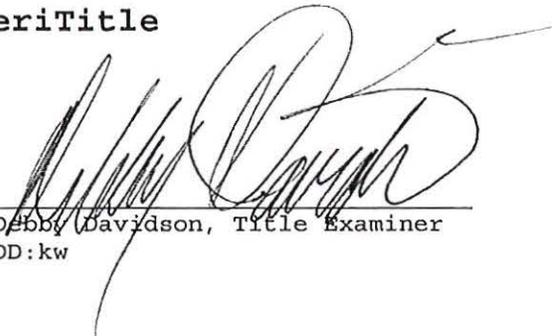
NOTE: The 2005-2006 Taxes: \$1,065.54, Paid in full.

City Liens, if any, of the city of Redmond. (No inquiry has been made, and if search is requested, a charge of \$30.00 will be added.)

NOTE: This Irrigation District Report is being made with the understanding that it does not represent any form of title insurance and is not a commitment for a policy of insurance. The information provided herein is not a full examination of the subject property. Further, if any person, corporation or entity of any kind should use this report as a basis to produce a title insurance product, it should be understood that it is clearly outside of Oregon law. Any liability hereunder is limited to the amount paid for said report.

AmeriTitle

By:

  
Debby Davidson, Title Examiner

DD:kw

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Report #2: Correct legal description.

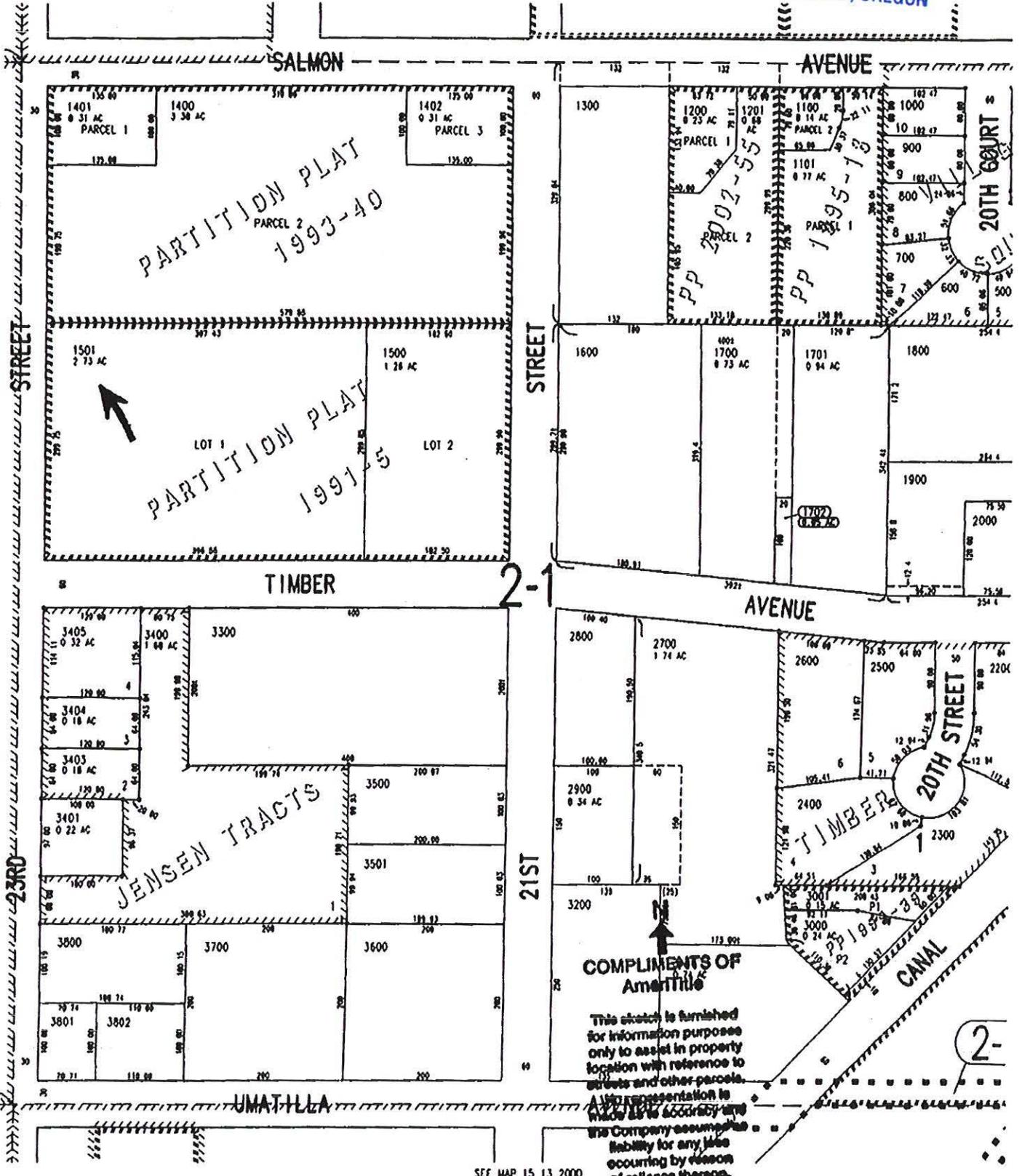
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SALEM, OREGON

1" = 100'

SEE MAP 15 13 20AD



PARTITION PLAT  
PARCEL 2  
1993-40

PARTITION PLAT  
LOT 1  
1991-15



STREET

AVENUE

20TH COURT

TIMBER

2-1

AVENUE

20TH STREET

JENSEN TRACTS

21ST

TIMBER

CANAL

COMPLIMENTS OF  
AmerTitle

This sketch is furnished  
for information purposes  
only to assist in property  
location with reference to  
streets and other parcels.  
A warranty representation is  
made as to accuracy and  
The Company assumes no  
liability for any loss  
occurring by reason  
of reliance thereon.

2-

SEE MAP 15 13 2000

4. The water right was exercised for the authorized purpose described below (e.g., crops grown):

Irrigated pasture grass  
\_\_\_\_\_  
\_\_\_\_\_

5. The water delivery system used to apply water as authorized by the right is described below:  
Delivered through sub-lateral C-2-1. Water quitclaimed off in December 2005 and the delivery was removed.  
\_\_\_\_\_  
\_\_\_\_\_

6. One or more of the following documentation supporting the above statements is attached:

- Copy of a water right certificate that was issued within the last five years (not a remaining right certificate),
- Copies of receipts from sales of irrigated crops or for expenditures relating to the use of water,
- Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers,
- Dated aerial photographs of the lands or other photographs containing sufficient detail to establish the location and date of the photograph,
- Dedicated power usage records or receipts,
- Instream lease number \_\_\_\_\_,
- Other: \_\_\_\_\_

Craig D. Penhollow  
Signature of Affiant

9/26/07  
Date

Signed and sworn to (or affirmed) before me this 26<sup>th</sup> day of September, 2007.

Leslie Clark  
Notary Public for Oregon



**RECEIVED**  
**SEP 26 2007**  
**WATER RESOURCES DEPT.**  
**SALEM, OREGON**

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more space. Supporting documentation must be attached.

**Exhibit B**

**Cancellation of supplemental water right (IS)  
COID #6**

Modification of this supplemental water right reduces by 39.58 acres the number of acres to which stored water may be applied for supplemental irrigation under the right evidenced by Certificate 76714; however, the maximum quantity of stored water that can be diverted for use under the right remains unchanged.

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SEP 26 2007  
WATER RESOURCES DEPT.  
SALEM, OREGON

**Laura Snedaker**

---

**From:** Leslie Clark [lesliec@coid.org]  
**Sent:** Wednesday, September 26, 2007 11:46 AM  
**To:** Laura Snedaker  
**Cc:** 'Zach Tillman'; 'Lisa Lee'  
**Subject:** T-10391  
**Attachments:** 151320\_1501A.pdf; 151304\_500A.pdf

Laura,

Attached are the replacement maps for the transfer as requested in your September 25<sup>th</sup> letter. The labels for the water rights in question were "hidden" behind the tax lot numbers; the lots are so small we didn't notice the water right point did not show up. Also, in your letter referencing the Bradley map you stated the Department records indicated there were 3.3 acres before this transfer; there were actually 4.10 acres. Please let me know if this addresses all the map issues.

Thank you,

Leslie

---

# DESCHUTES COUNTY SEC.20 T15S R13E

SCALE - 1" = 400'

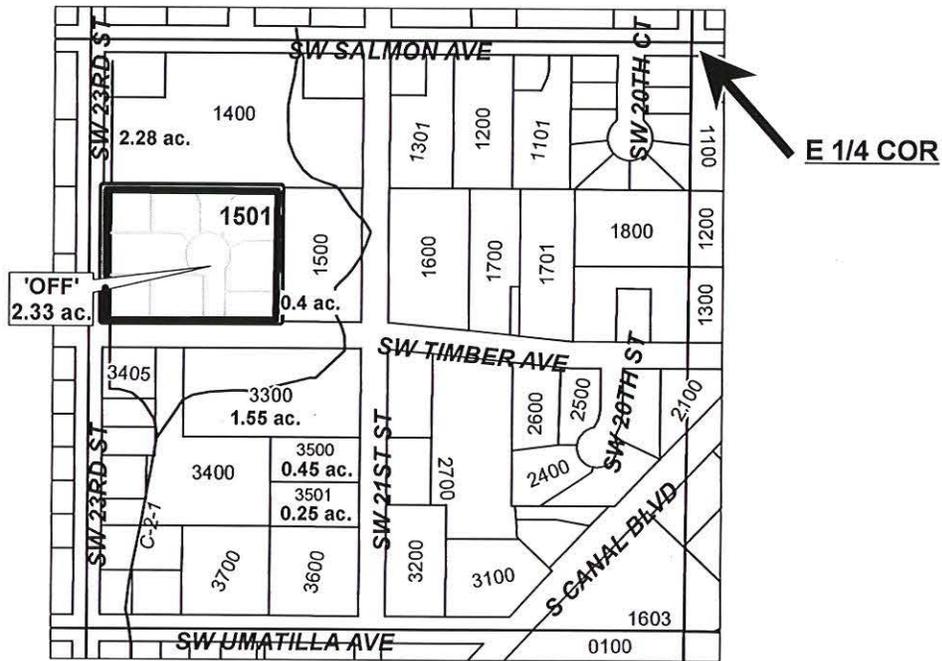


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SEP 26 2007

WATER RESOURCES DEPT.  
SALEM, OREGON



"OFF" MAP

|       |                         |
|-------|-------------------------|
| # ac. | 'OFF' LAND PARCELS      |
| # ac. | PARCELS W/ WATER RIGHTS |



APPLICATION FOR PERMANENT INSTREAM TRANSFER

NAME: DESCHUTES RIVER CONSERVANCY

TAXLOT #: 1501

2.33 ACRES

DATE: 09-26-07

FILE:E:\TRANSFER\WRTRANS07\DC151320\_1501A.PDF

# DESCHUTES COUNTY SEC.04 T15S R13E

SCALE - 1" = 400'

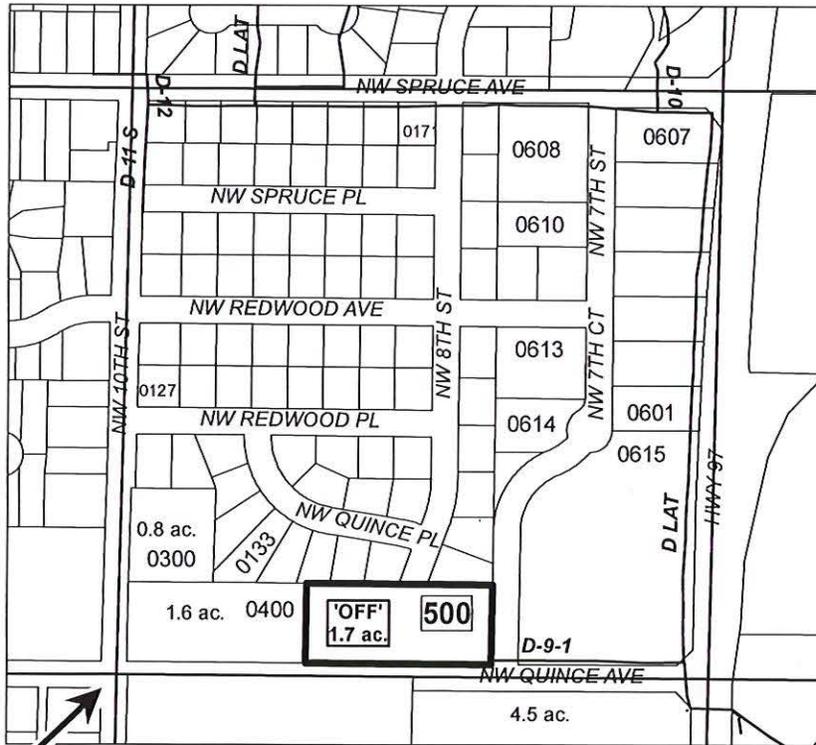


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SEP 26 2007

WATER RESOURCES DEPT.  
SALEM, OREGON



C 1/4 COR

"OFF" MAP

|       |                         |
|-------|-------------------------|
| # ac. | 'OFF' LAND PARCELS      |
| # ac. | PARCELS W/ WATER RIGHTS |



APPLICATION FOR PERMANENT INSTREAM TRANSFER

NAME: DESCHUTES RIVER CONSERVANCY

TAXLOT #: 500

1.7 ACRES

DATE: 09-26-07

FILE E:\TRANSFER\WRTRANS07\DR0151304\_500A.PDF

**Laura Snedaker**

---

**From:** Zach Tillman [zach@deschutesriver.org]  
**Sent:** Tuesday, May 22, 2007 1:18 PM  
**To:** Laura Snedaker  
**Subject:** Transfer #10391

Hi Laura,

Please correct the instream transfer application #10391 (MP#108) to remove "navigation" from the public uses for which the instream right is being requested in Supplemental Form C. Thank you.

Zachary Tillman, DRC  
541-382-4077, x.21  
[zach@deschutesriver.org](mailto:zach@deschutesriver.org)

1 10391

5/22/2007



5/16/2007

Oregon Water Resources Department  
Attn. Laura Snedaker  
Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301

RE: PERMANENT INSTREAM TRANSFER *FOR MITIGATION* OF 39.58 ACRES OF  
COID SENIOR DESCHUTES RIVER WATER RIGHTS

Dear Laura,

Enclosed please find the transfer application, supplemental forms and required documentation for the permanent instream transfer *for Mitigation* of 39.58 acres of Central Oregon Irrigation District, senior Deschutes River water rights. Central Oregon Irrigation District and the Deschutes River Conservancy are co-applicants in this transfer.

Attached to this cover letter is a table that may be used as a reference to the documentation included with this application.

It is the intention of the co-applicants that this transfer application be processed using Reimbursement Authority, thus expediting the process to the greatest extent possible. Once the application has been received and assigned a transfer number, it will be sent to contractors for bids to process the application using receipts authority. It is my understanding that we may reasonably expect these bids/estimates within 2-3 weeks of submitting the transfer to OWRD.

Also included is the required transfer fee of \$475.00 (\$350.00 application fee, plus \$125.00 for Receipts Authority bid processing). Please feel free to contact me via email or by phone if you have questions regarding this, or other transfer applications. Thank you.

Best Regards,

Zachary Tillman, DRC  
541-382-4077 x.21  
[zach@deschutesriver.org](mailto:zach@deschutesriver.org)

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MAY 18 2007

WATER RESOURCES DEPT  
SALEM, OREGON

700 NW Hill Street • Bend, Oregon 97701  
(P.O. Box 1560 • 97709)  
541.382.4077 • Fax 541.382.4078  
[www.deschutesrc.org](http://www.deschutesrc.org) / [info@deschutesrc.org](mailto:info@deschutesrc.org)

COID #6 (Avion)

| QC | Cty. File # | Grantor<br>Last           | Acres | T/L | POU | QC |          |        | WR Map |        |             |         | Proof of Use |        |      |       |      |
|----|-------------|---------------------------|-------|-----|-----|----|----------|--------|--------|--------|-------------|---------|--------------|--------|------|-------|------|
|    |             |                           |       |     |     | QC | Warranty | Report | Map    | Waiver | Cert. Pg. # | Rem WR? | Affadavit    | Aerial | Year | Lease | Year |
| 1  | 2006-12427  | CHW Enterprises           | 9.5   | 1   | 2   | Y  | Y        | Y      | Y      | Y      | 33-4        | N       | Y            | Y      | 2005 |       |      |
| 1  | 2006-06110  | Wagenblast                | 6.4   | 1   | 1   | Y  | Y        | Y      | Y      | Y      | 30          | Y       | Y            | Y      | 2005 |       |      |
| 1  | 2006-15526  | Redmond Investments, LLC  | 15.0  | 1   | 1   | Y  | Y        | Y      | Y      | Y      | 39          | N       | Y            | Y      | 2004 |       |      |
| 1  | 2006-47263  | High Ridge Dev., LLC      | 4.65  | 1   | 2   | Y  | Y        | Y      | Y      | Y      | 39, T-9113  | N       | Y            | Y      | 2004 |       |      |
| 1  | 2006-15108  | Bradley                   | 1.7   | 1   | 1   | Y  | Y        | Y      | Y      | Y      | 31          | N       | Y            | Y      | 2005 |       |      |
| 1  | 2005-86303  | Tri-County Builders Corp. | 2.33  | 1   | 1   | Y  | Y        | Y      | Y      | Y      | 40          | N       | Y            | Y      | 2004 |       |      |

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SALEM, OREGON



Oregon Water Resources Department  
 725 Summer Street NE, Suite A  
 Salem Oregon 97301-1266  
 (503) 986-0900  
 www.wrd.state.or.us

# Mitigation Project

## Application for Water Right Transfer

MP-108

Please type or print legibly in dark ink. If your application is incomplete or inaccurate, we will return it to you. If any requested information does not apply to your application, insert "N/A" to indicate "Not Applicable." As you complete this form, please refer to notes and guidance included on the application. A summary of review criteria and procedures that are generally applicable to these applications is available at [www.wrd.state.or.us/OWRD/PUBS/forms.shtml](http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml).

### 1. TYPE OF TRANSFER APPLICATION

Please check one

|  |   |
|--|---|
| <input checked="" type="checkbox"/> Permanent Transfer | <input checked="" type="checkbox"/> Instream Transfer |
| <input type="checkbox"/> Temporary Transfer            | <input checked="" type="checkbox"/> Permanent         |
| • total number of years: _____                         | <input type="checkbox"/> Time-Limited                 |
| (begin year: _____)                                    | <input type="checkbox"/> Drought Transfer             |
| (end year: _____)                                      | <input type="checkbox"/> Other                        |

### 2. APPLICANT INFORMATION

Name: Deschutes River Conservancy & Central Oregon Irrigation District  
First Last

Address: 700 NW Hill St.

Bend OR 97701  
City State Zip

Phone: \_\_\_\_\_ 541-382-4077 x.21  
Home Work Other

Fax: 541-382-4078 E-Mail address: zach@deschutesriver.org

### 3. AGENT INFORMATION

(The agent listed is authorized to represent the applicant in all matters relating to this transfer application.)

Name: \_\_\_\_\_  
First Last

Address: \_\_\_\_\_

\_\_\_\_\_  
City State Zip

Phone: \_\_\_\_\_  
Home Work Other

Fax: \_\_\_\_\_ E-Mail address: \_\_\_\_\_

- If an agent is listed above, please check one of the following:
  - Please send all correspondence to Agent. Send *copies* of correspondence to Applicant; or
  - Please send all correspondence to Applicant. Send *copies* of correspondence to Agent.

T 10391

MP-108

MAY 18 2007

**6. EVIDENCE OF BENEFICIAL WATER USE**

- Attach one or more **Evidence of Use Affidavits** (Supplemental Form B) demonstrating that each of the right(s) involved in the transfer have been exercised in the last five years in accordance with the terms and conditions of the right or that a presumption of forfeiture for non-use could be rebutted. The Evidence of Use Affidavit(s) **must include supporting documentation** such as the following:
  - ▶ Copies of receipts from sales of irrigated crops or for expenditures relating to use of water;
  - ▶ Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers;
  - ▶ Dated aerial photographs of the lands or other photographs containing sufficient detail to establish location and date of the photograph; *or*
  - ▶ If the right has **not** been used during the past five years, documentation that the presumption of forfeiture would be rebutted under ORS 540.610(2).

**7. AFFECTED DISTRICTS AND LOCAL GOVERNMENTS**

- Are any of the water rights proposed for transfer located within or served by an irrigation or other water district?  Yes  No
- Will any of the water rights be located within or served by an irrigation or other water district after the proposed transfer?  Yes  No
- Is water for any of the rights supplied under a water service agreement or other contract for stored water with a federal agency or other entity?  Yes  No

*If "Yes", for any of the above, list the name and mailing address of the district, agency and/or entity:*

Bureau of Reclamation  
1150 N. Curtis Rd., Ste. 100  
Boise, ID 83706

- List the name and mailing address of all affected local governments (e.g., county, city, municipal corporation, and tribal governments within whose jurisdiction the rights are located).

|  |                                       |
|--|---------------------------------------|
| <u>Deschutes County Planning Dept.</u> | <u>City of Redmond Planning Dept.</u> |
| <u>117 NW Lafayette Ave.</u>           | <u>P.O. Box # 726</u>                 |
| <u>Bend, OR 97701</u>                  | <u>Redmond, OR 97756-0100</u>         |

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**4. PROPOSED CHANGE(S) TO WATER RIGHT(S)**

- List **all** water rights to be affected by this transfer. Indicate the certificate, permit, decree or other identifying number(s) in the table below: *(Attach additional pages as necessary.)*

|    | Application / Decree | Permit / Previous Transfer | Certificate |
|----|----------------------|----------------------------|-------------|
| 1. |                      |                            | 76358       |
| 2. |                      |                            |             |
| 3. |                      |                            |             |
| 4. |                      |                            |             |
| 5. |                      |                            |             |
| 6. |                      |                            |             |

- Attach a **separate Supplemental Form A** (*Description of Proposed Change(s) to a Water Right*) for **each** water right listed above.

- Check **all** proposed change(s) included in this transfer application:

- Place of Use                       Point of Diversion                       Additional Point of Diversion
- Character of Use                       Point of Appropriation                       Additional Point of Appropriation
- Instream Transfer                       Surface Water source to Ground Water source

- Reason(s) for change(s): Permanent instream transfer & mitigation project.

**5. WATER DELIVERY SYSTEM**

- Describe the **current** water delivery system **or** the system that **was in place** at some time **within the last 5 years**. Include information on the pumps, canals, pipelines and sprinklers used to divert, convey and apply the water at the authorized place of use. If the transfer involves multiple rights that have independent systems, describe each system separately.

*The description must be sufficient to demonstrate that the full quantity of water to be transferred can be conveyed from the authorized source and applied at the authorized location and that the applicant is ready, willing, and able to exercise the right.*

See Exhibit A

- System capacity: \_\_\_\_\_ cubic feet per second (cfs). If the transfer involves multiple rights that have independent systems, describe the capacity for each system separately.

See Exhibit A

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**8. LAND OWNERSHIP**

- Does the applicant own the lands **FROM** which the right is being transferred?  Yes  No

*If "No", provide the following information. For Temporary Transfers, also include a notarized statement granting consent to the transfer from each of the landowners:*

Names of Current Landowner(s): See Quitclaim packets  
First Last

Address: \_\_\_\_\_

City State Zip

- Does the applicant own the lands **TO** which the right is being transferred?  
 Yes  No  N/A - NOT APPLICABLE TO INSTREAM TRANSFERS

*If "No", provide the following information:*

Names of Receiving Landowner(s): \_\_\_\_\_  
First Last

Address: \_\_\_\_\_

City State Zip

- Check one of the following:
  - The receiving landowner will be responsible for completion of the proposed changes after the final order is issued. All notices and correspondence should be sent to this landowner.
  - The applicant will remain responsible for completion of changes. Notices and correspondence should continue to be sent to the applicant and applicant's agent.
  - N/A. (Not applicable. Application is for an Instream Water Right Transfer.)

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## 9. ATTACHMENTS

*Check each of the following attachments included with this application.  
The application will be returned if all required attachments are not included.*

### Supplemental Form A –

#### Description of Proposed Change(s) to a Water Right

- A separate Supplemental Form A is enclosed for each water right to be affected by this transfer.

### Supplemental Form B –

#### Evidence of Use Affidavit(s)

- At least one Evidence of Use Affidavit documenting that the right has been used during the last five years or that the right is not subject to forfeiture under ORS 540.610 is attached. The affidavit provided must be the original (not a copy), and
- The Evidence of Use Affidavit must be accompanied by supporting documentation.

### Map

- Water Right Transfer*  
The map must be prepared by a Certified Water Right Examiner and meet the requirements of OAR 690-380-3100 unless a waiver has been granted. The map provided must be the original, not a copy.
- Temporary Transfer or Historical POD Change*  
A map meeting the requirements of OAR 690-380-3100 must be included but need not be prepared by a Certified Water Right Examiner.

### Water Well Report(s)/Well Log(s):

- The application is for a change in point of appropriation or change from surface water to ground water and copies of all water well reports are attached.
- Water well reports are not available and a description of construction details including well depth, static water level, and information necessary to establish the ground water body developed or proposed to be developed is attached.
- N/A. The application does not involve a change in point of appropriation or a change from surface water to ground water, so water well reports are not required.)

### Land Use Information Form:

- Enclosed; *or*
- Not Required if all of the following are met:
- ① In EFU zone or irrigation district,
  - ② Change in place of use only,
  - ③ No structural changes needed, including diversion works, delivery facilities, other structures, *and*
  - ④ Irrigation only.

### Fees:

- Amount enclosed: \$ 350 + \$ 125 = \$ 475.00  
See the Department's Fee Schedule at [www.wrd.state.or.us](http://www.wrd.state.or.us) or call (503) 986-0900.

### Instream Water Right Transfers, also include:

### Supplemental Form C –

#### Instream Water Right Transfer

- Complete this form to describe the desired nature and attributes for the proposed instream water right.

### Temporary Transfers, also include:

### Recorded Deed:

- The applicant must submit a copy of the current deed of record for the land **from** which the authorized place of use or point of diversion/appropriation is being moved.

### Affidavit of Consent:

- If the applicant is **NOT** the owner of record for the land **from** which the authorized place of use or point of diversion/appropriation is being moved, a notarized statement from the actual owner of record consenting to the proposed transfer must be submitted.

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**Before submitting your application to the Department, be sure you have:**

- Answered each question completely.
- Included all the required attachments.
- Provided original signatures for **all** named deed holders, or other parties, with an interest in the water right.
- Included a check payable to the Oregon Water Resources Department for the appropriate amount.

**10. SIGNATURES**

▪ Check one of the following, as appropriate, and sign the application in the signature box below:

- All information is provided based upon the date of the signed water conveyance agreement (Quitclaim Deed) and is attached with this application as per discussions with OWRD.

In accordance with OAR 690-380-3000(13)(a), I (we) understand that prior to Department approval of a permanent transfer and upon my receipt of a draft Preliminary Determination for the proposed transfer, I (we) will be required [pursuant to OAR 690-380-4010(5)] to provide the following landownership information and evidence demonstrating that I (we) are authorized to pursue the transfer:

- (a) A report of ownership and lien information that has been prepared by a title company *within the last three months*;
- (b) A copy of written notification of the proposed transfer provided by the applicant to **all** lien holders on the subject lands unless the report of ownership and lien information shows that a water right conveyance agreement has been recorded for the subject lands. *If a water right conveyance agreement has been recorded for the subject lands, a copy of the agreement and identification of the owner of the lands at the time the agreement was recorded must be submitted; and*
- (c) If the landowner identified in the report of ownership and lien information is **not** the applicant, a **notarized statement consenting to the transfer** (*attached*) signed by the landowner identified in the report or an authorized representative of the entity to whom the interest in the water right has been conveyed as identified in a water right conveyance agreement or other documentation demonstrating that the applicant is authorized to pursue the transfer in the absence of the consent of the landowner.

I (we) affirm that the applicant is a municipality, as defined in ORS 540.510(3)(b), and that the right is in the name of the municipality or a predecessor. Therefore, pursuant to OAR 690-380-3000(13)(b), the applicant is **NOT** required to provide the above described report of ownership and lien information.

I (we) affirm that the applicant is an entity with the authority to condemn property and is acquiring the property to which the water right proposed for transfer is appurtenant by condemnation. Documentation is provided with this application supporting this statement. Therefore, pursuant to OAR 690-380-3000(13)(c), the applicant is **NOT** required to provide the above described report of ownership and lien information. (*NOTE: Such an entity may only apply for a transfer under this subsection if it has filed a condemnation action to acquire the property.*)

▪ I (we) affirm that the information contained in this application is true and accurate.

|  |                                       |                         |
|--|---------------------------------------|-------------------------|
| <br>applicant signature | Zachary Tillman - DRC<br>name (print) | 4-17-07<br>date         |
| _____<br>applicant signature   | _____<br>name (print)                 | <b>RECEIVED</b><br>date |

**Exhibit A**  
**Description of Water Right Delivery Systems**  
**COID #6 (Avion)**

| <b>Name</b>       | <b>Acres</b> | <b>Purpose</b>                    | <b>System</b> |
|-------------------|--------------|-----------------------------------|---------------|
| CHW Ent.          | 9.5          | Irrigation: Pasture               | C-8-4         |
| Wagenblast        | 6.4          | Irrigation: Pasture for livestock | E-11-4-1      |
| Rdm. Inv.'s       | 15.0         | Irrigation: Pasture               | B-3-2         |
| High Ridge Dev.   | 4.65         | Irrigation: Pasture               | B-3-3 & B-5-2 |
| Bradley           | 1.7          | Irrigation: Pasture               | D-9-1         |
| Tri-Cty. Builders | 2.33         | Irrigation: Pasture               | C-2-1         |

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## Water Right Transfer Supplemental Form A

### DESCRIPTION OF PROPOSED CHANGE(S) TO A WATER RIGHT

List only one water right per page. A separate Supplemental Form A must be completed for each certificate, permit, decree, or other right involved in the proposed transfer.

Attach additional copies of Supplemental Form A as needed to describe other certificates, permits, decrees or other rights involved in this transfer.

▪ Certificate Number or other identifying number: 76358

### 1. TYPE OF CHANGE(S) PROPOSED

(Check *all* that apply.)

| Point of Diversion or Appropriation   | Place of Use   | Character of Use  |
|---|--|---|
| <input checked="" type="checkbox"/> <b>Change</b> (The old point of diversion or appropriation will <u>not</u> be used for the portion of the water right affected by the transfer.)<br><input type="checkbox"/> <b>Additional</b> (Both the old <u>and</u> new points of diversion or appropriation will be used for the portion of the water right affected by the transfer.)<br><input type="checkbox"/> <b>Historic Point of Diversion or Appropriation Change</b> (Unauthorized point of diversion or appropriation used for more than 10 years.)<br><input type="checkbox"/> <b>Surface Water to Ground Water</b> (A new point of appropriation will be used <b>instead of</b> the old point of diversion. The old point of diversion will <u>not</u> be used.)<br><input type="checkbox"/> <b>Point of Diversion Change due to Government Action</b> (The old point of diversion or appropriation can no longer be used due to government action.)<br><input type="checkbox"/> <b>Exchange</b> (Water from another source will be used in exchange for supplying an equal amount of replacement water to that source.) | <input type="checkbox"/> <b>All of the right will be exercised at a different location than currently authorized</b> (Use of water at the current location will be discontinued.)<br><input checked="" type="checkbox"/> <b>Only a portion of the right will be exercised at a different location than currently authorized</b> (Use of water at the current location will be discontinued.) | <p style="text-align: center;">Proposed new use:</p> <input type="checkbox"/> <b>Irrigation</b><br><input type="checkbox"/> <b>Municipal</b><br><input type="checkbox"/> <b>Quasi-municipal</b><br><input type="checkbox"/> <b>Commercial</b><br><input type="checkbox"/> <b>Industrial</b><br><input checked="" type="checkbox"/> <b>Instream</b> (complete and attach <i>Supplemental Form C</i> )<br><input type="checkbox"/> <b>Domestic</b> (indicate number of households) _____<br><input type="checkbox"/> <b>Other</b> _____<br><br><input type="checkbox"/> <b>Substitution</b> (A supplemental ground water right will be substituted for a primary surface water right.)<br><br><input type="checkbox"/> <b>Supplemental Use to Primary Use</b> (Primary water right shall be cancelled and the supplemental water right will change to primary use.) |

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**2. CURRENT WATER RIGHT INFORMATION**

Water Right Subject to Transfer (*check and complete one of the following*):

|   |                          |  |
|---|--------------------------|--|
| <input checked="" type="checkbox"/> Certificated Right                    | <u>76358</u>             | _____                                  |
|   | Certificate Number       | Permit Number or Decree Name           |
| <input type="checkbox"/> Adjudicated, Non-certificated Right              | _____                    | _____                                  |
|   | Name of Decree           | Page Number                            |
| <input type="checkbox"/> Permit for which Proof has been Approved         | _____                    | _____                                  |
|   | Permit Number            | Date Claim of Beneficial Use Submitted |
| <input type="checkbox"/> Transferred Right for which Proof has been Filed | _____                    | _____                                  |
|   | Previous Transfer Number | Date Claim of Beneficial Use Submitted |

- Name on Permit, Certificate, or Decree: Central Oregon Irrigation District
- County: Deschutes
- Authorized Use(s) to be Affected by Transfer: Irrigation
- Priority Date(s): 10/31/1900 & 12/2/1907

*If there are multiple Priority Dates identified on the water right, any information provided on pages 3 through 6 of this form must identify which priority date is associated with each of the authorized and proposed points of diversion or appropriation and places of use.*

- Source(s) of Water to be Affected by Transfer: Deschutes R.

Tributary to: Columbia R.

*If there are multiple Sources listed on the water right, any information provided on pages 3 through 6 of this form must identify which source is associated with each of the authorized and proposed points of diversion or appropriation and places of use.*

**For applications proposing a Change in Place of Use or Character of Use:**

- Are there **Other Water Rights**, Permits or Ground Water Registrations associated with this land?
  - Yes     No     N/A – No Change in Place of Use or Character of Use

If "Yes", what are the Permit, Registration or Certificate Numbers? C-76714 (See Exhibit B)

*Pursuant to ORS 540.510, any "layered" water use or a right that is supplemental to a primary right proposed for transfer must be included in the transfer or be cancelled, except as provided in OAR 690-380-2240(5).*

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▪ Certificate Number or other identifying number: 76358

The following information **must be provided only** for those points of diversion or appropriation that are involved in the transfer (i.e., list only the portion of the water right you propose to transfer.) Attach additional pages as necessary.

Government lot and donation land claim numbers must be included in the tables below **only** if the information is reflected on the existing water right.

**Location of Existing Authorized Point(s) of Diversion or Appropriation to be Changed:**  
*(i.e., the allowed point(s) of diversion or appropriation listed on the water right that will be affected by the proposed transfer, the "FROM" point(s) of diversion or appropriation)*

| If Ground Water, OWRD Well Log ID No. (or Well ID Tag No. L-___) | Source and Priority Date                | Township | Range | Mer | Sec | ¼ ¼  | Tax Lot, DLC or Gov't Lot | Survey Coordinates (coordinates from a recognized survey corner)   |
|--|---|----------|-------|-----|-----|------|---------------------------|--|
|  | Deschutes R.<br>10/31/1900<br>12/2/1907 | 17 S.    | 12 E. | WM  | 29  | SENE |                           | 850 Ft. North, 630 Ft. West<br>from E. Corner of Sec. 29 <span style="border: 1px solid red; border-radius: 50%; padding: 2px;">PBC</span> |
|  |   |          |       |     |     |      |                           |  |
|  |   |          |       |     |     |      |                           |  |

- Does the water right being transferred involve a ground water source(s)?  
 Yes      No (Surface water source only.)

If "Yes", for each authorized point of appropriation (well) involved, you must either:

A. Supply a copy of the well log(s) for each point of appropriation that is **clearly labeled** and associated with the corresponding well in the table above and on the accompanying application map. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)

**or**

B. If a well log is **not** available, you must describe the construction of the authorized point of appropriation by completing the table below. Attach additional copies as necessary.

**Construction of Existing Authorized Point(s) of Appropriation – (Only needed if no well log is available.)**  
*Wells in this listing must be clearly tied to corresponding well location(s) described in the table above and shown on the accompanying application map.*

| OWRD Well No. as identified in table above | Diameter | Type and size of casing | No. of feet of casing | Intervals casing is perforated (in feet) | Seal depth | Est. depth to water | Est. depth to water bearing stratum | Type of access port or measuring device | Total well depth |
|--|----------|-------------------------|-----------------------|--|------------|---------------------|-------------------------------------|---|------------------|
|  |          |                         |                       |  |            |                     |                                     |   |                  |
|  |          |                         |                       |  |            |                     |                                     |   |                  |
|  |          |                         |                       |  |            |                     |                                     |   |                  |

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▪ Certificate Number or other identifying number: 76358

**3. PROPOSED CHANGES TO THE WATER RIGHT**

*Describe proposed changes to the water right involving point(s) of diversion and/or appropriation. Survey coordinates described below should accurately correspond to the points shown on the accompanying application map. Attach additional pages as necessary.*

**Location of Proposed Point(s) of Diversion or Appropriation:**

*(i.e., the "TO" point(s) of diversion or appropriation)*

N/A – Instream Water Right Transfer

*(NOTE: Complete this table only if a Change in Point of Diversion or Appropriation is being proposed.)*

| Source | Township | Range | Mer | Sec | ¼ ¼ Section | Tax Lot, DLC or Gov't Lot | Survey Coordinates (coordinates from a recognized survey corner) |
|--------|----------|-------|-----|-----|-------------|---------------------------|--|
|        |          |       |     |     |             |                           |  |
|        |          |       |     |     |             |                           |  |
|        |          |       |     |     |             |                           |  |
|        |          |       |     |     |             |                           |  |

- If there are proposed point(s) of appropriation (wells) listed in the table above, are the well(s) already constructed?  Yes  No  N/A - No proposed well(s) listed above.

*If "Yes", attach and clearly label the corresponding well log(s) for each proposed well, or if well log(s) are **not** available, describe the construction of the well(s) using the table below. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)*

*If "No", describe the anticipated construction for the proposed well(s) in the following table:*

**Construction of Proposed Point(s) of Appropriation or Well(s)**

*Well numbers in this listing must be clearly tied to corresponding well location(s) described in the table above and shown on the accompanying application map.*

| Well already built? (Yes/No) | If an existing well, OWRD Well Log ID No. (or Well ID Tag No. L- ) | Diameter | Type and size of casing | No. of feet of casing | Intervals casing is perforated (in feet) | Seal depth | Est. depth to water | Est. depth to water bearing stratum | Type of access port or measuring device | Total well depth |
|------------------------------|--|----------|-------------------------|-----------------------|--|------------|---------------------|-------------------------------------|---|------------------|
|                              |  |          |                         |                       |  |            |                     |                                     |   |                  |
|                              |  |          |                         |                       |  |            |                     |                                     |   |                  |
|                              |  |          |                         |                       |  |            |                     |                                     |   |                  |
|                              |  |          |                         |                       |  |            |                     |                                     |   |                  |

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**Exhibit B**

**Cancellation of supplemental water right (IS)**

**COID #6**

Modification of this supplemental water right reduces by 39.58 acres the number of acres to which stored water may be applied for supplemental irrigation under the right evidenced by Certificate 76714; however, the maximum quantity of stored water that can be diverted for use under the right remains unchanged.

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## Water Right Transfer Supplemental Form C

### INSTREAM WATER RIGHT TRANSFER

- Permanent Instream Transfer**      or       **Time-Limited Instream Transfer**  
 Please contact the Department with any questions on filling out this form. Attach additional pages, if necessary.

**1. Identify the public use for which the instream right is requested (check one).**

- Conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values.       Recreation  
 Navigation  
 Pollution Abatement

**2. Instream use proposed to be created by the instream transfer:**

| Originating Water Right Number (as identified in the transfer application) | Priority Date | Source       | Proposed Instream Period | Rate (cfs)* | Volume (ac-ft)** |
|--|---------------|--------------|--------------------------|-------------|------------------|
| C-76358  | 10/31/1900    | Deschutes R. | 4/1 → 11/1               | 0.67        | 215.73           |
|  |               |              | See Exhibit C            | for details |                  |
| Total Volume:  |               |              |                          |             |                  |

\* To calculate rate (if other than the rate allowed by the right), divide the volume by the number of days in the period and then divide by 1.983471; or

\*\* To calculate volume, multiply the rate by the number of days in the period and then multiply by 1.983471.

The quantity allocated during any period may not exceed the quantity that may be used under the existing right during that period. The total volume of water for the year may not exceed the total volume of water that may be used during the year under the existing right.

Additional information: Instream water right carries 1900 priority date (see Exhibit C).

**3. Identify the location of the proposed instream water right.**

Water is requested to be protected at a point.  
 Location (i.e. the point of diversion (POD), or if the water right has more than one POD or if a POD is not described on the water right, please provide the legal description): \_\_\_\_\_

Water is requested to be protected within a reach.  
 Location of proposed reach (if an instream water right reach is requested, identify the upstream and downstream extent of the reach): From North Canal (POD #11) downstream to Lake Billy Chinook (RM 120)

**4. Recommendations for conditions on the instream use to avoid taking away or impairing existing water rights.**

- None  
 Other (such conditions may include, but are not limited to, reductions in the instream flow levels in cfs per month or total ac-ft, the effective reach(es) or lake levels of the instream flow, measuring locations and the strategy for monitoring the instream flow or lake levels): \_\_\_\_\_

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This table will calculate flow rate factors and duty for Central Oregon Irrigation District  
Instream Leases

|   |               |
|---|---------------|
| Enter Total Number of Acres to be Leased Instream Here<br>→ | <b>39.580</b> |
|---|---------------|

Information highlighted with pink font is to be entered on to the Instream Lease Application Form

For Primary Water Right - Certificate 76358

| Rate (CFS) associated with leased rights for Section 1.5 of the Lease Application Form |               |                  |                  |
|--|---------------|------------------|------------------|
| Enter Rates by Priority Date on Lease Form   | Full Rate     | October 31, 1900 | December 2, 1907 |
| Season 1   | 0.495         | <b>0.495</b>     |                  |
| Season 2   | 0.660         | <b>0.660</b>     |                  |
| Season 3   | 1.222         | <b>0.871</b>     | <b>0.351</b>     |
| Duty (AF) associated with leased right for Section 1.5 of the Lease Application Form   |               |                  |                  |
| Duty (decree) AF/Acre =  | 9.91          |                  |                  |
|  | <b>392.24</b> |                  |                  |

| Rate (CFS) leased instream for Section 2.2 of the Lease Application Form |           |                  |                  |
|--|-----------|------------------|------------------|
| Enter Rates by Priority Date on Lease Form                               | Full Rate | October 31, 1900 | December 2, 1907 |
| Season 1   | 0.272     | <b>0.272</b>     |                  |
| Season 2   | 0.363     | <b>0.363</b>     |                  |
| Season 3   | 0.672     | <b>0.479</b>     | <b>0.193</b>     |

| Volume (AF) leased instream for Section 2.2 of the Lease Application Form |        |           |                    |               |
|---|--------|-----------|--------------------|---------------|
|   | # days | AF/Season | (decree) AF/Acre = | 5.45          |
| Season 1*   | 56     | 30.22     | Total =            | 215.73        |
| Season 2  | 30     | 21.59     | 1900 portion =     | <b>168.63</b> |
| Season 3  | 123    | 163.92    | 1907 portion =     | <b>47.11</b>  |
| Season total =  |        | 215.73    |                    |               |

| Additional Conditions to Prevent Injury for Section 2.2 of the Lease Application Form |                                   |
|---|-----------------------------------|
| Water protected instream:   | <b>April 1 through October 26</b> |

\* Note - The number of days that water may be protected instream in Season 1 has been reduced to prevent enlargement of the right.

For Supplemental Water Right from Crane Prairie Reservoir - Certificate 76714

| Duty Associated with Leased Right for Section 1.5 of the Additional Water Right Form |  |
|--|--|
| <b>392.24</b>  |  |

| Volume (AF) leased instream for Section 2.2 of the Additional Water Right Form |  |
|--|--|
| <b>38.41</b>   |  |

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SALEM, OREGON

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5. Are there any existing instream water rights at the same point or within the same requested reach(es) or lake, or on a portion thereof:

- No  Yes (identify other instream water rights): \_\_\_\_\_

*OWRD maintains a current list of instream WR's*

*New instream water rights generally (but not always) are additive to instream water rights established under ORS 537.348 (instream transfer application process) and ORS 537.470 (allocation of conserved water) and replace a portion of instream water rights established under ORS 537.341 (state agency application process) or ORS 537.346 (conversion of minimum perennial streamflows) with an earlier priority date.*

Is it your intent to have the proposed instream water right transfer be additive to any instream water right established under ORS 537.348 and ORS 537.470 and replace a portion of any instream water right established under ORS 537.341 and ORS 537.346 with an earlier priority date?

- Yes  No. If no, please explain your intent below.

If the proposed conversion would add to the amounts of an existing instream water right(s) established under ORS 537.341 or 537.346, provide documentation demonstrating why additional instream flows are necessary. *Supporting documentation should include information from the Dept. of Fish and Wildlife (ODFW) (fish life), Dept. of Environmental Quality (DEQ) (pollution abatement), and/or Parks and Recreation Dept. (recreation).*

6. Is the requested instream flow intended to exceed the estimated average natural flow or level occurring from the drainage system?

- No; or  
 Yes (Provide supporting documentation that demonstrates why additional flows are significant for the public use requested.); or  
 Yes, and it is presumed that flows that exceed the estimated average natural flow or natural lake levels are significant because:

The requested flow does not exceed the maximum amount of any instream water right application applied for under ORS 537.341 (state agency instream water right application process) for the same reach or portion thereof, and the requested public use is for the same public use as the aforementioned instream water right application;

and

For the specified time period that flows are requested to exceed the estimated average natural flow or lake level, the stream is in an ODFW flow restoration priority watershed (A copy of the priority watershed map indicating the specific watershed involved should be included with the application. Priority watershed maps may be found on the OWRD web page); or

The stream is listed as water quality limited and DEQ has provided scientific information that demonstrates that increased flows would improve water quality. (The scientific information provided by DEQ should be included with the transfer application.)

7. For a time-limited instream transfer, please answer the following:

- The time-limited instream transfer is for a specific number of years:

Begin Year \_\_\_\_\_ to End Year \_\_\_\_\_

- The time-limited instream transfer is to terminate based upon other conditions:

Conditions: \_\_\_\_\_

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Supplemental Form C

MAY 18 2007

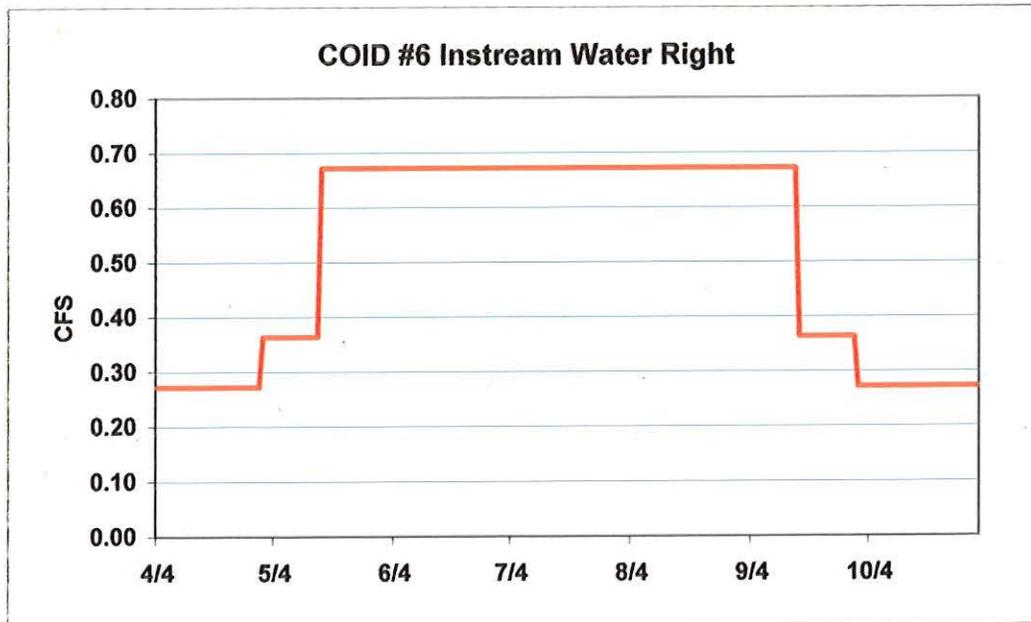
### Exhibit C

### Instream Water Right C/OID #6

| Instream Rates | 1900      |
|----------------|-----------|
| Season 1       | 0.272 CFS |
| Season 2       | 0.363 CFS |
| Season 3       | 0.672 CFS |

Instream Duty 215.73 Acre-Feet

| Seasons are as follows: |                                      |
|-------------------------|--------------------------------------|
| Season 1                | 4-1 through 5-1 & 10-1 through 11-1  |
| Season 2                | 5-1 through 5-15 & 9-15 through 10-1 |
| Season 3                | 5-15 through 9-15                    |



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**WATER RESOURCES DEPT  
SALEM, OREGON**



Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1271  
(503) 986-0900  
www.wrd.state.or.us

## Water Right Transfer Supplemental Form Map Waiver

The Director may waive or assist a transfer applicant in satisfying the map requirement (OAR 690-380-3100) for certain transfers if the criteria described in this form are met pursuant to OAR 690-380-3410.

This form must be prepared by the transfer applicant and the appropriate Regional Manager for the Oregon Water Resources Department. To prepare the form, a copy of the complete transfer application, including a description of the water rights to be transferred, must be provided to the Regional Manager.

This map waiver form must be signed by the Regional Manager and submitted with the transfer application.

Transfer Applicant: Deschutes River Conservancy

Water Right(s) to be transferred: C-76358

1. The transfer **must** be one of the following. Please check the appropriate box.

- An instream transfer application filed pursuant to ORS 537.348.
- A transfer application necessary to complete a project funded by the Oregon Watershed Enhancement Board (OWEB) under ORS 541.375; or
- The transfer application is determined and endorsed in writing by ODFW as a change that will result in a net benefit to fish and wildlife habitat.

2. For an **instream transfer application filed pursuant to ORS 537.348**, a map waiver shall only be approved if the application meets one of the following additional criteria. Please check the appropriate box.

- The entirety of the right is being transferred to an instream water right and the location of the instream water right can be clearly delineated through reference to the existing point of diversion for the transferred right and other points of diversion or geographic reference points such as the mouth of the stream; or
- A map meeting the requirements of the transfer rules (OAR 690-380-3100) is available showing the lands not included in the transfer and the location of the instream water right can be clearly delineated through reference to the existing point of diversion for the transferred right and other points of diversion or geographic reference points such as the mouth of the stream. (Please include copy of map(s) with transfer application.)

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3. For a transfer application meeting any one of the criteria identified in #1 (including an instream transfer application), a map waiver may also be approved if other circumstances are present that make an application map unnecessary. If #2 does not apply, but circumstances are present that make an application map unnecessary, describe those circumstances below:

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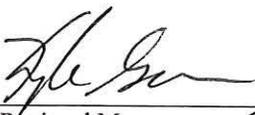
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4. For any transfer application meeting one or more of the criteria identified in #1 that does not meet the criteria for a map waiver as described in #2 or #3, the Department may assist the applicant in development of the application map. The Department (through the regional office) may provide this assistance at the discretion of the appropriate Regional Manager. Please check the appropriate box below if the Department has provided assistance in development of the transfer application map:

- A map meeting the requirements of OAR 690-380-3100 has been prepared by Department staff and is included with the transfer application.
- The map provided with the transfer application has been developed with assistance from Department staff and meets the requirements of OAR 690-380-3100.

Signature:  Date: 4-30-07  
OWRD Regional Manager, SC Region

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# DESCHUTES COUNTY SEC.04 T15S R13E

SCALE - 1" = 400'



SW 1/4 OF THE NE 1/4



*Superseded  
by map  
received  
9-26-07*

C 1/4 COR

"OFF" MAP T 10391

|       |                         |
|-------|-------------------------|
| # ac. | 'OFF' LAND PARCELS      |
| # ac. | PARCELS W/ WATER RIGHTS |



## APPLICATION FOR PERMANENT INSTREAM TRANSFER

NAME: DESCHUTES RIVER CONSERVANCY

TAXLOT #: 500

1.7 ACRES

DATE: 03-19-07

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FILE: E:\TRANSFER\WRTRANS07\DR0151304\_500.PDF

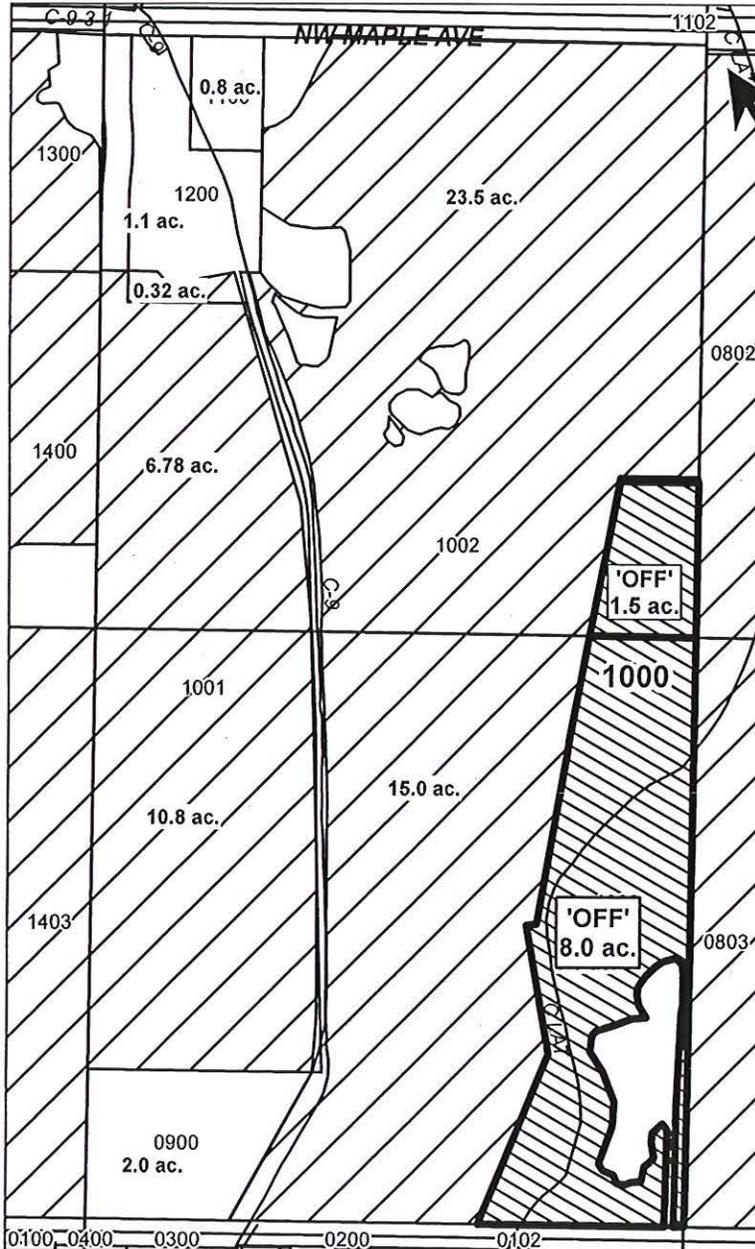
WATER RESOURCES DEPT  
SALEM, OREGON

# DESCHUTES COUNTY SEC.08 T15S R13E

SCALE - 1" = 400'

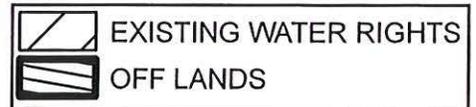


NE 1/4 OF THE NW 1/4; SE 1/4 OF THE NW 1/4



N 1/4 COR

"OFF" MAP



CENTRAL OREGON



IRRIGATION DISTRICT

APPLICATION FOR PERMANENT INSTREAM TRANSFER

NAME: DESCHUTES RIVER CONSERVANCY

TAXLOT #: 1000

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9.5 ACRES

DATE: 03-19-07

MAY 18 2007

FILE: E:\TRANSFER\WRTRANS07\DR0151308\_1000.PDF

T 10391

WATER RESOURCES DEPT  
SALEM, OREGON

# DESCHUTES COUNTY SEC.19 T15S R13E

SCALE - 1" = 400'



SE 1/4 OF THE NW 1/4; SW 1/4 OF THE NE 1/4



C 1/4 COR

"OFF" MAP

|       |                         |
|-------|-------------------------|
|       | EXISTING WATER RIGHTS   |
|       | OFF LANDS               |
| # ac. | PARCELS W/ WATER RIGHTS |

CENTRAL OREGON



IRRIGATION DISTRICT

APPLICATION FOR PERMANENT INSTREAM TRANSFER

NAME: DESCHUTES RIVER CONSERVANCY

TAXLOT #: 701

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4.65 ACRES

**MAY 18 2007**

DATE: 03-19-07

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SALEM, OREGON

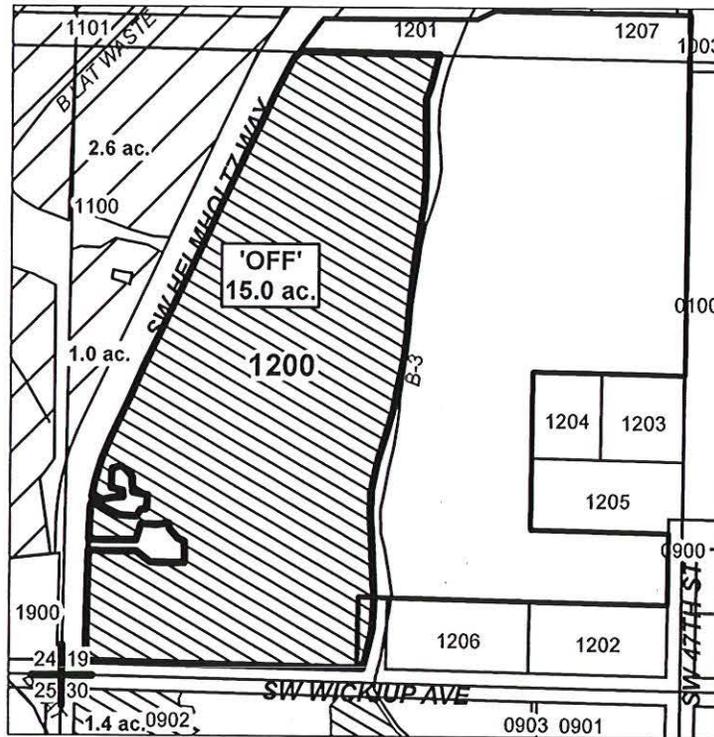
1 10391

DESCHUTES COUNTY  
SEC.19 T15S R13E

SCALE - 1" = 400'



SW 1/4 OF THE SW 1/4



 EXISTING WATER RIGHTS  
 OFF LANDS

"OFF" MAP



APPLICATION FOR PERMANENT INSTREAM TRANSFER

NAME: DESCHUTES RIVER CONSERVANCY

TAXLOT #: 1200

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15.0 ACRES

DATE: 03-19-07

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SALEM, OREGON

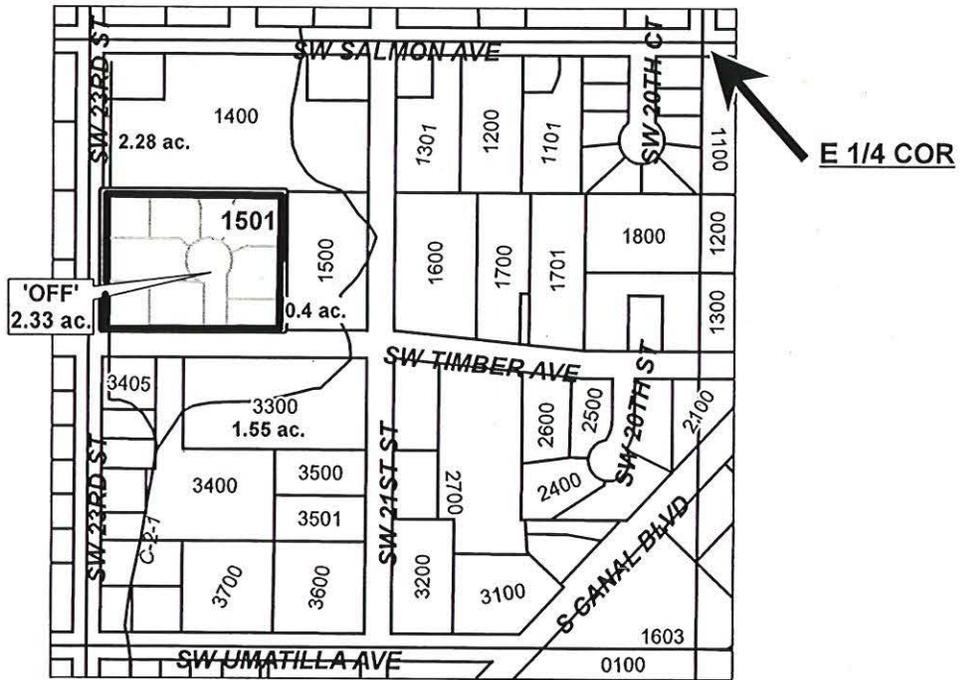
DESCHUTES COUNTY  
SEC.20 T15S R13E

SCALE - 1" = 400'



NE 1/4 OF THE SE 1/4

*Superseeded  
by map  
received  
9-26-07*



"OFF" MAP

|       |                         |
|-------|-------------------------|
| # ac. | 'OFF' LAND PARCELS      |
| # ac. | PARCELS W/ WATER RIGHTS |



APPLICATION FOR PERMANENT INSTREAM TRANSFER  
NAME: DESCHUTES RIVER CONSERVANCY

TAXLOT #: 1501

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2.33 ACRES

DATE: 03-19-07

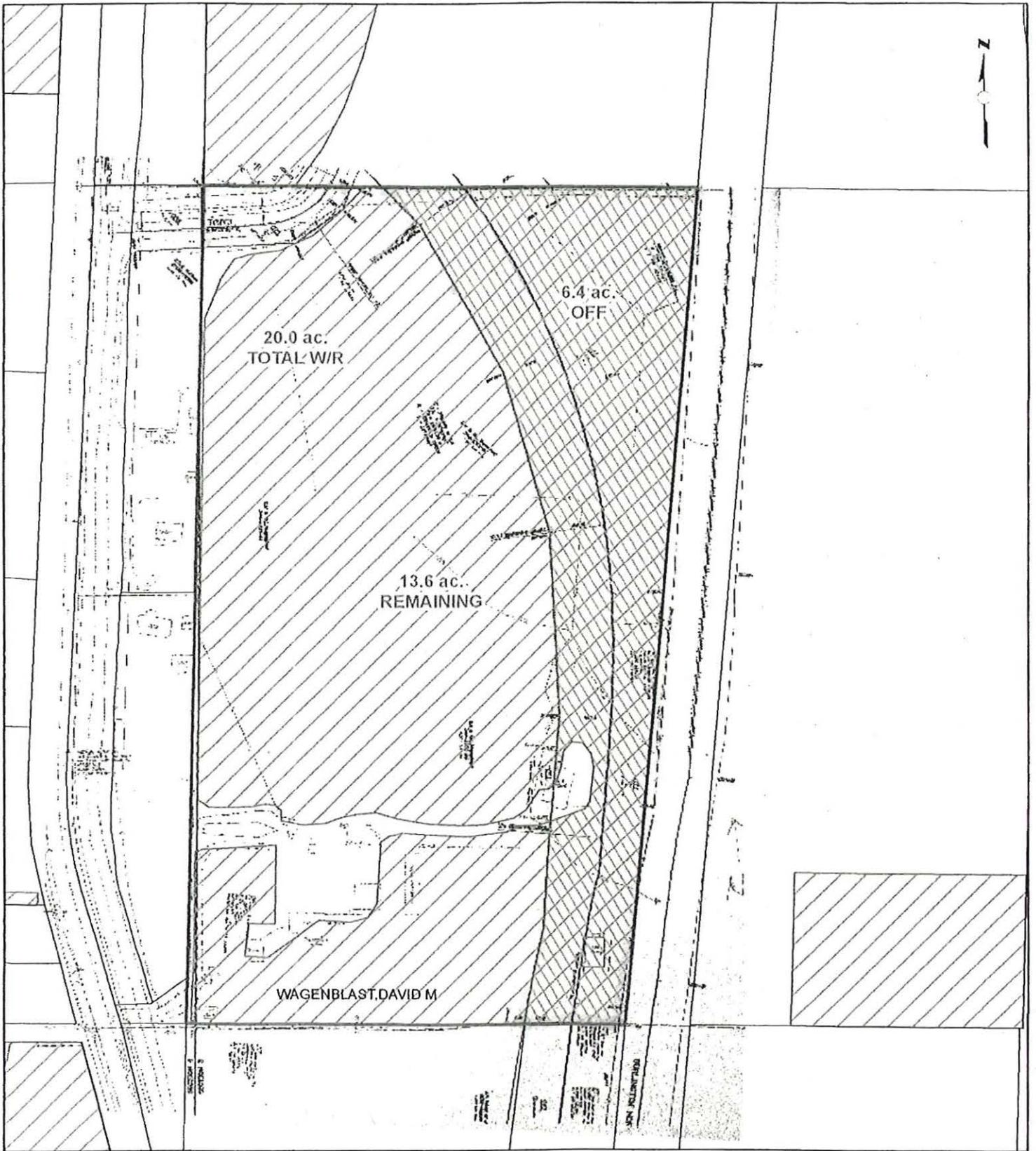
MAY 18 2007

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WATER RESOURCES DEPT  
SALEM, OREGON







# Oregon Water Resources Department Land Use Information Form

THIS FORM IS NOT REQUIRED IF: 1) water is to be diverted, conveyed, and/or used only on federal lands; or 2) the application is for a water-right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and all of the following apply: a) only the place of use is proposed for change, b) there are no structural changes, c) the use of water is for irrigation, and d) the use is located in an irrigation district or exclusive farm-use zone.

Applicant Name: Deschutes River Conservancy  
Mailing Address: 700 NW Hill St.  
City: Bend State: OR Zip: 97701 Day Phone: 541-382-4077 \*21

This application is related to a Measure 37 claim.  Yes  No

### A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), or used. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

| Township  | Range | Section | 1/4 | Tax Lot # | Plan Designation (e.g. Rural Residential/RR-5) | Water to be:  | Proposed Land Use: |
|-----------|-------|---------|-----|-----------|--|---|--------------------|
| <u>NA</u> |       |         |     |           |  | <input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used |                    |
|           |       |         |     |           |  | <input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used |                    |
|           |       |         |     |           |  | <input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used |                    |
|           |       |         |     |           |  | <input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used |                    |

List all counties and cities where water is proposed to be diverted, conveyed, or used. NA (Instream Water Right)

### B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- Permit to Use or Store Water
- Water-Right Transfer
- Exchange of Water
- Allocation of Conserved Water
- Limited Water Use License
- Permit Amendment or Ground Water Registration Modification

Source of water:  Reservoir/Pond  Ground Water  Surface Water (name) Deschutes R.

Estimated quantity of water needed: 0.672  cubic feet per second  gallons per minute  acre-feet

Intended use of water:  Irrigation  Commercial  Industrial  Domestic for \_\_\_\_\_ household(s)  
 Municipal  Quasi-municipal  Instream  Other \_\_\_\_\_

Briefly describe: Permanent instream transfer of 39.58 acres of water rights.

Note to applicant: If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt below and include it with the application filed with the Water Resources Department.

### Receipt for Request for Land Use Information

State of Oregon  
Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1266

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WATER RESOURCES DEPT  
SALEM, OREGON

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## For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form.

This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

**Please check the appropriate box below and provide the requested information**

Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): NA.

Land uses to be served by proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.)  
**If approvals have been obtained but all appeal periods have not ended, check "Being pursued".**

| Type of Land-Use Approval Needed<br>(e.g. plan amendments, rezones,<br>conditional-use permits, etc.) | Cite Most Significant, Applicable Plan<br>Policies & Ordinance Section References | Land-Use Approval:   |  |
|---|---|--|--|
|   |   | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being pursued<br><input type="checkbox"/> Not being pursued |
|   |   | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being pursued<br><input type="checkbox"/> Not being pursued |
|   |   | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being pursued<br><input type="checkbox"/> Not being pursued |
|   |   | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being pursued<br><input type="checkbox"/> Not being pursued |
|   |   | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being pursued<br><input type="checkbox"/> Not being pursued |
|   |   | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being pursued<br><input type="checkbox"/> Not being pursued |

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

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Name: WELL GROVES Title: ASSOCIATE PLANNER  
 Signature: [Signature] Phone: 388-6518 Date: 5/8/7  
 Government Entity: DESKRUTES CO.

**Note to local government representative:** Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.

**Receipt for Request for Land Use Information**

Applicant name: \_\_\_\_\_  
 City or County: \_\_\_\_\_ Staff contact: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Phone: \_\_\_\_\_ Date: \_\_\_\_\_

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**MAY 18 2007**

Last updated 12/22/06 WR

T 10391

41

From: COID

5415480243

03/01/2006 10:25 #344 P.001



DESCHUTES COUNTY OFFICIAL RECORDS  
NANCY BLANKENSHIP, COUNTY CLERK

2006-15526



\$41.00

00444077200600155260030033

03/07/2006 11:08:20 AM

D-D Cnt=1 Stn=26 SHIRLEY  
\$15.00 \$11.00 \$10.00 \$5.00

After Recording return to:  
Central Oregon Irrigation District  
2598 North Highway  
Redmond, OR 97756

MAIL TAX STATEMENT  
TO: NO CHANGE

### QUITCLAIM DEED

#### FOR TRANSFER OF INTEREST IN A WATER RIGHT

Grantor, Redmond Investments, LLC, an Oregon Limited Liability Company, releases and quitclaims to Central Oregon Irrigation District (COID), Grantee, all rights, title and interest in the following: By this agreement, Grantor, the owner of the lands listed in Exhibit A, release their claim and responsibility for 15.0 acres of COID water rights that are appurtenant to the lands listed in Exhibit A, to COID. The water right in question is further described as a portion of Certificate # 76358, priority date of Oct. 31, 1900 and Dec. 2, 1907 and Certificate # 76714, priority date of Feb. 28, 1913, located on land commonly known as: 15-13-19 SW SW 1200, and more particularly described as in Exhibit A, attached, and incorporated by this reference.

By entry of this deed, Grantor hereby notifies any subsequent purchaser of the lands listed in Exhibit A that Grantor, as owner of the subject land, approved the transfer (including a change in the place and type of use and point of diversion) of the water rights that are appurtenant to the subject land; and that upon completion of a transfer, by election of COID, the subject land no longer will have appurtenant water rights.

Furthermore, upon signing of this agreement, Grantor shall no longer be liable for any district assessment or charges pertaining to the described 15.0 acres of water rights incurred.

This agreement is binding upon the heirs, executors, administrators, successors, and permitted assigns of the parties to this agreement.

Consideration for this Quitclaim: \$18,000.00

Grantor:

Ray Paul  
Ray Paul for Redmond Investments, LLC

Date 3/2/06

Laura Paul  
Laura Paul for Redmond Investments, LLC

Date 3/2/06

State of Oregon )  
                          ) ss.  
County of Deschutes )

This instrument was acknowledged before me on March 2<sup>nd</sup> 2006 by Ray Paul as a Member of Ray & Laura Paul Investments, Inc. for Redmond Investments, LLC.

Valerie Burril  
Notary Public

Recorded by Western Title as an accommodation only. No liability accepted for condition of title or validity, sufficiency or affect of document. B

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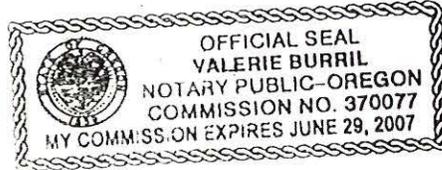


WATER RESOURCES DEPT  
SALEM, OREGON

10391

State of Oregon )  
 ) ss.  
County of Deschutes )

This instrument was acknowledged before me on March 2, 2006 by Laura Paul as a Member of Ray & Laura Paul Investments, Inc. for Redmond Investments, LLC.



Valerie Burrell  
Notary Public

Grantee: [Signature]

Steven C. Johnson, Secretary-Manager Central Oregon Irrigation District

Date March 2, 2006

State of Oregon )  
 ) ss.  
County of Deschutes )

This instrument was acknowledged before me on March 6, 2006 by Steven C. Johnson as Secretary-Manager for Central Oregon Irrigation District.



Leslie Clark  
Notary Public

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SALEM, OREGON

EXHIBIT "A"  
LEGAL DESCRIPTION

Parcel One (1), Partition Plat 1994-28.

EXCEPTING THEREFROM a parcel of land located in a portion of Government Lot Three (3), Section Nineteen (19), Township Fifteen (15) South, Range Thirteen (13), East of the Willamette Meridian, Deschutes County, Oregon, being more particularly described as follows:

Beginning at a 5/8" iron rod with a plastic cap stamped "HWA" marking the Northwest corner of Parcel 1, Partition Plat 1994-28, said point being 30 feet Easterly and perpendicular to the centerline of Helmholtz Way; thence along the Northerly boundary line of said Parcel 1 South 89°30'25" East, a distance of 342.27 feet to a 5/8" iron rod with a plastic cap stamped "HWA"; thence leaving said Northerly boundary line South 63°51'03" West, a distance of 42.27 feet to a 5/8" iron rod with a plastic cap stamped "HWA"; thence South 89°44'03" West, a distance of 83.07 feet to a 5/8" iron rod with a plastic cap stamped "HWA"; thence South 89°27'54" West, a distance of 222.07 feet to a 5/8" iron rod with a plastic cap stamped "HWA", said point being 45 feet Easterly and perpendicular to said centerline of Helmholtz Way; thence continuing South 89°27'54" West, a distance of 19.55 feet to a point 30 feet Easterly and perpendicular to said centerline of Helmholtz Way; thence around a 770.00 foot radius curve right 31.65 feet (chord bears North 40°04'23" East, 31.64 feet) to the point of beginning, the terminus of this description.

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WATER RESOURCES DEPT  
SALEM, OREGON

T 10391



**IRRIGATION DISTRICT REPORT**

CENTRAL OREGON IRRIGATION DISTRICT  
2598 N HWY 97  
REDMOND, OR 97756

February 13, 2006  
Title Number : 087146  
Title Officer : DEBBY DAVIDSON  
Fee : \$150.00

Attn: LESLIE CLARK

We have searched our Tract Indices as to the following described property:

See Attached Exhibit "A"

and dated as of February 6, 2006 at 7:30 a.m.

We find that the last deed of record runs to:

REDMOND INVESTMENTS, LLC, an Oregon Limited Liability Company

We also find the following apparent encumbrances within ten years prior to the effective date hereof:

- Deed of Trust, including the terms and provisions thereof, to secure an indebtedness of the amount herein stated.  
 Amount: \$1,420,000.00  
 Dated: September 20, 2004  
 Recorded: September 27, 2004  
 Volume-Page: 2004-57667, Deschutes County Records  
 Grantor: Redmond Investments, LLC  
 Trustee: Western Title and Escrow Company  
 Beneficiary: Violet F. Hammond and Ralph Hammond, Trustees of the Violet F. Hammond Revocable Trust U/T/A dated September 22, 1993

We have also searched our General Index for judgments and state and federal tax liens against the above named grantees and find the following:

NONE

We also find the following unpaid taxes and city liens:

Taxes assessed under Code No. 2-001 Map and Tax Lot Number 15 13 19 00 01200  
Account No. 130026

- The 2005-2006 Taxes: \$1,208.00, plus interest, UNPAID.

City Liens, if any, of the city of Redmond. (No inquiry has been made, and if search is requested, a charge of \$30.00 will be added.)

T 10391



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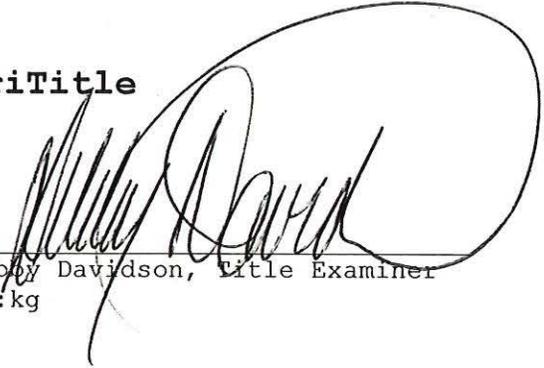
MAY 18 2006

WATER RESOURCES DEPT  
WEB SITE: www.oregon-ameri-title.com

According to the Deschutes County Assessor's Roll, the subject property does not lie within any city limit.

NOTE: This Irrigation District Report is being made with the understanding that it does not represent any form of title insurance and is not a commitment for a policy of insurance. The information provided herein is not a full examination of the subject property. Further, if any person, corporation or entity of any kind should use this report as a basis to produce a title insurance product, it should be understood that it is clearly outside of Oregon law. Any liability hereunder is limited to the amount paid for said report.

**AmeriTitle**

By: 

Debby Davidson, Title Examiner  
DD:kg

*"Superior Service with Commitment and Respect for Customers and Employees"*

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**WATER RESOURCES DEPT  
SALEM, OREGON**



EXHIBIT "A"  
LEGAL DESCRIPTION

Parcel One (1), Partition Plat 1994-28.

EXCEPTING THEREFROM a parcel of land located in a portion of Government Lot Three (3), Section Nineteen (19), Township Fifteen (15) South, Range Thirteen (13), East of the Willamette Meridian, Deschutes County, Oregon, being more particularly described as follows:

Beginning at a 5/8" iron rod with a plastic cap stamped "HWA" marking the Northwest corner of Parcel 1, Partition Plat 1994-28, said point being 30 feet Easterly and perpendicular to the centerline of Helmholtz Way; thence along the Northerly boundary line of said Parcel 1 South 89°30'25" East, a distance of 342.27 feet to a 5/8" iron rod with a plastic cap stamped "HWA"; thence leaving said Northerly boundary line South 63°51'03" West, a distance of 42.27 feet to a 5/8" iron rod with a plastic cap stamped "HWA"; thence South 89°44'03" West, a distance of 83.07 feet to a 5/8" iron rod with a plastic cap stamped "HWA"; thence South 89°27'54" West, a distance of 222.07 feet to a 5/8" iron rod with a plastic cap stamped "HWA", said point being 45 feet Easterly and perpendicular to said centerline of Helmholtz Way; thence continuing South 89°27'54" West, a distance of 19.55 feet to a point 30 feet Easterly and perpendicular to said centerline of Helmholtz Way; thence around a 770.00 foot radius curve right 31.65 feet (chord bears North 40°04'23" East, 31.64 feet) to the point of beginning, the terminus of this description.

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SALEM, OREGON





DESCHUTES COUNTY OFFICIAL RECORDS  
NANCY BLANKENSHIP, COUNTY CLERK

2004-57666



\$36.00

09/27/2004 11:02:46 AM

D-D Cnt=1 Sina26 SHIRLEY  
\$10.00 \$11.00 \$10.00 \$5.00

After recording return to:  
REDMOND INVESTMENTS, LLC  
DWAIN QUANDT AND RAY L. PAUL  
6141 SW ORCHID DRIVE  
PORTLAND, OR 97219

Until a change is requested all tax statements  
shall be sent to the following address:  
REDMOND INVESTMENTS, LLC  
DWAIN QUANDT AND RAY L. PAUL  
6141 SW ORCHID DRIVE  
PORTLAND, OR 97219

**WARRANTY DEED -- STATUTORY FORM**

VIOLET F. HAMMOND AND RALPH A. HAMMOND, TRUSTEES OF THE VIOLET F.  
HAMMOND REVOCABLE TRUST U/T/A DATED SEPTEMBER 22, 1993, Grantor,

conveys and warrants to

REDMOND INVESTMENTS, LLC, an Oregon Limited Liability Company, Grantee,

the following described real property, free of encumbrances except as  
specifically set forth herein, to wit:

36- Parcel 1, Partition Plat 1994-28

EXCEPTING THEREFROM a parcel of land located in a portion of Government Lot 3,  
Section 19, Township 15 South, Range 13 East, Willamette Meridian, Deschutes  
County, Oregon, being more particularly described as follows: Beginning at a  
5/8" iron rod with a plastic cap stamped "HWA" marking the Northwest corner of  
Parcel 1, Partition Plat 1994-28, said point being 30 feet Easterly and  
perpendicular to the centerline of Helmholtz Way; thence along the Northerly  
boundary line of said Parcel 1 South 89°30'25" East a distance of 342.27 feet  
to a 5/8" iron rod with a plastic cap stamped "HWA"; thence leaving said  
Northerly boundary line South 63°51'03" West a distance of 42.27 feet to a 5/8"  
iron rod with a plastic cap stamped "HWA"; thence South 89°44'03" West a  
distance of 83.07 feet to a 5/8" iron rod with a plastic cap stamped "HWA";  
thence South 89°27'54" West a distance of 222.07 feet to a 5/8" iron rod with a  
plastic cap stamped "HWA", said point being 45 feet Easterly and perpendicular  
to said centerline of Helmholtz Way; thence continuing South 89°27'54" West a  
distance of 19.55 feet to a point 30 feet Easterly and perpendicular to said  
centerline of Helmholtz Way; thence around a 770.00-foot radius curve right  
31.65 feet (chord bears North 40°04'23" East, 31.64 feet) to the point of  
beginning, the terminus of this description.

Tax Account No(s): 130026  
Map/Tax Lot No(s): 15-13-19-00-1200

This property is free from encumbrances, EXCEPT: All those items of record, if  
any, as of the date of this deed, including any real property taxes due, but  
not yet payable.

The true consideration for this conveyance is \$1,440,000.00 .

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT  
IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR  
ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY  
SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY  
APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST  
PRACTICES AS DEFINED IN ORS 30.930.

Dated this 29 day of September, 2004.

RECORDED BY:  
WESTERN TITLE & ESCROW CO.

VIOLET F. HAMMOND REVOCABLE TRUST

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WATER RESOURCES DEPT  
SALEM, OREGON

T 10391

12-0079404

BY: Violet F. Hammond  
VIOLET F. HAMMOND,  
TRUSTEE

BY: Ralph A. Hammond  
RALPH A. HAMMOND,  
TRUSTEE

STATE OF OREGON, COUNTY OF DESCHUTES ) SS.

This instrument was acknowledged before me on September 24, 2004 by VIOLET F. HAMMOND AND RALPH A. HAMMOND, TRUSTEES OF THE VIOLET F. HAMMOND REVOCABLE TRUST U/T/A DATED SEPTEMBER 22, 1993.

JK  
\_\_\_\_\_  
(Notary Public for Oregon)  
My commission expires 12/9/2005



TITLE NO. 12-0079404  
ESCROW NO. 12-0079404

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WATER RESOURCES DEPT  
SALEM, OREGON

**Water Right Transfer Supplemental Form A**  
**AFFIDAVIT ATTESTING TO THE USE OF WATER**

State of Oregon )  
 ) ss  
 County of Deschutes )

I, Cary D. Penhollow, in my capacity as District Watermaster,  
 mailing address 2598 N Hwy 97 Redmond OR 97756  
 telephone number (541) 548-6047, being first duly sworn depose and say:

1. I attest that:

- Water was used during the previous five years on the entire authorized place of use of the water right proposed for transfer as described on the accompanying transfer application, or
- The water right is not subject to forfeiture and documentation that a presumption of forfeiture for non-use would be rebutted under ORS 540.610(2) is attached.

2. My knowledge of the exercise or status of the water right is based on (check one):

- Personal observation
- Professional expertise

3. My knowledge is specific to the use of water at the following locations:

| Township | Range | Mer | Sec | ¼ ¼ Section | Gov't Lot or DLC | Acres (if applicable) |
|----------|-------|-----|-----|-------------|------------------|-----------------------|
| 15S      | 13 E  | WM  | 19  | SW SW       | tax lot 1200     | 15.0                  |
|          |       |     |     |             |                  |                       |
|          |       |     |     |             |                  |                       |
|          |       |     |     |             |                  |                       |
|          |       |     |     |             |                  |                       |
|          |       |     |     |             |                  |                       |
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|          |       |     |     |             |                  |                       |

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8 2007

WATER RESOURCES DEPT  
 SALEM, OREGON

10391

(continues on reverse side)

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more space. Supporting documentation must be attached.

4. The water right was exercised for the authorized purpose described below (e.g., crops grown):

Irrigation of pasture and yard

5. The water delivery system used to apply water as authorized by the right is described below:

Delivered through B-3-2 Flood irrigated pasture and pumped small amt for yard from ditch with hoses

6. One or more of the following documentation supporting the above statements is attached:

- Copy of a water right certificate that was issued within the last five years (not a remaining right certificate),
- Copies of receipts from sales of irrigated crops or for expenditures relating to the use of water,
- Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers,
- Dated aerial photographs of the lands or other photographs containing sufficient detail to establish the location and date of the photograph,
- Dedicated power usage records or receipts,
- Other: \_\_\_\_\_

Cary D. Penhollow  
Signature of Affiant

4-7-06  
Date

Signed and sworn to (or affirmed) before me this 7<sup>th</sup> day of April, 2006.

Leslie Clark

Notary Public for Oregon



My Commission Expires: \_\_\_\_\_

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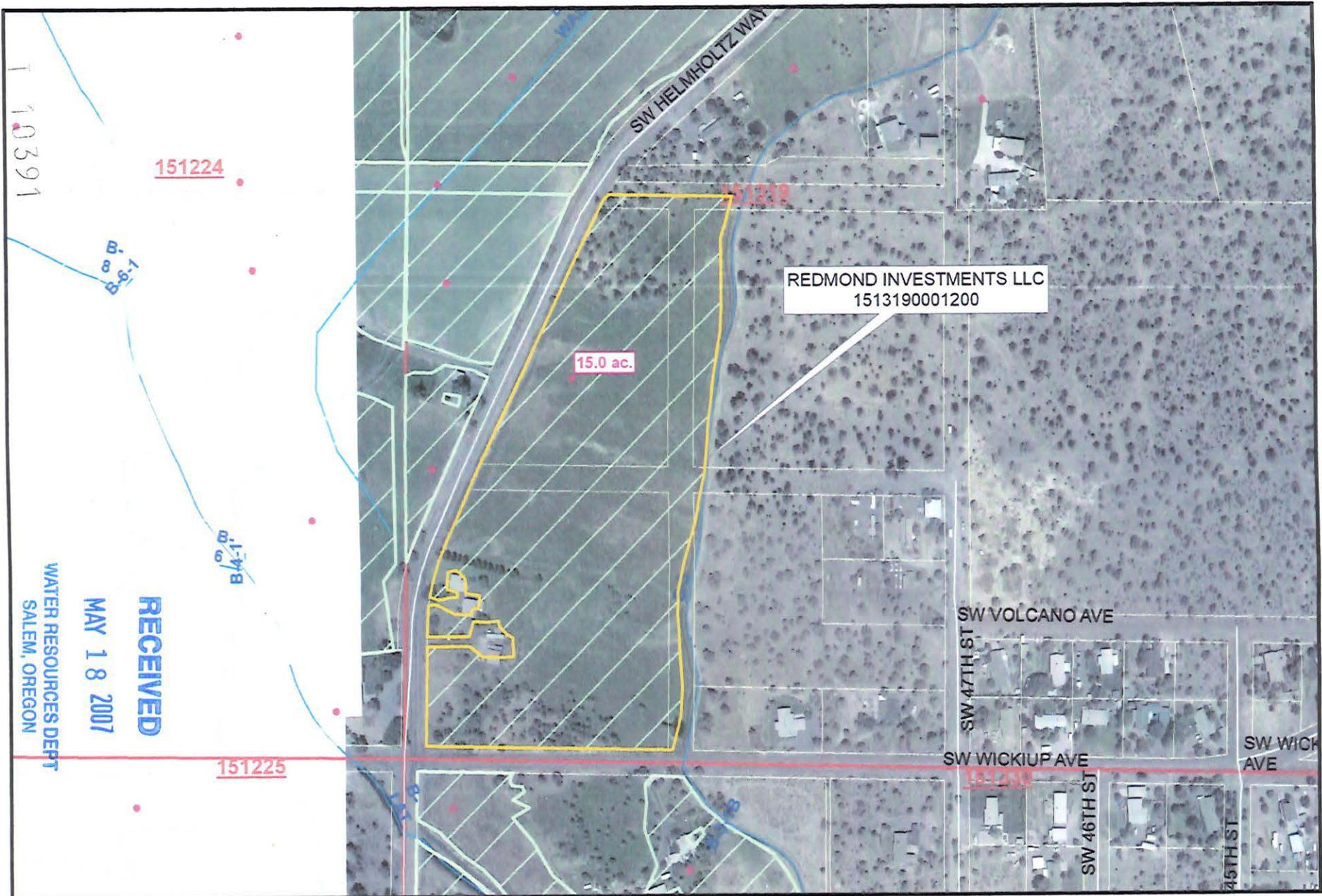
MAY 18 2007

WATER RESOURCES DEPT  
SALEM, OREGON

10391

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more space. Supporting documentation must be attached.





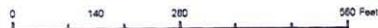
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 MAY 18 2007  
 WATER RESOURCES DEPT  
 SALEM, OREGON

T 10391



**BENEFICIAL USE MAP**

15-13-19  
 SWSW TL: 1200  
 REDMOND INVESTMENTS LLC - 2004



City of Redmond 2004 Aerial Mapping Updates  
 Orthophoto Mapping by: David C. Smith & Associates, Inc.  
 Portland, OR  
 DSA Job #: 1791  
 Pixel Resolution: 0.5 Ft.  
 Map Scale/Accuracies: 1"=100' horizontal  
 Datum: NAD 83/91 Oregon State Plane South Zone  
 Date of Photography: July 8, 04; Aug 18, 04



|             |                    |
|-------------|--------------------|
| USED        | PENDING_ON_POND    |
| USED_2005   | PETITIONED_ON      |
| DRY         | PETITIONED_ON_POND |
| USED-NO WTR | OC                 |
| IL          | OC-INSTREAM        |
| INSTREAM    | EXITED             |
| PENDING_ON  |                    |



00436496200600084140050053

02/06/2006 11:18:56 AM

D-D Cnt=1 Stn=3 PAM  
\$20.00 \$11.00 \$10.00 \$5.00

# DESCHUTES COUNTY CLERK

## CERTIFICATE PAGE



This page must be included  
if document is re-recorded.  
Do Not remove from original document.

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SALEM, OREGON

1 10391



DESCHUTES COUNTY OFFICIAL RECORDS  
NANCY BLANKENSHIP, COUNTY CLERK

2006-06110



\$46.00

00434054200600061100040042

01/27/2006 09:01:23 AM

D-D Cnt=1 Stn=23 BECKEY  
\$20.00 \$11.00 \$10.00 \$5.00

After Recording return to:  
Central Oregon Irrigation District  
2598 North Highway  
Redmond, OR 97756

MAIL TAX STATEMENT  
TO: NO CHANGE

### QUITCLAIM DEED

#### FOR TRANSFER OF INTEREST IN A WATER RIGHT

Grantor, David M. and Gail L. Wagenblast, as tenants by the entirety, releases and quitclaims to Central Oregon Irrigation District (COID), Grantee, all rights, title and interest in the following: By this agreement, Grantor, the owner of the lands listed in Exhibit A, release their claim and responsibility for 6.40 acres of COID water rights that are appurtenant to the lands listed in Exhibit A, to COID. The water right in question is further described as a portion of Certificate # 76358, priority date of Oct. 31, 1900 and Dec. 2, 1907 and Certificate # 76714, priority date of Feb. 28, 1913, located on land commonly known as: 15-13-03 NW SW 1401, and more particularly described as in Exhibit A, attached, and incorporated by this reference.

COID may elect to complete a transfer application and submit it to the Water Resources Department for approval of use of the water rights at a new location and/or use. COID may attach this agreement to the Oregon Water Resources Department's lease form and file with the District's annual Short Term Water Right Lease Agreement.

By entry of this deed, Grantor hereby notifies any subsequent purchaser of the lands listed in Exhibit A that Grantor, as owner of the subject land, approved the transfer (including a change in the place and type of use and point of diversion) of the water rights that are appurtenant to the subject land; and that upon completion of a transfer, by election of COID, the subject land will have 13.60 acres of appurtenant water rights remaining.

Furthermore, upon signing of this agreement, Grantor shall no longer be liable for any district assessment or charges pertaining to the described 6.40 acres of water rights incurred.

This agreement is binding upon the heirs, executors, administrators, successors, and permitted assigns of the parties to this agreement.

Re-recording of document 2006-06110 to correct quitclaimed acres on attached water right map.

Consideration for this Quitclaim: \$6,400.00

Grantor:  
David M. Wagenblast  
David M. Wagenblast  
Gail L. Wagenblast  
Gail L. Wagenblast

Date 1-26/06  
Date 1/26/06

State of Oregon )  
                                  ) ss.  
County of Deschutes )

This instrument was acknowledged before me on January 26, 2006 by David M. Wagenblast.



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WATER RESOURCES DEPT  
SALEM, OREGON

Leslie Clark  
Notary Public

T 10391

State of Oregon )  
 ) ss.  
County of Deschutes )

This instrument was acknowledged before me on January 26, 2006 by Gail L. Wagenblast.



Leslie Clark  
Notary Public

Grantee: [Signature]

Date 27 January, 2006

Steven C. Johnson, Secretary-Manager Central Oregon Irrigation District

State of Oregon )  
 ) ss.  
County of Deschutes)

This instrument was acknowledged before me on January 27, 2006 by Steven C. Johnson as Secretary-Manager for Central Oregon Irrigation District.



Leslie Clark  
Notary Public

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SALEM, OREGON

EXHIBIT A

---

That portion of the North One-half of the Southwest One-quarter (N1/2SW1/4) of Section Three (3), Township Fifteen (15) South, Range Thirteen (13), East of the Willamette Meridian, County of Deschutes, State of Oregon, lying west of the West right of way line of the Oregon Trunk Railway, as conveyed in Book 7 at Page 405, Deschutes County Deed Records.

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**WATER RESOURCES DEPT**  
**SALEM, OREGON**

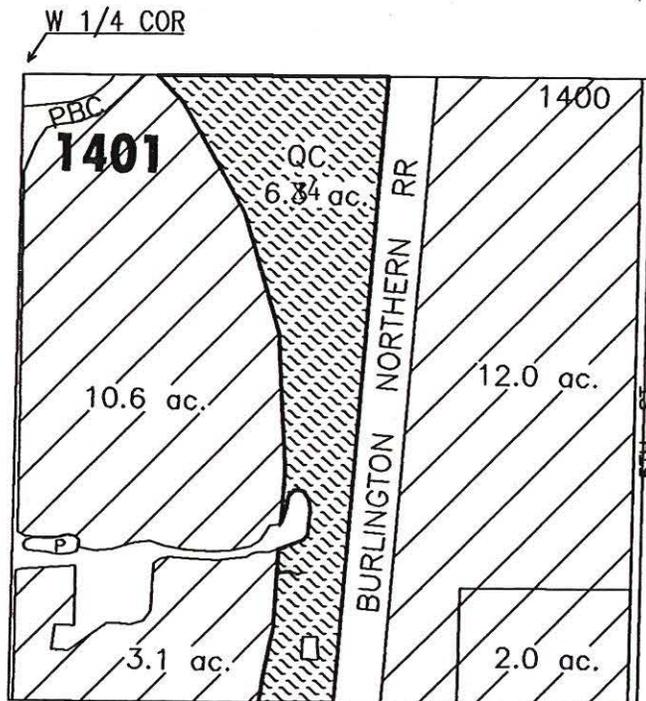
**DESCHUTES COUNTY**  
**SEC.03 T15S. R13E. W.M.**

SCALE - 1" = 400'



**NW 1/4 OF THE SW 1/4**

CORRECTED MAP. ACTUAL QUITCLAIMED ACRES IS 6.40 ACRES



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**MAY 18 2001**

**WATER RESOURCES DEPT  
SALEM, OREGON**

|   |                           |
|---|---------------------------|
|  | EXISTING WATER RIGHTS     |
|  | "QUIT CLAIM" WATER RIGHTS |



QUITCLAIM DEED FOR WATER RIGHTS TRANSFER  
QUITCLAIM MAP

NAME: DAVID & GAIL WAGENBLAST TO COID

TAXLOT #: 1401

6.40 6:3-ACRES 'QC'

DATE: 01-25-06

FILE NO: E:\TRANSFER\WRTRAN06\WAGENBLAST\_QC



**IRRIGATION DISTRICT REPORT**

CENTRAL OREGON IRRIGATION DISTRICT  
2598 N HWY 97  
REDMOND, OR 97756

December 20, 2005  
Title Number : 085516  
Title Officer : STACY REX  
Fee : \$150.00

Attn: LESLIE CLARK

**We have searched our Tract Indices as to the following described property:**

That portion of the North One-half of the Southwest One-quarter (N1/2SW1/4) of Section Three (3), Township Fifteen (15) South, Range Thirteen (13), East of the Willamette Meridian, County of Deschutes, State of Oregon, lying west of the West right of way line of the Oregon Trunk Railway, as conveyed in Book 7 at Page 405, Deschutes County Deed Records.

and dated as of December 15, 2005 at 7:30 a.m.

**We find that the last deed of record runs to:**

DAVID M. WAGENBLAST AND GAIL L. WAGENBLAST,  
as tenants by the entirety

**We also find the following apparent encumbrances within ten years prior to the effective date hereof:**

- 1. Deed of Trust, including the terms and provisions thereof, to secure an indebtedness of the amount herein stated.  
 Amount: \$150,800.00  
 Dated: April 20, 1999  
 Recorded: April 27, 1999  
 Volume/Page: 1999/20562, Deschutes County Records  
 Grantor: David M. Wagenblast and Gail L. Wagenblast  
 Trustee: David A. Kubat  
 Beneficiary: Western Sunrise aka Crossland Mortgage Corp.

The beneficial interest under said Deed of Trust was assigned of record by instrument

Dated: December 30, 2000  
Recorded: February 8, 2001  
Volume-Page: 2001-5918, Deschutes County Records  
Assigned to: Chase Mortgage Company, an Ohio corporation

**We have also searched our General Index for judgments and state and federal tax liens against the above named grantees and find the following:**

NONE

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**MAY 18 2007**

**WATER RESOURCES DEPT  
SALEM, OREGON**



15 13 03BD

NE QUINCE AVENUE

1401  
22.02 AC



1400  
14.70 AC

SEE MAP 15 13 04DA

SEE MAP 15 13 04DD

CANAL

BURLINGTON NORTHERN RAI

1317.92

1321.98

1321.98

1317.91

5TH STREET

CHEYENNE DRIVE (PRIVATE)

SEE MAP  
15 13 03CA

6TH STREET (PRIVATE)

SHOSHONE DRIVE (PRIVATE)

685.17

100

NE OAK PLACE

NE NICKERNUT AVE

SEE MAP  
15 13 03CC

SEE MAP  
15 13 03CD

NE NICKERNUT PL

NE 2ND STREET

5TH STREET

NE 6TH ST (PVT)

NE 7TH STREET

NE NEGUS PLACE

(MAPLE AVENUE)

04

03

NEGUS WAY

COMPLIMENTS OF  
AmeriTitle

This sketch is furnished  
for information purposes  
only to assist in property  
location with reference to  
streets and other parcels.

No representation is  
made as to accuracy and  
the Company assumes no  
liability for any loss  
occurring by reason  
of reliance thereon.

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WATER RESOURCES DEPT  
SALEM, OREGON

2-39

NA **115752** **3** **BARGAIN AND SALE DEED - STATUTORY FORM 344 - 1351**

INDIVIDUAL GRANTOR  
**ODELL I. PRESKITT and BARBARA J. GOODALE** who took title as **BARBARA J. PRESKITT**  
 \_\_\_\_\_, Grantor,  
 conveys to **DAVID M. WAGENBLAST and GAIL L. WAGENBLAST**, husband and wife  
 \_\_\_\_\_  
 \_\_\_\_\_, Grantee, the following real property situated in **DESCHUTES**  
 County, Oregon, to-wit:

SEE ATTACHED EXHIBIT "A"

[IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE]  
 The true consideration for this conveyance is \$ **933.27** (Here comply with the requirements of ORS 93.030)

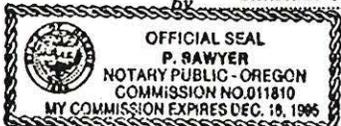
Dated this **24** day of **June**, 19**94**

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

*Odell I. Preskitt*  
 ODELL I. PRESKITT

*Barbara J. Goodale*  
 BARBARA J. GOODALE

STATE OF OREGON, County of **Deschutes** ) ss.  
 This instrument was acknowledged before me on **June 28**, 19**94**,  
 by **BARBARA J. GOODALE**



*P. Sawyer*  
 Notary Public for Oregon  
 My commission expires **12 18 95**

**BARGAIN AND SALE DEED**

**ODELL I PRESKITT and BARBARA J GOODALE**  
**DAVID M & GAIL L WAGENBLAST** GRANTOR

GRANTEE

GRANTEE'S ADDRESS, ZIP

After recording return to:

**BEND TITLE COMPANY**  
**PO BOX 219**  
**REDMOND OR 97756**

NAME, ADDRESS, ZIP

Until a change is requested, all tax statements shall be sent to the following address:  
**DAVID M. and GAIL L WAGENBALST**  
**2036 NW CANAL BLVD**  
**REDMOND OR 97756**

NAME, ADDRESS, ZIP

**STATE OF OREGON,** } ss.  
 County of \_\_\_\_\_

I certify that the within instrument was received for record on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and recorded in book/reel/volume No. \_\_\_\_\_ on page \_\_\_\_\_ or as fee/title/instrument/microfilm/reception No. \_\_\_\_\_, Record of Deeds of said county.

Witness my hand and seal of County affixed.

NAME TITLE  
 By \_\_\_\_\_ Deputy

After recording, return to:  
**BEND TITLE COMPANY**  
**195 N.W. WALL, BEND**

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**MAY 18 2007**  
**WATER RESOURCES DEPT**  
**SALEM, OREGON**

10391

STATE OF CALIFORNIA )

(Acknowledgement)

County of SAN BERNARDINO

On this 24 day of JUNE, in the year 1994, before me, JANE H. RICHARDSON, a Notary Public in and for the said County and State, residing therein, duly commissioned and sworn, personally appeared ODELL I. PRESKITT

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s):

INDIVIDUAL)

Whose name is subscribed to this instrument, and acknowledged that he (she or they) executed it.

CORPORATION)

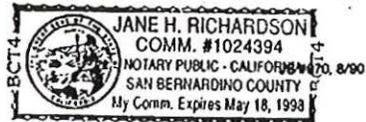
Who executed the within instrument as \_\_\_\_\_ president and \_\_\_\_\_ secretary, on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its articles and by-laws and a resolution of its Board of Directors.

PARTNERSHIP)

That \_\_\_\_\_ executed the within instrument on behalf of the partnership, and acknowledged to me that the partnership executed it.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, in and for said County and State, the day and year first above written.

Jane H. Richardson  
Notary Public in and for said County and State of California.  
My Commission expires:



Through the courtesy of -  
**Commonwealth  
Land Title Company**



**Reliance**  
A Reliance Group Holdings Company



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WATER RESOURCES DEPT  
SALEM, OREGON

10394

PARCEL 1:

That portion of the North One-half of the Southwest One-quarter (N1/2SW1/4) of Section Three (3), Township Fifteen (15) South, Range Thirteen (13), East of the Willamette Meridian, County of Deschutes, State of Oregon, lying west of the West right of way line of the Oregon Trunk Railway, as conveyed in Book 7 at Page 405, Deschutes County Deed Records.

PARCEL 2:

A strip of land located in the Northeast Quarter of the Southeast Quarter (NE1/4SE1/4) of Section Four (4), Township Fifteen (15) South, Range Thirteen (13), East of the Willamette Meridian, Deschutes County, Oregon, more particularly described as follows:

Beginning at the Southeast corner of the NE1/4 of the SE1/4 of said Section 4; thence South 88°51'33" West, 104.29 feet to a point on the East right of way line of North Canal Boulevard, which point also lies on the West right of way line of the Central Oregon Irrigation District Pilot Butte Canal; thence North 14°48'15" West, 30.87 feet along said right of way line to a point which is 30.00 feet North of the South line of the NE1/4SE1/4 of Section 4; thence North 88°51'33" East, 56 feet, to a point; thence Northeasterly along the existing fenceline, 71 feet, to a point on the East line of Section 4, which bears North 00°37'54" East 72 feet, from the Southeast corner of the NE1/4SE1/4 of Section 4; thence South 00°37'54" West, 72 feet, to the said Southeast corner and the true point of beginning.

STATE OF OREGON )  
COUNTY OF DESCHUTES ) SS.

I, MARY SUE PENHOLLOW, COUNTY CLERK AND  
RECORDER OF CONVEYANCES, IN AND FOR SAID  
COUNTY, DO HEREBY CERTIFY THAT THE WITHIN  
INSTRUMENT WAS RECORDED THIS DAY:

94 JUN 30 PM 12:29

MARY SUE PENHOLLOW  
COUNTY CLERK

BY: *J. Wallace* DEPUTY  
NO. 94-26211 FEE 43.00  
DESCHUTES COUNTY OFFICIAL RECORDS

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MAY 18 2007

WATER RESOURCES DEPT  
SALEM, OREGON

10391

**Water Right Transfer Supplemental Form B**  
**AFFIDAVIT ATTESTING TO THE USE OF WATER**

State of Oregon )  
 )  
County of Deschutes \_\_\_\_\_ ) ss

I, Cary D. Penhollow, in my capacity as District Watermaster,  
mailing address 1055 SW Lake Court, Redmond, OR 97756  
telephone number (541) 548-6047, being first duly sworn depose and say:

1. I attest that:

- Water was used during the previous five years on the entire authorized place of use of the water right proposed for transfer as described on the accompanying transfer application; **or**
- The water right was leased instream at some time within the last five years. The instream lease number is as follows: \_\_\_\_\_ **or**
- The water right is not subject to forfeiture and documentation that a presumption of forfeiture for non-use would be rebutted under ORS 540.610(2) is attached.

2. My knowledge of the exercise or status of the water right is based on (check one):

- Personal observation
- Professional expertise

3. My knowledge is specific to the use of water at the following locations:

| Township |   | Range |   | Mer | Sec | ¼ ¼ Section |    | Gov't Lot or DLC | Acres (if applicable) |
|----------|---|-------|---|-----|-----|-------------|----|------------------|-----------------------|
| 15       | S | 23    | E | WM  | 03  | NW          | SW | TL 1401          | 20.0                  |
|          |   |       |   |     |     |             |    |                  |                       |
|          |   |       |   |     |     |             |    |                  |                       |
|          |   |       |   |     |     |             |    |                  |                       |
|          |   |       |   |     |     |             |    |                  |                       |
|          |   |       |   |     |     |             |    |                  |                       |
|          |   |       |   |     |     |             |    |                  |                       |
|          |   |       |   |     |     |             |    |                  |                       |
|          |   |       |   |     |     |             |    |                  |                       |
|          |   |       |   |     |     |             |    |                  |                       |

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WATER RESOURCES DEPT  
SALEM, OREGON

(continues on reverse side)

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more space. Supporting documentation must be attached.

T 10391

4. The water right was exercised for the authorized purpose described below (e.g., crops grown):

Irrigated pasture grass for livestock

5. The water delivery system used to apply water as authorized by the right is described below:

Delivered through sub-lateral E-11-4-1 and flood irrigated. Water quitclaimed off in February 2006 to allow for ODOT Bypass.

6. One or more of the following documentation supporting the above statements is attached:

- Copy of a water right certificate that was issued within the last five years (not a remaining right certificate),
- Copies of receipts from sales of irrigated crops or for expenditures relating to the use of water,
- Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers,
- Dated aerial photographs of the lands or other photographs containing sufficient detail to establish the location and date of the photograph,
- Dedicated power usage records or receipts,
- Instream lease number \_\_\_\_\_,
- Other: \_\_\_\_\_

Cam D. Kenhollow  
Signature of Affiant

3/2/07  
Date

Signed and sworn to (or affirmed) before me this 2 day of March, 2007.

Leslie Clark

Notary Public for Oregon



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WATER RESOURCES DEPT  
SALEM, OREGON

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more space. Supporting documentation must be attached.

1 10391

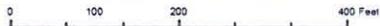
WATER RESOURCES DEPT  
SALEM, OREGON

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MAY 18 2007



### BENEFICIAL USE MAP

15-13-03  
NWSW TL: 1401  
WAGENBLAST - 2005



National Agriculture Imagery Program 2005 Aerial Photography  
 Courtesy of USDA Aerial Photography Field Office  
 Resolution: 1 M  
 Map Scale/Accuracies: 1 meter ground sample distance with  
 a horizontal accuracy that matches w/i 5 meters of referenced ortho imagery  
 Datum: NAD 83/91 Oregon State Plane South Zone  
 Date of Photography: Summer, 05

|  |            |  |                    |
|--|------------|--|--------------------|
|  | USED       |  | PENDING_ON POND    |
|  | DRY        |  | PETITIONED_ON POND |
|  | USED/NO WR |  | PETITIONED_ON POND |
|  | IL         |  | QC                 |
|  | INSTREAM   |  | QC-INSTREAM        |
|  | PENDING_ON |  | EDITED             |



DESCHUTES COUNTY OFFICIAL RECORDS  
NANCY BLANKENSHIP, COUNTY CLERK

2006-15108



\$41.00

00443627200600151080030037

03/06/2006 01:19:24 PM

D-D Cnt=1 Stn=26 SHIRLEY  
\$15.00 \$11.00 \$10.00 \$5.00

After Recording return to:  
Central Oregon Irrigation District  
2598 North Highway  
Redmond, OR 97756

MAIL TAX STATEMENT  
TO: NO CHANGE

### QUITCLAIM DEED

#### FOR TRANSFER OF INTEREST IN A WATER RIGHT

Grantor, James C. Bradley and Tari R. Bradley, as tenants by the entirety, releases and quitclaims to Central Oregon Irrigation District (COID), Grantee, all rights, title and interest in the following: By this agreement, Grantor, the owner of the lands listed in Exhibit A, release their claim and responsibility for 1.70 acres of COID water rights that are appurtenant to the lands listed in Exhibit A, to COID. The water right in question is further described as a portion of Certificate # 76358, priority date of Oct. 31, 1900 and Dec. 2, 1907 and Certificate # 76714, priority date of Feb. 28, 1913, located on land commonly known as: 15-13-04 SW NE 500, and more particularly described as in Exhibit A, attached, and incorporated by this reference.

COID may elect to complete a transfer application and submit it to the Water Resources Department for approval of use of the water rights at a new location and/or use. COID may attach this agreement to the Oregon Water Resources Department's lease form and file with the District's annual Short Term Water Right Lease Agreement.

By entry of this deed, Grantor hereby notifies any subsequent purchaser of the lands listed in Exhibit A that Grantor, as owner of the subject land, approved the transfer (including a change in the place and type of use and point of diversion) of the water rights at are appurtenant to the subject land; and that upon completion of a transfer, by election of COID, the subject land no longer will have appurtenant water rights.

Furthermore, upon signing of this agreement, Grantor shall no longer be liable for any district assessment or charges pertaining to the described 1.70 acres of water rights incurred.

This agreement is binding upon the heirs, executors, administrators, successors, and permitted assigns of the parties to this agreement.

Consideration for this Quitclaim: \$1,700.00

Grantor:

James C. Bradley  
James C. Bradley

*JCB*  
Date 2-22-06

Tari R. Bradley  
Tari R. Bradley

Date 2-22-06

State of Oregon )  
) ss.  
County of Deschutes )

This instrument was acknowledged before me on February 22, 2006 by James C. Bradley



RECEIVED  
MAY 18 2007

Leslie Clark  
Notary Public

State of Oregon )  
 ) ss.  
County of Deschutes )

This instrument was acknowledged before me on February 22, 2006 by Tari R. Bradley



Leslie Clark  
Notary Public

Grantee:

[Signature]

Date 22 Feb. 2006

Steven C. Johnson, Secretary-Manager Central Oregon Irrigation District

State of Oregon )  
 ) ss.  
County of Deschutes)

This instrument was acknowledged before me on February 22, 2006 by Steven C. Johnson as Secretary-Manager for Central Oregon Irrigation District.



Leslie Clark  
Notary Public

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WATER RESOURCES DEPT  
SALEM, OREGON

EXHIBIT "A"

A portion of the South part of the Southwest Quarter of the Northeast Quarter (SW1/4NE1/4) of Section Four (4), Township Fifteen (15) South, Range Thirteen (13), East of the Willamette Meridian, Deschutes County, Oregon, and more particularly described as follows:

Commencing at the center one-fourth (1/4) corner of said Section 4 which is the initial point; thence Easterly along the South line of the said SW1/4NE1/4, Section 4, a distance of 417.42 feet to a point in the said South line of said SW1/4NE1/4 which is the point of beginning; thence Easterly along the said South line of the said SW1/4NE1/4, Section 4, a distance of 417.42 feet to a point in the South line of said SW1/4NE1/4, Section 4; thence Northerly along a line parallel with the West line of said SW1/4NE1/4, Section 4, a distance of 208.71 feet to a point; thence Westerly along a line parallel with the South line of said SW1/4NE1/4, Section 4, a distance of 417.42 feet to a point; thence Southerly along a line parallel with the West line of said SW1/4NE1/4, Section 4, a distance of 208.71 feet to the point of beginning.

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SALEM, OREGON

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**IRRIGATION DISTRICT REPORT**

CENTRAL OREGON IRRIGATION DISTRICT  
2598 N HWY 97  
REDMOND, OR 97756

December 6, 2005  
Title Number : 085214  
Title Officer : STACY REX  
Fee : \$150.00

Attn: LESLIE CLARK

**We have searched our Tract Indices as to the following described property:**

A portion of the South part of the Southwest Quarter of the Northeast Quarter (SW1/4NE1/4) of Section Four (4), Township Fifteen (15) South, Range Thirteen (13), East of the Willamette Meridian, Deschutes County, Oregon, and more particularly described as follows:

Commencing at the center one-fourth (1/4) corner of said Section 4 which is the initial point; thence Easterly along the South line of the said SW1/4NE1/4, Section 4, a distance of 417.42 feet to a point in the said South line of said SW1/4NE1/4 which is the point of beginning; thence Easterly along the said South line of the said SW1/4NE1/4, Section 4, a distance of 417.42 feet to a point in the South line of said SW1/4NE1/4, Section 4; thence Northerly along a line parallel with the West line of said SW1/4NE1/4, Section 4, a distance of 208.71 feet to a point; thence Westerly along a line parallel with the South line of said SW1/4NE1/4, Section 4, a distance of 417.42 feet to a point; thence Southerly along a line parallel with the West line of said SW1/4NE1/4, Section 4, a distance of 208.71 feet to the point of beginning.

and dated as of November 23, 2005 at 7:30 a.m.

**We find that the last deed of record runs to:**

JAMES C. BRADLEY and TARI R. BRADLEY,  
as tenants by the entirety

**We also find the following apparent encumbrances within ten years prior to the effective date hereof:**

- Deed of Trust, including the terms and provisions thereof, to secure an indebtedness of the amount herein stated.  
Amount: \$212,000.00  
Dated: October 19, 2004  
Recorded: October 21, 2004  
Volume-Page: 2004-63160, Deschutes County Records  
Grantor: James C. Bradley and Tari R. Bradley, Husband and Wife  
Trustee: First American Title Insurance Company of Oregon  
Beneficiary: World Savings Bank, FSB

**We have also searched our General Index for judgments and state and federal tax liens against the above named grantees and find the following:**

NONE

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WATER RESOURCES DEPT  
SALEM, OREGON



10391

We also find the following unpaid taxes and city liens:

Taxes assessed under Code No. 2-001 Map and Tax Lot Number 15 13 04AC 00500  
Account No. 143599

1. The 2005-2006 Taxes: \$2,481.69, plus interest, UNPAID.

City Liens, if any, of the city of Redmond. (No inquiry has been made, and if search is requested, a charge of \$30.00 will be added.)

NOTE: This Irrigation District Report is being made with the understanding that it does not represent any form of title insurance and is not a commitment for a policy of insurance. The information provided herein is not a full examination of the subject property. Further, if any person, corporation or entity of any kind should use this report as a basis to produce a title insurance product, it should be understood that it is clearly outside of Oregon law. Any liability hereunder is limited to the amount paid for said report.

**AmeriTitle**

By:



Stacy Rex, Title Officer

SR:kg

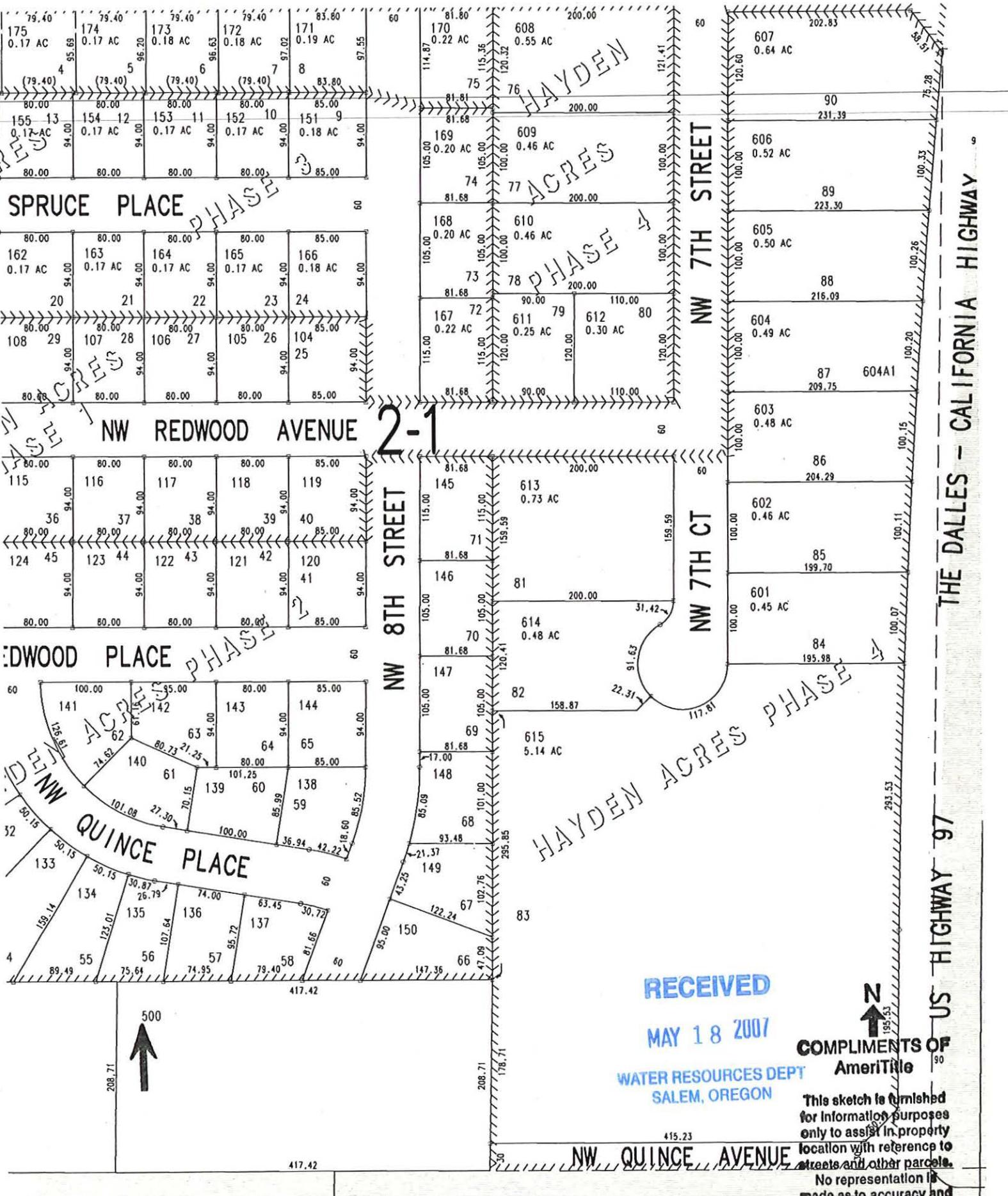
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**MAY 18 2007**

**WATER RESOURCES DEPT  
SALEM, OREGON**

"Superior Service with Commitment and Respect for Customers and Employees"

T 10391



2-1

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WATER RESOURCES DEPT  
SALEM, OREGON



COMPLIMENTS OF  
AmeriTitle

This sketch is furnished for information purposes only to assist in property location with reference to streets and other parcels. No representation is made as to accuracy and the Company assumes no liability for any loss occurring by reason of reliance thereon.



After recording return to:  
 James C. Bradley and Tari R. Bradley  
 793 NW Quince Avenue  
 Redmond, OR 97756

Until a change is requested all tax statements shall be sent to the following address:  
 James C. Bradley and Tari R. Bradley  
 793 NW Quince Avenue  
 Redmond, OR 97756

File No.: 7062-460849 (KM)  
 Date: October 07, 2004

FIRST AMERICAN TITLE  
 INSURANCE COMPANY OF OREGON  
 P.O. BOX 323  
 BEND, OR 97709

THIS SPACE RESERVED FOR RECORDER'S USE

DESCHUTES COUNTY OFFICIAL RECORDS  
 NANCY BLANKENSHIP, COUNTY CLERK

2004-63159

\$36.00



00311182200400631590020022

10/21/2004 12:07:26 PM

D-D Cnt=1 Stn=1 BECKEY  
 \$10.00 \$11.00 \$10.00 \$5.00

**STATUTORY WARRANTY DEED**

**Maxine M. Peden**, Grantor, conveys and warrants to **James C. Bradley and Tari R. Bradley**, as **tenants by the entirety**, Grantee, the following described real property free of liens and encumbrances, except as specifically set forth herein:

**A portion of the South part of the Southwest Quarter of the Northeast Quarter (SW<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub>) of Section 4, TOWNSHIP 15 SOUTH, RANGE 13, EAST OF THE WILLAMETTE MERIDIAN, Deschutes County, Oregon, described as follows:**

**Commencing at the Center Quarter corner of said Section 4 which is the Initial point; thence Easterly along the South line of said Southwest Quarter of the Northeast Quarter (SW<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub>) of Section 4, a distance of 417.42 feet to a point in the said South line of said Southwest Quarter of the Northeast Quarter (SW<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub>) which is the POINT OF BEGINNING; thence Easterly along said South line of said Southwest Quarter of the Northeast Quarter (SW<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub>) of Section 4, a distance of 417.42 feet to a point in said South line of said Southwest Quarter of the Northeast Quarter (SW<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub>) of Section 4; thence Northerly along a line parallel with the West line of said Southwest Quarter of the Northeast Quarter (SW<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub>) of Section 4, a distance of 208.71 feet to a point; thence Westerly along a line parallel with the South line of said Southwest Quarter of the Northeast Quarter (SW<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub>) of Section 4, a distance of 417.42 feet to a point; thence Southerly along a line parallel with the West line of said Southwest Quarter of the Northeast Quarter (SW<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub>) of Section 4, a distance of 208.71 feet to the POINT OF BEGINNING.**

**This property is free from liens and encumbrances, EXCEPT:**

1. The 2004-2005 Taxes, a lien not yet payable.

True consideration for this conveyance is \$265,000.00

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**MAY 18 2007**

**WATER RESOURCES DEPT  
 SALEM, OREGON**

10391

- 2. Covenants, conditions, restrictions and/or easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

The true consideration for this conveyance is **\$265,000.00**. (Here comply with requirements of ORS 93.030)

Dated this 8 day of October, 2004.

Maxine M. Peden  
Maxine M. Peden

STATE OF Oregon )  
 )ss.  
County of Deschutes )

This instrument was acknowledged before me on this 7 day of October, 2004  
by **Maxine M. Peden**.

Michelle R. Ostgard



Notary Public for Oregon  
My commission expires:

T 10391

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**MAY 18 2007**  
WATER RESOURCES DEPT  
SALEM, OREGON



4. The water right was exercised for the authorized purpose described below (e.g., crops grown):

Irrigation of Pasture

5. The water delivery system used to apply water as authorized by the right is described below:

Delivered through D-9-1 - Concrete headgates + tarps Flood irrigated

6. One or more of the following documentation supporting the above statements is attached:

- Copy of a water right certificate that was issued within the last five years (not a remaining right certificate),
- Copies of receipts from sales of irrigated crops or for expenditures relating to the use of water,
- Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers,
- Dated aerial photographs of the lands or other photographs containing sufficient detail to establish the location and date of the photograph,
- Dedicated power usage records or receipts,
- Other: \_\_\_\_\_

Cary D. Penhollow  
Signature of Affiant

4-7-06  
Date

Signed and sworn to (or affirmed) before me this 7<sup>th</sup> day of April, 2006.

Leslie Clark  
Notary Public for Oregon



My Commission Expires: \_\_\_\_\_

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WATER RESOURCES DEPT  
SALEM, OREGON

10391

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more space. Supporting documentation must be attached.

WATER RIGHT TRANSFER

AFFIDAVIT ATTESTING TO THE USE OF WATER DURING THE PREVIOUS FIVE YEARS

State of Oregon )
County of \_\_\_\_\_ ) ss

I \_\_\_\_\_, in my capacity as \_\_\_\_\_,
mailing address \_\_\_\_\_,
telephone number \_\_\_\_\_, being first duly sworn depose and say:

1. I attest that water was used during the previous five years on the entire authorized place of use of the water
right subject to transfer as described by the accompanying transfer application. My knowledge of the
exercise of the water right is based on (check one):

- [X] Personal observation
[ ] Professional expertise

2. My knowledge is specific to the use of water at the following location(s):

\_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4
\_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4
\_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4

Section \_\_\_\_\_
Township \_\_\_\_\_ N/S Range \_\_\_\_\_ E/W

3. The water right was exercised for the authorized purposes and is described as follows:

XX FLOOD irrigation of pasture + yard.
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

4. The water delivery system used to apply water as authorized by the water right is described as follows:

Describe system: Concrete headgates + tanks.
\_\_\_\_\_
\_\_\_\_\_
Describe Pump if applicable:
\_\_\_\_\_
\_\_\_\_\_

(continues on reverse side)

PLEASE PRINT LEGIBLY OR TYPE. PLEASE BE AS SPECIFIC AS POSSIBLE. ATTACH ADDITIONAL PAGES IF YOU
NEED MORE SPACE. SUPPORTING DOCUMENTATION MUST BE ATTACHED.
June 2003

T 10391

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MAY 18 2007
WATER RESOURCES DEPT
SALEM OREGON

10391



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 MAY 18 2007  
 WATER RESOURCES DEPT  
 SALEM, OREGON



### BENEFICIAL USE MAP

15-13-04  
 SW NE TL: 500  
 JAMES BRADLEY - 2005

National Agriculture Imagery Program 2005 Aerial Photography  
 Courtesy of USDA Aerial Photography Field Office  
 Resolution: 1 M  
 Map Scale/Accuracies: 1 meter ground sample distance with  
 a horizontal accuracy that matches w/i 5 meters of referenced ortho imagery  
 Datum: NAD 83/91 Oregon State Plane South Zone  
 Date of Photography: Summer, 05

|            |                    |
|------------|--------------------|
| USED       | PENDING_ON_POND    |
| Dry        | PETITIONED_ON      |
| USED-NO WR | PETITIONED_ON_POND |
| IL         | QC                 |
| IN-STREAM  | QC-IN-STREAM       |
| PENDING_ON | EXITED             |



DESCHUTES COUNTY OFFICIAL RECORDS  
NANCY BLANKENSHIP, COUNTY CLERK

2006-12427



\$41.00

00440779200600124270030036

02/23/2006 09:56:41 AM

D-D Cnt=1 Stn=3 PAM  
\$15.00 \$11.00 \$10.00 \$5.00

After Recording return to:  
Central Oregon Irrigation District  
2598 North Highway  
Redmond, OR 97756

MAIL TAX STATEMENT  
TO: NO CHANGE

### QUITCLAIM DEED

#### FOR TRANSFER OF INTEREST IN A WATER RIGHT

Grantor, CHW Enterprises, LLC, an Oregon Limited Liability Company, releases and quitclaims to Central Oregon Irrigation District (COID), Grantee, all rights, title and interest in the following: By this agreement, Grantor, the owner of the lands listed in Exhibit A, release their claim and responsibility for 9.50 acres of COID water rights that are appurtenant to the lands listed in Exhibit A, to COID. The water right in question is further described as a portion of Certificate # 76358, priority date of Oct. 31, 1900 and Dec. 2, 1907 and Certificate # 76714, priority date of Feb. 28, 1913, located on land commonly known as: 15-13-08 NE NW 1000 (1.50 acre irrigation); 15-13-08 SE NW 1000 (8.0 acres irrigation), and more particularly described as in Exhibit A, attached, and incorporated by this reference.

COID may elect to complete a transfer application and submit it to the Water Resources Department for approval of use of the water rights at a new location and/or use. COID may attach this agreement to the Oregon Water Resources Department's lease form and file with the District's annual Short Term Water Right Lease Agreement.

By entry of this deed, Grantor hereby notifies any subsequent purchaser of the lands listed in Exhibit A that Grantor, as owner of the subject land, approved the transfer (including a change in the place and type of use and point of diversion) of the water rights that are appurtenant to the subject land; and that upon completion of a transfer, by election of COID, the subject land no longer will have appurtenant water rights.

Furthermore, upon signing of this agreement, Grantor shall no longer be liable for any district assessment or charges pertaining to the described 9.50 acres of water rights incurred.

This agreement is binding upon the heirs, executors, administrators, successors, and permitted assigns of the parties to this agreement.

Consideration for this Quitclaim: \$11,400.00

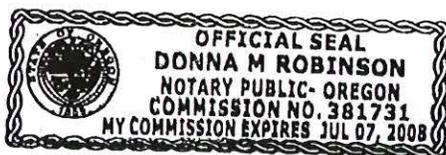
Grantor:

Gene W. Hoskin  
Gene W. Hoskin for CHW Enterprises, LLC

Date 2/9/06

State of Oregon )  
) ss.  
County of Deschutes )

This instrument was acknowledged before me on February 9, 2006 by Gene W. Hoskin  
as member for CHW Enterprises LLC



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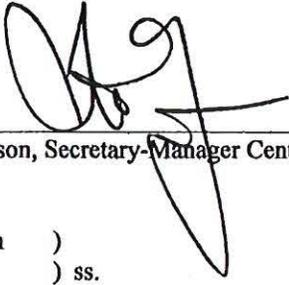
Notary Public

MAY 18 2007

WATER RESOURCES DEPT  
SALEM, OREGON

T 10391

antee:



Date

14 Feb. 2006

Steven C. Johnson, Secretary-Manager Central Oregon Irrigation District

State of Oregon )  
                          ) ss.  
County of Deschutes)

This instrument was acknowledged before me on February 14, 2006 by Steven C. Johnson as Secretary-Manager for Central Oregon Irrigation District.

Leslie Clark  
Notary Public



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**MAY 18 2007**

**WATER RESOURCES DEPT  
SALEM, OREGON**

EXHIBIT "A"

In Township 15 South, Range 13, East of the Willamette Meridian, Section 8, Deschutes County, Oregon, and more particularly described as follows:

Beginning at the center quarter corner of said Section 8; thence North 89°45'24" West, a distance of 463.83 feet; thence North 22°07'10" East, a distance of 433.62 feet; thence North 10°29'51" West, a distance of 286.55 feet; thence North 84°34'13" East, a distance of 22.61 feet; thence North 09°14'07" East, a distance of 367.24 feet; thence North 10°06'46" East, a distance of 621.55 feet; thence East, a distance of 171.54 feet; thence South 00°19'23" West, a distance of 1631.96 feet to the point of beginning.

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MAY 18 2007

WATER RESOURCES DEPT  
SALEM, OREGON

1 10391



**IRRIGATION DISTRICT REPORT**

CENTRAL OREGON IRRIGATION DISTRICT  
2598 N HWY 97  
REDMOND, OR 97756

January 5, 2006  
Title Number : 086027  
Title Officer : DEBBY DAVIDSON  
Fee : \$150.00

Attn: LESLIE CLARK

We have searched our Tract Indices as to the following described property:

In Township 15 South, Range 13, East of the Willamette Meridian, Section 8, Deschutes County, Oregon, and more particularly described as follows:

Beginning at the center quarter corner of said Section 8; thence North 89°45'24" West, a distance of 463.83 feet; thence North 22°07'10" East, a distance of 433.62 feet; thence North 10°29'51" West, a distance of 286.55 feet; thence North 84°34'13" East, a distance of 22.61 feet; thence North 09°14'07" East, a distance of 367.24 feet; thence North 10°06'46" East, a distance of 621.55 feet; thence East, a distance of 171.54 feet; thence South 00°19'23" West, a distance of 1631.96 feet to the point of beginning.

and dated as of December 27, 2005 at 7:30 a.m.

We find that the last deed of record runs to:

CHW ENTERPRISES, LLC, an Oregon Limited Liability Company

We also find the following apparent encumbrances within ten years prior to the effective date hereof:

- Deed of Trust, including the terms and provisions thereof, to secure an indebtedness of the amount herein stated.  
 Amount: \$915,000.00  
 Dated: September 30, 2005  
 Recorded: September 30, 2005  
 Volume-Page: 2005-66702, Deschutes County Records  
 Grantor: CHW Enterprises, LLC, an Oregon Limited Liability Company  
 Trustee: First American Title Insurance Company of Oregon  
 Beneficiary: Joseph S. McCormick and Mary E. Howard, as Conservator for the estate of Ruth M. McCormick, a protected person, as tenants in common

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We have also searched our General Index for judgments and state and federal tax liens against the above named grantees and find the following:

1. Judgment in the State Circuit Court, County of Deschutes, for the amount herein stated and any other amounts due.  
Creditor: Providian National Bank  
Debtor: Joe S. McCormick (Former vestee)  
Amount: \$7,937.97; \$610.03; \$450.00; \$387.00  
Entered: November 3, 2000  
Case No.: CV000266

We also find the following unpaid taxes and city liens:

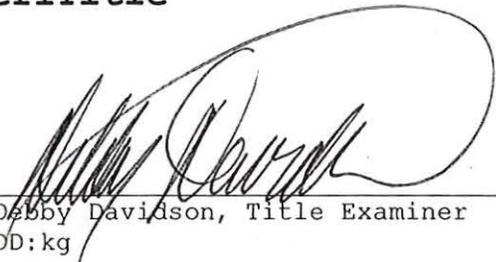
Taxes assessed under Code No. 2-004 Map and Tax Lot Number 15 13 08 00 01000  
Account No. 129696

NOTE: The 2005-2006 Taxes: \$1,222.89, Paid in full.

According to the Deschutes County Assessor's Roll, the subject property does not lie within any city limit.

NOTE: This Irrigation District Report is being made with the understanding that it does not represent any form of title insurance and is not a commitment for a policy of insurance. The information provided herein is not a full examination of the subject property. Further, if any person, corporation or entity of any kind should use this report as a basis to produce a title insurance product, it should be understood that it is clearly outside of Oregon law. Any liability hereunder is limited to the amount paid for said report.

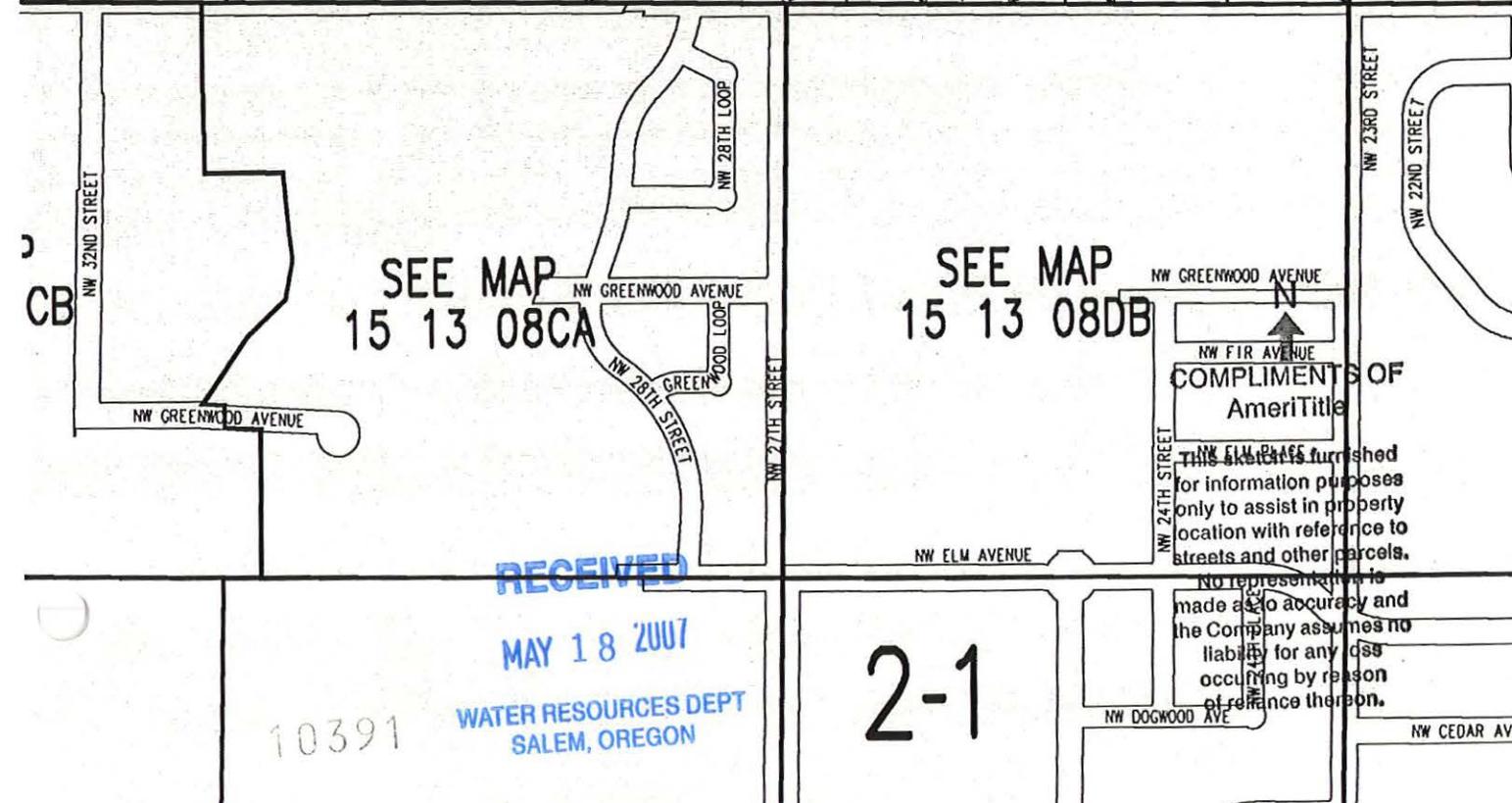
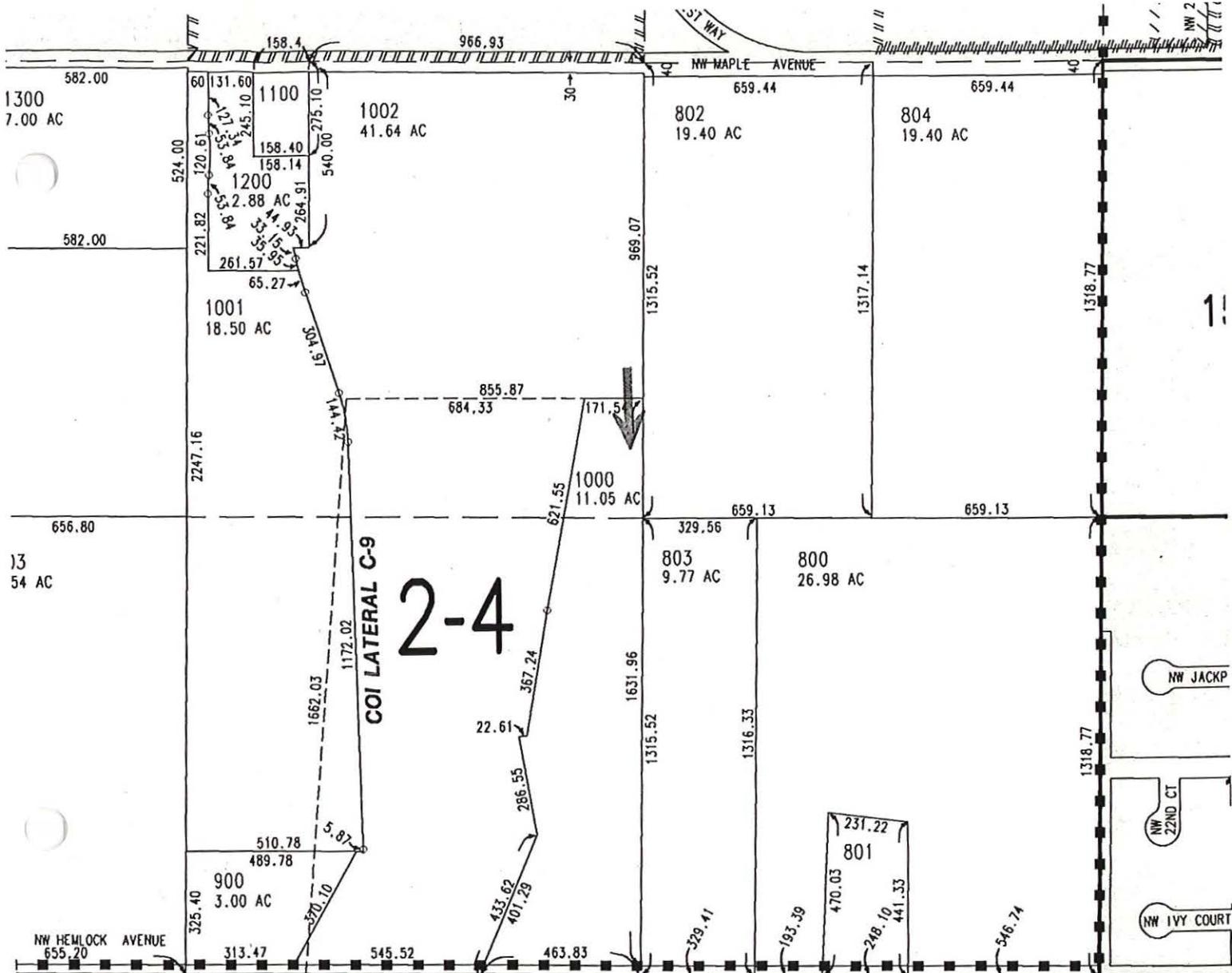
**AmeriTitle**

By:   
Debby Davidson, Title Examiner  
DD:kg

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**SALEM, OREGON**

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SEE MAP  
15 13 08CA

SEE MAP  
15 13 08DB

COMPLIMENTS OF  
AmeriTitle

THIS SERVICE IS FURNISHED FOR INFORMATION PURPOSES ONLY TO ASSIST IN PROPERTY LOCATION WITH REFERENCE TO STREETS AND OTHER PARCELS.

NO REPRESENTATION IS MADE AS TO ACCURACY AND THE COMPANY ASSUMES NO LIABILITY FOR ANY LOSS OCCURRING BY REASON OF REFERENCE THEREON.

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SALEM, OREGON

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2-1

1!

7002-649816-KM

AFTER RECORDING, RETURN TO:  
Ronald L. Bryant  
Bryant, Emerson & Fitch, LLP  
PO Box 457  
Redmond OR 97756

MAIL TAX STATEMENTS TO:  
CHW ENTERPRISES, LLC  
P.O. Box 1769  
Redmond OR 97756

DESCHUTES COUNTY OFFICIAL RECORDS  
NANCY BLANKENSHIP, COUNTY CLERK

2005-66701



\$41.00

09/30/2005 04:14:36 PM

D-D Cnt=1 Str=4 JEFF  
\$15.00 \$11.00 \$10.00 \$5.00

### WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that Joseph S. McCormick and Mary E. Howard, Conservator for the estate of Ruth M. McCormick, a protected person, hereinafter called the Grantor, for the consideration hereinafter stated, to grantor paid by CHW ENTERPRISES, LLC, an Oregon limited liability company, hereinafter called the Grantee, does hereby convey and warrant free and clear of encumbrances except as specifically set forth herein unto the said Grantee and Grantee's heirs, successors and assigns, that certain real property, with the tenements, hereditaments and appurtenances thereunto belonging or appertaining, situated in the county of Deschutes and state of Oregon, described as follows, to-wit:

Attached as Exhibit "A"

Subject to:

1. The assessment roll and the tax roll disclose that the within described premises were specially zoned or classified for Farm use. If the land has become or becomes disqualified for such use under the statute, an additional tax or penalty may be imposed. The Grantee herein will be responsible for and pay all real property taxes incurred by removal of the property from Farm deferral.
2. The premises described herein fall within the boundaries of Central Oregon Irrigation District and are subject to rules and regulations, including levies, assessments, water and irrigation rights and easements for ditches and canals thereof.
3. The rights of the public in and to that portion of the premises herein described lying within the limits of streets, roads, and highways.

This instrument will not allow use of the property described in this instrument in violation of applicable land use laws and regulations. Before signing or accepting this instrument, the person acquiring fee title to the property should check with the appropriate city or county planning department to verify approved uses and to determine any limits on lawsuits against farming or forest practices as defined in ORS 30.930.

The true and actual consideration for this conveyance is \$1,215,000.

DATED this 29 day of September 2005.

*Joseph S. McCormick*  
Joseph S. McCormick

*Mary E. Howard, Conservator*  
Mary E. Howard, Conservator for the estate of  
Ruth M. McCormick, a protected person

Page - 1- WARRANTY DEED

GAWP51VRLBVCNSERVATORSHIPMCCORMICK,R GDNCONSERVATORSHIPWARRANTY DEED 2 (14)

FIRST AMERICAN TITLE  
INSURANCE COMPANY OF OREGON  
P.O. BOX 323  
BEND, OR 97709

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BRYANT, EMERSON & FITCH, LLP  
ATTORNEYS AT LAW  
888 S.W. EVERGREEN AVENUE  
P.O. BOX 457  
REDMOND, OREGON 97756-0103  
TELEPHONE (541) 548-2151  
FAX (541) 548-1895

10391



EXHIBIT "A"

A tract of land located in Section 8, Township 15 South, Range 13 East of the Willamette Meridian, Deschutes County, Oregon, more particularly described as follows:

Beginning at the center quarter corner of said Section 8; thence North 89°45'24" West a distance of 463.83 feet; thence North 22°07'10" East a distance of 401.29 feet; thence North 10°29'51" West a distance of 286.55 feet; thence North 84°34'13" East, a distance of 22.61 feet; thence North 09°14'07" East a distance of 367.24 feet; thence North 10°06'46" East a distance of 621.55 feet; thence East a distance of 171.54 feet; thence South 00°19'23" West a distance of 1631.96 feet to the place of beginning

Tax Parcel Number 129696

Exhibit A, page 1

BRYANT, EMERSON & FITCH, LLP

ATTORNEYS AT LAW

888 S.W. EVERGREEN AVENUE  
P.O. BOX 457  
REDMOND, OREGON 97756-0103  
TELEPHONE (541) 548-2151  
FAX (541) 548-1895

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4. The water right was exercised for the authorized purpose described below (e.g., crops grown):

Irrigation of pasture and yard

5. The water delivery system used to apply water as authorized by the right is described below:

Delivered through C-8-4. Flood irrigated using tarps

6. One or more of the following documentation supporting the above statements is attached:

- Copy of a water right certificate that was issued within the last five years (not a remaining right certificate),
- Copies of receipts from sales of irrigated crops or for expenditures relating to the use of water,
- Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers,
- Dated aerial photographs of the lands or other photographs containing sufficient detail to establish the location and date of the photograph,
- Dedicated power usage records or receipts,
- Other: 2005 aerial photo

Cory D. Lenhollow  
Signature of Affiant

4-7-06  
Date

Signed and sworn to (or affirmed) before me this 7<sup>th</sup> day of April, 2006.

Leslie Clark  
Notary Public for Oregon



My Commission Expires: \_\_\_\_\_

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Please print legibly or type. Be as specific as possible. Attach additional pages if you need more space. Supporting documentation must be attached.



T 10391



### BENEFICIAL USE MAP

15-13-08  
 NENW, SENW TL: 1000  
 CHW ENTERPRISES LLC - 2005



National Agriculture Imagery Program 2005 Aerial Photography  
 Courtesy of USDA Aerial Photography Field Office  
 Resolution: 1 M  
 Map Scale/Accuracies: 1 meter ground sample distance with  
 a horizontal accuracy that matches w/i 5 meters of referenced  
 Datum: NAD 83/91 Oregon State Plane South Zone ortho imagery  
 Date of Photography: Summer, 05

|            |                    |
|------------|--------------------|
| USED       | PENDING_ON_POND    |
| DRY        | PETITIONED_ON      |
| USED-NO WR | PETITIONED_ON_POND |
| IL         | ICC                |
| INSTREAM   | OCC-INSTREAM       |
| PENDING_ON | EXITED             |



DESCHUTES COUNTY OFFICIAL RECORDS  
NANCY BLANKENSHIP, COUNTY CLERK

2006-47263



\$41.00

00477875200600472630030039

07/11/2006 09:37:01 AM

D-D Cnt=1 Stn=1 BECKEY  
\$15.00 \$11.00 \$10.00 \$5.00

After Recording return to:  
Central Oregon Irrigation District  
1055 S.W. Lake Court  
Redmond, OR 97756

MAIL TAX STATEMENT  
TO: NO CHANGE

### QUITCLAIM DEED

### FOR TRANSFER OF INTEREST IN A WATER RIGHT

Grantor, High Ridge Development, LLC, an Oregon Limited Liability Company, releases and quitclaims to Central Oregon Irrigation District (COID), Grantee, all rights, title and interest in the following: By this agreement, Grantor, the owner of the lands listed in Exhibit A, release their claim and responsibility for 4.65 acres of COID water rights that are appurtenant to the lands listed in Exhibit A, to COID. The water right in question is further described as a portion of Certificate # 76358, priority date of Oct. 31, 1900 and Dec. 2, 1907 and Certificate # 76714, priority date of Feb. 28, 1913, located on land commonly known as: 15-13-19 SW NE 701 (0.20 acre irrigation); 15-13-19 SE NW 701 (4.45 acres irrigation) and more particularly described as in Exhibit A, attached, and incorporated by this reference.

By entry of this deed, Grantor hereby notifies any subsequent purchaser of the lands listed in Exhibit A that Grantor, as owner of the subject land, approved the transfer (including a change in the place and type of use and point of diversion) of the water rights that are appurtenant to the subject land; and that upon completion of a transfer, by election of COID, the subject land no longer will have appurtenant water rights.

Furthermore, upon signing of this agreement, Grantor shall no longer be liable for any district assessment or charges pertaining to the described 4.65 acres of water rights incurred.

This agreement is binding upon the heirs, executors, administrators, successors, and permitted assigns of the parties to this agreement.

Consideration for this Quitclaim: \$4,650.00

Grantor:

[Signature]  
Darrin Kelleher for High Ridge Development, LLC

Date 7-5-06

State of Oregon )  
                          ) ss.  
County of Deschutes )

This instrument was acknowledged before me on  
for High Ridge Development, LLC.

July 5, 2006 by Darrin Kelleher as Manager

Barbara R. Fehl  
Notary Public



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WATER RESOURCES DEPT  
SALEM, OREGON

10391

Grantee:

Priscilla Ross  
Priscilla Ross CPA, Business Manager Central Oregon Irrigation District

Date July 6, 2006

State of Oregon )  
                          ) ss.  
County of Deschutes)

This instrument was acknowledged before me on July 6, 2006 by Priscilla Ross as Business Manager for Central Oregon Irrigation District.



Leslie Clark  
Notary Public

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SALEM, OREGON

EXHIBIT "A"  
LEGAL DESCRIPTION

In Township Fifteen (15) South, Range Thirteen (13), East of the Willamette Meridian, Deschutes County, Oregon: Section Nineteen (19): A portion of the Southeast Quarter of the Northwest Quarter (SE1/4NW1/4) and the Southwest Quarter of the Northeast Quarter (SW1/4NE1/4) of said Section 19; and now the description of the said SE1/4NW1/4 and the SW1/4NE1/4 is now to be more particularly described as follows:

Starting at the center  $\frac{1}{4}$  corner of said Section 19, marked by a  $\frac{3}{8}$ " steel rod, the initial point as well as the point of beginning; thence North  $01^{\circ}21'$  West along the East line of said SE1/4NW1/4, 651.76 feet; thence North  $89^{\circ}31'48''$  East, 330.15 feet; thence North  $00^{\circ}33'50''$  West, 272.11 feet; thence South  $89^{\circ}31'48''$  West, 503.83 feet, to the East right of way line of Helmholtz Way; thence South  $04^{\circ}13'$  East, along the East right of way line of said Helmholtz Way, 183.54 feet to the P.T. of a curve right; thence around the arc of a curve right having a radius of 741.20 feet, long chord of South  $19^{\circ}39'47''$  West, 579.86 feet, delta  $47^{\circ}45'35''$ , and length 597 feet; thence South  $19^{\circ}26'$  East, 198.10 feet, to the South line of said SE1/4NW1/4; thence South  $88^{\circ}49'$  East, 307.50 feet, to the center  $\frac{1}{4}$  corner of said Section 19 and the point of beginning. And a portion of the Northeast Quarter of the Southwest Quarter (NE1/4SW1/4) of Section Nineteen (19) in Township Fifteen (15) South, Range Thirteen (13), East of the Willamette Meridian, Deschutes County, Oregon, more particularly described as follows: A tract situate in the Northeast corner of the Northeast quarter of the Southwest Quarter (NE1/4SW1/4) of Section 19, Township 15 South, Range 13, East of the Willamette Meridian, Deschutes County, Oregon, and reads as follows: Commencing at the said center  $\frac{1}{4}$  corner, which is the initial point and point of beginning; thence Westerly along the North line of the NE1/4SW1/4 of said Section 19, a distance of 307.5 feet to a point of intersection with the East line of Forked Horn Butte Road, as depicted on Deschutes County Assessor's Map, running over Forked Horn Butte; thence South  $48^{\circ}45'$  East along said East line of said road a distance of 153 feet to a point of intersection with a line; thence North  $75^{\circ}46'$  East, along said intersecting line, a distance of 200 feet to a point in the East line of said NE1/4SW1/4 of said Section 19; thence North  $01^{\circ}16'$  East, a distance of 50 feet to the point of beginning.

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SALEM, OREGON

1-10391



**IRRIGATION DISTRICT REPORT**

CENTRAL OREGON IRRIGATION DISTRICT  
1055 S W LAKE CT  
REDMOND, OR 97756

June 19, 2006  
Title Number : 090997  
Title Officer : CHUCK NICHOLS  
Fee : \$150.00

Attn: LESLIE CLARK

We have searched our Tract Indices as to the following described property:

See Attached Exhibit "A"

and dated as of June 13, 2006 at 7:30 a.m.

We find that the last deed of record runs to:

HIGH RIDGE DEVELOPMENT, LLC, an Oregon Limited Liability Company

We also find the following apparent encumbrances within ten years prior to the effective date hereof:

1. A Resolution of the City of Redmond, Oregon Establishing the Majestic Ridge Reimbursement District, including the terms and provisions thereof, recorded February 21, 2003, in Volume 2003, Page 11889, Deschutes County Records.
2. Deed of Trust, including the terms and provisions thereof, to secure an indebtedness of the amount herein stated.  
 Amount: \$1,692,000.00  
 Dated: May 12, 2006  
 Recorded: May 15, 2006  
 Volume-Page: 2006-33306, Deschutes County Records  
 Grantor: High Ridge Development LLC, an Oregon Limited Liability Company  
 Trustee: Western Title and Escrow Company  
 Beneficiary: Bank of the Cascades  
 (Said Deed of Trust is a Line of Credit Deed of Trust)

We have also searched our General Index for judgments and state and federal tax liens against the above named grantees and find the following:

NONE

We also find the following unpaid taxes and city liens:

Taxes assessed under Code No. 2-001 Map and Tax Lot Number 15 13 19 00 00701  
Account No. 130024

NOTE: The 2005-2006 Taxes: \$2,802.54, Paid in full.

City Liens, if any, of the city of Redmond. (No inquiry has been made, and if search is requested, a charge of \$30.00 will be added.)

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Order No. 090997  
Page 2

NOTE: This Irrigation District Report is being made with the understanding that it does not represent any form of title insurance and is not a commitment for a policy of insurance. The information provided herein is not a full examination of the subject property. Further, if any person, corporation or entity of any kind should use this report as a basis to produce a title insurance product, it should be understood that it is clearly outside of Oregon law. Any liability hereunder is limited to the amount paid for said report.

**AmeriTitle**

By:   
Chuck Nichols, Title Examiner  
CN:kg

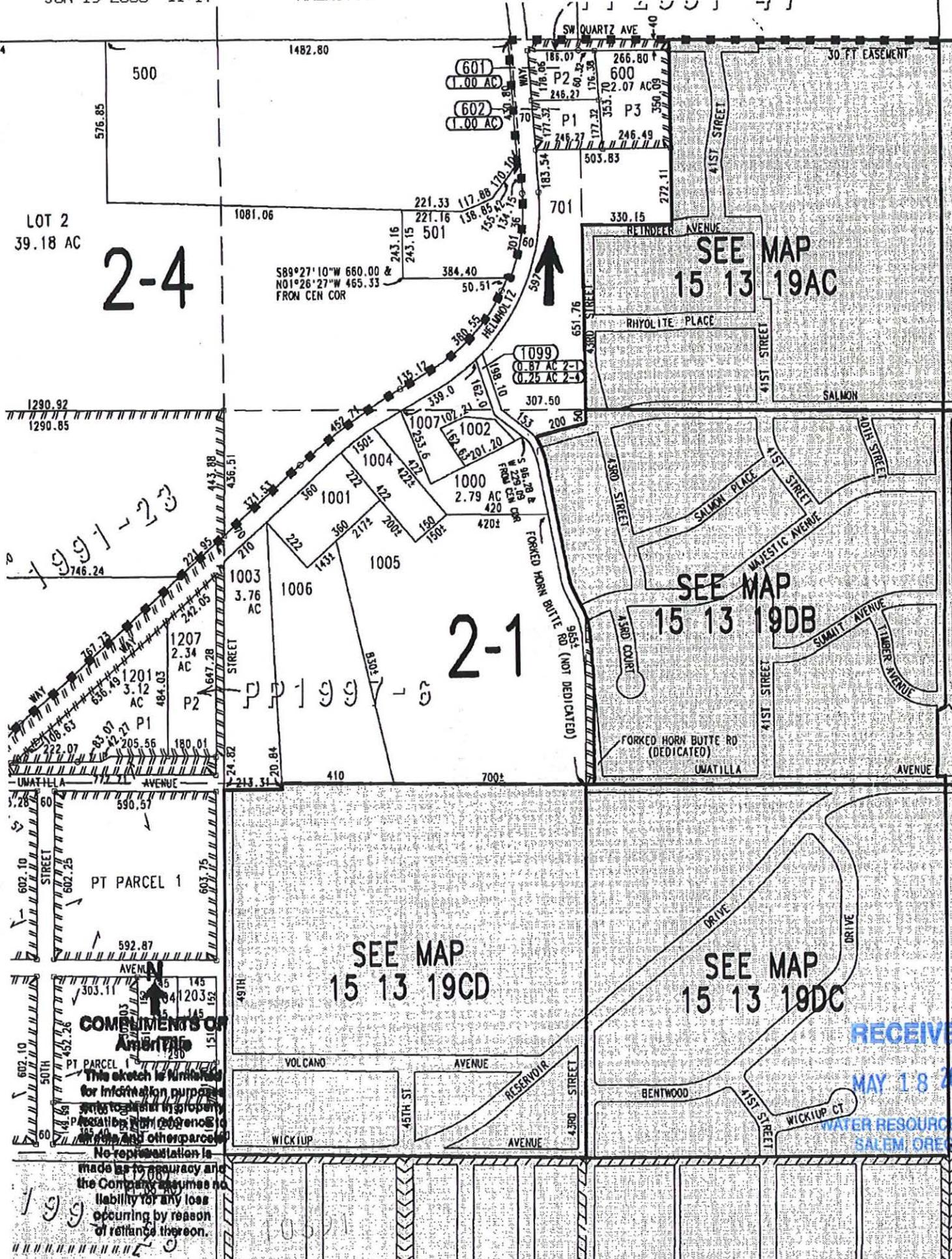
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SALEM, OREGON

T. 10391



2-4

2-1

SEE MAP 15 13 19AC

SEE MAP 15 13 19DB

SEE MAP 15 13 19CD

SEE MAP 15 13 19DC

COMPLIMENTS OF Amerititle

This sketch is furnished for information purposes only and is not intended to constitute a warranty of accuracy or liability for any loss occurring by reason of reliance thereon. No representation is made as to accuracy and the Company assumes no liability for any loss occurring by reason of reliance thereon.

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SALEM, OREGON

Order No. 090997

Page 3

EXHIBIT "A"  
LEGAL DESCRIPTION

In Township Fifteen (15) South, Range Thirteen (13), East of the Willamette Meridian, Deschutes County, Oregon: Section Nineteen (19): A portion of the Southeast Quarter of the Northwest Quarter (SE1/4NW1/4) and the Southwest Quarter of the Northeast Quarter (SW1/4NE1/4) of said Section 19; and now the description of the said SE1/4NW1/4 and the SW1/4NE1/4 is now to be more particularly described as follows:

Starting at the center  $\frac{1}{4}$  corner of said Section 19, marked by a  $\frac{3}{8}$ " steel rod, the initial point as well as the point of beginning; thence North 01°21' West along the East line of said SE1/4NW1/4, 651.76 feet; thence North 89°31'48" East, 330.15 feet; thence North 00°33'50" West, 272.11 feet; thence South 89°31'48" West, 503.83 feet, to the East right of way line of Helmholtz Way; thence South 04°13' East, along the East right of way line of said Helmholtz Way, 183.54 feet to the P.T. of a curve right; thence around the arc of a curve right having a radius of 741.20 feet, long chord of South 19°39'47" West, 579.86 feet, delta 47°45'35", and length 597 feet; thence South 19°26' East, 198.10 feet, to the South line of said SE1/4NW1/4; thence South 88°49' East, 307.50 feet, to the center  $\frac{1}{4}$  corner of said Section 19 and the point of beginning. And a portion of the Northeast Quarter of the Southwest Quarter (NE1/4SW1/4) of Section Nineteen (19) in Township Fifteen (15) South, Range Thirteen (13), East of the Willamette Meridian, Deschutes County, Oregon, more particularly described as follows: A tract situate in the Northeast corner of the Northeast quarter of the Southwest Quarter (NE1/4SW1/4) of Section 19, Township 15 South, Range 13, East of the Willamette Meridian, Deschutes County, Oregon, and reads as follows: Commencing at the said center  $\frac{1}{4}$  corner, which is the initial point and point of beginning; thence Westerly along the North line of the NE1/4SW1/4 of said Section 19, a distance of 307.5 feet to a point of intersection with the East line of Forked Horn Butte Road, as depicted on Deschutes County Assessor's Map, running over Forked Horn Butte; thence South 48°45' East along said East line of said road a distance of 153 feet to a point of intersection with a line; thence North 75°46' East, along said intersecting line, a distance of 200 feet to a point in the East line of said NE1/4SW1/4 of said Section 19; thence North 01°16' East, a distance of 50 feet to the point of beginning.

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SALEM, OREGON

T 10391

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DESCHUTES COUNTY OFFICIAL RECORDS  
NANCY BLANKENSHIP, COUNTY CLERK

2006-33305



\$35.00

05/15/2006 10:59:28 AM

D-D Cnt=1 Sln=25 SHIRLEY  
\$10.00 \$11.00 \$10.00 \$5.00

After recording return to:  
HIGH RIDGE DEVELOPMENT, LLC  
DARRIN KELLEHER  
61535 S. HWY 97, STE 9-345  
BEND, OR 97702

Until a change is requested all tax statements  
shall be sent to the following address:  
HIGH RIDGE DEVELOPMENT, LLC  
DARRIN KELLEHER  
61535 S. HWY 97, STE 9-345  
BEND, OR 97702

v

WARRANTY DEED -- STATUTORY FORM

LYLE R. JARVIS AND MARY M. JARVIS, CO-TRUSTEES OF THE JARVIS REVOCABLE TRUST,  
UTA DATED MARCH 7, 2002, Grantor,

conveys and warrants to

HIGH RIDGE DEVELOPMENT, LLC, an Oregon Limited Liability Company, Grantee,

the following described real property, free of encumbrances except as  
specifically set forth herein, to wit:

In Township 15 South, Range 13 East of the Willamette Meridian, Deschutes  
County, Oregon: Section 19: A portion of the Southeast Quarter of the  
Northwest Quarter (SE1/4 NW1/4) and Southwest Quarter of Northeast Quarter  
(SW1/4 NE1/4) of said Section 19; and now the description of the said Southeast  
Quarter of Northwest Quarter (SE1/4 NW1/4) and Southwest Quarter of Northeast  
Quarter (SW1/4 NE1/4) is now to be more particularly described as follows:  
Starting at the center 1/4 corner of said Section 19, marked by a 3/4" steel  
rod, the initial point as well as the point of beginning; thence North 01°21'  
West along the East line of said Southeast Quarter of Northwest Quarter (SE1/4  
NW1/4), 651.76 feet; thence North 89°31'48" East, 330.15 feet; thence North  
00°33'50" West, 272.11 feet; thence South 89°31'48" West, 503.83 feet, to the  
East right of way line of Helmholtz Way; thence South 04°13' East, along the  
East right of way line of said Helmholtz Way; 183.54 feet to the P.T. of a  
curve right; thence around the arc of a curve right having a radius of 741.20  
feet, long chord of South 19°39'47" West 579.86 feet, delta 47°45'35", and  
length 597 feet; thence South 19°26' East, 198.10 feet, to the South line of  
said Southeast Quarter of Northwest Quarter (SE1/4 NW1/4); thence South 88°49'  
East, 307.50 feet, to the center 1/4 corner of said Section 19 and the point of  
beginning. And a portion of Northeast Quarter of Southwest Quarter (NE1/4  
SW1/4) of Section 19 in Township 15 South, Range 13, East of the Willamette  
Meridian, Deschutes County, Oregon, more particularly described as follows: A  
tract situate in the Northeast corner of the Northeast Quarter of Southwest  
Quarter (NE1/4 SW1/4) of Section 19, Township 15 South, Range 13 East of the  
Willamette Meridian, and reads as follows: Commencing at the said center 1/4  
corner, which is the initial point and point of beginning; thence Westerly  
along the North line of the Northeast Quarter of the Southwest Quarter  
(NE1/4 SW1/4) of said Section 19, a distance of 307.5 feet to a point of  
intersection with East line of Forked Horn Butte Road, as depicted on Deschutes  
County Assessor's Map, running over Forked Horn Butte; thence South 48°45' East  
along said East line of said road a distance of 153 feet to a point of  
intersection with a line; thence North 75°46' East, along said intersecting  
line a distance of 200 feet to a point in the East line of said Northeast  
Quarter Southwest Quarter (NE1/4 SW1/4) of said Section 19; thence North 01°16'  
East a distance of 50 feet to the point of beginning.

Tax Account No(s): 130024  
Map/Tax Lot No(s): 151319 00 00701

This property is free from encumbrances, EXCEPT: All those items of record, if  
any, as of the date of this deed, including any real property taxes due, but  
not yet payable.

The true consideration for this conveyance is \$2,256,000.00.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE  
SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER CHAPTER 1, OREGON LAWS  
2005 (BALLOT MEASURE 37 (2004)). THIS INSTRUMENT DOES NOT ALLOW USE OF THE  
PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS  
AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON  
ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR

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WATER RESOURCES DEPT  
SALEM, OREGON

RECORDED BY:  
WESTERN TITLE & ESCROW CO.

12-0037106

10391

COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT MEASURE 37 (2004)).

Dated this 12 day of May, 2006.

JARVIS REVOCABLE TRUST

BY: [Signature]  
LYLE R. JARVIS, CO-TRUSTEE

BY: [Signature]  
MARY M. JARVIS, CO-TRUSTEE

STATE OF OREGON, COUNTY OF DESCHUTES ) SS.

This instrument was acknowledged before me on May 12, 2006 by LYLE R. JARVIS AND MARY M. JARVIS, CO-TRUSTEES OF THE JARVIS REVOCABLE TRUST, UTA DATED MARCH 7, 2002.

[Signature]  
(Notary Public for Oregon)  
My commission expires 12/9/2009



TITLE NO. 12-0037106  
ESCROW NO. 12-0037106

10391

RECEIVED  
MAY 18 2006  
WATER RESOURCES DEPT  
SALEM, OREGON

**Water Right Transfer Supplemental Form B  
AFFIDAVIT ATTESTING TO THE USE OF WATER**

State of Oregon )  
 )  
County of Deschutes \_\_\_\_\_ ) ss

I, Cary D. Penhollow, in my capacity as District Watermaster,  
mailing address 1055 SW Lake Court; Redmond, OR 97756

telephone number (541) 548-6047, being first duly sworn depose and say:

1. I attest that:

- Water was used during the previous five years on the entire authorized place of use of the water right proposed for transfer as described on the accompanying transfer application; **or**
- The water right was leased instream at some time within the last five years. The instream lease number is as follows: \_\_\_\_\_ **or**
- The water right is not subject to forfeiture and documentation that a presumption of forfeiture for non-use would be rebutted under ORS 540.610(2) is attached.

2. My knowledge of the exercise or status of the water right is based on (check one):

- Personal observation                       Professional expertise

3. My knowledge is specific to the use of water at the following locations:

| Township |   | Range |   | Mer | Sec | ¼ ¼ Section | Gov't Lot or DLC | Acres (if applicable) |
|----------|---|-------|---|-----|-----|-------------|------------------|-----------------------|
| 15       | S | 23    | E | WM  | 19  | SW NE       | TL 701           | 0.20                  |
| 15       | S | 23    | E | WM  | 19  | SE NW       | TL 701           | 4.45                  |
|          |   |       |   |     |     |             |                  |                       |
|          |   |       |   |     |     |             |                  |                       |
|          |   |       |   |     |     |             |                  |                       |
|          |   |       |   |     |     |             |                  |                       |
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**MAY 18 2007**

WATER RESOURCES DEPT  
SALEM, OREGON

10391

(continues on reverse side)

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more space. Supporting documentation must be attached.

4. The water right was exercised for the authorized purpose described below (e.g., crops grown):  
Irrigated pasture grass and some landscaping

5. The water delivery system used to apply water as authorized by the right is described below:  
Delivered through sub-lateral B-3-3 & B-5-2. Diverted with tarps and flood irrigated. Water quitclaimed off in July 2006; delivery removed at that time

6. One or more of the following documentation supporting the above statements is attached:

- Copy of a water right certificate that was issued within the last five years (not a remaining right certificate),
- Copies of receipts from sales of irrigated crops or for expenditures relating to the use of water,
- Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers,
- Dated aerial photographs of the lands or other photographs containing sufficient detail to establish the location and date of the photograph,
- Dedicated power usage records or receipts,
- Instream lease number \_\_\_\_\_,
- Other: \_\_\_\_\_

Jany D. Penhollow  
Signature of Affiant

3/2/07  
Date

Signed and sworn to (or affirmed) before me this 2 day of March, 2007.



Leslie Clark  
Notary Public for Oregon

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**MAY 18 2007**

**WATER RESOURCES DEPT**  
**SALEM, OREGON**

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more space. Supporting documentation must be attached.

WATER RIGHT TRANSFER

AFFIDAVIT ATTESTING TO THE USE OF WATER DURING THE PREVIOUS FIVE YEARS

State of Oregon )
) ss
County of \_\_\_\_\_ )

I \_\_\_\_\_, in my capacity as \_\_\_\_\_,
mailing address \_\_\_\_\_,
telephone number \_\_\_\_\_, being first duly sworn depose and say:

1. I attest that water was used during the previous five years on the entire authorized place of use of the water
right subject to transfer as described by the accompanying transfer application. My knowledge of the
exercise of the water right is based on (check one):

- [ ] Personal observation
[ ] Professional expertise

2. My knowledge is specific to the use of water at the following location(s):

\_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4
\_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4
\_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4

Section \_\_\_\_\_

Township \_\_\_\_\_ N/S Range \_\_\_\_\_ E/W

3. The water right was exercised for the authorized purposes and is described as follows:

XX Mostly pasture with some yard grass.
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

4. The water delivery system used to apply water as authorized by the water right is described as follows:

Describe system: All flood irrigation with open ditch.
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

Describe Pump if applicable:
\_\_\_\_\_
\_\_\_\_\_

(continues on reverse side)

PLEASE PRINT LEGIBLY OR TYPE. PLEASE BE AS SPECIFIC AS POSSIBLE. ATTACH ADDITIONAL PAGES IF YOU
NEED MORE SPACE. SUPPORTING DOCUMENTATION MUST BE ATTACHED.
June 2003

10391

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MAY 18 2007
WATER RESOURCES DEPT
SALEM, OREGON



TL 701

1513190000701

0.15 ac.

0.3 ac.

0.2 ac.

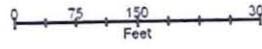
4.0 ac.

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MAY 18 2007

WATER RESOURCES DEPT  
SALEM, OREGON

**Beneficial Use**  
151319 SWNE  
TL 701



**Legend**  
 TAXLOTS OF INTEREST  
 IRRIGATED



Aerial Photo # 14-37  
 Provided by Bend Mapping and Blueprint  
 Date of Photography: July 22, 2004



After Recording return to:  
Central Oregon Irrigation District  
2598 North Highway  
Redmond, OR 97756



MAIL TAX STATEMENT  
TO: NO CHANGE

### QUITCLAIM DEED

#### FOR TRANSFER OF INTEREST IN A WATER RIGHT

Grantor, Tri-County Builders Corporation, an Oregon Corporation, releases and quitclaims to Central Oregon Irrigation District (COID), Grantee, all rights, title and interest in the following: By this agreement, Grantor, the owner of the lands described as Parcel 1, Partition Plat No. 1995-5, Deschutes County, Oregon, release their claim and responsibility for 2.33 acres of COID water rights that are appurtenant to the lands described above, to COID. The water right in question is further described as a portion of Certificate # 76358, priority date of Oct. 31, 1900 and Dec. 2, 1907 and Certificate # 76714, priority date of Feb. 28, 1913, located on land commonly known as: 15-13-20 NE SE 1501.

COID may elect to complete a transfer application and submit it to the Water Resources Department for approval of use of the water rights at a new location and/or use. COID may attach this agreement to the Oregon Water Resources Department's lease form and file with the District's annual Short Term Water Right Lease Agreement.

By entry of this deed, Grantor hereby notifies any subsequent purchaser of the lands described above, that Grantor, as owner of the subject land, approved the transfer (including a change in the place and type of use and point of diversion) of the water rights that are appurtenant to the subject land; and that upon completion of a transfer, by election of COID, the subject land no longer will have appurtenant water rights.

Furthermore, upon signing of this agreement, Grantor shall no longer be liable for any district assessment or charges pertaining to the 2.33 acres of water rights incurred.

This agreement is binding upon the heirs, executors, administrators, successors, and permitted assigns of the parties to this agreement.

Consideration for this Quitclaim: \$2,330.00

Grantor:

*Robert L. Childers*

Date 12-8-05

Robert L. Childers, President

State of Oregon )  
                          ) ss.  
County of Deschutes )

This instrument was acknowledged before me on December 8, 2005 by Robert L. Childers as President of Tri-County Builders Corporation.

*Janet L. Brown*  
Notary Public



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MAY 18 2007

WATER RESOURCES DEPT  
SALEM, OREGON

DESCHUTES COUNTY OFFICIAL RECORDS  
NANCY BLANKENSHIP, COUNTY CLERK

2005-86303

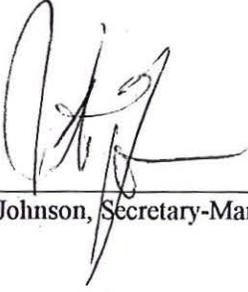


\$36.00

12/16/2005 10:38:52 AM

D-D Cnt=1 Stn=3 PAM  
\$10.00 \$11.00 \$10.00 \$5.00

Grantee:



Date 12/8/2005

Steven C. Johnson, Secretary-Manager Central Oregon Irrigation District

State of Oregon )  
                          ) ss.  
County of Deschutes)

This instrument was acknowledged before me on December 8, 2005 by Steven C. Johnson as Secretary-Manager for Central Oregon Irrigation District.

  
\_\_\_\_\_  
Notary Public



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**MAY 18 2007**

**WATER RESOURCES DEPT  
SALEM, OREGON**

1 10391



Part Of The JELD-WEN Family

IRRIGATION DISTRICT REPORT

CENTRAL OREGON IRRIGATION DISTRICT
2598 N HWY 97
REDMOND, OR 97756

November 15, 2005
Title Number : 084599
Title Officer : DEBBY DAVIDSON
Fee : \$150.00

Attn: LESLIE CLARK

We have searched our Tract Indices as to the following described property:

Parcel 1, Partition Plat No. 1995-5, Deschutes County, Oregon.

and dated as of November 8, 2005 at 7:30 a.m.

We find that the last deed of record runs to:

TRI-COUNTY BUILDERS CORPORATION, an Oregon Corporation

We also find the following apparent encumbrances within ten years prior to the effective date hereof:

- 1. Deed of Trust, including the terms and provisions thereof, to secure an indebtedness of the amount herein stated.
Amount: \$256,800.00
Dated: June 28, 2005
Recorded: July 1, 2005
Volume-Page: 2005-41934, Deschutes County Records
Grantor: Tri-County Builders Corporation
Trustee: Western Title & Escrow Company
Beneficiary: Bank of the Cascades
(Said Deed of Trust is a Line of Credit Deed of Trust)

We have also searched our General Index for judgments and state and federal tax liens against the above named grantees and find the following:

NONE

We also find the following unpaid taxes and city liens:

Taxes assessed under Code No. 2-001 Map and Tax Lot Number 15 13 20DA 01501
Account No. 179008

NOTE: The 2005-2006 Taxes: \$1,065.54, Paid in full.

City Liens, if any, of the city of Redmond. (No inquiry has been made, and if search is requested, a charge of \$30.00 will be added.)

RECEIVED

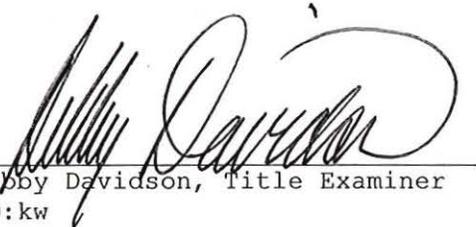
MAY 18 2007

WATER RESOURCES DEPT
SALEM, OREGON



NOTE: This Irrigation District Report is being made with the understanding that it does not represent any form of title insurance and is not a commitment for a policy of insurance. The information provided herein is not a full examination of the subject property. Further, if any person, corporation or entity of any kind should use this report as a basis to produce a title insurance product, it should be understood that it is clearly outside of Oregon law. Any liability hereunder is limited to the amount paid for said report.

**AmeriTitle**

By:   
Debby Davidson, Title Examiner  
DD:kw

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**MAY 18 2007**

**WATER RESOURCES DEPT  
SALEM, OREGON**

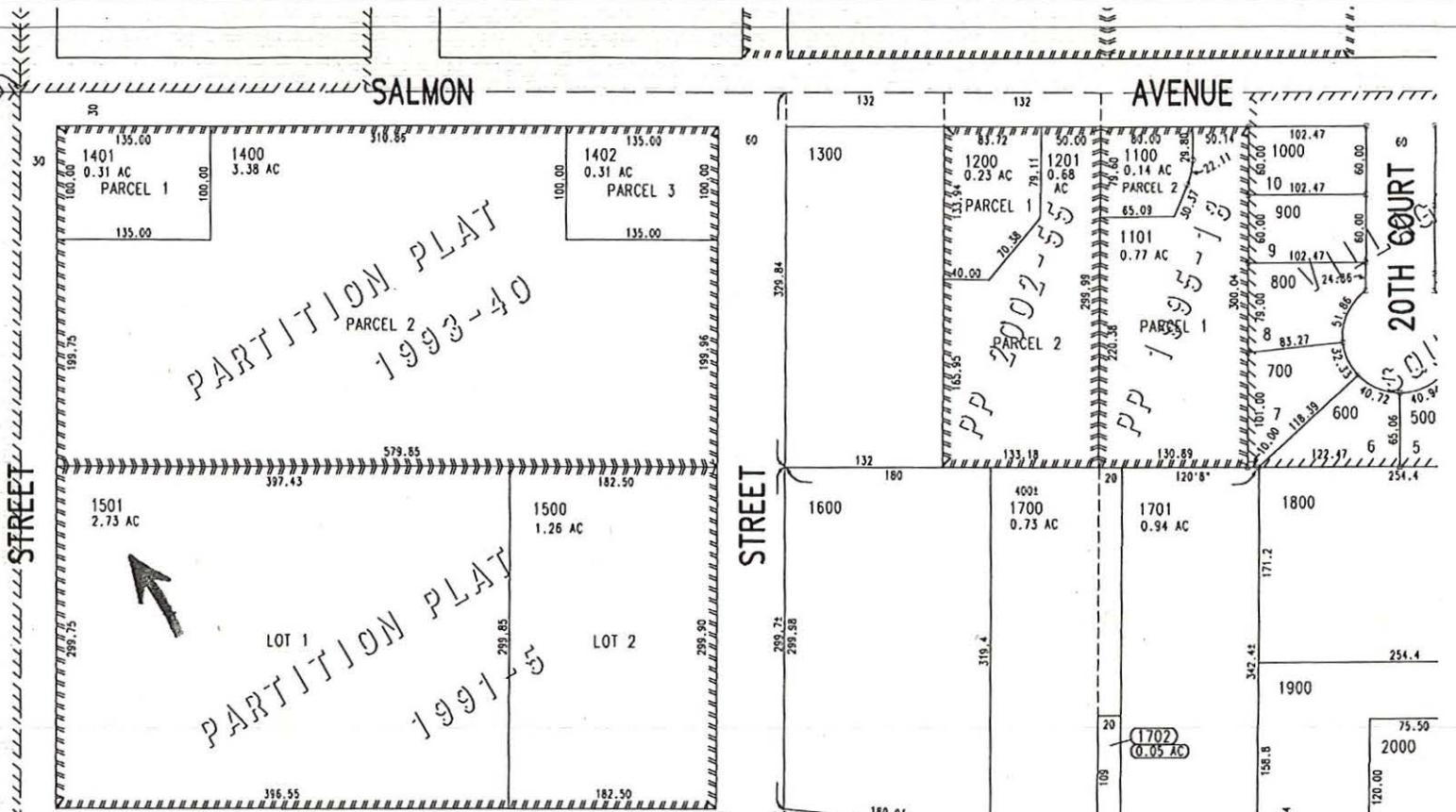
*"Superior Service with Commitment and Respect for Customers and Employees"*

1 10391

SEE MAP 15 13 20AD

SALMON AVENUE

AVENUE



STREET

STREET

20TH COURT

STREET

23RD

STREET

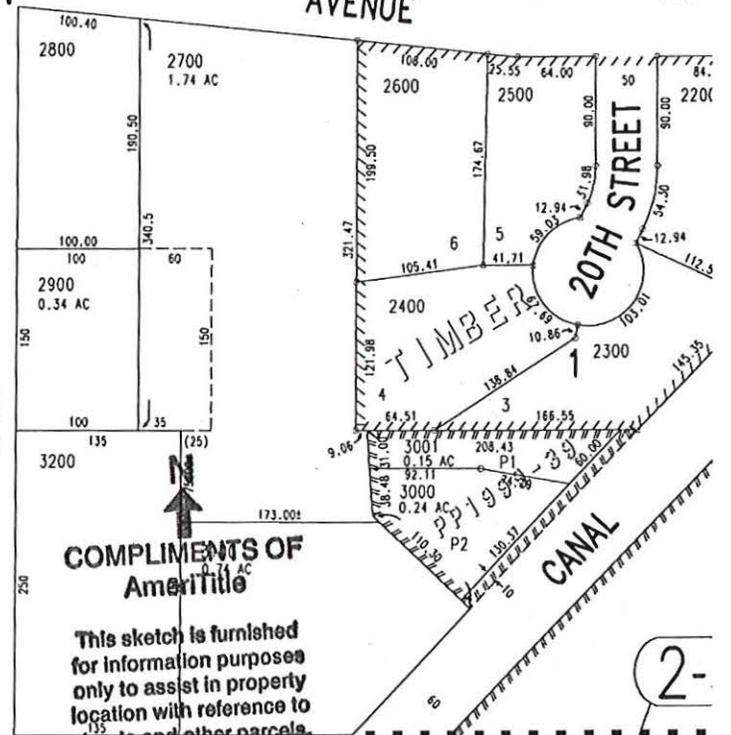
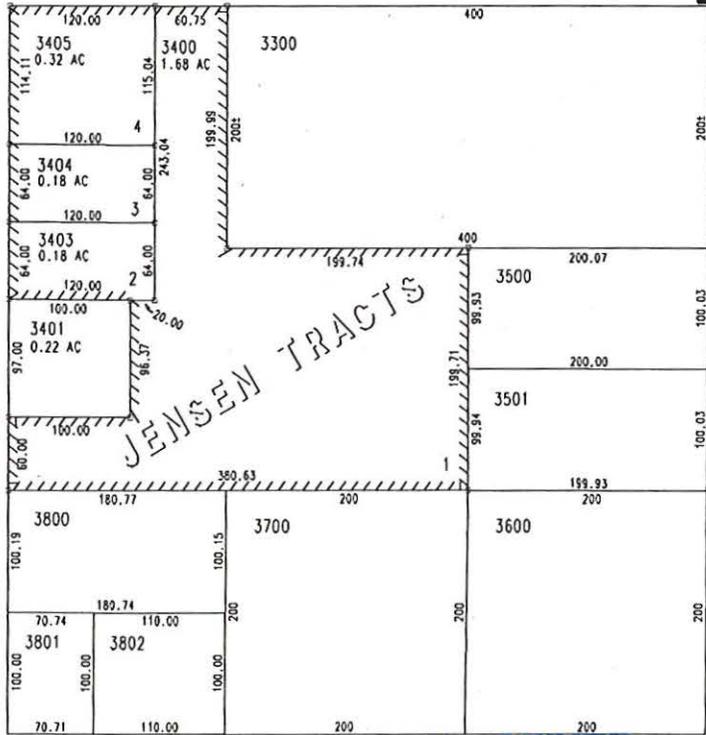
TIMBER AVENUE

AVENUE

2-1

21ST

20TH STREET



COMPLIMENTS OF AmeriTitle

This sketch is furnished for information purposes only to assist in property location with reference to streets and other parcels. A representation is made as to accuracy and the Company assumes no liability for any loss occurring by reason of reliance thereon.

UMATILLA

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MAY 18 2007

WATER RESOURCES DEPT SALEM, OREGON

SEE MAP 15 13 200D

10591

2-



After recording return to:  
TRI-COUNTY BUILDERS CORPORATION  
PO BOX 19  
POWELL BUTTE, OR 97753

21

Until a change is requested all tax statements  
shall be sent to the following address:  
TRI-COUNTY BUILDERS CORPORATION  
PO BOX 19  
POWELL BUTTE, OR 97753

WARRANTY DEED -- STATUTORY FORM

DAVID H. DEPATIE and MARCIA M. DEPATIE, Grantor, conveys and warrants to TRI-COUNTY BUILDERS CORPORATION, AN OREGON CORPORATION, Grantee, the following described real property, free of encumbrances except as specifically set forth herein, to wit:

*Parcel 1, Partition Plat No. 1991-5, Deschutes County, Oregon.*

Tax Account No(s): 179008  
Map/Tax Lot No(s): 15-13-20 DA 01501

This property is free from encumbrances, EXCEPT: All those items of record, if any, as of the date of this deed, including any real property taxes due, but not yet payable.

The true consideration for this conveyance is \$ 356,756.40.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Dated this 23 day of June, 2005.

DAVID H. DEPATIE  
  
MARCIA M. DEPATIE

STATE OF OREGON, COUNTY OF DESCHUTES ) SS.

This instrument was acknowledged before me on June 23 2005 by DAVID H. DEPATIE and MARCIA M. DEPATIE.

(Notary Public for Oregon)  
My commission expires 5/3/09

TITLE/ESCROW NO. 12-0033805



RECORDED BY:  
WESTERN TITLE & ESCROW CO.

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MAY 18 2007

WATER RESOURCES DEPT  
SALEM, OREGON

10391

**Water Right Transfer Supplemental Form A  
AFFIDAVIT ATTESTING TO THE USE OF WATER**

State of Oregon )  
 ) ss  
 County of Deschutes County )

I, Cary D. Penhollow, in my capacity as District Watermaster,  
 mailing address 2598 N. Hwy 97 Redmond, OR 97756  
 telephone number (541) 548-6047, being first duly sworn depose and say:

1. I attest that:

- Water was used during the previous five years on the entire authorized place of use of the water right proposed for transfer as described on the accompanying transfer application, or
- The water right is not subject to forfeiture and documentation that a presumption of forfeiture for non-use would be rebutted under ORS 540.610(2) is attached.

2. My knowledge of the exercise or status of the water right is based on (check one):

- Personal observation
- Professional expertise

3. My knowledge is specific to the use of water at the following locations:

| Township | Range | Mer | Sec | ¼ ¼ Section | Gov't Lot or DLC | Acres (if applicable) |
|----------|-------|-----|-----|-------------|------------------|-----------------------|
| 15 S.    | 13 E. | WM  | 20  | NE SE       | tax lot # 1501   | 2.33                  |
|          |       |     |     |             |                  |                       |
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**MAY 18 2007**

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WATER RESOURCES DEPT  
 SALEM, OREGON

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more space. Supporting documentation must be attached.

10691

4. The water right was exercised for the authorized purpose described below (e.g., crops grown):

5. The water delivery system used to apply water as authorized by the right is described below:

6. One or more of the following documentation supporting the above statements is attached:

- Copy of a water right certificate that was issued within the last five years (not a remaining right certificate),
- Copies of receipts from sales of irrigated crops or for expenditures relating to the use of water,
- Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers,
- Dated aerial photographs of the lands or other photographs containing sufficient detail to establish the location and date of the photograph,
- Dedicated power usage records or receipts,
- Other: \_\_\_\_\_

Cory D. Penkellow  
Signature of Affiant

12/20<sup>th</sup>/05  
Date

Signed and sworn to (or affirmed) before me this 20<sup>th</sup> day of December, 2005.

Leslie Clark  
Notary Public for Oregon

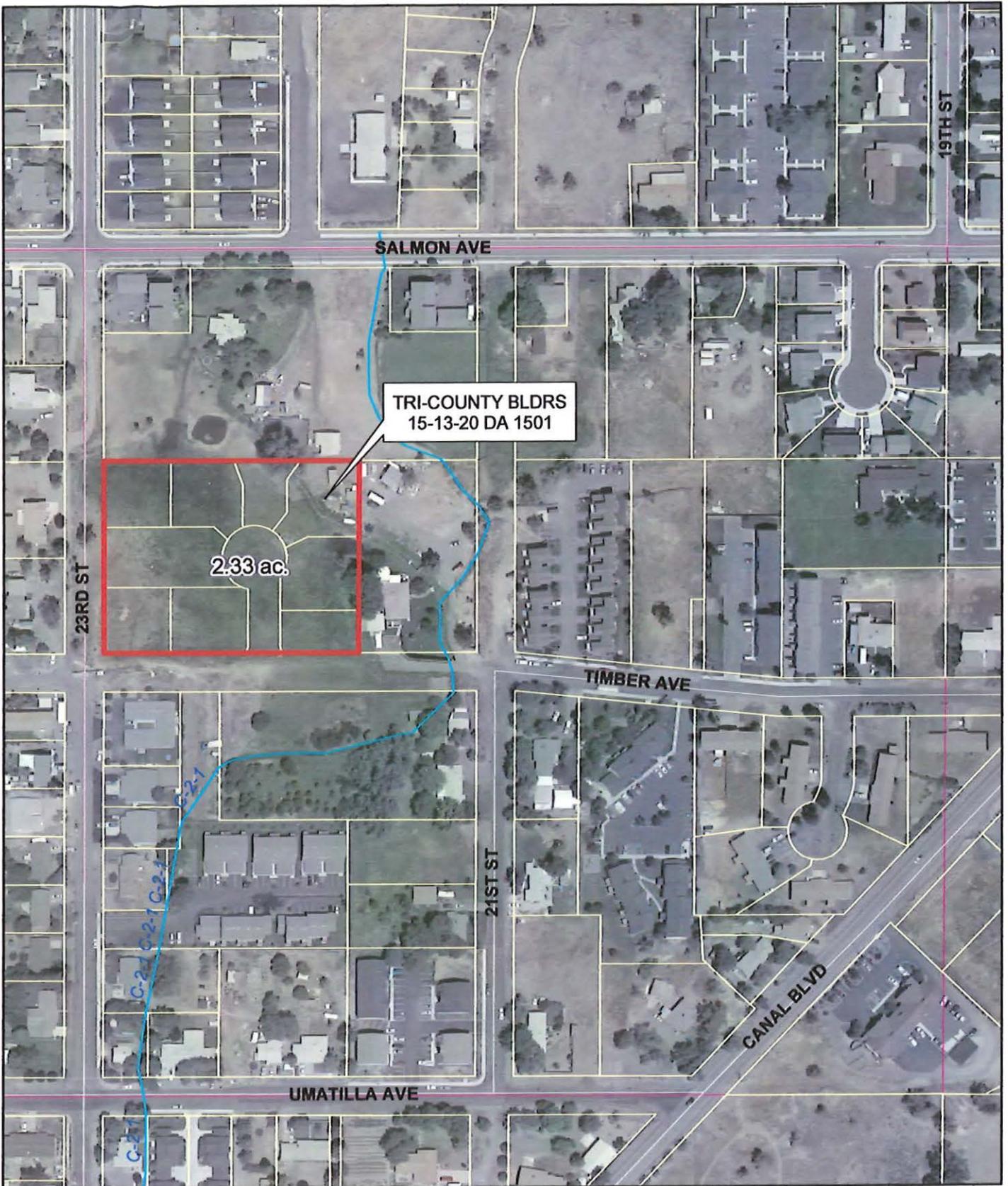


My Commission Expires: \_\_\_\_\_

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MAY 18 2007  
WATER RESOURCES DEPT  
SALEM, OREGON

T 10391

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more space. Supporting documentation must be attached.



# Beneficial Use Map

15-13-20  
 NESE TL: 1501  
 TRI-COUNTY BLDRS - 2004

City of Redmond 2004 Aerial Mapping Updates  
 Orthophoto Mapping by: David C. Smith & Associates, Inc.  
 Portland, OR.  
 DSA Job #: 1791  
 Pixel Resolution: 0.5 Ft.  
 Datum: NAD 83/91 Oregon State Plane South Zone  
 Date of Photography: July 8, 2004; August 18, 2004

|  |             |
|--|-------------|
|  | IL          |
|  | INSTREAM    |
|  | QC          |
|  | QC-INSTREAM |
|  | NESE 1501   |

PRINTED: 4-20-07

T 10391



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 MAY 18 2007

WATER RESOURCES DEPT  
 SALEM, OREGON

## OFFER TO PURCHASE WATER RIGHT

### Purchaser:

Name: Central Oregon Irrigation District  
Address: 2598 N Hwy 97; Redmond, OR 97756  
Telephone number: 541-548-6047

Hereby agrees to purchase 2.33 acres of irrigation water rights from:

### Seller:

Name: Tri-County Builders, Corp  
Address: PO Box 19; Powell Butte, OR  
Telephone: 815-8838

For the sum of: \$ 2,330.00 (\$1,000.00 per acre is current market value)  
- 375.00 Transfer Fee  
\$ 1,955.00

This offer is contingent on the following: Central Oregon Irrigation District will complete due diligence study on the property. If, as a result of that study it is determined the water right is ineligible for transfer, this agreement shall be null and void. All trust deed holders listed on a report prepared by a title company for the District must give consent to the transfer. If water is determined to be transferable, sellers will be required to sign a Quitclaim Deed to transfer the water right to the District. Funds will be disbursed to Seller upon receipt of the signed quitclaim deed.

Purchaser: Leslie Clark  
Leslie Clark - Central Oregon Irrigation District

Date 11-9-05

Seller: Robert Childers Sr.  
Robert Childers Sr.

Date \_\_\_\_\_

(If water right is held in the name of a limited liability company (LLC), please submit LLC documents allowing above signer to sign on behalf of the LLC)

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MAY 18 2007

WATER RESOURCES DEPT  
SALEM, OREGON

**Laura Snedaker**

---

**From:** Laura Snedaker  
**Sent:** Tuesday, May 22, 2007 2:09 PM  
**To:** 'Zach Tillman'  
**Cc:** Sarah Henderson  
**Subject:** fees for T-10391

Zach:

As we discussed the fee for this transfer is as follows:

\$350 for the first change  
\$350 for the second change  
\$175 for each additional cfs or fraction thereof beyond the 1<sup>st</sup> CFS (based on face value of the right proposed for transfer)

This is equal to \$875. For instream transfers a 50% fee waiver applies, which brings the fee down to \$437.50.

With this application fees in the amount of \$350 (for the transfer) and \$125 (for the reimbursement estimate) were submitted. An additional \$87.50 is needed for the transfer application. Per our conversation, \$87.50 has been withdrawn from the DRC account at OWRD and applied to this transfer.

Thanks,  
Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

T 10391

5/22/2007

# INTEROFFICE MEMO

DATE: May 21, 2007

TO: Sarah Henderson

FROM: Laura Snedaker

SUBJECT: Acceptance of IS Transfer Application/Mitigation Project MP-108

T-10391

The attached IS transfer application is ok to accept. Please do the following as applicable:

- Please debit \$\_\_\_\_\_ from \_\_\_\_\_ account.
- Please accept application and fees **once additional fees are received – need \$87.50.**
- Refund Due: \_\_\_\_\_
- Please put IS transfer application in a transfer file folder.
- Please make copy of the IS transfer for the Watermaster.
- Please make copy of IS transfer (including attachments – unless otherwise specified) and put in dark blue Mitigation Project file folder.
- Please scan IS transfer application and save to appropriate transfer file folder as T-\*\*\*\*\*-application-MP109
- Please put copy of this page in IS transfer file folder.

Notes: Applicant has checked all public use boxes, including navigation, on Supplemental Form C (instream use form). Will need additional information on the navigation use (why necessary).

**Need to send notice of the IS transfer application using notice letter & include attached memo in file:**

(1) City of Bend – Planning Division  
710 NW Wall Street  
Bend, OR 97701

(2) Jefferson County Planning Department  
66 SE "D" Street  
Madras, OR 97741

(3) Confederated Tribes of Warm Springs  
Planning Department  
1233 Veterans St.  
Warm Springs, OR 97761

T 10391



STATE OF OREGON  
WATER RESOURCES DEPARTMENT  
INTEROFFICE MEMO

DATE: May 21, 2007  
TO: Application File T-10391  
FROM: Laura Snedaker, Field Services  
SUBJECT: Land Use Compatibility – Affected Local Government Notice

In addition to affected local governments identified in the application, the Department also mailed notice of the instream transfer application to:

City of Bend – Planning Division  
Jefferson County – Community Development – Planning Division  
Confederated Tribes of Warm Springs – Planning Department

These represent affected local governments in which the proposed place of use (instream reach) is located.

A Land Use Information form was filled out and signed by Deschutes County.

This notice is being done to be consistent with the Department's Land Use Planning Procedures guide for instream actions under Division 77.

OREGON WATER RESOURCES DEPARTMENT  
**ACCOUNT ACTIVITY RECORD**

Account Name: DRC - Deschutes Resource Conservancy - CA0004

Activity Date: May 22, 2007 - A

*Please complete and leave at the WRIG counter.*

| Transaction Description                       | Number of items or hours | Project Name          | Customer contact name   | Department personnel providing service        | Amount of Activity |
|---|--------------------------|-----------------------|-------------------------|---|--------------------|
| Deposit to account                            |                          |                       |                         |   |                    |
| Copying                                       |                          |                       |                         |   |                    |
| Faxing  |                          |                       |                         |   |                    |
| <b>Other:<br/>Transfer/Mitigation Project</b> | <b>1</b>                 | <b>T-10391/MP-108</b> | <b>Genevieve Hubert</b> | <b>Sarah Henderson for<br/>Laura Snedaker</b> | <b>\$ 87.50</b>    |

Your account may be required to provide an account project number per your accounting department. If required, please have your project number ready upon any service request.



# Oregon

Theodore R. Kulongoski, Governor

Water Resources Department  
North Mall Office Building  
725 Summer Street NE, Suite A  
Salem, OR 97301-1266  
503-986-0900  
FAX 503-986-0904

May 23, 2007

DESCHUTES RIVER CONSERVANCY  
CENTRAL OREGON IRRIGATION DISTRICT  
700 NW HILL STREET  
BEND OR 97701

Reference: Instream Transfer 10391

On May 18, 2007 we received your water right transfer application requesting a change in use and place of use for use of water from DESCHUTES RIVER, tributary to COLUMBIA RIVER. The application was accompanied by \$475.00. Our receipt 87649 is enclosed. An additional \$87.50 was taken from the Deschutes River Conservancy customer account for additional fees needed.

By copy of this letter, we are asking the Watermaster for his report regarding the potential for injury to existing water rights which may be caused by the change.

Your application will be examined to determine if additional information is needed. You will be contacted following this examination.

We will notify you if additional information or corrections to the application or map are required.

If you have any questions, please call the Transfer Section, (503)986-0900.

cc: Watermaster #11  
Steve Marx, ODFW  
Bureau of Reclamation  
Deschutes County Planning Department  
City of Redmond Planning Department  
City of Bend Planning Division  
Jefferson County Planning Department  
Confederated Tribes of Warm Springs Planning Department

enclosure



# Oregon

Theodore R. Kulongoski, Governor

## Water Resources Department

725 Summer Street NE, Suite A

Salem, OR 97301-1271

503-986-0900

FAX 503-986-0904

### Notice of Application for Water Right Transfer, Temporary Transfer, or Permit Amendment 05/29/07

The Department seeks comment on the recently-filed application listed below. Any person may comment on the application. Comments must be received by the Department within 30 days of the date of this notice. The Director may presume that the transfer would be allowed by, and compatible with comprehensive plans unless an affected local government informs the Director otherwise within 30 days of this notice.

County: DESCHUTES  
Transfer: 10391  
Water Right: CERT 76358  
Priority Date: 1900, 1907  
Name: DESCHUTES RIVER CONSERVANCY & COID  
Address: 700 NW HILL STREET; BEND OR 97701  
Change: USE/POU  
Source: DESCHUTES RIVER  
Authorized POU: T15S R13E 3, 4, 8, 19, 20  
Proposed POU: FROM THE NORTH CANAL POD #11 DOWNSTREAM TO  
LAKE BILLY CHINOOK RIVER MILE 120  
Authorized USE: IRRIGATION  
Proposed USE: INSTREAM

The holder of a water right may apply to permanently change an existing water use subject to transfer. A transfer application may involve any of the following changes: Point of diversion or appropriation (POD; POA); Additional point of diversion or appropriation (APOD; APOA); Historic POD (HIST); Place of use (POU); Character of use (USE); Instream (ISWR); Substitution (SUB); or Exchange (EXCH).

The holder of a water right subject to transfer may request to temporarily change the place of use of the water for up to 5 years and, if necessary to convey the water, to temporarily change the point of diversion or appropriation.

The holder of a water right permit may apply to change a point of diversion (POD) or appropriation (POA) or to change the place of use (POU).

Any person who provides comments within the comment period will receive a copy of the Department's preliminary determination of whether the application should be approved or rejected after the Department has completed a review of the application and will be provided an opportunity to protest the application and preliminary determination at that time. Comments should be sent to the Transfers Section at the Department's Salem office.

## **Transfer Preliminary Determinations**

A Preliminary Determination provides the Department's conclusion as to whether a proposed change in place of use, point of diversion or appropriation, or character of use of an existing water right should be approved. Changes of water rights may be proposed in an application for transfer (including instream, historic POD, exchange, substitution or ground water registration modification).

The Department has issued preliminary determinations on the transfer applications listed below. In addition to this notice, the Department is complying with ORS 540.520(2) that requires publication of notice in a local newspaper for all transfers except those proposing a change in place of use only or a change in point of diversion of less than ¼ mile where there are no intervening diversion points.

Any person may protest the application and preliminary determination or may file a standing statement. Pursuant to OAR 690-380-4030(3) and OAR 690-382-0900, protests must raise all reasonably ascertainable issues and include all reasonably available arguments supporting the person's position. In addition, protests must be accompanied by a \$350 protest fee. A Water Right Transfer Protest Form is available at <http://www.oregon.gov/OWRD/PUBS/forms.shtml> or by calling 503-986-0881. Protests must be received by the Department on or before January 31, 2008, or within 30 days of the last date of publication in a newspaper, whichever is later. If no protests are filed, the Department will issue a final order consistent with the preliminary determination.

T-10466 filed by Central Oregon Irrigation District for Bend Metropolitan Park & Recreation District, 1055 SW Lake Court, Redmond, OR 97756, proposes a change in point of diversion and place of use under Certificates 83571 and 76714. The rights allow the use of 0.2 cfs (priority dates October 31, 1900 and February 28, 1913) from the Deschutes River in Sec. 13, T18S, R11E, W.M. for irrigation in the Central Oregon Irrigation District. The applicant proposes to move the point of diversion approximately 4.0 miles downstream and to move the place of use to Sec. 5 & 6, T18S, R12E. The Water Resources Department has concluded that the proposed transfer appears to be consistent with the requirements of ORS Chapter 540 and OAR 690-380-5000.

T-10391 filed by Central Oregon Irrigation District and the Deschutes River Conservancy (700 NW Hill St., Bend, OR 97701), proposes changes in place of use and character of use under Certificate 83571. The right allows the use of 0.494 cubic feet per second (cfs) (April 1 to May 1 and Oct 1 to Nov 1); 0.658 cfs (May 1 to May 15 and Sept 15 to Oct 1); and 1.219 (May 15 to Sept 15) (priority dates October 31, 1900 and December 2, 1907) from a diversion (COID North Canal) in Sec. 29, T17S, R12E, W.M. (Deschutes River Basin) for irrigation in Sections 3, 4, 8, 19 and 20 in T15S, R13E, W.M. The applicant proposes to change the place of use and character of use to instream use in the Deschutes River (from COID North Canal to Lake Billy Chinook), at a maximum of 0.672 cfs, and to establish mitigation credits in the Deschutes Groundwater Study Area. The applicant also proposed a cancellation of a portion of supplemental rights under

Certificate 76714. The application was amended with respect to the instream period and beneficial use. The Water Resources Department has concluded that the proposed transfer appears to be consistent with the requirements of ORS Chapter 540 and OAR 690-380-5000. The Department has also concluded that the proposed transfer appears to result in mitigation credits pursuant to OAR 690-521-0300 & OAR 690-521-0400.

T-10224 filed by Arrowood Development and Central Oregon Irrigation District (1055 SW Lake Court, Redmond, OR 97756), proposes a change in place of use and character of use under Certificate 83571. The right allows the use of 1.046 cubic feet per second (cfs) (April 1 to May 1 and Oct 1 to Nov 1); 1.395 cfs (May 1 to May 15 and Sept 15 to Oct 1); and 2.583 cfs (May 15 to Sept 15) (priority dates October 31, 1900 and December 2, 1907) from a diversion (COID North Canal) in Sec. 29, T17S, R12E, W.M. (Deschutes River Basin) for irrigation in Sections 16 and 26 in T14S, R13E, W.M. and in Sections 8, 9, and 10 in T15S, R 13E, W.M. The applicant proposes to change the place of use and character of use to instream use in the Deschutes River (from COID North Canal to Lake Billy Chinook), at a maximum of 1.424 cfs, and to establish mitigation credits in the Deschutes Groundwater Study Area. The applicant also proposed a cancellation of a portion of supplemental rights under Certificate 76714. The application was amended with respect to the instream period and beneficial use. The Water Resources Department has concluded that the proposed transfer appears to be consistent with the requirements of ORS Chapter 540 and OAR 690-380-5000. The Department has also concluded that the proposed transfer appears to result in mitigation credits pursuant to OAR 690-521-0300 & OAR 690-521-0400.

T-10072 filed by Frank Silva, 53996 Hwy 26, Mt. Vernon, OR 97865, proposes a change in point of diversion under Certificate 79902. Certificate 79902 (superseded C#48136) allows the use of 0.84 cfs (priority date October 23, 1916) from the John Day River, tributary to the Columbia River. The diversion is located in Section 26, T13S, R29E, W.M., for irrigation in Sec. 26 and 27. The applicant proposes to move the point of diversion upstream approximately 3/4 mile on the John Day River (Sec. 23, T13S, R29 E, W.M.) The Water Resources Department has concluded that the proposed transfer appears to not be consistent with the requirements of ORS Chapter 540 and OAR 690-380-5000 due to injury of instream water right Certificate 59787. Per applicant request, the Department is seeking a recommendation from ODFW to consent to the injury under OAR 690-380-5050. T-10072 will be denied unless ODFW recommends that the Department consent to injury of the instream water right due to a net benefit to the resource. If ODFW recommends the Department consent to injury of the instream water right, the Department will issue an order to approve the transfer, unless protests are filed.

T-9087 filed by LeCep II; C/O Floyd Aylor, Columbia Empire Farms, Inc., 31461 NE Bell Road, Sherwood, Oregon 97140, proposes a change in character of use under Certificate 58449. The right allows the storage of 1.0 acre foot (priority date September 26, 1980) from an unnamed stream in Sec. 35, T 3 S, R 4 W, W.M. for storage for irrigation and stock in Sec. 35. The applicant proposes to change the character of use to storage for multiple purposes, including, but not limited to irrigation and stock. The Water Resources Department has concluded that the proposed transfer appears to be consistent with the requirements of ORS Chapter 540 and OAR 690-380-5000.

**Laura Snedaker**

**From:** Laura Snedaker  
**Sent:** Friday, February 29, 2008 8:24 AM  
**To:** 'Zach Tillman'; 'Leslie Clark'  
**Subject:** Approval of Instream Transfer T-10391/Mitigation Credit Project MP-108  
**Attachments:** 10391-final-order-letter-MP108.pdf

Greetings:

Attached to this e-mail is the cover letter and link to the final order approving Instream Transfer T-10391 and Mitigation Credit Project MP-108. Hard copies of the final order and letter have been sent to COID and DRC. You are also receiving a scanned copy of the letter and link to the final order by way of e-mail.

Final Order -

[http://apps2.wrd.state.or.us/apps/misc/vault/vault.aspx?  
Type=Order&volume\\_nbr=74&page\\_nbr=249&page\\_char=](http://apps2.wrd.state.or.us/apps/misc/vault/vault.aspx?Type=Order&volume_nbr=74&page_nbr=249&page_char=)

Certificate - [http://apps2.wrd.state.or.us/apps/misc/vault/vault.aspx?  
Type=Cert&cert\\_nbr=83896](http://apps2.wrd.state.or.us/apps/misc/vault/vault.aspx?Type=Cert&cert_nbr=83896)

If you have trouble with that link you can also use our vault web page:

<http://apps.wrd.state.or.us/apps/misc/vault/vault.php>

And type in the volume #74 and page #249 in the special order portion of that page to find the final order and type in the certificate 83896 in the certificate portion of that page.

Please let me know if you have any trouble opening either the link or the attachment.

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)



# Oregon

Theodore R. Kulongoski, Governor

## Water Resources Department

725 Summer Street NE, Suite A

Salem, OR 97301-1271

503-986-0900

FAX 503-986-0904

February 29, 2007

Central Oregon Irrigation District  
1055 SW Lake Court  
Redmond, OR 97756

Deschutes River Conservancy  
700 NW Hill Street  
Bend, OR 97701

Re: Instream Transfer T-10391 & Mitigation Credit Project MP-108

Thank you for participating in the Instream Transfer and Deschutes Mitigation Credit program. I want to express appreciation for your participation in these programs and cooperation in helping to improve streamflows for fish and aquatic life and to provide mitigation water to ground water users in the Deschutes Ground Water Study Area.

As identified in the attached Final Order, this Instream Transfer has been approved and awarded mitigation credits. Mitigation credits awarded to this project have been assigned jointly to Central Oregon Irrigation District and Deschutes River Conservancy.

These mitigation credits may be used to satisfy the mitigation obligation of a ground water permit or application or may be assigned to any person or mitigation bank. The mitigation credits awarded to this project are valid until used to fulfill the mitigation obligation of a ground water permit application(s) and/or an existing ground water right(s) in the General Zone of Impact and/or Middle Deschutes River Zone of Impact within the Deschutes Ground Water Study Area. A ground water user wanting to demonstrate that mitigation credits are being used to satisfy a mitigation obligation needs to submit documentary evidence to the Department showing that mitigation credits have been obtained and assigned to them.

Mitigation credit transactions should be reported to the Water Resources Department. The Department has a Documentary Evidence form, copy enclosed (along with an example), available for your use or any subsequent mitigation credit holder, to assign the credits to a ground water user. The Department's Documentary Evidence form contains pertinent information needed by the Department to evaluate the use and validity of the mitigation credits.

If you decide to assign the mitigation credits to someone other than a ground water user, the Department would like to suggest that the enclosed Assignment of Mitigation Credits form (chain-of-custody) be used to assign credits to another party. An additional Assignment of Mitigation Credit form is also enclosed. These assignment forms will help establish a chain-of-custody for the ownership of the mitigation credits. Please provide a copy of the complete assignment record (from original credit holder to current credit holder) and a blank assignment form to any new credit holders so that they may continue the mitigation credit assignment record as well. A general example is enclosed for your reference.

Once the mitigation credits are assigned to a ground water user, the ground water user will need to submit documentary evidence that valid mitigation credits have been obtained to satisfy their mitigation obligation. If credits have changed hands beyond the original credit holder, the Department will ask the ground water user to demonstrate that the credits they are intending to use are indeed valid. A complete assignment record will help demonstrate the validity of the credits being used.

Also enclosed is a copy of the final order and new instream water right certificate. If you have any questions regarding the instream transfer and new certificate or the award of mitigation credits, please call me at (503) 986-0884.

Sincerely,



Laura K. Snedaker  
Field Services Division

c: Jeremy Giffin, Watermaster District 11 w/enc  
file T-10391 & MP-108

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

|   |   |                             |
|---|---|-----------------------------|
| In the Matter of Instream Transfer        | ) | FINAL ORDER APPROVING A     |
| Application T-10391 and Mitigation Credit | ) | CHANGE IN PLACE OF USE AND  |
| Project MP-108, Deschutes County          | ) | CHARACTER OF USE, PARTIAL   |
|   | ) | CANCELLATION OF A           |
|   | ) | SUPPLEMENTAL WATER RIGHT,   |
|   | ) | AND PRELIMINARY AND FINAL   |
|   | ) | 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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

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**

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

DESCHUTES RIVER CONSERVANCY  
700 NW HILL STREET  
BEND, OR 97701

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, 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.

## Findings of Fact

### *Background*

1. On May 18, 2007, the Central Oregon Irrigation District (COID) and Deschutes River Conservancy (DRC) 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-10391.
2. This instream transfer application originally proposed to change the character of use to instream use for fish and wildlife habitat enhancement; pollution abatement; navigation; and recreation. The applicants amended the application on May 22, 2007, to remove navigation from the list of proposed uses.
3. On September 26, revised application maps were received replacing a couple of the maps submitted with the application. A corrected report of title and lien information was also received. On October 4 2007, the Department also received a corrected affidavit of use for certain lands described in the transfer application.
4. On September 26, 2007, Certificate 83571 was issued superseding Certificate 76358.
5. That portion of the right to be transferred is as follows:

**Certificate:** 83571 in the name of Central Oregon Irrigation District

**Use:** Irrigation of 39.58 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<sup>th</sup> 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:** The Deschutes River, tributary to the Columbia River

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

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

**Authorized Places of Use:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Acres |
|----------|---|-------|---|----------|-----|-------|-------|
| 15       | S | 13    | E | WM       | 3   | NW SW | 6.40  |
| 15       | S | 13    | E | WM       | 4   | SW NE | 1.70  |
| 15       | S | 13    | E | WM       | 8   | NE NW | 1.50  |
| 15       | S | 13    | E | WM       | 8   | SE NW | 8.00  |
| 15       | S | 13    | E | WM       | 19  | SW NE | 0.20  |
| 15       | S | 13    | E | WM       | 19  | SE NW | 4.45  |
| 15       | S | 13    | E | WM       | 19  | SW SW | 15.00 |
| 15       | S | 13    | E | WM       | 20  | NE SE | 2.33  |

6. 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 #5), 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 PODs (described in Finding of Fact #5), the portion of the right involved in this transfer would be limited as described in the tables 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  | Season 2  | Season 3  | Duty      |
|------------------|-----------|-----------|-----------|-----------|
| October 31, 1900 | 0.494 CFS | 0.658 CFS | 0.870 CFS | 391.27 AF |
| December 2, 1907 |           |           | 0.349 CFS |           |

7. A total of 215.73 AF of water, excluding transmission losses, may be beneficially used annually for primary irrigation under the portion of existing Certificate 83571 proposed for transfer.
8. Supplemental right, Certificate 76714, is appurtenant to the same lands from which the primary right under Certificate 83571 is proposed to be transferred to instream use. The applicant has requested that the affected portion of Certificate 76714 be cancelled upon issuance of the Final Order approving T-10391.
9. The applicants are not the owners of the lands to which the water right described in Finding of Fact #5 is appurtenant. However, water right conveyance agreements have been completed and interest in the water rights has been conveyed to COID from each landowner described in the table below. The portion of this right to be transferred was appurtenant to

lands owned by the identified land landowners at the time interest in the water right was conveyed through a Quit Claim, a water right conveyance agreement.

| Landowner                       | Water Right Interest Holder | T   | R   | Sec | ¼ ¼   | Current Tax Lot |
|---------------------------------|-----------------------------|-----|-----|-----|-------|-----------------|
| David M. and Gail L. Wagenblast | COID                        | 15S | 13E | 3   | NW SW | 1401            |
| James C. and Tari R. Bradley    | COID                        | 15S | 13E | 4   | SW NE | 500             |
| CHW Enterprises LLC             | COID                        | 15S | 13E | 8   | NE NW | 1000            |
| CHW Enterprises LLC             | COID                        | 15S | 13E | 8   | SE NW | 1000            |
| High Ridge Development LLC      | COID                        | 15S | 13E | 19  | SW NE | 701             |
| High Ridge Development LLC      | COID                        | 15S | 13E | 19  | SE NW | 701             |
| Redmond Investments LLC         | COID                        | 15S | 13E | 19  | SW SW | 1200            |
| Tri-County Builders Corp.       | COID                        | 15S | 13E | 20  | NE SE | 1501            |

10. Application T-10391 proposes to change the character of use to instream use for fish and wildlife habitat enhancement; recreation; and pollution abatement.
11. Application T-10391 proposes to change the place of use of the right to create the following instream reach:

Reach: From COID North Canal POD #11 (described in Finding of Fact #5) to Lake Billy Chinook.

12. The applicant proposes the quantities of water to be transferred and protected instream be as follows:

| Certificate | Priority Date    | Rate Instream   | Volume Instream |
|-------------|------------------|---|-----------------|
| 83571       | October 31, 1900 | Season 1: 0.272 CFS<br>Season 2: 0.363 CFS<br>Season 3: 0.672 CFS | 215.73 AF       |

13. There are existing instream water rights within the same reach as that proposed for the new instream water right. All of the existing instream water rights were established under ORS 537.348, the instream transfer process, and ORS 537.470, the allocation of conserved water process. 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 POD #11 to Lake Billy Chinook, which if approved will have a priority date of September 19, 1990.
14. The applicant proposes that any instream water right established as a result of this instream transfer to be additive to 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 applicant also proposes that any instream water right established as a result of this instream transfer replace a portion of any existing 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.

15. The applicant has requested to protect water instream under the October 31, 1900, priority date. Water is diverted at the point 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 by the applicant to be transferred instream, as described in Finding of Fact #12, 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 May 29, 2007, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
18. On September 25, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10391 to the applicants. The draft Preliminary Determination set forth a deadline of October 24, 2007, for the applicants to respond. The additional information requested by the Department was received on September 26, 2007, and October 4, 2007. On October 1, 2007, the Department also sent a second 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 20, 2007, the applicants concurred with the draft Preliminary Determination and the red-lined changes and requested that the Department proceed with issuance of a Preliminary Determination.
19. On December 26, 2007, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10391 and mailed a copy to the applicant. 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 1, 16, and 23, 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. Water 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.
21. 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 Application T-10391.
22. The period during which water is requested to be protected instream requires modification to prevent injury and enlargement. At the full rates and duty allowed by the water right to be

transferred instream, water may be protected instream for a period of 209 days. The period requested by the applicant is 214 days.

23. Based on the previous Finding of Fact, on October 1 and November 20, 2007, the applicants agreed to modify the quantities to be transferred and protected instream as follows:

Reach: COID North Canal POD #11 (as described in Finding of Fact #5) to Lake Billy Chinook

| Certificate | Priority Date    | Instream Period                       | Instream Rate | Instream volume |
|-------------|------------------|---------------------------------------|---------------|-----------------|
| 83571       | October 31, 1900 | Season 1 (modified to end October 26) | 0.272 CFS     | 215.73          |
|             |                  | Season 2                              | 0.363 CFS     |                 |
|             |                  | Season 3                              | 0.672 CFS     |                 |

24. The proposed change, as modified, would not result in enlargement of the right.
25. The proposed change, as modified, would not result in injury to other water rights.
26. The amount and timing of the proposed instream flow are allowable within the limits and use of the original water right.
27. The protection of flows within the proposed reach 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) Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.
28. 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 habitat, aquatic life, recreation, aesthetics, and minimizing pollution. 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 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.
29. By adding to other water rights leased or transferred instream at the same location, or created through the conserved water statutes, the instream right will provide protection for additional

streamflows necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement.

30. By replacing a portion of instream rights created at the request of state agencies or under the minimum streamflow conversion process, the instream right will provide protection for streamflows previously identified as necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement under earlier priority dates.
31. During the period April 1 through October 26 any instream water right established by this transfer application may 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.
32. The total monthly quantities of water to be protected under the proposed instream right, in addition to the existing instream water rights, within the proposed reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

***Partial Cancellation of a Water Right***

33. 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-10391. The portion of Certificate 76714 to be cancelled has been quit claimed to COID.
34. Consistent with OAR 690-380-2250, the Department provided notice (as part of the draft Preliminary Determination identified in Finding of Fact #18) to the applicants of the Department's intent to cancel the portions of the supplemental water right 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. No response was received to the notice.
35. That portion of the supplemental water right to be cancelled is as follows:  
**Certificate:** 76714 in the name of Central Oregon Irrigation District  
**Use:** Supplemental Irrigation of 39.58 acres  
**Priority Date:** February 28, 1913  
**Source:** Crane Prairie Reservoir, constructed under permit R-1687, tributary to the Deschutes River

**Authorized PODs:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Survey Coordinates  |
|----------|---|-------|---|----------|-----|-------|---|
| 21       | S | 8     | E | W.M.     | 17  | NE NE | CRANE PRAIRIE RESERVOIR DAM   |
| 17       | S | 12    | E | W.M.     | 29  | SE NE | POD #11 (COID NORTH CANAL):<br>850 FEET NORTH AND 630 FEET<br>EAST FROM THE NORTH ¼<br>CORNER OF SECTION 29 |

**Authorized Places of Use:**

| Township | Range | Meridian | Sec | ¼ ¼ | Tax Lot | Acres |      |       |
|----------|-------|----------|-----|-----|---------|-------|------|-------|
| 15       | S     | 13       | E   | WM  | 3       | NW SW | 1401 | 6.40  |
| 15       | S     | 13       | E   | WM  | 4       | SW NE | 500  | 1.70  |
| 15       | S     | 13       | E   | WM  | 8       | NE NW | 1000 | 1.50  |
| 15       | S     | 13       | E   | WM  | 8       | SE NW | 1000 | 8.00  |
| 15       | S     | 13       | E   | WM  | 19      | SW NE | 701  | 0.20  |
| 15       | S     | 13       | E   | WM  | 19      | SE NW | 701  | 4.45  |
| 15       | S     | 13       | E   | WM  | 19      | SW SW | 1200 | 15.00 |
| 15       | S     | 13       | E   | WM  | 20      | NE SE | 1501 | 2.33  |

36. 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):<br>850 FEET NORTH & 630 FEET<br><u>WEST</u> FROM THE <u>EAST</u> ¼<br>CORNER OF SECTION 29 |

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

37. COID and the DRC (the Applicant) have requested this instream transfer application be used to establish mitigation credits in the Deschutes Ground Water Study Area. The Applicant has requested that any mitigation credits generated from this project be assigned to COID and the DRC.
38. The Department assigned this mitigation credit project number MP-108.
39. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300 (6) on May 29, 2007. No comments were received in response to this notice.
40. 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 May 29, 2007. Comments were received from ODFW and OPRD. ODFW identified that this project will provide effective instream

protection of flows during the irrigation season and also identified, along with general comments on the mitigation program, that instream flow protection is needed during the months outside of the irrigation season. OPRD identified that this instream transfer will enhance aesthetics and add water needed for recreation (boating opportunities). OPRD deferred to ODFW for appropriate timing of when flows should be protected instream.

41. The Department is unable to expand the period during which instream flows may be protected outside of the irrigation season, as recommended by ODFW, without causing injury to other water rights. The shaping proposed by the instream transfer application does protect water instream over almost the entire irrigation season at the maximum rates possible. Therefore, no modifications were made to the proposed instream period upon comments received.
42. The proposed transfer of 39.58 acres of irrigation use to instream use will provide 71.2 acre-feet of mitigation water. Therefore, 71.2 mitigation credits (1.0 mitigation credit = 1.0 AF of mitigation water) may be awarded to this mitigation credit project and assigned to COID and the DRC. 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 and/or General Zones of Impact.
43. A total of 215.73 AF is proposed to be transferred to instream use and 71.2 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.
44. The Department shall award final mitigation credits upon completion of the approved project by the applicant and verification by the Department that the project is complete. The issuance of a certificate(s) 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.
45. Mitigation credits awarded to this mitigation credit project will be valid beginning the first calendar year that water will be protected instream under any new instream water right created as a result of this instream transfer application.

### **Conclusions of Law**

The changes in character of use and place of use to instream use proposed in application T-10391 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 portion of the right 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-10391 are approved. The portion of the right that has been abandoned is 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:

| Priority Date    | Season 1  | Season 2  | Season 3  | Duty      |
|------------------|-----------|-----------|-----------|-----------|
| October 31, 1900 | 0.494 CFS | 0.658 CFS | 0.870 CFS | 391.27 AF |
| December 2, 1907 |           |           | 0.349 CFS |           |

3. The portion of Certificate 76714 that has been abandoned is cancelled. Water right certificate 76714 is modified. The Department shall issue a new water right certificate on a determination that it is necessary to produce a certificate to confirm that portion of the water right not affected by the cancellation described in Finding of Fact #35. Modification of this supplemental water right shall reduce by 39.58 acres the number of acres to which stored water may be applied for supplemental irrigation under the right.
4. The instream water right shall provide for the protection of streamflows 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:

Reach: from COID North Canal POD #11 (as described in Finding of Fact #5) to Lake Billy Chinook.

| Priority Date    | Period Protected Instream                                     | Instream Rate | Instream Volume |
|------------------|---|---------------|-----------------|
| October 31, 1900 | April 1 through April 30 and<br>October 1 through October 26  | 0.272 CFS     | 215.73 AF       |
|                  | May 1 through May 14 and<br>September 16 through September 30 | 0.363 CFS     |                 |
|                  | May 15 through September 15                                   | 0.672 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. Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion.
7. 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.

8. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to other conditions and limitations as may be germane to instream rights, that are contained in Certificate 83571 and any related decree.
9. The former place of use of the transferred water shall no longer receive water as part of these rights.
10. **Final 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 the attached 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 **71.2** credits, as described herein, are awarded to this mitigation project and assigned to COID and the DRC. 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 General Zones of Impact**.
11. 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.
12. 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 26<sup>th</sup> day of February, 2008.

  
\_\_\_\_\_  
Phillip C. Ward, Director

Mailing Date: MAR 03 2008

STATE OF OREGON

COUNTY OF

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

STATE OF OREGON  
WATER RESOURCES DEPARTMENT

confirms the right to use the waters of the Deschutes River, a tributary of the Columbia River, to maintain instream flows for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values; pollution abatement; and recreation.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Deschutes County. The decree is of record at Salem in the Order Record of the Water Resources Director, in Volume 12, at Page 282 and in Volume 16, at Pages 1 and 390. The date of priority is October 31, 1900.

The description of the stream reach in which flows are to be maintained is as follows:

From the location of the diversion authorized previously under Certificate 83571, located approximately at:

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

To Lake Billy Chinook.

The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed:

|                 |  |   |                                |
|-----------------|--|---|--------------------------------|
| Instream Period | April 1 through April 30 and<br>October 1 through October 26 | May 1 through May 14 and<br>September 15 through September 30 | May 15 through<br>September 14 |
| Instream Rate   | 0.272 Cubic Foot per Second (CFS)                            | 0.363 CFS   | 0.672 CFS                      |

or its equivalent in case of rotation during the period from April 1 through October 26 of each year.

Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the originally authorized diversion as adjusted for stream channel losses and gains calculated based on available data and the use of senior appropriators.

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 shall be in addition to instream water rights established pursuant to ORS 537.348 or 537.470, during the period April 1 through October 26 of each year, unless otherwise specified by a subsequent order establishing a new instream water right under these statutes.

This certificate is issued to confirm a change in character of use and place of use approved by an order of the Water Resources Director approving Transfer T-10391, and supersedes a portion of Certificate 83571, State Record of Water Right Certificates.

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 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.

Mitigation Credit Award

Mitigation Project: MP-108  
Mitigation Credits Awarded: 71.2  
Zone of Impact: These mitigation credits may be used to satisfy a mitigation obligation within the Middle Deschutes Zone of Impact and/or General Zone of Impact

Each mitigation credit equals 1.0 AF of mitigation water, as determined by the Department.

The number of mitigation credits awarded is a portion of the total volume transferred instream, being 215.73 AF. The remaining balance of water dedicated to instream use, and not used to satisfy the mitigation obligation of a ground water permit (and subsequent certificate(s)), will benefit instream flows.

The mitigation credits or mitigation water established by this instream water right may be used to satisfy a mitigation obligation of a ground water permit application(s) and/or a ground water permit(s)/ certificate(s) within the Deschutes Ground Water Study Area pursuant to the Deschutes Ground Water Mitigation Rules.

Mitigation credits valid until used to satisfy a mitigation obligation of a ground water permit applicant and/or ground water permit/certificate holder.

The right to the use of the water for the above purpose is restricted to beneficial use in the place of use described and is subject to all other conditions and limitations contained in said decree.

WITNESS the signature of the Water Resources Director, affixed February 21, 2008

  
\_\_\_\_\_  
Phillip C. Ward, Director

### Water Right Transfer Checklist

Transfer T-10391

Transfer Specialist: RA

Transfer Type: Instream

Applicant Name/Address: Deschutes River Conservancy & COID; 700 NW Hill Street, Bend, OR 97701

Agent Name/Address: NONE

CWRE Name/Number: NONE

Rec Landowner Name/Address: NONE

Irr. District Name/Address: NONE

Affected Gov'ts Name/Address: Bureau of Reclamation, 1150 N Curtis Rd Suite 100, Boise ID 83706

Deschutes County Planning Department, 117 NW Lafayette Avenue, Bend, OR 97701

City of Redmond Planning Department, PO Box 726, Redmond, OR 97756-0100

City of Bend Planning Division, 710 NW Wall Street, Bend, OR 97701

Jefferson County Planning Department, 66 SE D Street, Madras, OR 97741

Confederated Tribes of Warm Springs Planning Department, 1233 Veterans St, Warm Springs, OR 97761

Commentors: Name/Address: NONE

#### Water Rights Affected

| Records Marked                      | Records Copied                      | App File No. or Decree Name | Permit No. | Certificate No.                  | RR/CR Needed   | RR/CR Nos. |
|-------------------------------------|-------------------------------------|-----------------------------|------------|----------------------------------|--|------------|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |                             |            | <del>76358</del><br><u>83571</u> | <input type="checkbox"/> Yes <input type="checkbox"/> No |            |
| <input type="checkbox"/>            | <input type="checkbox"/>            |                             |            |                                  | <input type="checkbox"/> Yes <input type="checkbox"/> No |            |
| <input type="checkbox"/>            | <input type="checkbox"/>            |                             |            |                                  | <input type="checkbox"/> Yes <input type="checkbox"/> No |            |

#### Key Dates & Initial Actions

|   |  |                                   |
|---|--|-----------------------------------|
| Rec'd: <u>05/18/07</u>  | Proposed Action(s): POU POD HST APOD USE OTHER: <u>USE/POU</u> |                                   |
| Fees Pd: <u>475 + 87.50</u>                                     | WM District: <u>11</u>   | ODFW District: <u>Steve Marx</u>  |
| Initial Notice: <u>05/29/07</u>                                 | WM Review sent: <u>05/23/07</u>                                | ODFW Review sent: <u>05/23/07</u> |
| Acknowledgement Letter Sent <input checked="" type="checkbox"/> | GW Review sent: <u>None</u>                                    |                                   |

#### Processing Dates & Actions

Deficiency Contacts: \_\_\_\_\_

Newspaper Pub Affid Due: \_\_\_\_\_

not required

DPD Mailed: 9-25-07

Affid of Pub Rec'd: \_\_\_\_\_

ODFW contact sheet sent with DPD, or  N/A

Last Day Published: \_\_\_\_\_

PD Mailed: \_\_\_\_\_

Affidavit Reminder Sent: \_\_\_\_\_

PD Weekly Notice: \_\_\_\_\_

Reminder Deadline: \_\_\_\_\_

#### Preliminary Determination

Electronic Files uploaded

Preliminary Determination

PD Cover letter

Fee Refund Due

PD Notice

Remaining Rights

File Assigned/ ModPod updated

| DPD Review (Optional) | PD Review (Salem)     | Final Order Review (Salem) |
|-----------------------|-----------------------|----------------------------|
| Reviewer: _____       | Reviewer: _____       | Reviewer: _____            |
| Date: <u>9-24-07</u>  | Date: <u>12-20-07</u> | Date: <u>2/25/08</u>       |
| Coordinator: _____    | Coordinator: _____    | Coordinator: _____         |
| Date: _____           | Date: <u>12/24/07</u> | Date: <u>2/25/08</u>       |

Laura V. 74 p 249 signed. 2-26-08

Comments/Special Issues:

Special Order Volume: Vol \_\_\_\_\_ Pages \_\_\_\_\_ Final Order Signature Date: \_\_\_\_\_  
Notice of FO email'd to processors \_\_\_\_\_

# T-10391 Review Checklist

Comments added by Laura S on 9/11/07  
 &  
 9/20/07

RECEIVED

SEP 10 2007

WATER RESOURCES DEPT  
 SALEM, OREGON

**Application**

- The type of change is clearly indicated.
- The application is appropriately signed.
- Appropriate fees were paid.  If overpayment, Refund Request to be sent with FO
- Land use form matches affected tax lots and is signed by proper official. (from ALL affected Govt's)
- Ditch company, district and/or BOR, sent a copy of the application and map, if appropriate.
- All required attachments received.

add'l notices required  
 done when appl received

**Water right subject to transfer**

- Certificated right or Proof accepted "to the satisfaction..."
- The right been exercised according to terms & conditions of certificate.
- Delivery system has the capacity to fully divert the rate/duty of the right.
- No information in record that suggests forfeiture.
- No conflicts identified on the plat cards and plat card reports printed.
- Affidavits prepared for rights that need to be canceled or diminished.

no capacity info

no capacity issues on COED main canals

**Application Map**

- The map has an original CWRE signature. NR
- The map size and scale accurate and appropriate per OAR 690-380-3100(1)(b)(c)&(d). NR
- All authorized and proposed POD's/POA's and POU's shown and clearly labeled. NR
- Metes and bounds for the POD's/POA's are properly described on the map. NR
- The POD/POA dimensions & 1/4 1/4 on map match the transfer application and certificate descriptions. NR
- Map acres match the tabulation on the certificate.
- Have final proof maps/decree maps for the rights.  Application map matches certificate FPS
- Have necessary aerial photos.

Map was reviewed by regional mgr.

TBD  
 map prepared will cancel supp via transfer process

all appears to line up

**Determining the "From" and "To" Lands (make working copy of application and certificates to mark on)**

- Only the authorized POD's/POA's and POUs to be transferred are listed.
- Application & certificate tabulations match. (Mark on appl. and cert. copies and note corrections needed)
- Marked on certificate the acreage being transferred, cancelled and remaining by 1/4 1/4. N/A -?

I took care of this - difficult for RA folk to do at this period until new cert issued

**Ownership**

- The deed/ROLI matches the "from" lands. (Don't need to check "to" lands.)
- Have current tax lot map. (If transfer application is several years old, contact assessor's office)
- The applicant is the owner of the "from" lands.
- All owners on the deed/ROLI have signed the application. Quit claims provided
- If necessary, there is a notarized, signed statement of consent from landowners other than applicant.
- If necessary, there is a copy of written notification to each lien holder identified on ROLI.
- Agent has authorization to make decisions.

N/A

**Evaluation (materials needed for peer reviewer in bold)**

- application complete  map NR  FPS doesn't exist  evidence of use  land-use form
- deed/ROLI  Quit claim  certificate  fees paid  well logs N/A  plat card will be provided by contractor
- audit - note  dpd

- Reviews/comments/conditions received?  Watermaster  ODFW NR  GW N/A
- Headgate  When in the judgment  Prior to diverting  Existing and maintain
- Measuring Devices  When in the judgment  Prior to diverting  Existing and maintain

Injury: Y **N** Enlargement: Y **N**

Conditions to avoid enlargement/injury - reduce season of use by 5 days

**Laura Snedaker**

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**From:** Laura Snedaker  
**Sent:** Wednesday, January 02, 2008 10:51 AM  
**To:** 'Leslie Clark'  
**Cc:** 'Zach Tillman'  
**Subject:** RE: PD Issued for Instream Transfer T-10391 / Mitigation Project MP-108

Thanks – I'll mark the documents in the file with the right numbers.

Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

---

**From:** Leslie Clark [mailto:transfers@coid.org]  
**Sent:** Wednesday, January 02, 2008 10:45 AM  
**To:** Laura Snedaker  
**Cc:** 'Zach Tillman'  
**Subject:** RE: PD Issued for Instream Transfer T-10391 / Mitigation Project MP-108

My apologies, it is just on the PD cover letter and email, not within the document.

---

**From:** Laura Snedaker [mailto:snedaklk@wrdd.state.or.us]  
**Sent:** Wednesday, January 02, 2008 10:29 AM  
**To:** Leslie Clark  
**Cc:** Zach Tillman  
**Subject:** RE: PD Issued for Instream Transfer T-10391 / Mitigation Project MP-108

You are indeed correct. T-10224 is MP-91 and T-10391 is MP-108. Can you tell me where in the PD for T-10224 it references this application as MP-108? I couldn't find it with just a quick run through. Then I'll run through the PD's and make sure that gets marked for correction at FO.

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

---

**From:** Leslie Clark [mailto:transfers@coid.org]  
**Sent:** Wednesday, January 02, 2008 10:24 AM

1/2/2008

**To:** Laura Snedaker  
**Cc:** 'Zach Tillman'  
**Subject:** FW: PD Issued for Instream Transfer T-10391 / Mitigation Project MP-108

Good morning Laura,

I've been reviewing T-10224 (Arrowood Dev) PD and noticed that the MP number assigned to it is MP-108; the same MP assigned to T-10391. Can you take a look at these and let us know which transfer MP-108 is assigned to and the MP for the other transfer? Based on previous emails I believe MP-91 goes with T-10224.

Thank you!

---

**From:** Laura Snedaker [mailto:snedaklk@wrd.state.or.us]  
**Sent:** Thursday, December 27, 2007 11:07 AM  
**To:** Jeremy Giffin; Leslie Clark; Zach Tillman  
**Subject:** PD Issued for Instream Transfer T-10391 / Mitigation Project MP-108

Greetings:

Attached is the cover letter Preliminary Determination for instream transfer T-10391/Mitigation Credit Project MP-108. A copy has also been e-mailed to the DRC and COID.

Here's the link to the PD.

PD - [http://apps2.wrd.state.or.us/apps/misc/vault/vault.aspx?Type=TRFolder&folder\\_image\\_id=6947](http://apps2.wrd.state.or.us/apps/misc/vault/vault.aspx?Type=TRFolder&folder_image_id=6947)

Please give me a call if you have any questions.

Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

\_\_\_\_\_ NOD32 2750 (20071227) Information \_\_\_\_\_

This message was checked by NOD32 antivirus system.  
<http://www.eset.com>

\_\_\_\_\_ NOD32 2754 (20071228) Information \_\_\_\_\_

This message was checked by NOD32 antivirus system.  
<http://www.eset.com>

**Laura Snedaker**

**From:** Laura Snedaker  
**Sent:** Friday, February 01, 2008 9:50 AM  
**To:** 'Zach Tillman'  
**Subject:** RE: T-10391

Hi Zach,

We received the affidavit of publication on January 25th. And with the last date of publication being January 23, 2008, the transfer application will indeed be ready for a FO February 22. Probably won't happen exactly on that date but should happen shortly after that if all goes according to plan and there are no protests.

Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

---

**From:** Zach Tillman [mailto:[zach@deschutesriver.org](mailto:zach@deschutesriver.org)]  
**Sent:** Monday, January 28, 2008 2:00 PM  
**To:** Laura Snedaker  
**Subject:** T-10391

Hi Laura,

I'd like to confirm the status of T-10391 w/you. The PD was issued 12/26/07 & the final day of publication in the Bend Bulletin was last Wednesday, 1/23/08. This should make the transfer eligible for finalization on Friday, 2/22/08. Please let me know if you do not receive the affidavit of publication by end of this week. Thanks.

Zach

Zachary Tillman, DRC  
541-382-4077, x.21  
[zach@deschutesriver.org](mailto:zach@deschutesriver.org)

2/1/2008

# Affidavit of Publication

STATE OF OREGON, COUNTY OF DESCHUTES

I, **Katelynd Eldred**, a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years, and not party to or interested in the above-entitled matter. I am the principal clerk of the printer of

## The Bulletin

a daily newspaper of general circulation, published in the aforesaid county and state as defined by ORS 193.010 and ORS 193.020, that

**Acct Name:** DESCHUTES RIVER CONSERVANCY

**Legal Description:** LEGAL NOTICE

Notice of Preliminary

Determination for

Water Right Transfer T-10391

a printed copy of which is hereto affixed was published in each regular and entire issue of the said newspaper and not in any supplement thereof on the following dates, to wit:

01/09/2008

01/16/2008

01/23/2008

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated at Bend, Oregon, this 23 day of January, 2008.

*Katelynd Eldred*  
Signature



RECEIVED

JAN 25 2008

WATER RESOURCES DEPT  
SALEM, OREGON

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Legal Notices

supplemental rights under Certificate 76714. The application was amended with respect to the instream period and beneficial use. The Water Resources Department has concluded that the proposed transfer appears to be consistent with the requirements of ORS Chapter 540 and OAR 690-380-5000. The Department has also concluded that the proposed transfer appears to result in mitigation credits pursuant to OAR 690-521-0300 & OAR 690-521-0400.

Any person may file, jointly or severally, with the Department a protest or standing statement within 30 days after the date of final publication of notice in the Department's weekly notice or of this newspaper notice, whichever is later. A protest form and additional information on filing protests may be obtained by calling (503) 986-0881. The last date of newspaper publication is January 23, 2008. If no protests are filed, the Department will issue a final order consistent with the preliminary determination.

LEGAL NOTICE  
Notice of Preliminary  
Determination for  
Water Right Transfer T-10391  
(Mitigation Credit Project  
MP-108)

T-10391 filed by Central Oregon Irrigation District and the Deschutes River Conservancy (700 NW Hill St., Bend OR 97701) proposes change in place of use and character of use under Certificate 83571. The right allows the use of 0.494 cubic foot per second (cfs) (April 1 to May 1 and Oct. 1 to Nov. 1), 0.658 cfs (May 1 to May 15 and Sept. 15 to Oct. 1), and 1.215 cfs (May 15 to Sept. 15) (priority dates October 31, 1906 and December 2, 1907) from a diversion (C/OID North Canal) in Sec. 29, T17S, R12E W.M. (Deschutes River Basin, for irrigation in Sections 3, 4, 8, 19 and 20 in T15S, R13E W.M. The applicant proposes

No. \_\_\_\_\_

In the \_\_\_\_\_ Court of the

STATE OF OREGON  
for the  
COUNTY OF DESCHUTES

### AFFIDAVIT OF PUBLICATION

Filed \_\_\_\_\_

By \_\_\_\_\_

From the Office of \_\_\_\_\_

Attorney for \_\_\_\_\_

**Laura Snedaker**

---

**From:** Laura Snedaker  
**Sent:** Thursday, December 27, 2007 11:13 AM  
**To:** Jeremy Giffin; 'Leslie Clark'; 'Zach Tillman'  
**Subject:** PD Issued for Instream Transfer T-10391 / Mitigation Project MP-108  
**Attachments:** 10391-pd-cover-iswr-MP108-RA.pdf

Greetings:

Attached is the cover letter Preliminary Determination for instream transfer T-10391/Mitigation Credit Project MP-108. A copy has also been e-mailed to the DRC and COID.

Here's the link to the PD.

PD - [http://apps2.wrd.state.or.us/apps/misc/vault/vault.aspx?Type=TRFolder&folder\\_image\\_id=6947](http://apps2.wrd.state.or.us/apps/misc/vault/vault.aspx?Type=TRFolder&folder_image_id=6947)

Please give me a call if you have any questions.

Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

12/27/2007



# Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

725 Summer Street NE, Suite A

Salem, OR 97301-1271

503-986-0900

FAX 503-986-0904

December 26, 2007

Zach Tillman  
Deschutes River Conservancy  
700 NW Hill Street  
Bend, Oregon 97701

Leslie Clark  
Central Oregon Irrigation District  
1055 SW Lake Court  
Redmond, OR 97756

SUBJECT: **Instream Transfer Application T-10391** / Mitigation Credit Project MP-108

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-10391. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication simultaneously with issuance of the Preliminary Determination. The notice initiates a 30-day period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision.

Because of the change in character of use, the applicant is responsible for giving public notice of the transfer changes in a local newspaper having a general circulation in the area of the water right. The notice must be published at least once a week for three consecutive weeks. We have prepared the notice for you (enclosed). The deadline for individuals to file protests or standing statements is 30 days after the date of last publication. Please have the newspaper insert the date of last publication in the proper place. After publication, the Department needs to receive an affidavit specifying the dates the notice was published. Typically, the newspaper will prepare and mail an original *affidavit of publication* to the Department, however you will want to request specifically that they do so. The newspaper can mail the affidavit to me at the address above.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me at (503) 986-0884 if I may be of assistance.

Sincerely,

Laura Snedaker  
Field Services Division

cc: District 11 Watermaster—Jeremy Giffin

encs

*Pd Noticed  
1-1-08*

**Notice of Preliminary Determination for  
Water Right Transfer T-10391 (Mitigation Credit Project MP-108)**

T-10391 filed by Central Oregon Irrigation District and the Deschutes River Conservancy (700 NW Hill St., Bend, OR 97701), proposes changes in place of use and character of use under Certificate 83571. The right allows the use of 0.494 cubic feet per second (cfs) (April 1 to May 1 and Oct 1 to Nov 1); 0.658 cfs (May 1 to May 15 and Sept 15 to Oct 1); and 1.219 (May 15 to Sept 15) (priority dates October 31, 1900 and December 2, 1907) from a diversion (COID North Canal) in Sec. 29, T17S, R12E, W.M. (Deschutes River Basin) for irrigation in Sections 3, 4, 8, 19 and 20 in T15S, R13E, W.M. The applicant proposes to change the place of use and character of use to instream use in the Deschutes River (from COID North Canal to Lake Billy Chinook), at a maximum of 0.672 cfs, and to establish mitigation credits in the Deschutes Groundwater Study Area. The applicant also proposed a cancellation of a portion of supplemental rights under Certificate 76714. The application was amended with respect to the instream period and beneficial use. The Water Resources Department has concluded that the proposed transfer appears to be consistent with the requirements of ORS Chapter 540 and OAR 690-380-5000. The Department has also concluded that the proposed transfer appears to result in mitigation credits pursuant to OAR 690-521-0300 & OAR 690-521-0400.

Any person may file, jointly or severally, with the Department a protest or standing statement within 30 days after the date of final publication of notice in the Department's weekly notice or of this newspaper notice, whichever is later. A protest form and additional information on filing protests may be obtained by calling (503) 986-0881. The last date of newspaper publication is [DATE OF LAST PUBLICATION]. If no protests are filed, the Department will issue a final order consistent with the preliminary determination.

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

|   |   |                            |
|---|---|----------------------------|
| In the Matter of Instream Transfer        | ) | PRELIMINARY DETERMINATION  |
| Application T-10391 and Mitigation Credit | ) | PROPOSING APPROVAL OF A    |
| Project MP-108, Deschutes County          | ) | CHANGE IN PLACE OF USE AND |
|   | ) | CHARACTER OF USE, PARTIAL  |
|   | ) | CANCELLATION OF A          |
|   | ) | SUPPLEMENTAL WATER RIGHT,  |
|   | ) | 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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

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**

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

DESCHUTES RIVER CONSERVANCY  
700 NW HILL STREET  
BEND, OR 97701

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.

## Findings of Fact

### *Background*

1. On May 18, 2007, the Central Oregon Irrigation District (COID) and Deschutes River Conservancy (DRC) 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-10391.
2. This instream transfer application originally proposed to change the character of use to instream use for fish and wildlife habitat enhancement; pollution abatement; navigation; and recreation. The applicants amended the application on May 22, 2007, to remove navigation from the list of proposed uses.
3. On September 26, revised application maps were received replacing a couple of the maps submitted with the application. A corrected report of title and lien information was also received. On October 4 2007, the Department also received a corrected affidavit of use for certain lands described in the transfer application.
4. On September 26, 2007, Certificate 83571 was issued superseding Certificate 76358.
5. That portion of the right to be transferred is as follows:

**Certificate:** 83571 in the name of Central Oregon Irrigation District

**Use:** Irrigation of 39.58 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<sup>th</sup> 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:** The Deschutes River, tributary to the Columbia River

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

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

**Authorized Places of Use:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Acres |
|----------|---|-------|---|----------|-----|-------|-------|
| 15       | S | 13    | E | WM       | 3   | NW SW | 6.40  |
| 15       | S | 13    | E | WM       | 4   | SW NE | 1.70  |
| 15       | S | 13    | E | WM       | 8   | NE NW | 1.50  |
| 15       | S | 13    | E | WM       | 8   | SE NW | 8.00  |
| 15       | S | 13    | E | WM       | 19  | SW NE | 0.20  |
| 15       | S | 13    | E | WM       | 19  | SE NW | 4.45  |
| 15       | S | 13    | E | WM       | 19  | SW SW | 15.00 |
| 15       | S | 13    | E | WM       | 20  | NE SE | 2.33  |

6. 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 #5), 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 PODs (described in Finding of Fact #5), the portion of the right involved in this transfer would be limited as described in the tables 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  | Season 2  | Season 3  | Duty      |
|------------------|-----------|-----------|-----------|-----------|
| October 31, 1900 | 0.494 CFS | 0.658 CFS | 0.870 CFS | 391.27 AF |
| December 2, 1907 |           |           | 0.349 CFS |           |

7. A total of 215.73 AF of water, excluding transmission losses, may be beneficially used annually for primary irrigation under the portion of existing Certificate 83571 proposed for transfer.
8. Supplemental right, Certificate 76714, is appurtenant to the same lands from which the primary right under Certificate 83571 is proposed to be transferred to instream use. The applicant has requested that the affected portion of Certificate 76714 be cancelled upon issuance of the Final Order approving T-10391.
9. The applicants are not the owners of the lands to which the water right described in Finding of Fact #5 is appurtenant. However, water right conveyance agreements have been completed and interest in the water rights has been conveyed to COID from each landowner described in the table below. The portion of this right to be transferred was appurtenant to

lands owned by the identified land landowners at the time interest in the water right was conveyed through a Quit Claim, a water right conveyance agreement.

| Landowner                       | Water Right Interest Holder | T   | R   | Sec | ¼ ¼   | Current Tax Lot |
|---------------------------------|-----------------------------|-----|-----|-----|-------|-----------------|
| David M. and Gail L. Wagenblast | COID                        | 15S | 13E | 3   | NW SW | 1401            |
| James C. and Tari R. Bradley    | COID                        | 15S | 13E | 4   | SW NE | 500             |
| CHW Enterprises LLC             | COID                        | 15S | 13E | 8   | NE NW | 1000            |
| CHW Enterprises LLC             | COID                        | 15S | 13E | 8   | SE NW | 1000            |
| High Ridge Development LLC      | COID                        | 15S | 13E | 19  | SW NE | 701             |
| High Ridge Development LLC      | COID                        | 15S | 13E | 19  | SE NW | 701             |
| Redmond Investments LLC         | COID                        | 15S | 13E | 19  | SW SW | 1200            |
| Tri-County Builders Corp.       | COID                        | 15S | 13E | 20  | NE SE | 1501            |

10. Application T-10391 proposes to change the character of use to instream use for fish and wildlife habitat enhancement; recreation; and pollution abatement.
11. Application T-10391 proposes to change the place of use of the right to create the following instream reach:

Reach: From COID North Canal POD #11 (described in Finding of Fact #5) to Lake Billy Chinook.

12. The applicant proposes the quantities of water to be transferred and protected instream be as follows:

| Certificate | Priority Date    | Rate Instream   | Volume Instream |
|-------------|------------------|---|-----------------|
| 83571       | October 31, 1900 | Season 1: 0.272 CFS<br>Season 2: 0.363 CFS<br>Season 3: 0.672 CFS | 215.73 AF       |

13. There are existing instream water rights within the same reach as that proposed for the new instream water right. All of the existing instream water rights were established under ORS 537.348, the instream transfer process, and ORS 537.470, the allocation of conserved water process. 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 POD #11 to Lake Billy Chinook, which if approved will have a priority date of September 19, 1990.
14. The applicant proposes that any instream water right established as a result of this instream transfer to be additive to 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 applicant also proposes that any instream water right established as a result of this instream transfer replace a portion of any existing 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.

15. The applicant has requested to protect water instream under the October 31, 1900, priority date. Water is diverted at the point 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 by the applicant to be transferred instream, as described in Finding of Fact #12, 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 May 29, 2007, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
18. On September 25, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10391 to the applicants. The draft Preliminary Determination set forth a deadline of October 24, 2007, for the applicants to respond. The additional information requested by the Department was received on September 26, 2007, and October 4, 2007. On October 1, 2007, the Department also sent a second 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 20, 2007, the applicants concurred with the draft Preliminary Determination and the red-lined changes and requested that the Department proceed with issuance of a Preliminary Determination.

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

19. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
20. 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 Application T-10391.
21. The period during which water is requested to be protected instream requires modification to prevent injury and enlargement. At the full rates and duty allowed by the water right to be transferred instream, water may be protected instream for a period of 209 days. The period requested by the applicant is 214 days.

22. Based on the previous Finding of Fact, on October 1 and November 20, 2007, the applicants agreed to modify the quantities to be transferred and protected instream as follows:

Reach: COID North Canal POD #11 (as described in Finding of Fact #5) to Lake Billy Chinook

| Certificate | Priority Date    | Instream Period                       | Instream Rate | Instream volume |
|-------------|------------------|---------------------------------------|---------------|-----------------|
| 83571       | October 31, 1900 | Season 1 (modified to end October 26) | 0.272 CFS     | 215.73          |
|             |                  | Season 2                              | 0.363 CFS     |                 |
|             |                  | Season 3                              | 0.672 CFS     |                 |

23. The proposed change, as modified, would not result in enlargement of the right.
24. The proposed change, as modified, would not result in injury to other water rights.
25. The amount and timing of the proposed instream flow are allowable within the limits and use of the original water right.
26. The protection of flows within the proposed reach 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) Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.
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 habitat, aquatic life, recreation, aesthetics, and minimizing pollution. 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 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.

28. By adding to other water rights leased or transferred instream at the same location, or created through the conserved water statutes, the instream right will provide protection for additional streamflows necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement.
29. By replacing a portion of instream rights created at the request of state agencies or under the minimum streamflow conversion process, the instream right will provide protection for streamflows previously identified as necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement under earlier priority dates.
30. During the period April 1 through October 26 any instream water right established by this transfer application may 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.
31. The total monthly quantities of water to be protected under the proposed instream right, in addition to the existing instream water rights, within the proposed reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

***Partial Cancellation of a Water Right***

32. 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-10391. The portion of Certificate 76714 to be cancelled has been quit claimed to COID.
33. Consistent with OAR 690-380-2250, the Department provided notice (as part of the draft Preliminary Determination identified in Finding of Fact #18) to the applicants of the Department's intent to cancel the portions of the supplemental water right 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. No response was received to the notice.
34. That portion of the supplemental water right to be cancelled is as follows:
 

|                       |  |
|-----------------------|--|
| <b>Certificate:</b>   | 76714 in the name of Central Oregon Irrigation District                                    |
| <b>Use:</b>           | Supplemental Irrigation of 39.58 acres   |
| <b>Priority Date:</b> | February 28, 1913  |
| <b>Source:</b>        | Crane Prairie Reservoir, constructed under permit R-1687, tributary to the Deschutes River |

**Authorized PODs:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Survey Coordinates  |
|----------|---|-------|---|----------|-----|-------|---|
| 21       | S | 8     | E | W.M.     | 17  | NE NE | CRANE PRAIRIE RESERVOIR DAM   |
| 17       | S | 12    | E | W.M.     | 29  | SE NE | POD #11 (COID NORTH CANAL):<br>850 FEET NORTH AND 630 FEET<br>EAST FROM THE NORTH ¼<br>CORNER OF SECTION 29 |

**Authorized Places of Use:**

| Township | Range | Meridian | Sec | ¼ ¼ | Tax Lot | Acres |      |       |
|----------|-------|----------|-----|-----|---------|-------|------|-------|
| 15       | S     | 13       | E   | WM  | 3       | NW SW | 1401 | 6.40  |
| 15       | S     | 13       | E   | WM  | 4       | SW NE | 500  | 1.70  |
| 15       | S     | 13       | E   | WM  | 8       | NE NW | 1000 | 1.50  |
| 15       | S     | 13       | E   | WM  | 8       | SE NW | 1000 | 8.00  |
| 15       | S     | 13       | E   | WM  | 19      | SW NE | 701  | 0.20  |
| 15       | S     | 13       | E   | WM  | 19      | SE NW | 701  | 4.45  |
| 15       | S     | 13       | E   | WM  | 19      | SW SW | 1200 | 15.00 |
| 15       | S     | 13       | E   | WM  | 20      | NE SE | 1501 | 2.33  |

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):<br>850 FEET NORTH & 630 FEET<br><u>WEST FROM THE EAST ¼</u><br>CORNER OF SECTION 29 |

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

36. COID and the DRC (the Applicant) have requested this instream transfer application be used to establish mitigation credits in the Deschutes Ground Water Study Area. The Applicant has requested that any mitigation credits generated from this project be assigned to COID and the DRC.
37. The Department assigned this mitigation credit project number MP-108.
38. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300 (6) on May 29, 2007. 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 May 29, 2007. Comments were received from ODFW and OPRD. ODFW identified that this project will provide effective instream

protection of flows during the irrigation season and also identified, along with general comments on the mitigation program, that instream flow protection is needed during the months outside of the irrigation season. OPRD identified that this instream transfer will enhance aesthetics and add water needed for recreation (boating opportunities). OPRD deferred to ODFW for appropriate timing of when flows should be protected instream.

40. The Department is unable to expand the period during which instream flows may be protected outside of the irrigation season, as recommended by ODFW, without causing injury to other water rights. The shaping proposed by the instream transfer application does protect water instream over almost the entire irrigation season at the maximum rates possible. Therefore, no modifications were made to the proposed instream period upon comments received.
41. The proposed transfer of 39.58 acres of irrigation use to instream use will provide 71.2 acre-feet of mitigation water. Therefore, 71.2 mitigation credits (1.0 mitigation credit = 1.0 AF of mitigation water) may be awarded to this mitigation credit project and assigned to COID and the DRC. 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 and/or General Zones of Impact.
42. A total of 215.73 AF is proposed to be transferred to instream use and 71.2 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 applicant and verification by the Department that the project is complete. The issuance of a certificate(s) 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.
44. Mitigation credits awarded to this mitigation credit project will be valid beginning the first calendar year that water will be protected instream under any new instream water right created as a result of this instream transfer application.

#### **Determination and Proposed Action**

The changes in character of use and place of use to instream use proposed in application T-10391 appear to be 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 portion of the right should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved and the abandoned portion of the right will be cancelled.

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

If application T-10391 is approved, the final order will include the following:

1. The changes in character of use and place of use to instream use proposed in application T-10391 are approved. The portion of the right that has been abandoned is 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:

| Priority Date    | Season 1  | Season 2  | Season 3  | Duty      |
|------------------|-----------|-----------|-----------|-----------|
| October 31, 1900 | 0.494 CFS | 0.658 CFS | 0.870 CFS | 391.27 AF |
| December 2, 1907 |           |           | 0.349 CFS |           |

3. The portion of Certificate 76714 that has been abandoned is cancelled. Water right certificate 76714 is modified. The Department shall issue a new water right certificate on a determination that it is necessary to produce a certificate to confirm that portion of the water right not affected by the cancellation described in Finding of Fact #34. Modification of this supplemental water right shall reduce by 39.58 acres the number of acres to which stored water may be applied for supplemental irrigation under the right.
4. The instream water right shall provide for the protection of streamflows 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:

Reach: from COID North Canal POD #11 (as described in Finding of Fact #5) to Lake Billy Chinook.

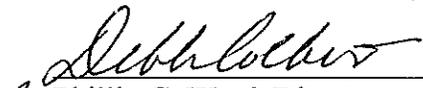
| Priority Date    | Period Protected Instream                                     | Instream Rate | Instream Volume |
|------------------|---|---------------|-----------------|
| October 31, 1900 | April 1 through April 30 and<br>October 1 through October 26  | 0.272 CFS     | 215.73 AF       |
|                  | May 1 through May 14 and<br>September 15 through September 30 | 0.363 CFS     |                 |
|                  | May 15 through September 14                                   | 0.672 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. Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion.
7. 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.*

- 8. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to other conditions and limitations as may be germane to instream rights, that are contained in Certificate 83571 and any related decree.*
- 9. The former place of use of the transferred water shall no longer receive water as part of these rights.*
- 10. **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, will result in completion of the project and verification by the Department that the project is complete. If completed as proposed, mitigation credits, in the amount of 71.2 credits, as described herein, may be awarded to this mitigation project and assigned to COID and the DRC. 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 General Zones of Impact**. The awarded mitigation credits are valid beginning the first calendar year that water will be protected instream under the new instream water right.*
- 11. 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.*
- 12. 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 26<sup>th</sup> day of December, 2007.

  
Phillip C. Ward, Director

This Preliminary Determination was prepared by a Reimbursement Authority contractor. If you have questions about the information in this document, you may reach Laura Snedaker at 503-986-0884 or [Laura.K.Snedaker@wrdd.state.or.us](mailto:Laura.K.Snedaker@wrdd.state.or.us).

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.

**Laura Snedaker**

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**From:** Laura Snedaker  
**Sent:** Monday, November 19, 2007 4:13 PM  
**To:** 'Leslie Clark'; 'Zach Tillman'  
**Subject:** Instream Transfer T-10391 (MP-108)  
**Attachments:** 10391-dpd-approve-iswr-MP108-RA(redline).pdf

Good Afternoon:

I wanted to check in with you guys on this transfer. It sounds like we're ready to move forward on several of COID's transfers, including this one, consistent with the discussion between COID and the Department on November 8<sup>th</sup>.

In looking back through the file, and before moving forward, it looks like we just needed concurrence on Finding of Fact #20 and whether you concurred with the redlined findings in the previous draft.

Zach, I think you've given your concurrence with Finding of Fact #20 but Leslie, I think, had asked to hold off until after the November 8<sup>th</sup> meeting.

I've attached another draft with the updated language based on the November 8<sup>th</sup> meeting.

Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

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

|   |   |                  |
|---|---|------------------|
| In the Matter of Instream Transfer        | ) | <b>D R A F T</b> |
| Application T-10391 and Mitigation Credit | ) |                  |
| Project MP-108, Deschutes County          | ) |                  |
|   | ) |                  |
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PRELIMINARY DETERMINATION  
PROPOSING APPROVAL OF A  
CHANGE IN PLACE OF USE AND  
CHARACTER OF USE, PARTIAL  
CANCELLATION OF A  
SUPPLEMENTAL WATER RIGHT,  
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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

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**

|                                    |                             |
|------------------------------------|-----------------------------|
| CENTRAL OREGON IRRIGATION DISTRICT | DESCHUTES RIVER CONSERVANCY |
| 1055 SW LAKE COURT                 | 700 NW HILL STREET          |
| REDMOND OR 97756                   | BEND, OREGON 97701          |

**Findings of Fact**

**Background**

1. On May 18, 2007, the Central Oregon Irrigation District (COID) and Deschutes River Conservancy (DRC) 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-10391.
2. This instream transfer application originally proposed to change the character of use to instream use for fish and wildlife habitat enhancement; pollution abatement; navigation; and recreation. The applicants amended the application on May 22, 2007, to remove navigation from the list of proposed uses.

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3. On September 26, 2007, Certificate 83571 was issued superseding Certificate 76358.

3.4. That portion of the right to be transferred is as follows:

**Certificate:** 8357176358 in the name of Central Oregon Irrigation District

**Use:** Irrigation of 39.58 acres

**Priority Date:** October 31, 1900 and December 2, 1907

**Season of Use:** April 1 to November 1 further limited as follows:

April 1 to May 1 and Oct 1 to Nov 1 described herein as Season 1

May 1 to May 15 and Sept 15 to Oct 1 described herein as Season 2

May 15 to Sept 15 described herein as Season 3

**Maximum Quantity (Rate) that can be applied to an acre:Quantity:**

**Rate:**—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<sup>th</sup> CFS per acre

**Maximum Duty that can be applied to an acre: \_\_\_\_\_**

**Duty:**—Not to exceed 9.91 acre-feet (AF) per acre per year.

| Priority Date    | Season 1  | Season 2  | Season 3  | Duty      |
|------------------|-----------|-----------|-----------|-----------|
| October 31, 1900 | 0.495 CFS | 0.660 CFS | 0.871 CFS | 392.24 AF |
| December 2, 1907 |           |           | 0.351 CFS |           |

The above listed rates and duty quantities listed 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.

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**Source:** The Deschutes River, tributary to the Columbia River

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

| Township |   | Range |   | Meridian | Sec | ¼ ¼ |    | Location   |
|----------|---|-------|---|----------|-----|-----|----|--|
| 17       | S | 12    | E | W.M.     | 29  | SE  | NE | POD #11 (COID NORTH CANAL):<br>850 FEET NORTH AND 630 FEET<br>WEST FROM THE EAST ¼<br>CORNER OF SECTION 29 |

**Authorized Places of Use:**

| Township | Range | Meridian | Sec | ¼ ¼ | Tax Lot | Acres            |
|----------|-------|----------|-----|-----|---------|------------------|
| 15       | S     | 13       | E   | WM  | 3       | NW SW 1401 6.40  |
| 15       | S     | 13       | E   | WM  | 4       | SW NE 500 1.70   |
| 15       | S     | 13       | E   | WM  | 8       | NE NW 1000 1.50  |
| 15       | S     | 13       | E   | WM  | 8       | SE NW 1000 8.00  |
| 15       | S     | 13       | E   | WM  | 19      | SW NE 701 0.20   |
| 15       | S     | 13       | E   | WM  | 19      | SE NW 701 4.45   |
| 15       | S     | 13       | E   | WM  | 19      | SW SW 1200 15.00 |
| 15       | S     | 13       | E   | WM  | 20      | NE SE 1501 2.33  |

5. 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 PODs (described in Finding of Fact #4), the portion of the right involved in this transfer would be limited as described in the tables below. These rates and duty are also the quantities by which Certificate 83571 shall be reduced, if this transfer is approved.

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| Priority Date    | Season 1  | Season 2  | Season 3  | Duty      |
|------------------|-----------|-----------|-----------|-----------|
| October 31, 1900 | 0.494 CFS | 0.658 CFS | 0.870 CFS | 391.27 AF |
| December 2, 1907 |           |           | 0.349 CFS |           |

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4.6. A total of 215.73 AF of water, excluding transmission losses, may be beneficially used annually for primary irrigation under the portion of existing Certificate ~~76358~~ 83571 proposed for transfer.

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5.7. Supplemental right, Certificate 76714, is appurtenant to the same lands from which the primary right under Certificate ~~76358~~ 83571 is proposed to be transferred to instream use. The applicant intends that the affected portion of Certificate 76714 be cancelled upon issuance of the Final Order approving T-10391.

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6.8. The applicants are not the owners of the lands to which the water right described in Finding of Fact #~~34~~ is appurtenant. However, water right conveyance agreements have been completed and interest in the water rights has been conveyed to COID from each landowner described in the table below. The portion of this right to be transferred was appurtenant to lands owned by the identified land landowners at the time interest in the water right was conveyed through a Quit Claim, a water right conveyance agreement.

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| Landowner                       | Water Right Interest Holder | T    | R    | S | Q-Q   | Current Tax Lot |
|---------------------------------|-----------------------------|------|------|---|-------|-----------------|
| David M. and Gail L. Wagenblast | COID                        | 15 S | 13 E | 3 | NW SW | 1401            |

|                              |      |         |         |    |       |      |
|------------------------------|------|---------|---------|----|-------|------|
| James C. and Tari R. Bradley | COID | 15<br>S | 13<br>E | 4  | SW NE | 500  |
| CHW Enterprises LLC          | COID | 15<br>S | 13<br>E | 8  | NE NW | 1000 |
| CHW Enterprises LLC          | COID | 15<br>S | 13<br>E | 8  | SE NW | 1000 |
| High Ridge Development LLC   | COID | 15<br>S | 13<br>E | 19 | SW NE | 701  |
| High Ridge Development LLC   | COID | 15<br>S | 13<br>E | 19 | SE NW | 701  |
| Redmond Investments LLC      | COID | 15<br>S | 13<br>E | 19 | SW SW | 1200 |
| Tri-County Builders Corp.    | COID | 15<br>S | 13<br>E | 20 | NE SE | 1501 |

7.9. Application T-10391 proposes to change the character of use to instream use for fish and wildlife habitat enhancement; recreation; and pollution abatement.

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8.10. Application T-10300 proposes to change the place of use of the right to create the following instream reach:

Reach: From COID North Canal POD #11 (described in Finding of Fact #34) to Lake Billy Chinook.

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9.11. The applicant proposes the quantities of water to be transferred and protected instream as follows:

| Certificate                | Priority Date    | Rate Instream   | Volume Instream |
|----------------------------|------------------|---|-----------------|
| <a href="#">7635883571</a> | October 31, 1900 | Season 1: 0.272 CFS<br>Season 2: 0.363 CFS<br>Season 3: 0.672 CFS | 215.73 AF       |

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10.12. There are existing instream water rights within the same reach as that proposed for the new instream water right. All of the existing instream water rights were established under ORS 537.348, the instream transfer process, and ORS 537.470, the allocation of conserved water process. 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 POD #11 to Lake Billy Chinook, which if approved will have a priority date of September 19, 1990.

11.13. The applicant proposes that any instream water right established as a result of this instream transfer to be additive to 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 applicant also proposes that any instream water right established as a result of this instream transfer replace a portion of any existing 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.

12.14. The applicant has requested to protect water instream under the October 31, 1900 priority date. Water is diverted at the point 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 by the applicant 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.

15. Notice of the application for transfer was published on May 29, 2007, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.

16. On September 25, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10391 to the applicants. The draft Preliminary Determination set forth a deadline of October 24, 2007, for the applicants to respond. The additional information requested by the Department was received on September 26, 2007, and October 4, 2007. On October 1, 2007, the Department also sent a second 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 \_\_\_\_\_, 2007, the applicants gave their consent to the draft Preliminary Determination and the red-lined changes.

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

13. Notice of the application for transfer was published on May 29, 2007, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.

14.17. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.

15.18. 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 Application T-10391.

16.19. The period during which water is requested to be protected instream requires modification to prevent injury and enlargement. At the full rates and duty allowed by the water right to be transferred instream, water may be protected instream for a period of 209 days. The period requested by the applicant is 214 days.

17.20. Based on the previous Finding of Fact, on November \_\_\_\_\_, 2007, the applicant agreed to modify the quantities to be transferred and protected instream as follows:

Reach: COID North Canal POD #11 (as described in Finding of Fact #34) to Lake Billy Chinook

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| Certificate    | Priority Date    | Instream Period                       | Instream Rate | Instream volume |
|----------------|------------------|---------------------------------------|---------------|-----------------|
| 763588357<br>1 | October 31, 1900 | Season 1 (modified to end October 26) | 0.272 CFS     | 215.73          |
|                |                  | Season 2                              | 0.363 CFS     |                 |
|                |                  | Season 3                              | 0.672 CFS     |                 |

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18-21. The proposed change, as modified, would not result in enlargement of the right.

19-22. The proposed change, as modified, would not result in injury to other water rights.

20-23. The amount and timing of the proposed instream flow are allowable within the limits and use of the original water right.

21-24. The protection of flows within the proposed reach 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) Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.

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22-25. 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 habitat, aquatic life, recreation, aesthetics, and minimizing pollution. 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 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.

23-26. By adding to other water rights leased or transferred instream at the same location, or created through the conserved water statutes, the instream right will provide protection for additional streamflows necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement.

24-27. By replacing a portion of instream rights created at the request of state agencies or under the minimum streamflow conversion process, the instream right will provide protection for streamflows previously identified as necessary for conservation, maintenance and

enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement under earlier priority dates.

25-28. During the period April 1 through October 26 any instream water right established by this transfer application may 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.

26-29. The total monthly quantities of water to be protected under the proposed instream right, in addition to the existing instream water rights, within the proposed reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

***Partial Cancellation of a Water Right***

27-30. There is an existing supplemental right, Certificate 76714, appurtenant to the portion of lands on which Certificate ~~76358-83571~~ 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-10391. The portion of Certificate 76714 to be cancelled has been quit claimed to COID.

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28-31. Consistent with OAR 690-380-2250, the Department is notifying the applicant of the Department's intent to cancel the portions of the supplemental water right described below unless within 30 days of the date of this notification, the applicant modifies the application to include the supplemental right or withdraws the application.

29-32. That portion of the supplemental water right to be cancelled is as follows:

**Certificate:** 76714 in the name of Central Oregon Irrigation District  
**Use:** Supplemental Irrigation of 39.58 acres  
**Priority Date:** February 28, 1913  
**Source:** Crane Prairie Reservoir, constructed under permit R-1687, tributary to the Deschutes River

**Authorized PODs:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼ |    | Location  |
|----------|---|-------|---|----------|-----|-----|----|---|
| 21       | S | 8     | E | W.M.     | 17  | NE  | NE | CRANE PRAIRIE RESERVOIR DAM   |
| 17       | S | 12    | E | W.M.     | 29  | SE  | NE | POD #11 (COID NORTH CANAL);<br>850 FEET NORTH AND 630 FEET<br>EAST FROM THE NORTH ¼<br>CORNER OF SECTION 29 |

**Authorized Places of Use:**

| Township | Range | Meridian | Sec | ¼ ¼ | Tax Lot | Acres |      |      |
|----------|-------|----------|-----|-----|---------|-------|------|------|
| 15       | S     | 13       | E   | WM  | 3       | NW SW | 1401 | 6.40 |

| Township | Range | Meridian | Sec | ¼ ¼ | Tax Lot | Acres            |
|----------|-------|----------|-----|-----|---------|------------------|
| 15       | S     | 13       | E   | WM  | 4       | SW NE 500 1.70   |
| 15       | S     | 13       | E   | WM  | 8       | NE NW 1000 1.50  |
| 15       | S     | 13       | E   | WM  | 8       | SE NW 1000 8.00  |
| 15       | S     | 13       | E   | WM  | 19      | SW NE 701 0.20   |
| 15       | S     | 13       | E   | WM  | 19      | SE NW 701 4.45   |
| 15       | S     | 13       | E   | WM  | 19      | SW SW 1200 15.00 |
| 15       | S     | 13       | E   | WM  | 20      | NE SE 1501 2.33  |

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30-33. The Department has information that POD #11 (COID North Canal) described in Certificates ~~76358~~ 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  | Location |  |
|----------|-------|----------|-----|------|----------|--|
| 17       | S     | 12       | E   | W.M. | 29       | SE NE<br>POD # 11 (COID NORTH CANAL):<br>850 FEET NORTH & 630 FEET<br>WEST FROM THE EAST ¼<br>CORNER OF SECTION 29 |

*Preliminary Award of Deschutes Basin Mitigation Credits*

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31-34. COID and the DRC (the Applicant) have requested this instream transfer application be used to establish mitigation credits in the Deschutes Ground Water Study Area. The Applicant has requested that any mitigation credits generated from this project be assigned to COID and the DRC.

32-35. The Department assigned this mitigation credit project number MP-108.

33-36. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300 (6) on May 29, 2007. No comments were received in response to this notice.

34-37. 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 May 29, 2007. Comments were received from ODFW and OPRD. ODFW identified that this project will provide effective instream protection of flows during the irrigation season and also identified, along with general comments on the mitigation program, that instream flow protection is needed during the months outside of the irrigation season. OPRD identified that this instream transfer will enhance aesthetics and add water needed for recreation (boating opportunities). OPRD deferred to ODFW for appropriate timing of when flows should be protected instream.

35-38. The Department is unable to expand the period during which instream flows may be protected outside of the irrigation season, as recommended by ODFW, without causing injury to other water rights. The shaping proposed by the instream transfer application does protect water instream over almost the entire irrigation season at the maximum rates

possible. Therefore, no modifications were made to the lease based upon comments received.

36-39. The proposed transfer of 39.58 acres of irrigation use to instream use will provide 71.2 acre-feet of mitigation water. Therefore, 71.2 mitigation credits (1.0 mitigation credit = 1.0 AF of mitigation water) may be awarded to this mitigation credit project and assigned to COID and the DRC. 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 and/or General Zones of Impact.

37-40. A total of 215.73 AF is proposed to be transferred to instream use and 71.2 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.

38-41. The Department shall award final mitigation credits upon completion of the approved project by the applicant and verification by the Department that the project is complete. The issuance of a certificate(s) for the proposed instream water right shall result in completion of the project and verification that the project is complete.

**Determination and Proposed Action**

The changes in character of use and place of use to instream use proposed in application T-10391 appear to be 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 rights should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved and the abandoned rights will be cancelled.

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

*If application T-10391 is approved, the final order will include the following:*

1. *The changes in character of use and place of use to instream use proposed in application T-10391 are approved.*
2. *Water Right Certificate ~~76358-83571~~ 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 ~~76358-83571~~ 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 76358 by the following:*

| Priority Date    | Season 1                     | Season 2                     | Season 3                     | Duty                 |
|------------------|------------------------------|------------------------------|------------------------------|----------------------|
| October 31, 1900 | <del>0.4950.494</del><br>CFS | <del>0.6600.658</del><br>CFS | <del>0.8710.870</del><br>CFS | <del>392.24</del>    |
| December 2, 1907 |                              |                              | <del>0.3540.349</del><br>CFS | <del>391.27 AF</del> |

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3. *The portion of Certificate 76714 that has been abandoned is cancelled. Water right certificate 76714 is modified. The Department shall issue a new water right certificate on a determination that it is necessary to produce a certificate to confirm that portion of the water right not affected by the cancellation described in Finding of Fact #3229. Modification of this supplemental water right shall reduce by 39.58 acres the number of acres to which stored water may be applied for supplemental irrigation under the right.*
4. *The instream water right shall provide for the protection of streamflows 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:*

*Reach 1: from COID North Canal POD #11 (as described in Finding of Fact #34) to Lake Billy Chinook.*

| <i>Priority Date</i>    | <i>Period Protected Instream</i>                                  | <i>Instream Rate</i> | <i>Instream Volume</i> |
|-------------------------|---|----------------------|------------------------|
| <i>October 31, 1900</i> | <i>April 1 through April 30 and October 1 through October 26</i>  | <i>0.272 CFS</i>     | <i>215.73 AF</i>       |
|                         | <i>May 1 through May 14 and September 15 through September 30</i> | <i>0.363 CFS</i>     |                        |
|                         | <i>May 15 through September 14</i>                                | <i>0.672 CFS</i>     |                        |

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. *Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion.*
7. *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.*
8. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to other conditions and limitations as may be germane to instream rights, that are contained in Certificate 76358 and any related decree.*
9. *The former place of use of the transferred water shall no longer receive water as part of these rights.*
10. *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, will result in completion of the project and verification by the Department that the project is complete. If completed as proposed, mitigation credits, in the amount of 71.2 credits, as described herein, may be awarded to this mitigation project and assigned to*

*COID and the DRC. 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 General Zones of Impact.*

*11. 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.*

Dated at Salem, Oregon this \_\_\_\_\_ day of \_\_\_\_\_ 2007.

**D R A F T**

\_\_\_\_\_  
Phillip C. Ward, Director

This draft Preliminary Determination was prepared by a Reimbursement Authority contractor. If you have questions about the information in this document, you may reach Laura Snedaker at 503-986-0884 or [Laura.K.Snedaker@wrdd.state.or.us](mailto:Laura.K.Snedaker@wrdd.state.or.us).



# Oregon

Theodore R. Kulongoski, Governor

## Water Resources Department

725 Summer Street NE, Suite A

Salem, OR 97301-1271

503-986-0900

FAX 503-986-0904

September 25, 2007

Deschutes River Conservancy  
Attn: Zachary Tillman  
700 NW Hill Street  
Bend, OR 97701

Central Oregon Irrigation District  
Attn: Steve Johnson  
1055 SW Lake Court  
Redmond, OR 97756

**SUBJECT: Instream Transfer Application T-10391 and Mitigation Credit Project MP-108**

Enclosed find a draft of our Preliminary Determination regarding transfer application T-10391 / mitigation credit project MP-108. The document reflects the Department's conclusion that, based on the information currently available, the transfer will be approved. This draft is intended to provide you with an opportunity to comment on our findings and conclusions should you wish to do so. Please review the draft carefully to evaluate whether the document is consistent with your intent in seeking the transfer, and whether you agree with the proposed action.

In addition, the following information or application materials are needed to complete the review of the transfer application:

- The application contains some conflicting information with regard to season of use and priority date. The draft Preliminary Determination includes an assumption that the proposed instream water right will conform to the 209-day restriction placed on season of use of a previous instream lease as described in the COID calculations exhibit, but with the sole priority date of October 31, 1900 as listed on Form C. Please provide your concurrence with the assumption made in Finding of Fact #12 and the proposed shaping of the instream use provided in Finding of Fact #17.
- The application map for Tri-County Builders Corporation (T15S, R13E, Section 20, NE SE, Lot 1501) shows a total of 6.56 acres, including the 2.33 acres to be transferred to instream use. However, it appears based upon Department records that there are 7.26 acres (before the transfer) in this quarter quarter. Please provide clarification and, if necessary, a revised application map showing the correct number of acres to be transferred and remaining.
- The application map for James and Tari Bradley (T15S, R13E, Section 4, SW NE, Lot 500) shows a total of 3.3 acres, including the 1.7 acres to be transferred to instream use. However, it appears based upon Department records that there are 3.3 acres (before the transfer) in this quarter quarter. Please provide clarification and, if necessary, a revised application map showing the correct number of acres to be transferred and remaining.
- The title and lien report for the lands owned by Tri-County Builders Corporation appears to contain a scrivener's error in the legal description (the Partition Plat appears to be number 1991-5 and not 1995-5 as identified in the title and lien report). A letter from the title company acknowledging the typo or a corrected title report is needed.

- In addition, the Affidavit of Use for Tri-County Builders Corporation lacks information pertaining to the purpose or delivery system for the water right. A complete affidavit of use needs to be provided but the attachments do not need to be resubmitted. Please have the respective affiants provide clarification for these items.

Because of the change in character of use, the applicant is responsible for publishing notice of the transfer in a local newspaper having a general circulation in the area of the water right. The notice must be published at least once a week for three consecutive weeks. We will provide a copy of the required notice to you upon issuance of the Preliminary Determination.

Issuance of the Preliminary Determination will occur shortly after we receive both your written response and the report of ownership and lien information. If we do not receive your response and the report by October 24, 2007, a Preliminary Determination may be issued denying the application as incomplete.

Please do not hesitate to contact me at 503-986-0884 or [Laura.K.Snedaker@wrd.state.or.us](mailto:Laura.K.Snedaker@wrd.state.or.us) if you have questions or if I may be of assistance.

Sincerely,



Laura K. Snedaker  
Field Services Division

cc: Jeremy Giffin, District 11 Watermaster

enc

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

In the Matter of Instream Transfer )  
Application T-10391 and Mitigation Credit )  
Project MP-108, Deschutes County )

**D R A F T**

PRELIMINARY DETERMINATION  
PROPOSING APPROVAL OF A  
CHANGE IN PLACE OF USE AND  
CHARACTER OF USE, PARTIAL  
CANCELLATION OF A  
SUPPLEMENTAL WATER RIGHT,  
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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

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**

CENTRAL OREGON IRRIGATION DISTRICT  
1055 SW LAKE COURT  
REDMOND OR 97756

DESCHUTES RIVER CONSERVANCY  
700 NW HILL STREET  
BEND, OREGON 97701

**Findings of Fact**

**Background**

13. On May 18, 2007, the Central Oregon Irrigation District (COID) and Deschutes River Conservancy (DRC) 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-10391.
14. This instream transfer application originally proposed to change the character of use to instream use for fish and wildlife habitat enhancement; pollution abatement; navigation; and recreation. The applicants amended the application on May 22, 2007, to remove navigation from the list of proposed uses.
15. That portion of the right to be transferred is as follows:

**Certificate:** 76358 in the name of Central Oregon Irrigation District  
**Use:** Irrigation of 39.58 acres  
**Priority Date:** October 31, 1900 and December 2, 1907  
**Season of Use:** April 1 to November 1 further limited as follows:  
     April 1 to May 1 and Oct 1 to Nov 1 described herein as Season 1  
     May 1 to May 15 and Sept 15 to Oct 1 described herein as Season 2  
     May 15 to Sept 15 described herein as Season 3

**Quantity:**

**Rate:** 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<sup>th</sup> CFS per acre

**Duty:** Not to exceed 9.91 acre-feet (AF) per acre per year.

| Priority Date    | Season 1  | Season 2  | Season 3  | Duty      |
|------------------|-----------|-----------|-----------|-----------|
| October 31, 1900 | 0.495 CFS | 0.660 CFS | 0.871 CFS | 392.24 AF |
| December 2, 1907 |           |           | 0.351 CFS |           |

**The quantities listed 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):**

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Location   |
|----------|---|-------|---|----------|-----|-------|--|
| 17       | S | 12    | E | W.M.     | 29  | SE NE | POD #11 (COID NORTH CANAL):<br>850 FEET NORTH AND 630 FEET<br>WEST FROM THE EAST ¼<br>CORNER OF SECTION 29 |

**Authorized Places of Use:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼ |    | Tax Lot | Acres |
|----------|---|-------|---|----------|-----|-----|----|---------|-------|
| 15       | S | 13    | E | WM       | 3   | NW  | SW | 1401    | 6.40  |
| 15       | S | 13    | E | WM       | 4   | SW  | NE | 500     | 1.70  |
| 15       | S | 13    | E | WM       | 8   | NE  | NW | 1000    | 1.50  |
| 15       | S | 13    | E | WM       | 8   | SE  | NW | 1000    | 8.00  |
| 15       | S | 13    | E | WM       | 19  | SW  | NE | 701     | 0.20  |
| 15       | S | 13    | E | WM       | 19  | SE  | NW | 701     | 4.45  |
| 15       | S | 13    | E | WM       | 19  | SW  | SW | 1200    | 15.00 |
| 15       | S | 13    | E | WM       | 20  | NE  | SE | 1501    | 2.33  |

16. A total of 215.73 AF of water, excluding transmission losses, may be beneficially used annually for primary irrigation under the portion of existing Certificate 76358 proposed for transfer.
17. Supplemental right, Certificate 76714, is appurtenant to the same lands from which the primary right under Certificate 76358 is proposed to be transferred to instream use. The applicant intends that the affected portion of Certificate 76714 be cancelled upon issuance of the Final Order approving T-10391.
18. 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 to COID from each landowner described in the table below. The portion of this right to be transferred was appurtenant to lands owned by the identified land landowners at the time interest in the water right was conveyed through a Quit Claim, a water right conveyance agreement.

| Landowner                       | Water Right Interest Holder | T   | R   | S  | Q-Q   | Current Tax Lot |
|---------------------------------|-----------------------------|-----|-----|----|-------|-----------------|
| David M. and Gail L. Wagenblast | COID                        | 15S | 13E | 3  | NW SW | 1401            |
| James C. and Tari R. Bradley    | COID                        | 15S | 13E | 4  | SW NE | 500             |
| CHW Enterprises LLC             | COID                        | 15S | 13E | 8  | NE NW | 1000            |
| CHW Enterprises LLC             | COID                        | 15S | 13E | 8  | SE NW | 1000            |
| High Ridge Development LLC      | COID                        | 15S | 13E | 19 | SW NE | 701             |
| High Ridge Development LLC      | COID                        | 15S | 13E | 19 | SE NW | 701             |
| Redmond Investments LLC         | COID                        | 15S | 13E | 19 | SW SW | 1200            |
| Tri-County Builders Corp.       | COID                        | 15S | 13E | 20 | NE SE | 1501            |

19. Application T-10391 proposes to change the character of use to instream use for fish and wildlife habitat enhancement; recreation; and pollution abatement.
20. Application T-10300 proposes to change the place of use of the right to create the following instream reach:

Reach: From COID North Canal POD #11 (described in Finding of Fact #3) to Lake Billy Chinook.

21. The applicant proposes the quantities of water to be transferred and protected instream as follows:

| Certificate | Priority Date    | Rate Instream   | Volume Instream |
|-------------|------------------|---|-----------------|
| 76358       | October 31, 1900 | Season 1: 0.272 CFS<br>Season 2: 0.363 CFS<br>Season 3: 0.672 CFS | 215.73 AF       |

10. There are existing instream water rights within the same reach as that proposed for the new instream water right. All of the existing instream water rights were established under ORS 537.348, the instream transfer process, and ORS 537.470, the allocation of conserved water process. 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 POD #11 to Lake Billy Chinook, which if approved will have a priority date of September 19, 1990.
11. The applicant proposes that any instream water right established as a result of this instream transfer to be additive to 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 applicant also proposes that any instream water right established as a result of this instream transfer replace a portion of any existing 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.
12. The applicant has requested to protect water instream under the October 31, 1900 priority date. Water is diverted at the point 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 by the applicant to be transferred instream do not include the 45% transmission loss. The Department finds that water may be protected instream solely under the 1900 priority date.

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

13. Notice of the application for transfer was published on May 29, 2007, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
14. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.

15. 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 Application T-10391.
16. The period during which water is requested to be protected instream requires modification to prevent injury and enlargement. At the full rates and duty allowed by the water right to be transferred instream, water may be protected instream for a period of 209 days. The period requested by the applicant is 214 days.
17. Based on the previous Finding of Fact, on \_\_\_\_\_, the applicant agreed to modify the quantities to be transferred and protected instream as follows:

Reach: COID North Canal POD #11 (as described in Finding of Fact #3) to Lake Billy Chinook

| Certificate | Priority Date    | Instream Period                       | Instream Rate | Instream volume |
|-------------|------------------|---------------------------------------|---------------|-----------------|
| 76358       | October 31, 1900 | Season 1 (modified to end October 26) | 0.272 CFS     | 215.73          |
|             |                  | Season 2                              | 0.363 CFS     |                 |
|             |                  | Season 3                              | 0.672 CFS     |                 |

18. The proposed change, as modified, would not result in enlargement of the right.
19. The proposed change, as modified, would not result in injury to other water rights.
20. The amount and timing of the proposed instream flow are allowable within the limits and use of the original water right.
21. The protection of flows within the proposed reach 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) Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.
22. 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 habitat, aquatic life, recreation, aesthetics, and minimizing pollution. 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

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.

23. By adding to other water rights leased or transferred instream at the same location, or created through the conserved water statutes, the instream right will provide protection for additional streamflows necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement.
24. By replacing a portion of instream rights created at the request of state agencies or under the minimum streamflow conversion process, the instream right will provide protection for streamflows previously identified as necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement under earlier priority dates.
25. During the period April 1 through October 26 any instream water right established by this transfer application may 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.
26. The total monthly quantities of water to be protected under the proposed instream right, in addition to the existing instream water rights, within the proposed reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

#### *Partial Cancellation of a Water Right*

27. There is an existing supplemental right, Certificate 76714, appurtenant to the portion of lands on which Certificate 76358 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-10391. The portion of Certificate 76714 to be cancelled has been quit claimed to COID.
28. Consistent with OAR 690-380-2250, the Department is notifying the applicant of the Department's intent to cancel the portions of the supplemental water right described below unless within 30 days of the date of this notification, the applicant modifies the application to include the supplemental right or withdraws the application.
29. That portion of the supplemental water right to be cancelled is as follows:  
**Certificate:** 76714 in the name of Central Oregon Irrigation District  
**Use:** Supplemental Irrigation of 39.58 acres  
**Priority Date:** February 28, 1913

**Source:** Crane Prairie Reservoir, constructed under permit R-1687, tributary to the Deschutes River

**Authorized PODs:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Location  |
|----------|---|-------|---|----------|-----|-------|---|
| 21       | S | 8     | E | W.M.     | 17  | NE NE | CRANE PRAIRIE RESERVOIR DAM   |
| 17       | S | 12    | E | W.M.     | 29  | SE NE | POD #11 (COID NORTH CANAL):<br>850 FEET NORTH AND 630 FEET<br>EAST FROM THE NORTH ¼<br>CORNER OF SECTION 29 |

**Authorized Places of Use:**

| Township | Range | Meridian | Sec | ¼ ¼ | Tax Lot | Acres            |
|----------|-------|----------|-----|-----|---------|------------------|
| 15       | S     | 13       | E   | WM  | 3       | NW SW 1401 6.40  |
| 15       | S     | 13       | E   | WM  | 4       | SW NE 500 1.70   |
| 15       | S     | 13       | E   | WM  | 8       | NE NW 1000 1.50  |
| 15       | S     | 13       | E   | WM  | 8       | SE NW 1000 8.00  |
| 15       | S     | 13       | E   | WM  | 19      | SW NE 701 0.20   |
| 15       | S     | 13       | E   | WM  | 19      | SE NW 701 4.45   |
| 15       | S     | 13       | E   | WM  | 19      | SW SW 1200 15.00 |
| 15       | S     | 13       | E   | WM  | 20      | NE SE 1501 2.33  |

30. The Department has information that POD #11 (COID North Canal) described in Certificates 76358 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   | Location  |
|----------|---|-------|---|----------|-----|-------|---|
| 17       | S | 12    | E | W.M.     | 29  | SE NE | POD # 11 (COID NORTH CANAL):<br>850 FEET NORTH & 630 FEET<br>WEST FROM THE EAST ¼<br>CORNER OF SECTION 29 |

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

31. COID and the DRC (the Applicant) have requested this instream transfer application be used to establish mitigation credits in the Deschutes Ground Water Study Area. The Applicant has requested that any mitigation credits generated from this project be assigned to COID and the DRC.
32. The Department assigned this mitigation credit project number MP-108.
33. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300 (6) on May 29, 2007. No comments were received in response to this notice.
34. 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 May 29, 2007. Comments were received from ODFW and OPRD. ODFW identified that this project will provide effective instream protection of flows during the irrigation season and also identified, along with general comments on the mitigation program, that instream flow protection is needed during the months outside of the irrigation season. OPRD identified that this instream transfer will enhance aesthetics and add water needed for recreation (boating opportunities). OPRD deferred to ODFW for appropriate timing of when flows should be protected instream.

35. The Department is unable to expand the period during which instream flows may be protected outside of the irrigation season, as recommended by ODFW, without causing injury to other water rights. The shaping proposed by the instream transfer application does protect water instream over almost the entire irrigation season at the maximum rates possible. Therefore, no modifications were made to the lease based upon comments received.
36. The proposed transfer of 39.58 acres of irrigation use to instream use will provide 71.2 acre-feet of mitigation water. Therefore, 71.2 mitigation credits (1.0 mitigation credit = 1.0 AF of mitigation water) may be awarded to this mitigation credit project and assigned to COID and the DRC. 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 and/or General Zones of Impact.
37. A total of 215.73 AF is proposed to be transferred to instream use and 71.2 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.
38. The Department shall award final mitigation credits upon completion of the approved project by the applicant and verification by the Department that the project is complete. The issuance of a certificate(s) for the proposed instream water right shall result in completion of the project and verification that the project is complete.

### **Determination and Proposed Action**

The changes in character of use and place of use to instream use proposed in application T-10391 appear to be 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 rights should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved and the abandoned rights will be cancelled.

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

*If application T-10391 is approved, the final order will include the following:*

1. *The changes in character of use and place of use to instream use proposed in application T-10391 are approved.*
2. *Water Right Certificate 76358 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 76358 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 76358 by the following:*

| <i>Priority Date</i>    | <i>Season 1</i>  | <i>Season 2</i>  | <i>Season 3</i>  | <i>Duty</i>      |
|-------------------------|------------------|------------------|------------------|------------------|
| <i>October 31, 1900</i> | <i>0.495 CFS</i> | <i>0.660 CFS</i> | <i>0.871 CFS</i> | <i>392.24 AF</i> |
| <i>December 2, 1907</i> |                  |                  | <i>0.351 CFS</i> |                  |

3. *The portion of Certificate 76714 that has been abandoned is cancelled. Water right certificate 76714 is modified. The Department shall issue a new water right certificate on a determination that it is necessary to produce a certificate to confirm that portion of the water right not affected by the cancellation described in Finding of Fact #29. Modification of this supplemental water right shall reduce by 39.58 acres the number of acres to which stored water may be applied for supplemental irrigation under the right.*
4. *The instream water right shall provide for the protection of streamflows 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:*

*Reach 1: from COID North Canal POD #11 (as described in Finding of Fact #3) to Lake Billy Chinook.*

| <i>Priority Date</i>    | <i>Period Protected Instream</i>  | <i>Instream Rate</i> | <i>Instream Volume</i> |
|-------------------------|---|----------------------|------------------------|
| <i>October 31, 1900</i> | <i>April 1 through April 30 and<br/>October 1 through October 26</i>      | <i>0.272 CFS</i>     | <i>215.73 AF</i>       |
|                         | <i>May 1 through May 14 and<br/>September 15 through<br/>September 30</i> | <i>0.363 CFS</i>     |                        |
|                         | <i>May 15 through September 14</i>  | <i>0.672 CFS</i>     |                        |

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. *Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion.*
7. *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.*

8. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to other conditions and limitations as may be germane to instream rights, that are contained in Certificate 76358 and any related decree.*
9. *The former place of use of the transferred water shall no longer receive water as part of these rights.*
10. ***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, will result in completion of the project and verification by the Department that the project is complete. If completed as proposed, mitigation credits, in the amount of 71.2 credits, as described herein, may be awarded to this mitigation project and assigned to COID and the DRC. 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 General Zones of Impact.***
11. *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.*

Dated at Salem, Oregon this \_\_\_\_\_ day of \_\_\_\_\_ 2007.

**D R A F T**

\_\_\_\_\_  
Phillip C. Ward, Director

This draft Preliminary Determination was prepared by a Reimbursement Authority contractor. If you have questions about the information in this document, you may reach Laura Snedaker at 503-986-0884 or [Laura.K.Snedaker@wrdd.state.or.us](mailto:Laura.K.Snedaker@wrdd.state.or.us).



SEARCH    CLEAR   

## Water Resources Department

### Central Oregon Irrigation District Calculator for Certificate 83571

Revised: 12/06/2007

This calculator is primarily designed to facilitate the calculation of how much water may be protected instream though instream leases and transfers. However, the calculator can also be used to determine the rate and duty associated with other transfers and cancellations. For questions regarding its use, please contact Laura Snedaker at 503-986-0884.

Enter Total Number of Acres Involved from POD #1  (CO Canal)

Enter Total Number of Acres Involved from POD #11  (North Canal, also known as PB Canal)

Rate and duty for the acres by which the water right will be reduced by at the Point of Diversion (POD).

| POD #1              | October 31, 1900 | December 2, 1907 | Combined |
|---------------------|------------------|------------------|----------|
| Season 1 Rate (CFS) | 0.000            |                  |          |
| Season 2 Rate (CFS) | 0.000            |                  |          |
| Season 3 Rate (CFS) | 0.000            | 0.000            | 0.000    |
| Duty (AF)           |                  |                  | 0.00     |

| POD #11             | October 31, 1900 | December 2, 1907 | Combined |
|---------------------|------------------|------------------|----------|
| Season 1 Rate (CFS) | 0.494            |                  |          |
| Season 2 Rate (CFS) | 0.658            |                  |          |
| Season 3 Rate (CFS) | 0.870            | 0.349            | 1.219    |
| Duty (AF)           |                  |                  | 391.27   |

The transmission loss associated with this right is not transferable or protectable instream. The following tables show the amount of water that is protectable for Instream Leases and Instream Transfers, under the October 31, 1900 priority date. (Please contact the Department if you prefer to protect water instream under the combined October 31, 1900 and December 2, 1907 priority dates.) To prevent enlargement and injury, the instream use has been modified from the authorized season of April 1 through October 31, to April 1 through October 26.

| From POD #11 to Lake Billy Chinook |        |
|------------------------------------|--------|
| Season 1 Rate (CFS)                | 0.272  |
| Season 2 Rate (CFS)                | 0.363  |
| Season 3 Rate (CFS)                | 0.672  |
| Maximum Volume (AF)                | 215.73 |

RA



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1271
(503) 986-0900
www.wrd.state.or.us

Watermaster Review Form:
Water Right Transfer

Transfer Application: T-10391

Review Due Date: 6/21/07

Applicant Name: COID/DRC

Proposed Changes: [X] POU [ ] POD [ ] POA [X] USE [ ] OTHER

Reviewer(s): Giffin

Date of Review: May 31, 2007

- 1. Do you have information suggesting that the water rights may be subject to forfeiture?
2. Is there a history of regulation on the source that serves the right proposed for transfer that has involved the right and downstream water rights?
3. Check here if it appears that downstream water rights benefit from return flows resulting from the current use of the right?
4. Are there upstream water rights that would be affected by the proposed change?
5. For POD changes and instream transfers, check here if there are channel losses between the old and new PODs or within the proposed instream reach?
6. Would distribution of water for the right after the proposed change result in regulation of other water rights that would not have occurred if use of the existing right was maximized?
7. For POU changes, would the original place of use continue to receive water from the same source?
8. For POU or USE changes, would use of the existing right at "full face value," result in the diversion of more water than can be used beneficially and without waste?
9. Are there other issues not identified through the above questions?
10. What alternatives may be available for addressing any issues identified above?

RECEIVED

JUN 04 2007

WATER RESOURCES DEPT
SALEM, OREGON

11. Have headgate notices been issued for the source that serves the right?  Yes  No
12. What water control and measurement conditions should be included in the transfer:

|                            |  |   |   |
|----------------------------|--|---|---|
| <b>Measurement Devices</b> | <input type="checkbox"/> Present and should be maintained. | <input type="checkbox"/> Should be required prior to diverting water. | <input type="checkbox"/> May be required in the future. |
| <b>Headgates</b>           | <input type="checkbox"/> Present and should be maintained. | <input type="checkbox"/> Should be required prior to diverting water. | <input type="checkbox"/> May be required in the future. |

**RECEIVED**

**JUN 04 2007**

**WATER RESOURCES DEPT  
SALEM, OREGON**

**Laura Snedaker**

---

**From:** Jeremy Giffin  
**Sent:** Friday, August 24, 2007 9:15 AM  
**To:** Laura Snedaker  
**Subject:** RE: Request for Zone of Impact Determination on Mitigation Credit Project MP-108

I do not think that we need to account for the return flows since there are so very few water rights below this area and they are all easily met. If the permanent transactions start to protect water for a further reach, say to the Columbia river, and they are additive to the ISWR's then we will have to account for the return flows.

--Jeremy

---

**From:** Laura Snedaker  
**Sent:** Thursday, August 23, 2007 9:51 AM  
**To:** Jeremy Giffin  
**Subject:** FW: Request for Zone of Impact Determination on Mitigation Credit Project MP-108  
**Importance:** High

Jeremy:

Got this information back from Jonathan and wanted to get your feedback as well. Given that return flows from on farm use for some of the lands involved in the transfer begin to return to the river system (Deschutes River) at about RM 137.5 do we need to account for return flows in the transfer to prevent any injury? This is a permanent transaction.

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

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**From:** Jon LaMarche  
**Sent:** Wednesday, August 22, 2007 8:16 AM  
**To:** Laura Snedaker  
**Subject:** RE: Request for Zone of Impact Determination on Mitigation Credit Project MP-108

The first opportunity for flow to return to the middle reach of the Deschutes (i.e., where we start to see springs and measure gains to the river via groundwater) would be around RM 137.5.

-Jonathan

Jonathan La Marche, P.E.  
Hydrologist,  
Oregon Water Resources Department  
1128 NW Harriman Street  
Bend, OR 97701

8/28/2007

tel: 541-330-4659  
fax: 541-388-5101  
email: jon.l.lamarche@wrd.state.or.us

---

**From:** Laura Snedaker  
**Sent:** Wednesday, August 22, 2007 8:18 AM  
**To:** Jon LaMarche  
**Subject:** RE: Request for Zone of Impact Determination on Mitigation Credit Project MP-108

Jonathan:

For the lands with return flows in the Middle Deschutes Zone, where about do you think those flows start to come back into the river system?

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

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**From:** Jon LaMarche  
**Sent:** Tuesday, August 21, 2007 2:54 PM  
**To:** Laura Snedaker  
**Subject:** RE: Request for Zone of Impact Determination on Mitigation Credit Project MP-108

Results for MP108.

-J

Jonathan La Marche, P.E.  
Hydrologist,  
Oregon Water Resources Department  
1128 NW Harriman Street  
Bend, OR 97701

tel: 541-330-4659  
fax: 541-388-5101  
email: jon.l.lamarche@wrd.state.or.us

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**From:** Laura Snedaker  
**Sent:** Tuesday, August 21, 2007 12:40 PM  
**To:** Jon LaMarche  
**Subject:** FW: Request for Zone of Impact Determination on Mitigation Credit Project MP-108

8/28/2007

**Importance:** High

Jonathan:

Here's an e-mail that I sent you a while back asking for feedback on the zone of impact for the mitigation project and return flows. We're getting to the point where the first report in the review process for the transfer could be issued and I'd like to have this information in hand as part of the review process.

Thanks much!  
Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

---

**From:** Laura Snedaker  
**Sent:** Thursday, May 24, 2007 3:42 PM  
**To:** Jon LaMarche  
**Cc:** Ken Lite  
**Subject:** Request for Zone of Impact Determination on Mitigation Credit Project MP-108

Jonathan:

This is a request for a zone of impact determination for MP-108.

This is an instream transfer T-10391 submitted by COID. Here's a link to the transfer application materials:

[http://www1.wrd.state.or.us/files/Publications/Deschutes%20Mitigation/mitigation\\_projects/MP-108\\_Credit\\_project\\_\(T-10391\)/](http://www1.wrd.state.or.us/files/Publications/Deschutes%20Mitigation/mitigation_projects/MP-108_Credit_project_(T-10391)/)

Let me know if you need anything else. The open comment period on this ends 6/29/2007 (approx).

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

8/28/2007

**Laura Snedaker**

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**From:** Laura Snedaker  
**Sent:** Tuesday, September 25, 2007 1:40 PM  
**To:** 'Leslie Clark'; 'Zach Tillman'  
**Subject:** DPD for T-10391  
**Attachments:** 10391-dpd-cover-iswr-MP108-RA.pdf; 10391-dpd-approve-iswr-MP108-RA.pdf

Good Afternoon to you both,

Attached is the draft preliminary determination for instream transfer T-10391. A hard copy has been placed in the mail and sent over to COID.

Please give me a call if you have any questions.

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

9/25/2007



STATE OF Georgia  
COUNTY OF Fulton

On July 27, 2006, before me, LINDA K. EMERSON, a Notary Public in and for Fulton in the State of Georgia, personally appeared HITESH N PANDIT, ASST. VICE PRESIDENT, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal,

Linda K Emerson

Notary Expires 10/14/07



LINDA K. EMERSON  
Notary Public - Georgia  
Fulton County  
My Comm. Expires Oct. 14, 2007

(This area for notarial seal)

86 7062-460849 km  
RECORDING REQUESTED BY:  
WORLD SAVINGS BANK

DESCHUTES COUNTY OFFICIAL RECORDS  
NANCY BLANKENSHIP, COUNTY CLERK

2004-63160



\$86.00

10/21/2004 12:07:28 PM

M-DT Cnt=1 Stn=1 BECKEY  
\$80.00 \$11.00 \$10.00 \$5.00

WHEN RECORDED MAIL TO:  
WORLD SAVINGS  
CENTRAL PROCESSING CENTER  
CLOSING DEPARTMENT  
P.O. BOX 659548  
SAN ANTONIO, TX 78265-9548

12

LOAN NUMBER: 0027269463  
NOTE AMOUNT: \$212,000.00

FOR RECORDER'S USE ONLY

DEED OF TRUST

THIS IS A FIRST DEED OF TRUST WHICH SECURES A NOTE WHICH CONTAINS PROVISIONS ALLOWING FOR CHANGES IN MY INTEREST RATE, FREQUENCY AND AMOUNT OF PAYMENTS AND PRINCIPAL BALANCE (INCLUDING FUTURE ADVANCES AND DEFERRED INTEREST). AT LENDER'S OPTION THE SECURED NOTE MAY BE RENEWED OR RENEGOTIATED.

THE MAXIMUM AGGREGATE PRINCIPAL BALANCE SECURED BY THIS DEED OF TRUST IS \$265,000.00 WHICH IS 125 % OF THE ORIGINAL PRINCIPAL NOTE AMOUNT.

I. DEFINITIONS OF WORDS USED IN THIS DEED OF TRUST

(A) Security Instrument. This Deed of Trust, which is dated OCTOBER 19, 2004, \* \* \* will be called the "Security Instrument."

(B) Borrower. JAMES C BRADLEY AND TARI R BRADLEY, HUSBAND AND WIFE

sometimes will be called "Borrower" and sometimes simply "I" or "me."

(C) Lender. WORLD SAVINGS BANK, FSB, \* \* \* \* \* ITS SUCCESSORS AND/OR ASSIGNEES, will be called "Lender." Lender is A FEDERAL SAVINGS BANK \* \* \* \* \* which is organized and exists under the laws of the United States. Lender's address is 1901 HARRISON STREET, OAKLAND, CALIFORNIA 94612.

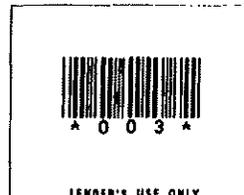
(D) Note. The note signed by Borrower and having the same date as this Security Instrument, including all extensions, renewals and modifications thereof, will be called the "Note." The Note shows that I owe Lender the original principal amount of U.S. \$212,000.00 \* \* \* ("Note Amount"), plus accrued and deferred interest and such other amounts as stated in the Note. I have promised to pay this debt in monthly payments and to pay the debt in full by NOVEMBER 15, 2034.

(E) Property. The property that is described below in Section III entitled "Description of the Property" will be called the "Property."

(F) Sums Secured. The amounts described below in Section II entitled "Borrower's Transfer of Rights in the Property" sometimes will be called the "Sums Secured."

(G) Person. Any person, organization, governmental authority or other party will be called "Person."

(H) Trustor, Beneficiary, Trustee. Borrower is the "Trustor," Lender is the "Beneficiary" and FIRST AMERICAN TITLE INSURANCE COMPANY OF OREGON \* \* \* \* \* is the "Trustee."



**II. BORROWER'S TRANSFER OF RIGHTS IN THE PROPERTY**

I irrevocably grant and convey the Property to the Trustee, in trust for Lender, with a power of sale subject to the terms of this Security Instrument. This means that, by signing this Security Instrument, I am giving Lender and Trustee those rights that are stated in this Security Instrument and also those rights that the law gives to lenders who are beneficiaries of a deed of trust and to trustees of a deed of trust. I am giving Lender and Trustee these rights to protect Lender from possible losses that might result if I fail to:

- (i) pay all amounts owed to Lender under the Note and all other notes secured by this Security Instrument, called the "Secured Notes," including future advances made by Lender and any changes to the Secured Notes made with the written consent of Lender;
- (ii) pay, with interest, any amounts that Lender spends under Paragraphs 2 and 7 below to protect the value of the Property and Lender's rights in the Property; and
- (iii) keep all of my other promises and agreements under this Security Instrument, the Secured Notes and any changes to the Secured Notes made with the written consent of Lender.

**III. DESCRIPTION OF THE PROPERTY**

I give Trustee rights in the Property described below:

(i) The property which is located at **793 NW QUINCE LANE, REDMOND, OR 97756**, \* \* \* \* \* The legal description of the Property is attached as Exhibit "A" which is made a part of this Security Instrument. This Property is called the "Described Property."

(ii) All buildings and other improvements that are located on the Described Property;

(iii) All rights in other property that I have as owner of the Described Property. These rights are known as easements, rights and appurtenances attached to the Property;

(iv) All rents or royalties and other income from the Described Property;

(v) All mineral, oil and gas rights and profits, **water rights** and stock that are part of the Described Property;

(vi) All rights that I have in the land which lies in the streets or roads in front of, behind or next to, the Described Property;

(vii) All fixtures that are now or in the future will be on the Described Property or on the property described in subsection (ii) of this Section;

(viii) All of the rights and property described in subsections (ii) through (vii) of this Section that I acquire in the future;

(ix) All replacements of or additions to the property described in subsections (ii) through (viii) of this Section; and

(x) All of the amounts that I pay to Lender under Paragraph 2 below.

**IV. BORROWER'S RIGHT TO GRANT A SECURITY INTEREST IN THE PROPERTY AND BORROWER'S OBLIGATION TO DEFEND OWNERSHIP OF THE PROPERTY**

I promise that: (i) I lawfully own the Property; (ii) I have the right to grant and convey the Property to Trustee; and (iii) there are no outstanding claims, charges, liens or encumbrances against the Property, except for those which are of public record.

I give a general warranty of title to Lender. This means that I will be fully responsible for any losses which Lender suffers because someone other than myself and the Trustee has some of the rights in the Property which I promise that I have. I promise that I will defend my ownership of the Property against any claims of such rights.

## COVENANTS

I promise and I agree with Lender as follows:

**1. BORROWER'S PROMISE TO PAY**

I will pay to Lender, on time, all principal and interest due under the Secured Notes and any prepayment and late charges due under the Secured Notes.

**2. PAYMENTS FOR TAXES AND INSURANCE**

**(A) Borrower's Obligations**

I will pay all amounts necessary to pay taxes and hazard insurance premiums on the Property as well as assessments, leasehold payments, ground rents or mortgage insurance premiums (if any).

**(B) Escrow Accounts**

Subject to applicable law, no escrow shall be required except upon written demand by Lender, in which case, I shall pay to Lender on the day payments are due under the Note, until the Note is paid in full, a sum ("Funds") for: (a) yearly taxes, penalties and assessments which may attain priority over this Security Instrument as a lien on the Property; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard or property insurance premiums; (d) yearly flood insurance premiums, if any; and (e) yearly mortgage insurance premiums, if any. These items are called "Escrow Items." Lender may, at any time, collect and hold Funds in an amount not to exceed the maximum amount a lender for a federally related mortgage loan may require for an escrow account under the federal Real Estate Settlement Procedures Act of 1974 as amended from time to time, 12 U.S.C. § 2601 et seq. ("RESPA"), unless another law that applies to the Funds sets a lesser amount. If so, Lender may, at any time, collect and hold Funds in an amount not to exceed the lesser amount Lender may estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items in accordance with applicable law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is such an institution) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items. Lender may not charge me for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays me interest on the Funds and/or applicable law permits Lender to make such a charge. However, Lender may require me to pay a one-time charge for an independent real estate tax reporting service used by Lender in connection with this loan, unless applicable law provides otherwise. Unless an agreement is made or applicable law requires interest to be paid, Lender shall not be required to pay me any interest or earnings on the Funds. Lender shall give to me, without charge, an annual accounting of the Funds, showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for all sums secured by this Security Instrument.

If the Funds held by Lender exceed the amounts permitted to be held by applicable law, Lender shall account to me for the excess Funds in accordance with the requirements of applicable law. If the amount of the Funds held by Lender at any time is not sufficient to pay the Escrow Items when due, Lender may so notify me in writing, and, in such case I shall pay to Lender the amount necessary to make up the deficiency or shortage. I shall make up the deficiency or shortage in accordance with the requirements of the Lender, at its sole discretion, in the manner and times prescribed by RESPA.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to me any Funds held by Lender. If, under paragraph 2B, Lender shall acquire or sell the Property, Lender, prior to the acquisition or sale of the Property, shall apply any Funds held by Lender at the time of acquisition or sale as a credit against the sums secured by this Security Instrument.

**3. APPLICATION OF BORROWER'S PAYMENTS**

Unless the law requires otherwise, Lender will apply each of my payments under the Secured Notes and under Paragraphs 1 and 2 above in the following order and for the following purposes:

- First, to pay prepayment charges due under the Secured Notes;
- Second, to pay any advances due to Lender under this Security Instrument;
- Third, to pay the amounts due to Lender under Paragraph 2 above;
- Fourth, to pay interest due under the Secured Notes;
- Fifth, to pay deferred interest due under the Secured Notes;
- Sixth, to pay principal due under the Secured Notes;
- Last, to pay late charges due under the Secured Notes.

**4. BORROWER'S OBLIGATION TO PAY CHARGES, ASSESSMENTS AND CLAIMS**

I will pay all taxes, assessments and any other charges and fines that may be imposed on the Property and that may be superior to this Security Instrument.

I will also make payments due under my lease if I am a tenant on the Property and I will pay ground rents (if any) due on the Property. I will pay these amounts either by making the payments to Lender that are described in Paragraph 2 above or by making the payments on time to the Person owed them.

Any claim, demand or charge that is made against property because an obligation has not been fulfilled is known as a lien. I will promptly pay or satisfy all liens against the Property that may be superior to this Security Instrument. However, this Security Instrument does not require me to satisfy a superior lien if: (A) I agree, in writing, to pay the obligation which gave rise to the superior lien and Lender approves in writing the way in which I agree to pay that obligation; or (B) in good faith, I argue or defend against the superior lien in a lawsuit so that, during the lawsuit, the superior lien may not be enforced and no part of the Property must be given up; or (C) I secure from the holder of that other lien an agreement, approved in writing by Lender, that the lien of this Security Instrument is superior to the lien held by that Person. If Lender determines that any part of the Property is subject to a superior lien, Lender may give to me a notice identifying the superior lien. I will pay or satisfy the superior lien or take one or more of the actions set forth above within 10 days of the giving of notice.

**5. BORROWER'S OBLIGATION TO MAINTAIN INSURANCE**

At my sole cost and expense, I will obtain and maintain hazard insurance to cover all buildings and other improvements that now are or in the future will be located on the Property. The insurance must cover loss or damage caused by fire, hazards normally covered by "extended coverage" hazard insurance policies and other hazards for which Lender requires coverage. The insurance must be in the amounts and for the periods of time required by Lender. I may choose the insurance company but my choice is subject to Lender's approval. Lender may not refuse to approve my choice unless the refusal is reasonable. All of these insurance policies and renewals of the policies must include what is known as a Standard Mortgagee Clause to protect Lender. The form of all policies and renewals must be acceptable to Lender. Lender will have the right to hold the policies and renewals. If Lender requires, I will promptly give Lender all receipts of paid premiums and renewal notices that I receive.

If I obtain earthquake insurance, any other hazard insurance, credit life and/or disability insurance, or any other insurance on or relating to the Property or the Secured Notes and which are not specifically required by Lender, I will name Lender as loss payee of any proceeds.

If there is a loss or damage to the Property, I will promptly notify the proper insurance company and Lender. If I do not promptly prove to the insurance company that the loss or damage occurred, then Lender may do so.

The amount paid by the insurance company is called "Proceeds." Any Proceeds received will be applied first to reimburse Lender for costs and expenses incurred in connection with obtaining the Proceeds, and then, at Lender's option and in the order and proportion as Lender may determine in its sole and absolute discretion, regardless of any impairment or lack of impairment of security, as follows: (A) to the extent allowed by applicable law, to the Sums Secured in a manner that Lender determines and/or (B) to the payment of costs and expenses of necessary repairs or to the restoration of the Property to a condition satisfactory to Lender, such application to be made in the manner and at the times as determined by Lender.

If I abandon the Property or if I do not answer, within 30 days, a notice from Lender stating that the insurance company has offered to settle a claim, Lender may collect the Proceeds. Lender may use the Proceeds to repair or restore the Property or to pay the Sums Secured. The 30-day period will begin when the notice is given.

If any Proceeds are used to reduce the amount of principal which I owe to Lender under the Secured Notes, that use will not delay the due date or change the amount of any of my monthly payments under the Secured Notes and under Paragraphs 1 and 2 above. However, Lender and I may agree in writing to delays or changes.

If Lender acquires the Property under Paragraph 28 below, all of my rights in the insurance policies will belong to Lender. Also, all of my rights in any proceeds which are paid because of damage that occurred before the Property is acquired by Lender or sold will belong to Lender. However, Lender's rights in those proceeds will not be greater than the Sums Secured immediately before the Property is acquired by Lender or sold.

If I am required by Lender to pay premiums for mortgage insurance, I will pay the premiums until the requirement for mortgage insurance ends according to my written agreement with Lender or according to law.

**6. BORROWER'S OBLIGATION TO MAINTAIN THE PROPERTY AND TO FULFILL ANY LEASE OBLIGATIONS**

I will keep the Property in good repair including, but not limited to, keeping the Property free from debris, mold, termites, dry rot and other damaging pests and infestations. I will not destroy or substantially change the Property and I will not allow the Property to deteriorate. I will keep and maintain the Property in compliance with any state or federal health and safety laws, and hazardous materials and hazardous waste laws. I will not use, generate, manufacture or store any hazardous materials or hazardous waste on, under or about the Property. I will indemnify, defend and hold harmless Lender and its employees, officers and directors and their successors from any claims, damages or costs for required or necessary repair or the removal of mold, termites, dry rot, other damaging pests and infestations and hazardous waste or any other hazardous materials claim. If I do not own but am a tenant on the Property, I will fulfill my obligations under my lease. I also agree that, if I acquire the fee title to the Property, my lease interest and the fee title will not merge unless Lender agrees to the merger in writing.

**7. LENDER'S RIGHT TO PROTECT ITS RIGHTS IN THE PROPERTY**

If: (A) I do not keep my promises and agreements made in this Security Instrument, or (B) someone, including me, begins a legal proceeding that may significantly affect Lender's rights in the Property (such as a legal proceeding in bankruptcy, in probate, for condemnation or to enforce laws or regulations), then Lender may do and pay for whatever it deems reasonable or appropriate to protect the Lender's rights in the Property. Lender's actions may, without limitation, include appearing in court, paying reasonable attorneys' fees, purchasing insurance required under Paragraph 5 above (such insurance may cost more and provide less coverage than the insurance I might purchase), and entering on the Property to make repairs. Lender must give me notice before Lender may take any of these actions. Although Lender may take action under this Paragraph 7, Lender does not have to do so. Any action taken by Lender under this Paragraph 7, will not release me from my obligations under this Security Instrument.

I will pay to Lender any amounts which Lender advances under this Paragraph 7 with interest, at the interest rate in effect under the Secured Notes which have not been paid. I will pay those amounts to Lender when Lender sends me a notice requesting that I do so. Interest on each amount will begin to accrue on the date that the amount is advanced by Lender. However, Lender and I may agree in writing to terms that are different from those in this Paragraph 7. This Security Instrument will protect Lender in case I do not keep this promise to pay those amounts with interest.

**8. LENDER'S RIGHT TO INSPECT THE PROPERTY**

Lender, and others authorized by Lender, may enter upon and inspect the Property. They must do so in a reasonable manner and at reasonable times. Before or at the time an inspection is made, Lender must give me notice stating a reasonable purpose for the inspection.

**9. AGREEMENTS ABOUT GOVERNMENTAL TAKING OF THE PROPERTY**

I assign to Lender all my rights: (A) to proceeds of all awards or claims for damages resulting from condemnation, eminent domain or other governmental taking of all or any part of the Property; and (B) to proceeds from a sale of all or any part of the Property that is made to avoid condemnation, eminent domain or other government taking of the property. All of those proceeds will be paid to Lender.

If all or any of the Property is taken, the proceeds will be used to reduce the Sums Secured. If any of the proceeds remain after the amount that I owe to Lender has been paid in full, the remaining proceeds will be paid to me. Unless Lender and I agree otherwise in writing, if only a part of the Property is taken, the amount that I owe to Lender will be reduced only by the amount of proceeds multiplied by the following fraction: (A) the total amount of the Sums Secured immediately before the taking, divided by (B) the fair market value of the Property immediately before the taking. The remainder of the proceeds will be paid to me.

If I abandon the Property or if I do not answer, within 30 days, a notice from Lender stating that a governmental authority has offered to make a payment or to settle a claim for damages, Lender has the authority to collect the proceeds. Lender may then use the proceeds to repair or restore the Property or to reduce the Sums Secured. The 30-day period will begin when the notice is given.

If any proceeds are used to reduce the amount of principal which I owe to Lender under the Secured Notes, that use will not delay the due date or change the amount of any of my monthly payments under the Secured Notes and under Paragraphs 1 and 2 above. However, Lender and I may agree in writing to delays or changes.

#### 10. CONTINUATION OF BORROWER'S OBLIGATIONS AND OF LENDER'S RIGHTS

##### (A) Borrower's Obligations

Lender may allow a Person who takes over my rights and obligations subject to this Security Instrument to delay or to change the amount of the monthly payments of principal and interest due under the Secured Notes or under this Security Instrument. Even if Lender does this, however, that Person and I will both still be fully obligated under the Secured Notes and under this Security Instrument.

Lender may allow those delays or changes for a Person who takes over my rights and obligations, even if Lender is requested not to do so. Lender will not be required to bring a lawsuit against such a Person for not fulfilling obligations under the Secured Notes or under this Security Instrument, even if Lender is requested to do so.

##### (B) Lender's Rights

Even if Lender does not exercise or enforce any of its rights under this Security Instrument or under the law, Lender will still have all of those rights and may exercise and enforce them in the future. Even if Lender obtains insurance, pays taxes, or pays other claims, charges or liens against the Property, Lender will have the right under Paragraph 28 below to demand that I make immediate payment in full of the amounts that I owe to Lender under the Secured Notes and under this Security Instrument.

#### 11. OBLIGATIONS OF BORROWER, CO-SIGNORS AND OF PERSONS TAKING OVER

Except as provided below, if more than one Person signs this Security Instrument as Borrower, each of us is fully obligated to keep all of Borrower's promises and obligations contained in this Security Instrument. Lender may enforce Lender's rights under this Security Instrument against each of us individually or against all of us together. This means that any one of us may be required to pay all of the Sums Secured.

Any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signor"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signor's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signor's consent.

Any Person who takes over my rights or obligations under this Security Instrument will have all of my rights and will be obligated to keep all of my promises and agreements made in this Security Instrument. Similarly, any Person who takes over Lender's rights or obligations under this Security Instrument will have all of Lender's rights and will be obligated to keep all of Lender's agreements made in this Security Instrument.

#### 12. MAXIMUM LOAN CHARGES

If the loan secured by this Security Instrument is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed permitted limits, then: (A) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limits and (B) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Secured Notes or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Secured Notes.

#### 13. LEGISLATION AFFECTING LENDER'S RIGHTS

If a change in applicable law would make any provision of the Secured Notes or this Security Instrument unenforceable, Lender may require that I make immediate payment in full of all Sums Secured by this Security Instrument.

**14. NOTICES REQUIRED UNDER THIS SECURITY INSTRUMENT**

Any notice that must be given to me under this Security Instrument will be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice will be addressed to me at 793 NW QUINCE LANE, REDMOND, OR 97756. \* \* \* \* \*

A notice will be given to me at an alternative address if I give Lender notice of my alternative address. I may give notice to Lender of my alternative address in writing or by calling Lender's customer service telephone number provided on my billing statement. I may designate only one mailing address at a time for notification purposes. Except as permitted above for changes of address, any notice that must be given to Lender under this Security Instrument will be given by mailing it by first class mail to Lender's address stated in Section I. (C) above entitled, "Definitions of Words Used in this Deed of Trust," unless Lender gives me notice of a different address. Any notice required by this Security Instrument is given when it is mailed or when it is delivered according to the requirements of this Paragraph 14 or of applicable law.

**15. GOVERNING LAW; SEVERABILITY**

This Security Instrument and the Secured Notes shall be governed by and construed under federal law and federal rules and regulations including those for federally chartered savings institutions, called "Federal Law." In the event that any of the terms or provisions of this Security Instrument or the Secured Notes are interpreted or construed by a court of competent jurisdiction to be void, invalid or unenforceable, such decision shall affect only those provisions so construed or interpreted and shall not affect the remaining provisions of this Security Instrument or the Secured Notes.

**16. BORROWER'S COPY**

I acknowledge the receipt of one conformed copy of the Secured Notes and of this Security Instrument.

**17. LENDER'S RIGHTS TO RENTAL PAYMENTS AND TO TAKE POSSESSION OF THE PROPERTY**

If Lender requires immediate payment in full or if I abandon the Property, then Lender, Persons authorized by Lender, or a receiver appointed by a court at Lender's request may: (A) collect the rental payments, including overdue rental payments, directly from the tenants; (B), enter upon and take possession of the Property; (C) manage the Property; and (D) sign, cancel and change rental agreements and leases. If Lender notifies the tenants that Lender has the right to collect rental payments directly from them under this Paragraph 17, I agree that the tenants may make those rental payments to Lender without having to ask (i) Lender whether I have failed to keep my promises and agreements under this Security Instrument, or (ii) me for my permission to do so.

If Lender acts to have the Property sold after a Breach of Duty as defined in Paragraph 28, I understand and agree that: (A) my right to occupy the Property ceases at the time the Property is sold; (B) I shall have no right to occupy the Property after such sale without the written consent of the new owner of the Property; and (C) my wrongful and unlawful possession of the Property may subject me to monetary damages, including the loss of reasonable rent and the cost of eviction. All rental payments collected by Lender or by a receiver, other than the rent paid by me under this Paragraph 17, will be used first to pay the costs of collecting rental payments and of managing the Property. If any part of the rental payments remains after those costs have been paid in full, the remaining part will be used to reduce the Sums Secured. The costs of managing the Property may include the receiver's fees, reasonable attorneys' fees and the costs of any necessary bonds.

**18. INJURY TO PROPERTY; ASSIGNMENT OF RIGHTS**

An assignment is a transfer of rights to another. I may have rights to bring legal action against persons, other than Lender, for injury or damage to the Property or in connection with the loan made to me by Lender and which arose or will arise before or after the date of this Security Instrument. These rights to bring legal action may include an action for breach of contract, fraud, concealment of a material fact or for intentional or negligent acts. I assign these rights, and any proceeds arising from these rights, as permitted by applicable law, to Lender. Lender may, at its option, enforce these rights in its own name and may apply any proceeds resulting from this assignment to any amount that I may owe to Lender under the Note and this Security Instrument after deducting any expenses, including attorneys' fees, incurred in enforcing these rights. At the request of Lender, I will sign any further assignments or other documents that may be necessary to enforce this assignment.

**19. CLERICAL ERRORS**

In the event Lender at any time discovers that this Security Instrument, the Secured Notes or any other document related to this loan, called collectively the "Loan Documents," contains an error which was caused by a clerical mistake, calculation error, computer error, printing error or similar error, I agree, upon notice from Lender, to reexecute any Loan Documents that are necessary to correct any such error(s) and I also agree that I will not hold Lender responsible for any damage to me which may result from any such error.

**20. LOST, STOLEN OR MUTILATED DOCUMENTS**

If any of the Loan Documents are lost, stolen, mutilated or destroyed and Lender delivers to me an indemnification in my favor, signed by Lender, then I will sign and deliver to Lender a Loan Document identical in form and content which will have the effect of the original for all purposes.

**21. WAIVER OF STATUTE OF LIMITATIONS**

I will waive, within applicable law, the pleading of the statute of limitations as a defense to enforce this Security Instrument, including any obligations referred to in this Security Instrument or Secured Notes.

**22. CAPTIONS**

The captions and headings at the beginning of each paragraph of this Security Instrument are for reference only and will not be used in the interpretation of any provision of this Security Instrument.

**23. MODIFICATION**

This Security Instrument may be modified or amended only by an agreement in writing signed by Borrower and Lender.

**24. CONDOMINIUM, COOPERATIVE AND PLANNED UNIT DEVELOPMENT OBLIGATIONS**

If the Property is a unit in a condominium, cooperative or planned unit development, each of which shall be called the "Project," and I have an interest in the common elements of the Project, then Lender and I agree that:

(A) If an owners association or other entity, called "Owners Association," holds title to Property for the benefit or use of the Project and its members or shareholders, the Property also includes my interest in the Owners Association and the uses, proceeds and benefits of my interest.

(B) The following are called the "Constituent Documents:" (i) The declaration or any other document which created the Project; (ii) By-laws of the Owners Association; (iii) Code of regulations for the Project; (iv) Articles of incorporation, trust instrument or equivalent document which creates the Owners Association; (v) The Project's covenants, conditions and restrictions; (vi) Other equivalent documents.

I shall perform all of my obligations under the Constituent Documents, including my obligation to pay, when due, all dues and assessments. If I do not pay the dues and assessments when due, Lender may, at its option, pay them. I will pay to Lender any amounts which Lender advances under this Paragraph 24 according to the terms described in Paragraph 7 above.

(C) If the Owners Association maintains, with an insurance company reasonably acceptable to Lender, a master or blanket policy on the Project which is satisfactory to Lender and which provides insurance coverage on the terms, in the amounts, for the periods, and against the hazards Lender requires, including fire and hazards included within the term "extended coverage," and Lender is provided with evidence of such master or blanket policy, then: (i) Lender waives the provision in Paragraph 2(B) above for the monthly payment to Lender of the estimated yearly premium installments for hazard insurance on the Property; and (ii) hazard insurance coverage on the Property as required by Paragraph 5 above is deemed to be satisfied to the extent that the required coverage is provided by the Owners Association policy. I shall give Lender prompt notice of any lapse in the required hazard insurance coverage. I shall provide a copy of such master or blanket policy to Lender annually.

In the event of a distribution of hazard insurance proceeds in lieu of restoration or repair following a loss to the Property, whether to the unit or to common elements, any proceeds payable to me are hereby assigned and shall be paid to Lender for application to the Sums Secured by this Security Instrument, with any excess paid to me.

I shall take such actions as may be reasonable to insure that the Owners Association maintains a public liability insurance policy acceptable to Lender in form, amount and extent of coverage.

(D) I shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to: (i) the abandonment or termination of the Project, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of condemnation, eminent domain or other governmental taking; (ii) any amendment to any provision of Constituent Documents unless the provision is for the express benefit of Lender or of lenders generally; (iii) termination of professional management and assumption of self-management of the Owners Association; or (iv) any action which would have the effect of rendering the master or blanket hazard insurance policy and/or the public liability insurance coverage maintained by the Owners Association unacceptable to Lender.

**25. FUTURE ADVANCES**

At Borrower's request, Lender, at its option (but before release of this Security Instrument or the full reconveyance of the Property described in the Security Instrument) may lend future advances, with interest, to Borrower. Such future advances, with interest, will then be additional Sums Secured under this Security Instrument.

**26. AGREEMENTS ABOUT LENDER'S RIGHTS IF THE PROPERTY IS SOLD OR TRANSFERRED**

**Acceleration of Payment of Sums Secured.** Lender may, at its option, require immediate payment in full of all Sums Secured by this Security Instrument if all or any part of the Property, or if any right in the Property, is sold or transferred without Lender's prior written permission. Lender also may, at its option, require immediate payment in full if Borrower is not a natural Person and a beneficial interest in Borrower is sold or transferred without Lender's prior written permission. However, Lender shall not require immediate payment in full if this is prohibited by Federal Law in effect on the date of the Security Instrument.

If Lender exercises the option to require immediate payment in full, Lender will give me notice of acceleration. If I fail to pay all Sums Secured by this Security Instrument immediately, Lender may then or thereafter invoke any remedies permitted by this Security Instrument without further notice to or demand on me.

**Exception to Acceleration of Payment of Sums Secured.** If the sale or transfer of all or any part of the Property, or of a beneficial interest in Borrower, if Borrower is not a natural Person, is the first one to occur after the date of this Security Instrument, Lender will not exercise the option to accelerate payment in full of all Sums Secured and the loan may be assumed if:

- (i) Lender receives a completed written application from transferee to evaluate the creditworthiness of transferee as if a new loan were being made to the transferee by Lender;
- (ii) Lender approves the creditworthiness of the transferee in writing;
- (iii) transferee makes a cash downpayment sufficient to meet Lender's then current underwriting standards;
- (iv) an assumption fee, in an amount to be determined by Lender (but not to exceed 1% of the balance of principal and interest due under the Secured Notes at the time of sale or transfer of the Property or of the interest in the Borrower) is paid to Lender; and
- (v) the transferee executes an assumption agreement which is satisfactory to Lender.

The loan may be assumed under its then existing terms and conditions with one exception; the Lifetime Rate Cap may be changed. The Lifetime Rate Cap shall be changed to an interest rate which is the sum of the interest rate in effect on the date of a sale or transfer of the Property or beneficial interest in Borrower plus 5 percentage points, if that sum exceeds the Lifetime Rate Cap stated in the Secured Notes.

**27. SUBSTITUTION OF TRUSTEE**

I agree that Lender may at any time appoint a successor trustee and that Person shall become the Trustee under this Security Instrument as if originally named as Trustee.

**28. RIGHTS OF THE LENDER IF THERE IS A BREACH OF DUTY**

It will be called a "Breach of Duty" if (i) I do not pay the full amount of each monthly payment on the date it is due; or (ii) I fail to perform any of my promises or agreements under the Note or this Security Instrument; or (iii) any statement made in my application for this loan was materially false or misleading or if any statement in my application for this loan was materially false or misleading by reason of my omission of certain facts; or (iv) I have made any other statement to Lender in connection with this loan that is materially false or misleading. If there is a Breach of Duty by me, Lender may demand an immediate payment of all sums secured.

If there is a Breach of Duty by me, Lender may take action to have the Property sold under any applicable law.

Lender does not have to give me notice of a Breach of Duty. If Lender does not make a demand for full payment upon a Breach of Duty, Lender may make a demand for full payment upon any other Breach of Duty.

If there is a Breach of Duty, Lender may also take action to have a receiver appointed to collect rents from any tenants on the Property and to manage the Property. The action to appoint a receiver may be taken without prior notice to me and regardless of the value of the Property.

The sale of the Property may be postponed by or at the direction of Lender. If the Property is sold, I agree that it may be sold in one parcel. I also agree that Lender may add to the amount that I owe to Lender all legal fees, costs, allowances, and disbursements incurred as a result of the action to sell the Property.

Lender will apply the proceeds from the sale of the Property in the following order: (A) to all fees, expenses and costs incurred in connection with the sale, including trustees' and attorneys' fees, if any; (B) to all Sums Secured by this Security Instrument; and (C) and excess to the Person or Persons legally entitled to it.

**29. RECONVEYANCE**

When Lender has been paid all amounts due under the Secured Notes and under this Security Instrument, Lender will request Trustee to reconvey the Property and will deliver this Security Instrument and the Secured Notes to Trustee. Trustee will reconvey the Property without warranty to the Person(s) legally entitled to it. Such Person(s) will pay all costs incurred by Lender or Trustee relating to the delivery of the Secured Notes and this Security Instrument, the reconveyance and its recordation.

**30. STATEMENT OF OBLIGATION**

To the extent not prohibited by law, Lender may collect a reasonable fee for furnishing any statement of obligation with respect to this Security Instrument or the Secured Notes. I hereby agree that a fee of \$60.00 for providing a statement of obligation is reasonable.

**31. USE OF PROPERTY**

I will not use the property for agricultural, timber or grazing purposes, except I may cultivate cultured Christmas trees in accordance with Title 29 of the Oregon Revised Statutes, sections 307.320, 308.370 and 308.407.

**32. QUICK QUALIFYING LOAN PROGRAM**

I have qualified for this loan by making statements of fact which were relied upon by Lender to approve the loan rapidly. This loan is called a "Quick Qualifying Loan." I have stated and I confirm that: (A) I do not have any other Quick Qualifying Loans with Lender; (B) I have agreed to not further encumber the Property and do not intend to further encumber the Property for at least six months after the date of the Secured Notes and this Security Instrument; and (C) If I am purchasing the Property, all of the terms of the purchase agreement submitted to Lender are true and the entire down payment is cash from my own funds.

If any of the statements of fact that I have made are materially false or misleading, I will be in default under the Secured Notes and this Security Instrument. If I am in such default, Lender may, at its option, increase the interest rate and margin subject to the Lifetime Rate Cap stated in the Secured Notes.

**33. OWNER OCCUPANCY**

Lender has relied upon statements of fact which I have made to qualify for this loan. I have stated and confirm that: (A) the Property is my personal and primary residence; (B) I will occupy the Property not later than 30 days after this Security Instrument is recorded; and (C) I will use the Property as my residence for at least 12 months from the date this Security Instrument is recorded.

If any of the statements of fact that I have made are materially false or misleading, I will be in default under the Secured Notes and this Security Instrument. If I am in such default, Lender may, at its option, increase the interest rate and margin, subject to the Lifetime Rate Cap stated in the Secured Notes.

**THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS.**

BY SIGNING BELOW, I accept and agree to the promises and agreements contained in this Security Instrument and in any rider(s) signed by me and recorded in proper official records.

(PLEASE SIGN YOUR NAME EXACTLY AS IT APPEARS BELOW)

BORROWER(S):

*[Signature]*  
\_\_\_\_\_  
JAMES C BRADLEY (Seal)

*[Signature]*  
\_\_\_\_\_  
TARI R BRADLEY (Seal)

\_\_\_\_\_  
(Seal)

\_\_\_\_\_  
(Seal)

\_\_\_\_\_  
(Seal)

\_\_\_\_\_  
(Seal)

STATE OF OREGON,  
 County of Deschutes } ss.  
 On 10/00/2004 DATE, before me personally appeared James C. Bradley  
and Tari R. Bradley  
 whose identity was established to my satisfaction, and who executed the foregoing instrument, acknowledging to me that the same was executed freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the date first written above.

OFFICIAL SEAL  
 KATHIE L MORRIS  
 NOTARY PUBLIC - OREGON  
 COMMISSION NO. 355106  
 MY COMMISSION EXPIRES APRIL 1, 2006

*[Signature]*  
 Notary Public for Oregon  
 My commission expires 4-1-2006

**Exhibit "A"**

Real property in the County of Deschutes, State of Oregon, described as follows:

A portion of the South part of the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 4, TOWNSHIP 15 SOUTH, RANGE 13, EAST OF THE WILLAMETTE MERIDIAN, Deschutes County, Oregon, described as follows:

Commencing at the Center Quarter corner of said Section 4 which is the initial point; thence Easterly along the South line of said Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 4, a distance of 417.42 feet to a point in the said South line of said Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$ ) which is the POINT OF BEGINNING; thence Easterly along said South line of said Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 4, a distance of 417.42 feet to a point in said South line of said Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 4; thence Northerly along a line parallel with the West line of said Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 4, a distance of 208.71 feet to a point; thence Westerly along a line parallel with the South line of said Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 4, a distance of 417.42 feet to a point; thence Southerly along a line parallel with the West line of said Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 4, a distance of 208.71 feet to the POINT OF BEGINNING.

Tax Parcel Number: 143599





RECORDATION REQUESTED BY:

Bank of the Cascades  
Redmond Branch  
154 SW Sixth St.  
Redmond, OR 97756

WHEN RECORDED MAIL TO:

Bank of the Cascades  
Redmond Branch  
154 SW Sixth St.  
Redmond, OR 97756

Cal

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

2/4



RECORDED BY:  
WESTERN TITLE & ESCROW CO.

12-0033805

LINE OF CREDIT INSTRUMENT

LINE OF CREDIT DEED OF TRUST. (A) This Deed of Trust is a LINE OF CREDIT INSTRUMENT. (B) The maximum principal amount to be advanced pursuant to the Note is \$256,800.00. (C) The term of the Note commences on the date of this Deed of Trust and ends on January 10, 2007.

THIS DEED OF TRUST is dated June 28, 2005, among TRI-COUNTY BUILDERS CORPORATION, whose address is 12617 CORNETT LOOP, POWELL BUTTE, OR 97753 ("Grantor"); Bank of the Cascades, whose address is Redmond Branch, 154 SW Sixth St., Redmond, OR 97756 (referred to below sometimes as "Lender" and sometimes as "Beneficiary"); and Western Title & Escrow Company, whose address is 1345 NW Wall Street, Suite 200, Bend, OR 97701 (referred to below as "Trustee").

Conveyance and Grant. For valuable consideration, represented in the Note dated June 28, 2005, in the original principal amount of \$256,800.00, from Grantor to Lender, Grantor conveys to Trustee for the benefit of Lender as Beneficiary all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in DESCHUTES County, State of Oregon:

PARCEL 1, PARTITION PLAT NO. 1991-5, DESCHUTES COUNTY, OREGON

The Real Property or its address is commonly known as NOT YET ASSIGNED, REDMOND, OR 97756. The Real Property tax identification number is 151320DA01501

Cross-Collateralization. In addition to the Note, this Deed of Trust secures all obligations, debts and liabilities, plus interest thereon, of Grantor to Lender, or any one or more of them, as well as all claims by Lender against Grantor or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated whether Grantor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise, and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations, and whether the obligation to repay such amounts may be or hereafter may become otherwise unenforceable.

Future Advances. In addition to the Note, this Deed of Trust secures all future advances made by Lender to Grantor whether or not the advances are made pursuant to a commitment. Specifically, without limitation, this Deed of Trust secures, in addition to the amounts specified in the Note, all future amounts Lender in its discretion may loan to Grantor, together with all interest thereon.

Grantor presently assigns to Lender (also known as Beneficiary in this Deed of Trust) all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS AND (2) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS DEED OF TRUST. THIS DEED OF TRUST IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

Payment and Performance. Except as otherwise provided in this Deed of Trust, Grantor shall pay to Lender all amounts secured by this Deed of Trust as they become due, and shall strictly and in a timely manner perform all of Grantor's obligations under the Note, this Deed of Trust, and the Related Documents.

Possession and Maintenance of the Property. Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

Possession and Use. Until the occurrence of an Event of Default, Grantor may (a) remain in possession and control of the Property; (b) use, operate or manage the Property; and (c) collect the Rents from the Property. The following provisions relate to the use of the Property or to other limitations on the Property. THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Duty to Maintain. Grantor shall maintain the Property in tenable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

Compliance With Environmental Laws. Grantor represents and warrants to Lender that: (a) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (b) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (i) any breach or violation of any Environmental Laws, (ii) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (iii) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (c) Except as previously disclosed to and acknowledged by Lender in writing, (i) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (ii) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Deed of Trust. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (a) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or

12-0033805

other costs under any such laws; and (b) agrees to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Deed of Trust or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Deed of Trust, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Deed of Trust and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**Nuisance, Waste.** Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products without Lender's prior written consent.

**Removal of Improvements.** Grantor shall not demolish or remove any Improvements from the Real Property without Lender's prior written consent. As a condition to the removal of any Improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such Improvements with Improvements of at least equal value.

**Lender's Right to Enter.** Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Deed of Trust.

**Compliance with Governmental Requirements.** Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

**Duty to Protect.** Grantor agrees neither to abandon or leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**Due on Sale - Consent By Lender.** Lender may, at Lender's option, declare immediately due and payable all sums secured by this Deed of Trust upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property. If any Grantor is a corporation, partnership or limited liability company, transfer also includes any change in ownership of more than twenty-five percent (25%) of the voting stock, partnership interests or limited liability company interests, as the case may be, of such Grantor. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by Oregon law.

**Taxes and Liens.** The following provisions relating to the taxes and liens on the Property are part of this Deed of Trust:

**Payment.** Grantor shall pay when due (and in all events prior to delinquency) all taxes, special taxes, assessments, charges (including water and sewer), fines and impositions levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of all liens having priority over or equal to the interest of Lender under this Deed of Trust, except for the lien of taxes and assessments not due and except as otherwise provided in this Deed of Trust.

**Right to Contest.** Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and attorneys' fees, or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

**Evidence of Payment.** Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

**Notice of Construction.** Grantor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property, if any mechanic's lien, materialmen's lien, or other lien could be asserted on account of the work, services, or materials. Grantor will upon request of Lender furnish to Lender advance assurances satisfactory to Lender that Grantor can and will pay the cost of such improvements.

**Property Damage Insurance.** The following provisions relating to insuring the Property are a part of this Deed of Trust.

**Maintenance of Insurance.** Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a fair value basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Trustee and Lender being named as additional insureds in such liability insurance policies. Additionally, Grantor shall maintain such other insurance, including but not limited to hazard, business interruption, and boiler insurance, as Lender may reasonably require. Policies shall be written in form, amounts, coverages and basis reasonably acceptable to Lender and issued by a company or companies reasonably acceptable to Lender. Grantor, upon request of Lender, will deliver to Lender from time to time the policies or certificates of insurance in form satisfactory to Lender, including stipulations that coverages will not be cancelled or diminished without at least ten (10) days prior written notice to Lender. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, if available, within 45 days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

**Application of Proceeds.** Grantor shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds \$500.00. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at Lender's election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Deed of Trust. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Deed of Trust, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

**Compliance with Existing Indebtedness.** During the period in which any Existing Indebtedness described below is in effect, compliance with the insurance provisions contained in the instrument evidencing such Existing Indebtedness shall constitute compliance with the insurance provisions under this Deed of Trust, to the extent compliance with the terms of this Deed of Trust would constitute a duplication of insurance requirement. If any proceeds from the insurance become payable on loss, the provisions in this Deed of Trust for division of proceeds shall apply only to that portion of the proceeds not payable to the holder of the Existing Indebtedness.

**Grantor's Report on Insurance.** Upon request of Lender, however not more than once a year, Grantor shall furnish to Lender a report

on each existing policy of insurance showing: (a) the name of the insurer; (b) the risks insured; (c) the amount of the policy; (d) the property insured, the then current replacement value of such property, and the manner of determining that value; and (e) the expiration date of the policy. Grantor shall, upon request of Lender, have an independent appraiser satisfactory to Lender determine the cash value replacement cost of the Property.

**Lender's Expenditures.** If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Deed of Trust or any Related Documents, including but not limited to Grantor's failure to comply with any obligation to maintain Existing Indebtedness in good standing as required below, or to discharge or pay when due any amounts Grantor is required to discharge or pay under this Deed of Trust or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the Indebtedness and, at Lender's option, will (1) be payable on demand; (2) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (a) the term of any applicable insurance policy; or (b) the remaining term of the Note; or (3) be treated as a balloon payment which will be due and payable at the Note's maturity. The Deed of Trust also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

**Warranty; Defense of Title.** The following provisions relating to ownership of the Property are a part of this Deed of Trust:

**Title.** Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in the Existing Indebtedness section below or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Deed of Trust, and (b) Grantor has the full right, power, and authority to execute and deliver this Deed of Trust to Lender.

**Defense of Title.** Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Trustee or Lender under this Deed of Trust, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

**Compliance With Laws.** Grantor warrants that the Property and Grantor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

**Survival of Representations and Warranties.** All representations, warranties, and agreements made by Grantor in this Deed of Trust shall survive the execution and delivery of this Deed of Trust, shall be continuing in nature, and shall remain in full force and effect until such time as Grantor's Indebtedness shall be paid in full.

**Existing Indebtedness.** The following provisions concerning Existing Indebtedness are a part of this Deed of Trust:

**Existing Lien.** The lien of this Deed of Trust securing the Indebtedness may be secondary and inferior to an existing lien. Grantor expressly covenants and agrees to pay, or see to the payment of, the Existing Indebtedness and to prevent any default on such indebtedness, any default under the instruments evidencing such indebtedness, or any default under any security documents for such indebtedness.

**No Modification.** Grantor shall not enter into any agreement with the holder of any mortgage, deed of trust, or other security agreement which has priority over this Deed of Trust by which that agreement is modified, amended, extended, or renewed without the prior written consent of Lender. Grantor shall neither request nor accept any future advances under any such security agreement without the prior written consent of Lender.

**Condemnation.** The following provisions relating to condemnation proceedings are a part of this Deed of Trust:

**Proceedings.** If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments and documentation as may be requested by Lender from time to time to permit such participation.

**Application of Net Proceeds.** If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the Indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Trustee or Lender in connection with the condemnation.

**Imposition of Taxes, Fees and Charges By Governmental Authorities.** The following provisions relating to governmental taxes, fees and charges are a part of this Deed of Trust:

**Current Taxes, Fees and Charges.** Upon request by Lender, Grantor shall execute such documents in addition to this Deed of Trust and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Deed of Trust, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Deed of Trust.

**Taxes.** The following shall constitute taxes to which this section applies: (a) a specific tax upon this type of Deed of Trust or upon all or any part of the Indebtedness secured by this Deed of Trust; (b) a specific tax on Grantor which Grantor is authorized or required to deduct from payments on the Indebtedness secured by this type of Deed of Trust; (c) a tax on this type of Deed of Trust chargeable against the Lender or the holder of the Note; and (d) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantor.

**Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Deed of Trust, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (a) pays the tax before it becomes delinquent, or (b) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

**Security Agreement; Financing Statements.** The following provisions relating to this Deed of Trust as a security agreement are a part of this Deed of Trust:

**Security Agreement.** This instrument shall constitute a Security Agreement to the extent any of the Property constitutes fixtures, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

**Security Interest.** Upon request by Lender, Grantor shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Deed of Trust in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Deed of Trust as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall not remove, sever or detach the Personal Property from the Property. Upon default, Grantor shall assemble any Personal Property not affixed to the Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender to the extent permitted by applicable law.

**Addresses.** The mailing addresses of Grantor (debtor) and Lender (secured party) from which information concerning the security interest granted by this Deed of Trust may be obtained (each as required by the Uniform Commercial Code) are as stated on the first page of this Deed of Trust.

**Further Assurances; Attorney-in-Fact.** The following provisions relating to further assurances and attorney-in-fact are a part of this Deed of Trust:

**Further Assurances.** At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded,

refiled, or re-recorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (a) Grantor's obligations under the Note, this Deed of Trust, and the Related Documents, and (b) the liens and security interests created by this Deed of Trust as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Lender agrees to the contrary in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

**Attorney-in-Fact.** If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

**Full Performance.** If Grantor pays all the indebtedness, including without limitation all future advances, when due, and otherwise performs all the obligations imposed upon Grantor under this Deed of Trust, Lender shall execute and deliver to Trustee a request for full reconveyance and shall execute and deliver to Grantor suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Any reconveyance fee required by law shall be paid by Grantor, if permitted by applicable law.

**Events of Default.** Each of the following, at Lender's option, shall constitute an Event of Default under this Deed of Trust:

**Payment Default.** Grantor fails to make any payment when due under the Indebtedness.

**Other Defaults.** Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Deed of Trust or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

**Compliance Default.** Failure to comply with any other term, obligation, covenant or condition contained in this Deed of Trust, the Note or in any of the Related Documents.

**Default on Other Payments.** Failure of Grantor within the time required by this Deed of Trust to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to affect discharge of any lien.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by Grantor or on Grantor's behalf under this Deed of Trust or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

**Defective Collateralization.** This Deed of Trust or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

**Insolvency.** The dissolution or termination of Grantor's existence as a going business, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against any property securing the indebtedness. This includes a garnishment of any of Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

**Breach of Other Agreement.** Any breach by Grantor under the terms of any other agreement between Grantor and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantor to Lender, whether existing now or later.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness.

**Adverse Change.** A material adverse change occurs in Grantor's financial condition, or Lender believes the prospect of payment or performance of the Indebtedness is impaired.

**Insecurity.** Lender in good faith believes itself insecure.

**Existing Indebtedness.** The payment of any installment of principal or any interest on the Existing Indebtedness is not made within the time required by the promissory note evidencing such indebtedness, or a default occurs under the instrument securing such indebtedness and is not cured during any applicable grace period in such instrument, or any suit or other action is commenced to foreclose any existing lien on the Property.

**Rights and Remedies on Default.** If an Event of Default occurs under this Deed of Trust, at any time thereafter, Trustee or Lender may exercise any one or more of the following rights and remedies:

**Election of Remedies.** Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Deed of Trust, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies.

**Accelerate Indebtedness.** Lender shall have the right at its option without notice to Grantor to declare the entire indebtedness immediately due and payable, including any prepayment penalty which Grantor would be required to pay.

**Foreclosure.** With respect to all or any part of the Real Property, the Trustee shall have the right to foreclose by notice and sale, and Lender shall have the right to foreclose by judicial foreclosure, in either case in accordance with and to the full extent provided by applicable law. If this Deed of Trust is foreclosed by judicial foreclosure, Lender will be entitled to a judgment which will provide that if the foreclosure sale proceeds are insufficient to satisfy the judgment, execution may issue for the amount of the unpaid balance of the judgment.

**UCC Remedies.** With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

**Collect Rents.** Lender shall have the right, without notice to Grantor to take possession of and manage the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

**Appoint Receiver.** Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

**Tenancy at Sufferance.** If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (a) pay a reasonable rental for the use of the Property, or (b) vacate the Property immediately upon the demand of Lender.

**Other Remedies.** Trustee or Lender shall have any other right or remedy provided in this Deed of Trust or the Note or by law.

**Notice of Sale.** Lender shall give Grantor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least fifteen (15) days before the time of the sale or disposition. Any sale of the Personal Property may be made in conjunction with any sale of the Real Property.

**Sale of the Property.** To the extent permitted by applicable law, Grantor hereby waives any and all rights to have the Property marshalled. In exercising its rights and remedies, the Trustee or Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property.

**Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Deed of Trust, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees, title insurance, and fees for the Trustee, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

**Rights of Trustee.** Trustee shall have all of the rights and duties of Lender as set forth in this section.

**Powers and Obligations of Trustee.** The following provisions relating to the powers and obligations of Trustee are part of this Deed of Trust:

**Powers of Trustee.** In addition to all powers of Trustee arising as a matter of law, Trustee shall have the power to take the following actions with respect to the Property upon the written request of Lender and Grantor: (a) join in preparing and filing a map or plat of the Real Property, including the dedication of streets or other rights to the public; (b) join in granting any easement or creating any restriction on the Real Property; and (c) join in any subordination or other agreement affecting this Deed of Trust or the interest of Lender under this Deed of Trust.

**Obligations to Notify.** Trustee shall not be obligated to notify any other party of a pending sale under any other trust deed or lien, or of any action or proceeding in which Grantor, Lender, or Trustee shall be a party, unless the action or proceeding is brought by Trustee.

**Trustee.** Trustee shall meet all qualifications required for Trustee under applicable law. In addition to the rights and remedies set forth above, with respect to all or any part of the Property, the Trustee shall have the right to foreclose by notice and sale, and Lender shall have the right to foreclose by judicial foreclosure, in either case in accordance with and to the full extent provided by applicable law.

**Successor Trustee.** Lender, at Lender's option, may from time to time appoint a successor Trustee to any Trustee appointed under this Deed of Trust by an instrument executed and acknowledged by Lender and recorded in the office of the recorder of DESCHUTES County, State of Oregon. The instrument shall contain, in addition to all other matters required by state law, the names of the original Lender, Trustee, and Grantor, the book and page where this Deed of Trust is recorded, and the name and address of the successor trustee, and the instrument shall be executed and acknowledged by Lender or its successors in interest. The successor trustee, without conveyance of the Property, shall succeed to all the title, power, and duties conferred upon the Trustee in this Deed of Trust and by applicable law. This procedure for substitution of Trustee shall govern to the exclusion of all other provisions for substitution.

**Notices.** Any notice required to be given under this Deed of Trust, including without limitation any notice of default and any notice of sale shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Deed of Trust. All copies of notices of foreclosure from the holder of any lien which has priority over this Deed of Trust shall be sent to Lender's address, as shown near the beginning of this Deed of Trust. Any party may change its address for notices under this Deed of Trust by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

**Miscellaneous Provisions.** The following miscellaneous provisions are a part of this Deed of Trust:

**Amendments.** This Deed of Trust, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Deed of Trust. No alteration of or amendment to this Deed of Trust shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**Annual Reports.** If the Property is used for purposes other than Grantor's residence, Grantor shall furnish to Lender, upon request, a certified statement of net operating income received from the Property during Grantor's previous fiscal year in such form and detail as Lender shall require. "Net operating income" shall mean all cash receipts from the Property less all cash expenditures made in connection with the operation of the Property.

**Caption Headings.** Caption headings in this Deed of Trust are for convenience purposes only and are not to be used to interpret or define the provisions of this Deed of Trust.

**Merger.** There shall be no merger of the interest or estate created by this Deed of Trust with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

**Governing Law.** This Deed of Trust will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Oregon without regard to its conflicts of law provisions. This Deed of Trust has been accepted by Lender in the State of Oregon.

**No Waiver by Lender.** Lender shall not be deemed to have waived any rights under this Deed of Trust unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Deed of Trust shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Deed of Trust. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Deed of Trust, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

**Severability.** If a court of competent jurisdiction finds any provision of this Deed of Trust to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Deed of Trust. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Deed of Trust shall not affect the legality, validity or enforceability of any other provision of this Deed of Trust.

**Successors and Assigns.** Subject to any limitations stated in this Deed of Trust on transfer of Grantor's interest, this Deed of Trust shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Deed of Trust and the indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Deed of Trust or liability under the indebtedness.

**Time is of the Essence.** Time is of the essence in the performance of this Deed of Trust.

**Waive Jury.** All parties to this Deed of Trust hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

**Waiver of Homestead Exemption.** Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Oregon as to all indebtedness secured by this Deed of Trust.

**Commercial Deed of Trust.** Grantor agrees with Lender that this Deed of Trust is a commercial deed of trust and that Grantor will not change the use of the Property without Lender's prior written consent.

**Definitions.** The following capitalized words and terms shall have the following meanings when used in this Deed of Trust. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Deed of Trust shall have the meanings attributed to such terms in the Uniform Commercial Code:

**Beneficiary.** The word "Beneficiary" means Bank of the Cascades, and its successors and assigns.

**Borrower.** The word "Borrower" means TRI-COUNTY BUILDERS CORPORATION and includes all co-signers and co-makers signing the Note.

**Deed of Trust.** The words "Deed of Trust" mean this Line of Credit Instrument among Grantor, Lender, and Trustee, and includes without limitation all assignment and security interest provisions relating to the Personal Property and Rents.

**Default.** The word "Default" means the Default set forth in this Deed of Trust in the section titled "Default".

**Environmental Laws.** The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto or intended to protect human health or the environment.

**Event of Default.** The words "Event of Default" mean any of the events of default set forth in this Deed of Trust in the events of default section of this Deed of Trust.

**Existing Indebtedness.** The words "Existing Indebtedness" mean the indebtedness described in the Existing Liens provision of this Deed of Trust.

**Grantor.** The word "Grantor" means TRI-COUNTY BUILDERS CORPORATION.

**Guarantor.** The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the Indebtedness.

**Guaranty.** The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

**Hazardous Substances.** The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum, including crude oil and any fraction thereof and asbestos.

**Improvements.** The word "Improvements" means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal, interest, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Trustee or Lender to enforce Grantor's obligations under this Deed of Trust, together with interest on such amounts as provided in this Deed of Trust. Specifically, without limitation, Indebtedness includes the future advances set forth in the Future Advances provision, together with all interest thereon and all amounts that may be indirectly secured by the Cross-Collateralization provision of this Deed of Trust.

**Lender.** The word "Lender" means Bank of the Cascades, its successors and assigns.

**Note.** The word "Note" means the promissory note dated June 28, 2005, in the original principal amount of \$256,800.00 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. The maturity date of the Note is January 10, 2007.

**Personal Property.** The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or affixed to the Real Property; together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

**Property.** The word "Property" means collectively the Real Property and the Personal Property.

**Real Property.** The words "Real Property" mean the real property, interests and rights, as further described in this Deed of Trust.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

**Rents.** The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

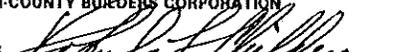
**Trustee.** The word "Trustee" means Western Title & Escrow Company, whose address is 1345 NW Wall Street, Suite 200, Bend, OR 97701 and any substitute or successor trustees.

**GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS DEED OF TRUST, AND GRANTOR AGREES TO ITS TERMS.**

GRANTOR:

TRI-COUNTY BUILDERS CORPORATION

By:

  
ROBERT L. CHILDERS, President of TRI-COUNTY BUILDERS CORPORATION

By:

  
CAROL CHILDERS, Secretary/Treasurer of TRI-COUNTY BUILDERS CORPORATION

CORPORATE ACKNOWLEDGMENT

STATE OF Oregon )  
 )  
COUNTY OF Deschutes ) SS

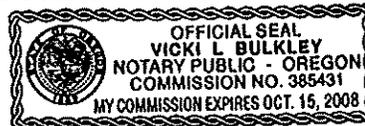


On this 29th day of June, 2005, before me, the undersigned Notary Public, personally appeared **ROBERT L CHILDERS**, President of **TRI-COUNTY BUILDERS CORPORATION**, and known to me to be an authorized agent of the corporation that executed the Deed of Trust and acknowledged the Deed of Trust to be the free and voluntary act and deed of the corporation, by authority of its Bylaws or by resolution of its board of directors, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Deed of Trust and in fact executed the Deed of Trust on behalf of the corporation.

By [Signature] Residing at Redmond, OR  
Notary Public in and for the State of Oregon My commission expires 10-15-08

CORPORATE ACKNOWLEDGMENT

STATE OF Oregon )  
 )  
COUNTY OF Deschutes ) SS



On this 29th day of June, 2005, before me, the undersigned Notary Public, personally appeared **CAROL CHILDERS**, Secretary/Treasurer of **TRI-COUNTY BUILDERS CORPORATION**, and known to me to be an authorized agent of the corporation that executed the Deed of Trust and acknowledged the Deed of Trust to be the free and voluntary act and deed of the corporation, by authority of its Bylaws or by resolution of its board of directors, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Deed of Trust and in fact executed the Deed of Trust on behalf of the corporation.

By [Signature] Residing at Redmond, OR  
Notary Public in and for the State of Oregon My commission expires 10-15-08

REQUEST FOR FULL RECONVEYANCE

(To be used only when obligations have been paid in full)

To: \_\_\_\_\_, Trustee

The undersigned is the legal owner and holder of all indebtedness secured by this Deed of Trust. All sums secured by this Deed of Trust have been fully paid and satisfied. You are hereby directed, upon payment to you of any sums owing to you under the terms of this Deed of Trust or pursuant to any applicable statute, to cancel the Note secured by this Deed of Trust (which is delivered to you together with this Deed of Trust), and to reconvey, without warranty, to the parties designated by the terms of this Deed of Trust, the estate now held by you under this Deed of Trust. Please mail the reconveyance and Related Documents to:

Date: \_\_\_\_\_ Beneficiary: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_



05/09/2006 11:35:26 AM

M-AST Cnt=2 SIn=3 PAM  
\$5.00 \$5.00 \$11.00 \$10.00 \$5.00

162361

WHEN RECORDED, MAIL TO:  
Nationwide Title Clearing  
2100 Alt. 19 North  
Palm Harbor, FL 34683  
L#: CHAS6 5701026 1956875699

SUBSTITUTION OF TRUSTEE and FULL RECONVEYANCE

WHEREAS, DAVID M. WAGENBLAST AND GAIL L. WAGENBLAST was the original Trustor, DAVID A. KUBAT, OSBA 84265 C/O T.D. SERVICE COMPANY was the original Trustee, and WESTERN SUNRISE AKA CROSSLAND MORTGAGE CORP. was the original Beneficiary under that certain Deed of Trust dated 04/20/1999 in DESCHUTES County, Oregon, under Doc No: or Book 1999 Page 20562 recorded on 04/27/1999

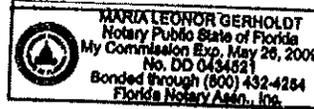
WHEREAS, the undersigned as present Beneficiary, having received full payment on said Deed of Trust and debt and desiring to substitute a new Trustee under said Deed of Trust in place and stead of said original Trustee thereunder. NOW, THEREFORE, the undersigned hereby substitutes: H. STEPHEN BAUER, as Trustee under said Deed of Trust and directs the said H. STEPHEN BAUER to reconvey, without warranty, to the parties entitled thereto the estate now held by him under said Deed of Trust.

Dated: 04/28/2006  
FEDERAL HOME LOAN MORTGAGE CORPORATION  
by CHASE HOME FINANCE LLC SUCCESSOR BY MERGER TO CHASE MANHATTAN MORTGAGE CORPORATION fka CHASE HOME MORTGAGE CORPORATION By Merger to TROY & NICHOLS, INC.  
their attorney-in-fact

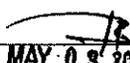
BY:   
MARY JO MCGOWAN VICE PRESIDENT

STATE OF FLORIDA COUNTY OF PINELLAS  
This instrument was acknowledged before me on 04/28/2006 by MARY JO MCGOWAN as VICE PRESIDENT of CHASE HOME FINANCE LLC SUCCESSOR BY MERGER TO CHASE MANHATTAN MORTGAGE CORPORATION fka CHASE HOME MORTGAGE CORPORATION By Merger to TROY & NICHOLS, INC. for FEDERAL HOME LOAN MORTGAGE CORPORATION

  
MARIA LEONOR GERHOLDT Notary Public

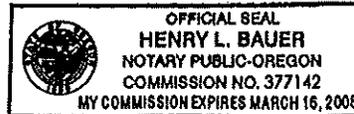


H. STEPHEN BAUER, hereby accepts the foregoing appointment as Trustee under said Deed of Trust and as successor Trustee, pursuant to a written request of the present Beneficiary and in accordance with the provisions of said Deed of Trust, DOES HEREBY CONVEY to the person or persons legally entitled thereto, without warranty, the estate, title and interest now held by the undersigned in and to the premises more fully described in said Deed of Trust.

BY:   
Dated: MAY 03 2006, as Trustee H. STEPHEN BAUER

STATE OF OREGON COUNTY OF MULTNOMAH  
This instrument was acknowledged before me  
on MAY 03 2006 by H. STEPHEN BAUER.

  
Notary Public



**VOL: 2001 PAGE: 5918**  
**RECORDED DOCUMENT**

STATE OF OREGON  
COUNTY OF DESCHUTES



\*2001-5918 \* Vol-Page

Printed: 02/08/2001 09:58:56

**DO NOT REMOVE THIS CERTIFICATE**

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: Feb. 8, 2001; 9:57 a.m.

RECEIPT NO: 31785

DOCUMENT TYPE: Deed of Trust Assignment

FEE PAID: \$31.00

NUMBER OF PAGES: 1

A handwritten signature in cursive script that reads "Mary Sue Penhollow".

MARY SUE PENHOLLOW  
DESCHUTES COUNTY CLERK

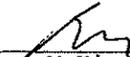
2001-5918-1

when recorded return to:  
Nationwide Title Clearing  
101 N. Brand #1800  
Glendale, CA 91203  
CMC#: 0010254183  
CMMC: 1956875699  
INV/Pool: FHLM

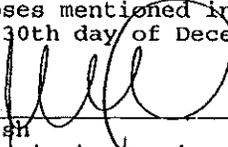
**CORPORATE ASSIGNMENT OF DEED OF TRUST**

FOR GOOD AND VALUABLE CONSIDERATION,  
the sufficiency of which is hereby acknowledged, the undersigned,  
**CROSSLAND MORTGAGE CORP.**, a Utah Corporation, whose address  
is 3902 South State St., Salt Lake City, UT 84107 (assignor).  
by these presents does convey, grant, sell, assign, transfer and  
set over the described deed of trust together with the certain  
note(s) described therein together with all interest secured thereby,  
all liens, and any rights due or to become due thereon to  
**CHASE MORTGAGE COMPANY**, an Ohio Corporation, whose  
address is 3415 Vision Drive, Columbus, Ohio 43219  
its successors or assigns, (assignee).  
Said Deed of Trust dated 04/20/99 and executed by  
**DAVID M WAGENBLAST & GAIL L WAGENBLAST**  
to **WESTERN SUNRISE AKA CROSSLAND MORTGAGE CORP.**  
and recorded in Book 1999 page 20562 as Instr#  
in the office of the Recorder of **DESCHUTES** County, Oregon.

Dated: 12/30/00  
**CROSSLAND MORTGAGE CORP.**

BY:   
**Elsa McKinnon**  
Vice President

STATE OF CALIFORNIA COUNTY OF LOS ANGELES  
I hereby certify that I know or have satisfactory evidence that  
**Elsa McKinnon** is the person who appeared before me,  
and said person acknowledged that he signed this instrument, on oath  
stated that he is authorized to execute the instrument and acknowledged  
it as the Vice President of  
**CROSSLAND MORTGAGE CORP.**  
to be the free and voluntary act of such party for the uses and  
purposes mentioned in this instrument.  
this 30th day of December, 2000

  
**M. Eash** Notary Public  
My commission expires: 03/19/2003  
document prepared by:  
**D.Colon/NTC, 101 N. Brand #1800, Glendale, CA 91203 (800)346-9152**



After recording, return to  
Ronald L. Bryant  
Bryant, Emerson & Fitch, LLP  
PO Box 457  
Redmond OR 97756

DESCHUTES COUNTY OFFICIAL RECORDS  
NANCY BLANKENSHIP, COUNTY CLERK

2005-66702



\$51.00

09/30/2005 04:14:36 PM

M-DT Cnt=1 Stn=4 JEFF  
\$25.00 \$11.00 \$10.00 \$5.00

### TRUST DEED

THIS TRUST DEED, made this 30 day of September, 2005, between CHW ENTERPRISES, LLC, an Oregon limited liability company, as Grantor, First American Title Insurance Company of Oregon, as Trustee, and Joseph S. McCormick and Mary E. Howard, as Conservator for the estate of Ruth M. McCormick, a protected person, as tenants in common, as Beneficiaries,

### WITNESSETH:

Grantor irrevocably grants, bargains, sells and conveys to trustee in trust, with power of sale, the property in Deschutes County, Oregon, described as follows:

Attached as Exhibit "A"

together with all and singular the tenements, hereditaments and appurtenances and all other rights thereunto belonging or in any way now or hereafter appertaining, and the rents, issues and profits thereof and all fixtures now or hereafter attached to or used in connection with said real estate.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the sum of Nine Hundred Fifteen Thousand Dollars, (\$915,000) with interest thereon according to the terms of a promissory note of even date herewith, payable to beneficiary or order and made by grantor, the final payment of principal and interest hereof, if not sooner paid, to be due and payable October 1, 2008.

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of said note becomes due and payable. In the event the within described property, or any part thereof, or any interest therein is sold, agreed to be sold, conveyed, assigned, or alienated by the grantor without first having obtained the written consent or approval of the beneficiary, then, at the beneficiary's option, all obligations secured by this instrument, irrespective of the maturity dates expressed therein, or herein, shall become immediately due and payable.

The above described real property is not currently used for agricultural, timber or grazing purposes.

To protect the security of this trust deed, grantor agrees:

I. To protect, preserve and maintain said property in good condition and repair; not to remove or demolish any building or improvement thereon; not to commit or permit any waste of said property.

II. To complete or restore promptly and in good and workmanlike manner any building or improvement which may be constructed, damaged or destroyed thereon, and pay when due all costs incurred therefor.

III. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting said property; if the beneficiary so requests, to join in executing such financing statements pursuant to the Uniform Commercial Code as the beneficiary may require and to pay for filing same in the proper public office or offices, as well as the cost of all lien searches made by filing officers or searching agencies as may be deemed desirable by the beneficiary.

IV. To provide and continuously maintain insurance on the buildings now or hereafter erected on the said premises against loss or damage by fire and such other hazards as the beneficiary may from time to time require, in an amount not less than the full insurable value, written in companies acceptable to the beneficiary, with loss payable to the latter; all policies of insurance shall be delivered to the

beneficiary as soon as insured; if the grantor shall fail for any reason to procure any such insurance and to deliver said policies to the beneficiary at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on said buildings, the beneficiary may procure the same at grantor's expense. The amount collected under any fire or other insurance policy may be applied by beneficiary upon any indebtedness secured hereby and in such order as beneficiary may determine, or at option of beneficiary the entire amount so collected, or any part thereof, may be released to grantor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

V. To keep said premises free from construction liens and to pay all taxes, assessments and other charges that may be levied or assessed upon or against said property before any part of such taxes, assessments and other charges become past due or delinquent and promptly deliver receipts therefor to beneficiary; should the grantor fail to make payment of any taxes, assessments, insurance premiums, liens or other charges payable by grantor, either by direct payment or by providing beneficiary with funds with which to make such payment, beneficiary may, at its option, make payment thereof, and the amount so paid, with interest at the rate set forth in the note secured hereby, together with the obligations described in paragraphs 6 and 7 of this trust deed, shall be added to and become a part of the debt secured by this trust deed, without waiver of any rights arising from breach of any of the covenants hereof and for such payments, with interest as aforesaid, the property hereinbefore described, as well as the grantor, shall be bound to the same extent that they are bound for the payment of the obligation herein described, and all such payments shall be immediately due and payable, without notice, and the nonpayment thereof shall, at the option of the beneficiary, render all sums secured by this trust deed immediately due and payable and constitute a breach of this trust deed.

VI. To pay all costs, fees and expenses of this trust including the cost of title search as well as the other costs and expenses of the trustee incurred in connection with or in enforcing this obligation and trustee's and attorney's fees actually incurred.

VII. To appear in and defend any action or proceeding purporting to affect the security rights or powers of beneficiary or trustee; and in any suit, action or proceeding in which the beneficiary or trustee may appear, including any suit for the foreclosure of this deed, to pay all costs and expenses, including evidence of title and the beneficiary's or trustee's attorney's fees; the amount of attorney's fees mentioned in this paragraph 7 in all cases shall be fixed by the trial court and in the event of an appeal from any judgment or decree of the trial court, grantor further agrees to pay such sum as the appellate court shall adjudge reasonable as the beneficiary's or trustee's attorney's fees on such appeal.

It is mutually agreed that:

VIII. In the event that any portion or all of said property shall be taken under the right of eminent domain or condemnation, beneficiary shall have the right, if it so elects, to require that all or any portion of the monies payable as compensation for such taking, which are in excess of the amount required to pay all reasonable costs, expenses and attorney's fees necessarily paid or incurred by grantor in such proceedings, shall be paid to beneficiary and applied by it first upon any reasonable costs and expenses and attorney's fees, both in the trial and appellate courts, necessarily paid or incurred by beneficiary in such proceedings, and the balance applied upon the indebtedness secured hereby; and grantor agrees, at its own expense, to take such actions and execute such instruments as shall be necessary in obtaining such compensation, promptly upon beneficiary's request.

IX. At any time and from time to time upon written request of beneficiary, payment of its fees and presentation of this deed and the note for endorsement (in case of full reconveyances, for cancellation), without affecting the liability of any person for the payment of the indebtedness, trustee may:

- A. Consent to the making of any map or plat of said property;
- B. Join in granting any easement or creating any restriction thereon;
- C. Join in any subordination or other agreement affecting this deed or the lien or charge thereof;
- D. Reconvey, without warranty, all or any part of the property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustee's fees for any of the services mentioned in this paragraph shall be not less than \$5.

X. Upon any default by grantor hereunder, beneficiary may at any time without notice, either in person, by agent or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in its own name sue or otherwise collect the rent, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees upon

any indebtedness secured hereby, and in such order as beneficiary may determine.

XI. The entering upon and taking possession of said property, the collection of such rents, issues and profits, or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the property, and the application of release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

XII. Upon default by grantor in payment of any indebtedness secured hereby or in his performance of any agreement hereunder, the beneficiary may declare all sums secured hereby immediately due and payable. In such an event the beneficiary at his election may proceed to foreclose this trust deed in equity as a mortgage or direct the trustee to foreclose this trust deed by advertisement and sale. In the latter event the beneficiary or the trustee shall execute and cause to be recorded his written notice of default and election to sell the said described real property to satisfy the obligations secured hereby, whereupon the trustee shall fix the time and place of sale, give notice thereof as then provided by law and proceed to foreclose this trust deed in the manner provided in ORS 86.725 to 86.795.

XIII. Should the beneficiary elect to foreclose by advertisement and sale, then after default at any time prior to five days before the date set by the trustee for the trustee's sale, the grantor or other person so privileged by ORS 86.755, may pay to the beneficiary or his successors in interest, respectively, the entire amount then due under the terms of the trust deed and the obligation secured thereby (including costs and expenses actually incurred in enforcing the terms of the obligation and trustee's and attorney's fees not exceeding the amounts provided by law) other than such portion of the principal as would not then be due had no default occurred, and thereby cure the default, in which event all foreclosure proceedings shall be dismissed by the trustee.

XIV. Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale or the time to which said sale may be postponed as provided by law. The trustee may sell said property either in one parcel or in separate parcels and shall sell the parcel or parcels at auction to the highest bidder for cash, payable at the time of the sale. Trustee shall deliver to the purchaser its deed in form as required by law conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusive proof of the truthfulness thereof. Any person, excluding the trustee, but including the grantor and beneficiary, may purchase at the sale.

XV. When trustee sells pursuant to the powers provided herein, trustee shall apply the proceeds of sale to payment of (1) the expenses of sale, including the compensation of the trustee and a reasonable charge by trustee's attorney, (2) to the obligation secured by the trust deed, (3) to all persons having recorded liens subsequent to the interest of the trustee in the trust deed as their interests may appear in the order of their priority and (4) the surplus, if any, to the grantor or to his successor in interest entitled to such surplus.

XVI. For any reason permitted by law beneficiary may from time to time appoint a successor or successors to any trustee named herein or to any successor trustee appointed hereunder. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers and duties conferred upon any trustee herein named or appointed hereunder. Each such appointment and substitution shall be made by written instrument executed by beneficiary, containing reference to this trust deed and its place of record, which, when recorded in the office of the county clerk or recorder of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.

XVII. Trustee accepts this trust when this deed, duly executed and acknowledged is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which grantor, beneficiary or trustee shall be a party unless such action or proceeding is brought by trustee.

The grantor covenants and agrees to and with the beneficiary and those claiming under him, that he is lawfully seized in fee simple of said described real property and has a valid, unencumbered title thereto and that he will warrant and forever defend the same against all persons whomsoever.

The grantor warrants that the proceeds of the loan represented by the above described note and this trust deed are for an organization, or even if grantor is a natural person are for business or commercial purposes other than agricultural purposes.

This deed applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns. The term beneficiary shall mean the holder and owner, including pledgee, of the contract secured hereby, whether or not named as a beneficiary herein. In construing this deed and whenever the context so requires, the masculine gender includes the feminine and the neuter, and the singular number includes the plural.

IN WITNESS WHEREOF, said grantor has hereunto set his hand the day and year first above written by the authority granted by all members of the CHW Enterprises, LLC, pursuant to Addendum to the Operating Agreement for CHW Enterprises, LLC.

**CHW ENTERPRISES, LLC**  
an Oregon limited liability company

Gene W. Hoskin Construction, LLC

By: *[Signature]*

Gene W. Hoskin, as a member of Gene W. Hoskin Construction, LLC, and as agent for C2 Enterprises, LLC, and as agent for Windsor Properties, LTD

STATE OF OREGON    )  
  : ss.  
County of Deschutes    )

On this 30 day of September, 2005, personally appeared before me Gene W. Hoskin, who being first duly sworn, did say that the he is a member of Gene Hoskin Construction, LLC, an Oregon limited liability company and that the instrument was signed and sealed in behalf of said LLC by authority of its members; and he acknowledged said instrument to be its voluntary act and deed.



*[Signature]*  
Notary Public for Oregon

**REQUEST FOR FULL RECONVEYANCE**

To be used only when obligations have been paid.

TO: \_\_\_\_\_, Trustee

The undersigned is the legal owner and holder of all indebtedness secured by the foregoing trust deed. All sums secured by said trust deed have been fully paid and satisfied. You hereby are directed, on payment to you of any sums owing to you under the terms of said trust deed or pursuant to statute, to cancel all evidences of indebtedness secured by said trust deed (which are delivered to you herewith together with said trust deed) and to reconvey, without warranty, to the parties designated by the terms of said trust deed the estate now held by you under the same.

Mail reconveyance and documents to:

DATED: \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
Beneficiary

**DONOT LOSE OR DESTROY THIS TRUST DEED OR THE NOTE WHICH IT SECURES. BOTH MUST BE DELIVERED TO THE TRUSTEE FOR CANCELLATION BEFORE RECONVEYANCE WILL BE MADE.**

**EXHIBIT "A"**

A tract of land located in Section 8, Township 15 South, Range 13 East of the Willamette Meridian, Deschutes County, Oregon, more particularly described as follows:

Beginning at the center quarter corner of said Section 8; thence North 89°45'24" West a distance of 463.83 feet; thence North 22°07'10" East a distance of 401.29 feet; thence North 10°29'51" West a distance of 286.55 feet; thence North 84°34'13" East, a distance of 22.61 feet; thence North 09°14'07" East a distance of 367.24 feet; thence North 10°06'46" East a distance of 621.55 feet; thence East a distance of 171.54 feet; thence South 00°19'23" West a distance of 1631.96 feet to the place of beginning

Tax Parcel Number 129696

Exhibit A, page 1

**BRYANT, EMERSON & FITCH, LLP**  
ATTORNEYS AT LAW  
688 S.W. EVERGREEN AVENUE  
P.O. BOX 457  
REDMOND, OREGON 97756-0103  
TELEPHONE (541) 548-2151  
FAX (541) 548-1895





\$68.00

00304385200400576670080083

09/27/2004 11:02:46 AM

M-DT Cnt=1 Stn=26 SHIRLEY  
\$40.00 \$11.00 \$10.00 \$5.00

**Grantor's Name and Address:**

Redmond Investments, LLC  
6029 NW Alfalfa Drive  
Portland OR 97229

**Beneficiary's Name and Address:**

Ralph Hammond  
4851 SW Wickiup Avenue  
Redmond OR 97756

**After recording, return to:**

Ralph Hammond  
4851 SW Wickiup Avenue  
Redmond OR 97756

**TRUST DEED**

66- THIS TRUST DEED, made effective on September 20, 2004, between REDMOND INVESTMENTS, LLC, as Grantor, WESTERN TITLE AND ESCROW COMPANY, as Trustee, and VIOLET F. HAMMOND AND RALPH HAMMOND, TRUSTEES OF THE VIOLET F. HAMMOND REVOCABLE TRUST U/T/A DATED SEPTEMBER 22, 1993, as Beneficiary,

**WITNESSETH:**

Grantor irrevocably grants, bargains, sells and conveys to trustee, in trust, with power of sale, the property in Deschutes County, Oregon, legally described on the attached Exhibit A and commonly known as:

2968 SW Helmholtz Way  
Redmond, Oregon 97756

together with all and singular the tenements, hereditaments and appurtenances and all other rights thereunto belonging or in any way now or hereafter appertaining, and the rents, issues and profits thereof, and all fixtures now or hereafter attached to or used in connection with the property.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the sum of \$1,420,000.00, with interest thereon according to the terms of a promissory note of even date herewith, payable to beneficiary or order and made by grantor, the final payment of principal and interest of which shall be due once all utilities are installed at the property line for future development and preliminary plat has been approved by the city, but no later than March 1, 2007.

1 TRUST DEED  
[mb.re.hammond.redmond.trust.deed]

RECORDED BY:  
WESTERN TITLE & ESCROW CO.

12-0079404

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of the note becomes due and payable. Should the grantor either agree to, attempt to, or actually sell, convey, or assign all (or any part) of the property, or all (or any part) of grantor's interest in it without first obtaining the written consent or approval of the beneficiary, then, at the beneficiary's option, all obligations secured by this instrument, irrespective of the maturity dates expressed therein, or herein, shall become immediately due and payable. The execution by grantor of an earnest money agreement does not constitute a sale, conveyance or assignment.

To protect the security of this trust deed, grantor agrees:

1. To protect, preserve and maintain the property in good condition and repair; not to remove or demolish any building or improvement thereon; and not to commit or permit any waste of the property.

2. To complete or restore promptly and in good and habitable condition any building or improvement which may be constructed, damaged or destroyed thereon, and pay when due all costs incurred therefor.

3. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the property; if the beneficiary so requests, to join in executing such financing statements pursuant to the Uniform Commercial Code as the beneficiary may require, and to pay for filing the same in the proper public office or offices, as well as the cost of all lien searches made by filing officers or searching agencies as may be deemed desirable by the beneficiary.

4. To provide and continuously maintain insurance on the buildings now or hereafter erected on the property against loss or damage by fire and other hazards, as the beneficiary may from time to time require, in an amount not less than \$100,000.00, written by one or more companies acceptable to the beneficiary, with loss payable to the latter. All policies of insurance shall be delivered to the beneficiary as soon as issued. If the grantor shall fail for any reason to procure any such insurance and to deliver the policies to the beneficiary at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on the buildings, the beneficiary may procure the same at grantor's expense. The amount collected under any fire or other insurance policy may be applied by beneficiary upon any indebtedness secured hereby and in such order as beneficiary may determine, or at option of beneficiary the entire amount so collected, or any part thereof, may be released

to grantor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

5. To keep the property free from construction liens and to pay all taxes, assessments and other charges that may be levied or assessed upon or against the property before any part of such taxes, assessments and other charges becomes past due or delinquent and promptly deliver receipts therefor to beneficiary. Should the grantor fail to make payment of any taxes, assessments, insurance premiums, liens or other charges payable by grantor, either by direct payment or by providing beneficiary with funds with which to make such payment, beneficiary may, at its option, make payment thereof, and the amount so paid, with interest at the rate set forth in the note secured hereby, together with the obligations described in Paragraphs 6 and 7 of this trust deed, shall be added to and become a part of the debt secured by this trust deed, without waiver of any rights arising from breach of any of the covenants hereof. For such payments, with interest as aforesaid, the property hereinbefore described, as well as the grantor, shall be bound to the same extent that they are bound for the payment of the obligation herein described. All such payments shall be immediately due and payable without notice, and the nonpayment thereof shall, at the option of the beneficiary, render all sums secured by this trust deed immediately due and payable and shall constitute a breach of this trust deed.

6. To pay all costs, fees and expenses of this trust, including the cost of title search, as well as the other costs and expenses of the trustee incurred in connection with or in enforcing this obligation, and trustee and attorney fees actually incurred.

7. To appear in and defend any action or proceeding purporting to affect the security rights or powers of beneficiary or trustee; and in any suit, action or proceeding in which the beneficiary or trustee may appear, including any suit for the foreclosure of this deed or any suit or action related to this instrument, including but not limited to its validity and/or enforceability, to pay all costs and expenses, including evidence of title and the beneficiary's or trustee's attorney fees. The amount of attorney fees mentioned in this paragraph in all cases shall be fixed by the trial court, and in the event of an appeal from any judgment or decree of the trial court, grantor further agrees to pay such sum as the appellate court shall adjudge reasonable as the beneficiary's or trustee's attorney fees on such appeal.

It is mutually agreed that:

8. In the event that any portion or all of the property shall be taken under the right of eminent domain or condemnation, beneficiary shall have the

right, if it so elects, to require that all or any portion of the monies payable as compensation for such taking which are in excess of the amount required to pay all reasonable costs, expenses and attorney fees necessarily paid or incurred by grantor in such proceedings, shall be paid to beneficiary and applied by it first upon any reasonable costs and expenses and attorney fees, both in the trial and appellate courts, necessarily paid or incurred by beneficiary in such proceedings, and the balance applied upon the indebtedness secured hereby. Grantor agrees, at its own expense, to take such actions and execute such instruments as shall be necessary in obtaining such compensation promptly upon beneficiary's request.

9. At any time, and from time to time upon written request of beneficiary, payment of its fees and presentation of this deed and the note for endorsement (in case of full reconveyances, for cancellation), without affecting the liability of any person for the payment of the indebtedness, trustee may (a) consent to the making of any map or plat of the property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this deed or the lien or charge thereof; or (d) reconvey, without warranty, all of any part of the property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustee fees for any of the services mentioned in this paragraph shall be not less than \$5.

10. Upon any default by grantor hereunder, beneficiary may, at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the property or any part thereof, in its own name sue or otherwise collect the rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney fees, upon any indebtedness secured hereby, and in such order as beneficiary may determine.

11. The entering upon and taking possession of the property, the collection of such rents, issues and profits, or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder, or invalidate any act done pursuant to such notice.

12. Upon default by grantor in payment of any indebtedness secured hereby or in grantor's performance of any agreement hereunder, time being of the essence with respect to such payment and/or performance, the beneficiary

may declare all sums secured hereby immediately due and payable. In such event, the beneficiary may elect to proceed to foreclose this trust deed in equity as a mortgage or direct the trustee to foreclose this trust deed by advertisement and sale, or may direct the trustee to pursue any other right or remedy, either at law or in equity, which the beneficiary may have. In the event the beneficiary elects to foreclose by advertisement and sale, the beneficiary or the trustee shall execute and cause to be recorded a written notice of default and election to sell the property to satisfy the obligation secured hereby whereupon the trustee shall fix the time and place of sale, give notice thereof as then required by law and proceed to foreclose this trust deed in the manner provided in ORS 86.735 to 86.795.

13. After the trustee has commenced foreclosure by advertisement and sale, and at any time prior to 5 days before the date the trustee conducts the sale, the grantor or any other person so privileged by ORS 86.753 may cure the default or defaults. If the default consists of a failure to pay, when due, sums secured by the trust deed, the default may be cured by paying the entire amount due at the time of the cure other than such portion as would not then be due had no default occurred. Any other default that is capable of being cured may be cured by tendering the performance required under the obligation or trust deed. In any case, in addition to curing the default or defaults, the person effecting the cure shall pay to the beneficiary all costs and expenses actually incurred in enforcing the obligation of the trust deed, together with trustee and attorney fees not exceeding the amounts provided by law.

14. Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale or the time to which the sale may be postponed as provided by law. The trustee may sell the property either in one parcel or in separate parcels and shall sell the parcel or parcels at auction to the highest bidder for cash, payable at the time of sale. Trustee shall deliver to the purchaser its deed in form as required by law conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusive proof of the truthfulness thereof. Any person, excluding the trustee, but including the grantor and beneficiary, may purchase at the sale.

15. When trustee sells pursuant to the powers provided herein, trustee shall apply the proceeds of sale to payment of: (1) the expenses of sale, including the compensation of the trustee and a reasonable charge by trustee's attorney; (2) to the obligation secured by the trust deed; (3) to all persons having recorded liens subsequent to the interest of the trustee in the trust deed as their interests may appear in the order of their priority; and (4) the surplus, if any, to the grantor, or to any successor in interest entitled to such surplus.

16. Beneficiary may, from time to time, appoint a successor or successors to any trustee named herein or to any successor trustee appointed hereunder. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers and duties conferred upon any trustee herein named or appointed hereunder. Each such appointment and substitution shall be made by written instrument executed by beneficiary, which, when recorded in the mortgage records of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.

17. Trustee accepts this trust when this deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which grantor, beneficiary or trustee shall be a party unless such action or proceeding is brought by trustee.

The grantor covenants to and agrees with the beneficiary and the beneficiary's successors in interest that the grantor is lawfully seized in fee simple of the real property and has a valid, unencumbered title thereto, except as may be set forth in any addendum or exhibit attached hereto, and that the grantor will warrant and forever defend the same against all persons whomsoever.

**WARNING:** Unless grantor provides beneficiary with evidence of insurance coverage as required by the contract or loan agreement between them, beneficiary may purchase insurance at grantor's expense to protect beneficiary's interest. This insurance may, but need not, also protect grantor's interest. If the collateral becomes damaged, the coverage purchased by beneficiary may not pay any claim made by or against grantor. Grantor may later cancel the coverage by providing evidence that grantor has obtained property coverage elsewhere. Grantor is responsible for the cost of any insurance coverage purchased by beneficiary, which cost may be added to grantor's contract or loan balance. If it is so added, the interest rate on the underlying contract or loan will apply to it. The effective date of coverage may be the date grantor's prior coverage lapsed or the date grantor failed to provide proof of coverage. The coverage beneficiary purchases may be considerably more expensive than insurance grantor might otherwise obtain alone and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

The grantor warrants that the proceeds of the loan represented by the above described note and this trust deed are (choose one):

- (a) primarily for grantor's personal, family or household purposes;
- (b) for an organization, or (even if grantor is a natural person) are for business or commercial purposes.

This deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns. The term beneficiary shall mean the holder and owner, including pledgee, of the contract secured hereby, whether or not named as beneficiary herein.

In construing this trust deed, it is understood that the grantor, trustee and/or beneficiary may each be more than one person; that if the context so requires, the singular shall be taken to mean and include the plural, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, the grantor has executed this instrument the day and year first written above.

REDMOND INVESTMENTS, LLC

By: *Ray Paul*  
 Authorized Representative

STATE OF OREGON     )  
                                   ) ss.  
 County of Deschutes    )

This instrument was acknowledged before me on 9/21, 2004, by RAY PAUL, authorized representative of REDMOND INVESTMENTS, LLC.

*Marilyn S. Baker*  
 Notary Public for Oregon



## EXHIBIT "A"

### Parcel 1, Partition Plat 1994-28

EXCEPTING THEREFROM a parcel of land located in a portion of Government Lot 3, Section 19, Township 15 South, Range 13 East, Willamette Meridian, Deschutes County, Oregon, being more particularly described as follows:

Beginning at a 5/8" iron rod with a plastic cap stamped "HWA" marking the Northwest corner of Parcel 1, Partition Plat 1994-28, said point being 30 feet Easterly and perpendicular to the centerline of Helmholtz Way; thence along the Northerly boundary line of said Parcel 1 South 89°30'25" East a distance of 342.27 feet to a 5/8" iron rod with a plastic cap stamped "HWA"; thence leaving said Northerly boundary line South 63°51'03" West a distance of 42.27 feet to a 5/8" iron rod with a plastic cap stamped "HWA"; thence South 89°44'03" West a distance of 83.07 feet to a 5/8" iron rod with a plastic cap stamped "HWA"; thence South 89°27'54" West a distance of 222.07 feet to a 5/8" iron rod with a plastic cap stamped "HWA", said point being 45 feet Easterly and perpendicular to said centerline of Helmholtz Way; thence continuing South 89°27'54" West a distance of 19.55 feet to a point 30 feet Easterly and perpendicular to said centerline of Helmholtz Way; thence around a 770.00-foot radius curve right 31.65 feet (chord bears North 40°04'23" East, 31.64 feet) to the point of beginning, the terminus of this description.

**Laura Snedaker**

**From:** Terrance Anthony [conservationstrategies@comcast.net]  
**Sent:** Friday, September 21, 2007 10:53 AM  
**To:** Laura Snedaker  
**Subject:** Re: T 10391 platcards

Laura,

No. None of the acres in either the "from" or "to" POU tables of T-9314 overlap with those in T-10391, so there is no conflict. It would appear that the platcard listing identifies acres in C-76358 that are not subject to T-9314.

Thanks for looking this up.

Terry

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

----- Original Message -----

**From:** Laura Snedaker  
**To:** Terrance Anthony  
**Sent:** Friday, September 21, 2007 10:29 AM  
**Subject:** RE: T 10391 platcards

Terry:

Here's a link to the order for T-9314. Does it really have a potential conflict with T-10391?

[http://apps2.wrd.state.or.us/apps/misc/vault/vault.aspx?Type=Order&volume\\_nbr=64&page\\_nbr=419&page\\_char=](http://apps2.wrd.state.or.us/apps/misc/vault/vault.aspx?Type=Order&volume_nbr=64&page_nbr=419&page_char=)

Let me know if you think that there might be an overlap and I can find the transfer file and dig out the application maps that go with it.

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

**From:** Terrance Anthony [mailto:conservationstrategies@comcast.net]  
**Sent:** Saturday, September 15, 2007 10:07 PM  
**To:** Laura Snedaker  
**Subject:** T 10391 platcards

Lara,

I've completed the platcard evaluation for T 10391. There is only one listing in the platcard records that has acres in the same quarter quarters as this transfer, and that is another C-76358 transfer, T 9314, which is in Coate. I could locate no document that explained what this transfer was or specifically where the POUs were located. Attached is a PDF that lists the # acres in T 9314 Q-Qs that overlap T 10391.

Also attached in a zip file are PDFs of all the platcard pages. Do you still want hardcopies? I figure that will amount to about 60 pages of paper, as my printer only does one-sided documents. Apologies again that it took so long--the older (2003-XP) laptop that I usually work on was not able to download some of these platcards for whatever reason.

Terly

Terrence Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

9/21/2007

**Laura Snedaker**

**From:** Terrance Anthony [conservationstrategies@comcast.net]  
**Sent:** Saturday, September 15, 2007 10:07 PM  
**To:** Laura Snedaker  
**Subject:** T 10391 platcards  
**Attachments:** T-10391 platcards.zip; conflict summary.pdf

Laura,

I've completed the platcard evaluation for T 10391. There is only one listing in the platcard records that has acres in the same quarter quarters as this transfer, and that is another C-76358 transfer, T 9314, which is inchoate. I could locate no document that explained what this transfer was or specifically where the POUs were located. Attached is a PDF that lists the # acres in T 9314 Q-Qs that overlap T 10391.

Also attached in a zip file are PDFs of all the platcard pages. Do you still want hardcopies? I figure that will amount to about 60 pages of paper, as my printer only does one-sided documents. Apologies again that it took so long--the older (2003-XP) laptop that I usually work on was not able to download some of these platcards for whatever reason.

Terry

Terrance Anthony  
ph 503.282.1953  
fax 503.493.2512  
[conservationstrategies@comcast.net](mailto:conservationstrategies@comcast.net)

T-10391 platcard evaluation

| Section | Q-Q     | potential conflict        | acres |
|---------|---------|---------------------------|-------|
|         | 3 NW SW | Inchoate: T 9314 CF (DST) | 34    |
|         | 4 SW NE | Inchoate: T 9314 CF (DST) | 4.1   |
|         | 8 NE NW | Inchoate: T 9314 CF (DST) | 34    |
|         | SE NW   | Inchoate: T 9314 CF (DST) | 35.8  |
| 19      | SW SW   | Inchoate: T 9314 CF (DST) | 18.6  |
|         | SW NE   | Inchoate: T 9314 CF (DST) | 14.6  |
|         | SE NW   | Inchoate: T 9314 CF (DST) | 17.8  |
| 20      | NE SE   | Inchoate: T 9314 CF (DST) | 10.01 |

T-10391 platcard evaluation

| Section | Q-Q     | potential conflict        | acres |
|---------|---------|---------------------------|-------|
|         | 3 NW SW | Inchoate: T 9314 CF (DST) | 34    |
|         | 4 SW NE | Inchoate: T 9314 CF (DST) | 4.1   |
|         | 8 NE NW | Inchoate: T 9314 CF (DST) | 34    |
|         | SE NW   | Inchoate: T 9314 CF (DST) | 35.8  |
| 19      | SW SW   | Inchoate: T 9314 CF (DST) | 18.6  |
|         | SW NE   | Inchoate: T 9314 CF (DST) | 14.6  |
|         | SE NW   | Inchoate: T 9314 CF (DST) | 17.8  |
| 20      | NE SE   | Inchoate: T 9314 CF (DST) | 10.01 |

T-10391

DRC / COID

C-76358

COID #6 (Avion)

@ city of Redmond / Deschutes Co.

{ 10/31/1900

{ 12/2/1907

total 39.58 ac, 6 tax lots

- need pages from C-76358 for each POU - see table for page #5

map waiver OK'd

aerials submitted for proof of use

permanent IS tx/r - single instream reach  $\Delta$  POU/use /  $\Delta$  POD <sup>NO</sup> ?  
mitigation project = yes : MP 108 Lanna S. to handle

did not check box indicating ID wr (sec. 7)

identifies ID. as BOR (not COID?) >> supplemental ??

ensure QC's properly executed ✓

review fees ✓

Exhibit A - no description of system capacity

C-76714 contains related supp wr (39.58 ac) will be cancelled

App lists POD #11 as <sup>only</sup> Auth. POD ~~but~~ ✓ (no  $\Delta$  to storage)

Wm says no issues

ODFD report missing - Lanna says not required

no G/W needed

remove Navigation from new public uses per applicant

new FWR will hold only the 1900 priority date (10/31/1900)

new FWR season = 4/1 - 11/1 w/ 3 sub-seasons of use  
(see exhibit C)

new FWR rate = 0.67 cfs duty 215,73 AF diminished by

new FWR reach (only one) = POD #11 to 720 (from 120)

RECEIVED

SEP 10 2007

WATER RESOURCES DEPT  
SALEM, OREGON

Need add'l CWIF's : CTWS  
City of Bend  
City of Redmond  
Jefferson Co  
Look at small example letter

Final proof maps? see order VWS p 468

Can E to do new IS certificate? see example 10058-cf Yes  
public notice on 5-29-07

C-76358 indicates allowed transmission loss of 45% from canals  
T-1300 is a good template - reformat

Living certificate

Why terminate at RM 120? see T-9883 finding # 11, # 12

T-9883 has list of existing IWR

see T-9883 for treatment of cancelled WRS

must C/D/DRC request LOS to cancel supp WRS? No - Quit claim  
colors w/ C 7635

download copy of C-76714 ✓

Bradley 1.7 acres

clear, all items present

RECEIVED

SEP 10 2007

WATER RESOURCES DEPT  
SALEM, OREGON

CHW LLC 9.58 ac

existing lien? clear up otherwise OK - all items present

Tri-County Builders 2.33 ac

legal description  
Title Report lists wrong partition tract -- see Deed

Affidavit of Use is missing # 4 use and # 5 desc. delivery sys

- aerial shows use and also lateral C-2-1

- exhibit A says pasture

High Ridge Development 4.65 ac

~~Application lists acres in wrong 1/4 1/4's - swap~~ OK

Title Report lists a line of credit from Bank of the Cascades and a Reimbursement District in city of Redmond as encumbrances

OK - all items present

\* Final Proof map needed to confirm T-9113

see order  
V 65 P 46  
7-25-0

Wagenblast 6.4 ac

Deed of Trust - Crossland Mortgage Corp. / Chase Mortgage

otherwise OK - all items present

Redmond Investments LLC 15.0 ac

Deed of Trust - Western Title of Escrow Inc / <sup>Violet F.</sup> Hammond Trust

otherwise OK - all items present

review quantities - ensure no enlargement of primary lot

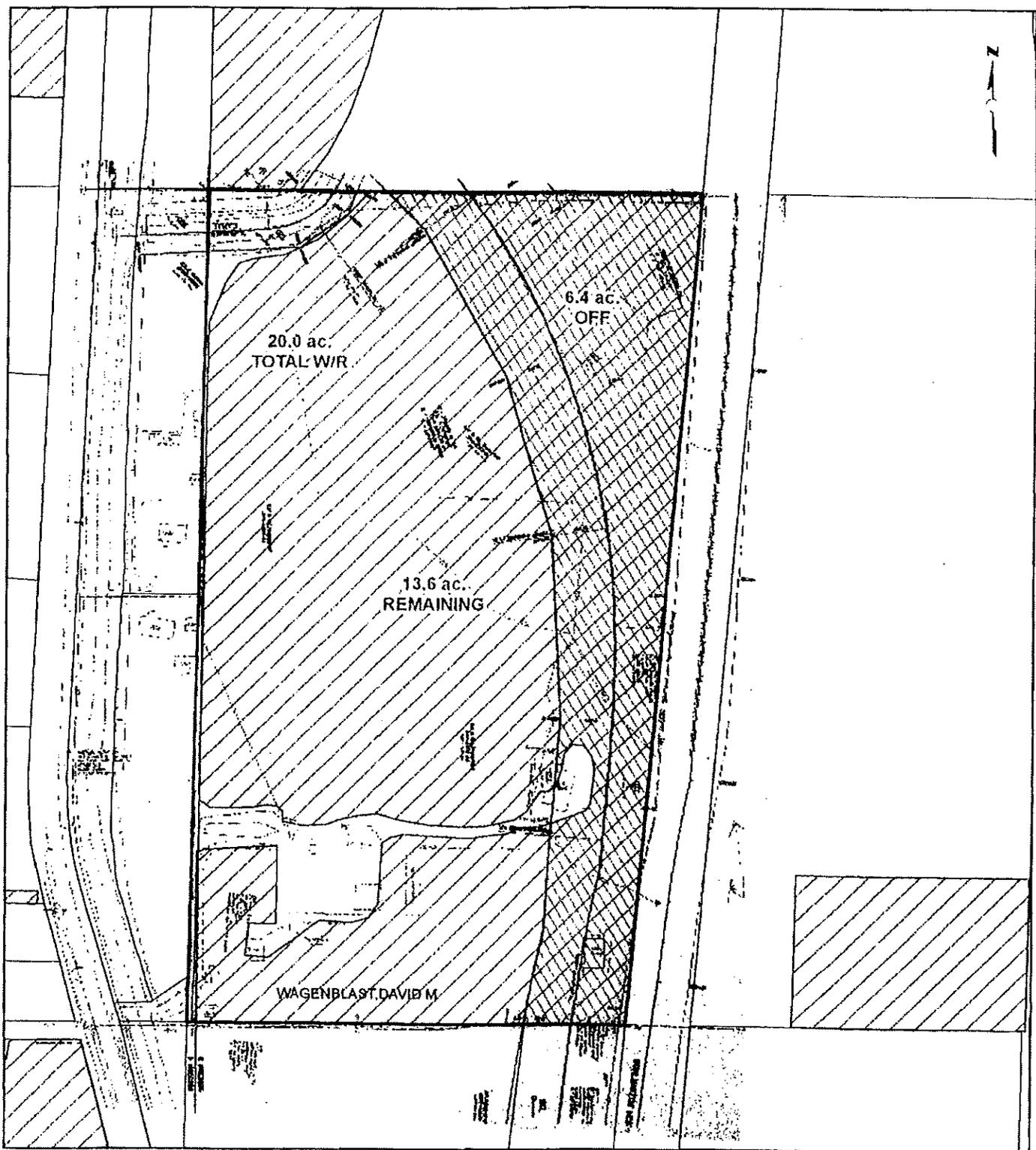
-> modify # days? see T-10300 DPD find # 15

✓

RECEIVED

SEP 10 2007

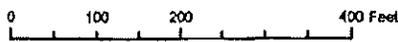
WATER RESOURCES DEPT  
SALEM, OREGON



10391

### WATER RIGHTS MAP

15-03-03  
NW SW  
TL: 1401



**RECEIVED**

MAY 18 2007

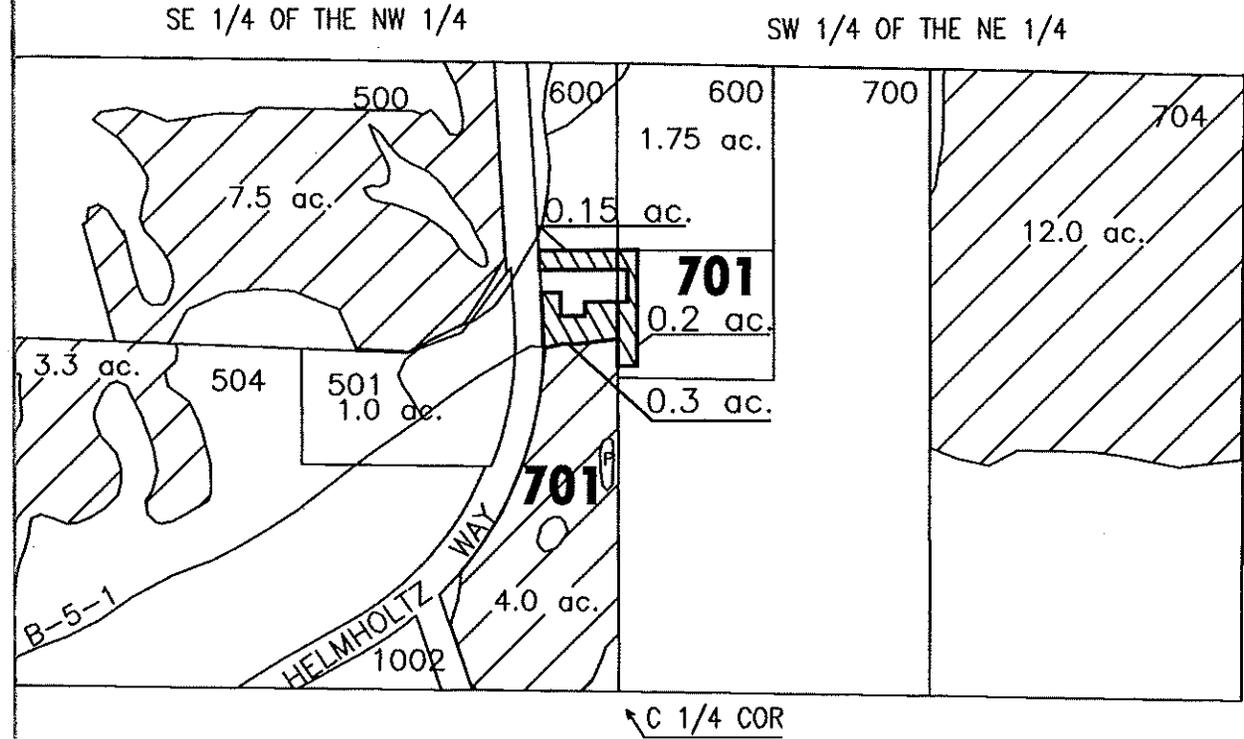
**IRR LAND**

- IL
- OFF

WATER RESOURCES DEPT. DATE: 12-20-05  
SALEM, OREGON

DESCHUTES COUNTY  
SEC. 19 T15S. R13E. W.M.

SCALE - 1" = 400'



FINAL PROOF MAP

PAMELA K. PALMER / LYLE R. JARVIS - 0.65 ACRES

## WATER AVAILABILITY TABLE

Water Availability as of 5/29/2007 for  
 DESCHUTES R > COLUMBIA R - AB TUMALO CR

Watershed ID #: 197 Basin: DESCHUTES Exceedance Level: 50  
 Time: 16:13 Date: 05/29/2007

| Item # | Watershed ID # | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Sto |
|--------|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 1      | 70087          | YES | YES | YES | YES | YES | YES | NO  | NO  | NO  | NO  | NO  | NO  | YES |
| 2      | 30530627       | NO  | YES | YES | YES | YES | YES | NO  | NO  | NO  | NO  | NO  | NO  | YES |
| 3      | 30530643       | NO  | NO  | YES | YES | YES | YES | NO  | NO  | NO  | NO  | NO  | NO  | YES |
| 4      | 30530112       | NO  | NO  | YES | YES | NO  | YES |
| 5      | 197            | NO  |

## STREAM NAMES

Water Availability as of 5/29/2007 for  
 DESCHUTES R > COLUMBIA R - AB TUMALO CR

Watershed ID #: 197 Basin: DESCHUTES Exceedance Level: 50

Item Watershed ID Stream Name

|   |          |  |
|---|----------|--|
| 1 | 70087    | DESCHUTES R > COLUMBIA R - AT MOUTH        |
| 2 | 30530627 | DESCHUTES R > COLUMBIA R - AB EAGLE CR     |
| 3 | 30530643 | DESCHUTES R > COLUMBIA R - AB SHITIKE CR   |
| 4 | 30530112 | DESCHUTES R > COLUMBIA R - AB BUCKHORN CAN |
| 5 | 197      | DESCHUTES R > COLUMBIA R - AB TUMALO CR    |

## LIMITING WATERSHEDS

Water Availability as of 5/29/2007 for  
 DESCHUTES R > COLUMBIA R - AB TUMALO CR

Watershed ID #: 197 Basin: DESCHUTES Exceedance Level: 50  
 Time: 16:13 Date: 05/29/2007

| Mnth | Limiting Watershed | Stream Name                              | Water Avail? | Net Water Available |
|------|--------------------|--|--------------|---------------------|
| 1    | 30530643           | DESCHUTES R > COLUMBIA R - AB SHITIKE CR | NO           | -605.0              |
| 2    | 30530643           | DESCHUTES R > COLUMBIA R - AB SHITIKE CR | NO           | -133.0              |
| 3    | 197                | DESCHUTES R > COLUMBIA R - AB TUMALO CR  | NO           | -179.0              |
| 4    | 197                | DESCHUTES R > COLUMBIA R - AB TUMALO CR  | NO           | -553.0              |
| 5    | 197                | DESCHUTES R > COLUMBIA R - AB TUMALO CR  | NO           | -1953.0             |
| 6    | 197                | DESCHUTES R > COLUMBIA R - AB TUMALO CR  | NO           | -2135.0             |
| 7    | 197                | DESCHUTES R > COLUMBIA R - AB TUMALO CR  | NO           | -2575.0             |
| 8    | 197                | DESCHUTES R > COLUMBIA R - AB TUMALO CR  | NO           | -2430.0             |
| 9    | 197                | DESCHUTES R > COLUMBIA R - AB TUMALO CR  | NO           | -2026.0             |
| 10   | 197                | DESCHUTES R > COLUMBIA R - AB TUMALO CR  | NO           | -902.0              |
| 11   | 30530643           | DESCHUTES R > COLUMBIA R - AB SHITIKE CR | NO           | -320.0              |
| 12   | 30530643           | DESCHUTES R > COLUMBIA R - AB SHITIKE CR | NO           | -791.0              |
| Stor | 197                | DESCHUTES R > COLUMBIA R - AB TUMALO CR  | NO           | 0.0                 |

## DETAILED REPORT ON THE WATER AVAILABILITY CALCULATION

Water Availability as of 5/29/2007 for

DESCHUTES R &gt; COLUMBIA R - AT MOUTH

Watershed ID #: 70087

Basin: DESCHUTES

Exceedance Level: 50

Time: 16:13

Date: 05/29/2007

| Month    | Natural<br>Stream<br>Flow | Consumptiv<br>Use and<br>Storage | Expected<br>Stream<br>Flow | Reserved<br>Stream<br>Flow | Instream<br>Require-<br>ments | Net<br>Water<br>Available |
|----------|---------------------------|----------------------------------|----------------------------|----------------------------|-------------------------------|---------------------------|
| 1        | 5830.00                   | 671.00                           | 5160.00                    | 450.00                     | 4500.00                       | 209.00                    |
| 2        | 6980.00                   | 746.00                           | 6230.00                    | 450.00                     | 4500.00                       | 1280.00                   |
| 3        | 7440.00                   | 1010.00                          | 6430.00                    | 450.00                     | 4500.00                       | 1480.00                   |
| 4        | 8180.00                   | 984.00                           | 7200.00                    | 450.00                     | 4000.00                       | 2750.00                   |
| 5        | 7460.00                   | 1160.00                          | 6300.00                    | 450.00                     | 4000.00                       | 1850.00                   |
| 6        | 6600.00                   | 1220.00                          | 5380.00                    | 450.00                     | 4000.00                       | 927.00                    |
| 7        | 5190.00                   | 964.00                           | 4230.00                    | 450.00                     | 4000.00                       | -224.00                   |
| 8        | 4780.00                   | 870.00                           | 3910.00                    | 450.00                     | 3500.00                       | -39.40                    |
| 9        | 4800.00                   | 754.00                           | 4050.00                    | 450.00                     | 3800.00                       | -204.00                   |
| 10       | 4940.00                   | 797.00                           | 4140.00                    | 450.00                     | 3800.00                       | -107.00                   |
| 11       | 5050.00                   | 849.00                           | 4200.00                    | 450.00                     | 3800.00                       | -49.10                    |
| 12       | 5480.00                   | 775.00                           | 4710.00                    | 450.00                     | 4500.00                       | -245.00                   |
| Stor-50% | 4390000                   | 652000                           | 3730000                    | 326000                     | 2950000                       | 508000                    |

## DETAILED REPORT OF CONSUMPTIVE USES AND STORAGES

Water Availability as of 5/29/2007 for

DESCHUTES R &gt; COLUMBIA R - AT MOUTH

Watershed ID #: 70087

Basin: DESCHUTES

Exceedance Level: 50

Time: 16:13

Date: 05/29/2007

| Mo | Storage | Irrig   | Munic | Ind/Man | Commer | Domest | Agricul | Other | Total   |
|----|---------|---------|-------|---------|--------|--------|---------|-------|---------|
| 1  | 616.00  | 0.17    | 47.70 | 0.91    | 0.07   | 4.37   | 1.30    | 0.00  | 671.00  |
| 2  | 692.00  | 0.15    | 47.70 | 0.91    | 0.07   | 4.37   | 1.30    | 0.00  | 747.00  |
| 3  | 884.00  | 71.60   | 47.70 | 0.91    | 0.07   | 4.37   | 1.30    | 0.00  | 1010.00 |
| 4  | 488.00  | 442.00  | 47.70 | 0.91    | 0.07   | 4.37   | 1.30    | 0.00  | 984.00  |
| 5  | 88.20   | 1010.00 | 47.70 | 0.91    | 0.07   | 4.37   | 1.30    | 0.00  | 1150.00 |
| 6  | 45.20   | 1090.00 | 84.40 | 0.91    | 0.07   | 4.37   | 1.30    | 0.00  | 1230.00 |
| 7  | 35.30   | 838.00  | 84.40 | 0.91    | 0.07   | 4.37   | 1.30    | 0.00  | 964.00  |
| 8  | 32.50   | 746.00  | 84.40 | 0.91    | 0.07   | 4.37   | 1.30    | 0.00  | 870.00  |
| 9  | 32.60   | 630.00  | 84.40 | 0.91    | 0.07   | 4.37   | 1.30    | 0.00  | 754.00  |
| 10 | 436.00  | 307.00  | 47.70 | 0.91    | 0.07   | 4.37   | 1.30    | 0.00  | 797.00  |
| 11 | 794.00  | 0.30    | 47.70 | 0.91    | 0.07   | 4.37   | 1.30    | 0.00  | 849.00  |
| 12 | 720.00  | 0.21    | 47.70 | 0.91    | 0.07   | 4.36   | 1.30    | 0.00  | 775.00  |

DETAILED REPORT OF RESERVATIONS FOR CONSUMPTIVE USE

Water Availability as of 5/29/2007 for  
 DESCHUTES R > COLUMBIA R - AT MOUTH

Watershed ID #: 70087 Basin: DESCHUTES Exceedance Level: 50  
 Time: 16:13 Date: 05/29/2007

-----Reservations-----

| APP #  | TY 70503 | TY 70503 | TY 70503 | TY 70503 | TY 70504 | TY 70504 | TY 70504 | TOTAL  |
|--------|----------|----------|----------|----------|----------|----------|----------|--------|
| Status | Treaty   |        |
| Use    | Other    |        |
| 1      | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |
| 2      | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |
| 3      | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |
| 4      | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |
| 5      | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |
| 6      | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |
| 7      | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |
| 8      | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |
| 9      | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |
| 10     | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |
| 11     | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |
| 12     | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |

DETAILED REPORT OF INSTREAM REQUIREMENTS

Water Availability as of 5/29/2007 for  
 DESCHUTES R > COLUMBIA R - AT MOUTH

Watershed ID #: 70087 Basin: DESCHUTES Exceedance Level: 50  
 Time: 16:13 Date: 05/29/2007

-----ISWRs-----

| APP #  | IS 70087 | IS 71194 | SY 90506 | TY 70501 | 0    | 0    | 0    | MAXIMUM |
|--------|----------|----------|----------|----------|------|------|------|---------|
| Status | Cert.    | Cert.    | SWW      | Treaty   |      |      |      |         |
| 1      | 3000.00  | 4500.00  | 4500.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 4500.00 |
| 2      | 3000.00  | 4500.00  | 4500.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 4500.00 |
| 3      | 3500.00  | 4500.00  | 4500.00  | 3500.00  | 0.00 | 0.00 | 0.00 | 4500.00 |
| 4      | 3500.00  | 4000.00  | 4000.00  | 3500.00  | 0.00 | 0.00 | 0.00 | 4000.00 |
| 5      | 3500.00  | 4000.00  | 4000.00  | 3500.00  | 0.00 | 0.00 | 0.00 | 4000.00 |
| 6      | 3500.00  | 4000.00  | 4000.00  | 3500.00  | 0.00 | 0.00 | 0.00 | 4000.00 |
| 7      | 3000.00  | 4000.00  | 4000.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 4000.00 |
| 8      | 3000.00  | 3500.00  | 3500.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 3500.00 |
| 9      | 3000.00  | 3800.00  | 3800.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 3800.00 |
| 10     | 3000.00  | 3800.00  | 3800.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 3800.00 |
| 11     | 3000.00  | 3800.00  | 3800.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 3800.00 |
| 12     | 3000.00  | 4500.00  | 4500.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 4500.00 |

DETAILED REPORT ON THE WATER AVAILABILITY CALCULATION

Water Availability as of 5/29/2007 for  
 DESCHUTES R > COLUMBIA R - AB EAGLE CR

Watershed ID #: 30530627  
 Time: 16:13

Basin: DESCHUTES

Exceedance Level: 50  
 Date: 05/29/2007

| Month    | Natural Stream Flow | Consumptive Use and Storage | Expected Stream Flow | Reserved Stream Flow | Instream Requirements | Net Water Available |
|----------|---------------------|-----------------------------|----------------------|----------------------|-----------------------|---------------------|
| 1        | 5280.00             | 650.00                      | 4630.00              | 450.00               | 4500.00               | -320.00             |
| 2        | 6160.00             | 713.00                      | 5450.00              | 450.00               | 4500.00               | 498.00              |
| 3        | 6650.00             | 969.00                      | 5680.00              | 450.00               | 4500.00               | 731.00              |
| 4        | 7350.00             | 920.00                      | 6430.00              | 450.00               | 4000.00               | 1980.00             |
| 5        | 6720.00             | 1040.00                     | 5680.00              | 450.00               | 4000.00               | 1230.00             |
| 6        | 6160.00             | 1090.00                     | 5070.00              | 450.00               | 4000.00               | 617.00              |
| 7        | 4960.00             | 866.00                      | 4090.00              | 450.00               | 4000.00               | -356.00             |
| 8        | 4600.00             | 789.00                      | 3810.00              | 450.00               | 3500.00               | -139.00             |
| 9        | 4630.00             | 681.00                      | 3950.00              | 450.00               | 3800.00               | -301.00             |
| 10       | 4770.00             | 739.00                      | 4030.00              | 450.00               | 3800.00               | -219.00             |
| 11       | 4840.00             | 839.00                      | 4000.00              | 450.00               | 3800.00               | -249.00             |
| 12       | 5110.00             | 763.00                      | 4350.00              | 450.00               | 4500.00               | -603.00             |
| Stor-50% | 4050000             | 607400                      | 3450000              | 326000               | 2950000               | 303000              |

DETAILED REPORT OF CONSUMPTIVE USES AND STORAGES

Water Availability as of 5/29/2007 for  
 DESCHUTES R > COLUMBIA R - AB EAGLE CR

Watershed ID #: 30530627  
 Time: 16:13

Basin: DESCHUTES

Exceedance Level: 50  
 Date: 05/29/2007

| Mo | Storage | Irrig  | Munic | Ind/Man | Commer | Domest | Agricul | Other | Total   |
|----|---------|--------|-------|---------|--------|--------|---------|-------|---------|
| 1  | 599.00  | 0.00   | 45.80 | 0.62    | 0.07   | 3.85   | 0.98    | 0.00  | 650.00  |
| 2  | 661.00  | 0.00   | 45.80 | 0.62    | 0.07   | 3.85   | 0.98    | 0.00  | 712.00  |
| 3  | 857.00  | 61.40  | 45.80 | 0.62    | 0.07   | 3.85   | 0.98    | 0.00  | 970.00  |
| 4  | 458.00  | 411.00 | 45.80 | 0.62    | 0.07   | 3.85   | 0.98    | 0.00  | 920.00  |
| 5  | 75.60   | 913.00 | 45.80 | 0.62    | 0.07   | 3.85   | 0.98    | 0.00  | 1040.00 |
| 6  | 35.30   | 972.00 | 80.60 | 0.62    | 0.07   | 3.85   | 0.98    | 0.00  | 1090.00 |
| 7  | 28.30   | 751.00 | 80.60 | 0.62    | 0.07   | 3.85   | 0.98    | 0.00  | 865.00  |
| 8  | 26.20   | 676.00 | 80.60 | 0.62    | 0.07   | 3.85   | 0.98    | 0.00  | 788.00  |
| 9  | 26.40   | 568.00 | 80.60 | 0.62    | 0.07   | 3.85   | 0.98    | 0.00  | 681.00  |
| 10 | 429.00  | 258.00 | 45.80 | 0.62    | 0.07   | 3.85   | 0.98    | 0.00  | 738.00  |
| 11 | 788.00  | 0.00   | 45.80 | 0.62    | 0.07   | 3.85   | 0.98    | 0.00  | 839.00  |
| 12 | 712.00  | 0.00   | 45.80 | 0.62    | 0.07   | 3.84   | 0.98    | 0.00  | 763.00  |

## DETAILED REPORT OF RESERVATIONS FOR CONSUMPTIVE USE

Water Availability as of 5/29/2007 for  
DESCHUTES R > COLUMBIA R - AB EAGLE CRWatershed ID #: 30530627  
Time: 16:13

Basin: DESCHUTES

Exceedance Level: 50  
Date: 05/29/2007

| -----Reservations----- |          |          |          |          |          |          |          |        |
|------------------------|----------|----------|----------|----------|----------|----------|----------|--------|
| APP #                  | TY 70503 | TY 70503 | TY 70503 | TY 70503 | TY 70504 | TY 70504 | TY 70504 | TOTAL  |
| Status                 | Treaty   |        |
| Use                    | Other    |        |
| 1                      | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |
| 2                      | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |
| 3                      | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |
| 4                      | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |
| 5                      | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |
| 6                      | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |
| 7                      | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |
| 8                      | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |
| 9                      | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |
| 10                     | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |
| 11                     | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |
| 12                     | 146.00   | 37.60    | 4.80     | 61.30    | 147.00   | 27.90    | 25.00    | 450.00 |

## DETAILED REPORT OF INSTREAM REQUIREMENTS

Water Availability as of 5/29/2007 for  
DESCHUTES R > COLUMBIA R - AB EAGLE CRWatershed ID #: 30530627  
Time: 16:13

Basin: DESCHUTES

Exceedance Level: 50  
Date: 05/29/2007

| -----ISWRs----- |          |          |          |          |      |      |      |         |
|-----------------|----------|----------|----------|----------|------|------|------|---------|
| APP #           | IS 70087 | IS 71194 | SY 90506 | TY 70501 | 0    | 0    | 0    | MAXIMUM |
| Status          | Cert.    | Cert.    | SWW      | Treaty   |      |      |      |         |
| 1               | 3000.00  | 4500.00  | 4500.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 4500.00 |
| 2               | 3000.00  | 4500.00  | 4500.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 4500.00 |
| 3               | 3500.00  | 4500.00  | 4500.00  | 3500.00  | 0.00 | 0.00 | 0.00 | 4500.00 |
| 4               | 3500.00  | 4000.00  | 4000.00  | 3500.00  | 0.00 | 0.00 | 0.00 | 4000.00 |
| 5               | 3500.00  | 4000.00  | 4000.00  | 3500.00  | 0.00 | 0.00 | 0.00 | 4000.00 |
| 6               | 3500.00  | 4000.00  | 4000.00  | 3500.00  | 0.00 | 0.00 | 0.00 | 4000.00 |
| 7               | 3000.00  | 4000.00  | 4000.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 4000.00 |
| 8               | 3000.00  | 3500.00  | 3500.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 3500.00 |
| 9               | 3000.00  | 3800.00  | 3800.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 3800.00 |
| 10              | 3000.00  | 3800.00  | 3800.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 3800.00 |
| 11              | 3000.00  | 3800.00  | 3800.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 3800.00 |
| 12              | 3000.00  | 4500.00  | 4500.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 4500.00 |

## DETAILED REPORT ON THE WATER AVAILABILITY CALCULATION

Water Availability as of 5/29/2007 for  
DESCHUTES R > COLUMBIA R - AB SHITIKE CRWatershed ID #: 30530643  
Time: 16:13

Basin: DESCHUTES

Exceedance Level: 50  
Date: 05/29/2007

| Month    | Natural<br>Stream<br>Flow | Consumptiv<br>Use and<br>Storage | Expected<br>Stream<br>Flow | Reserved<br>Stream<br>Flow | Instream<br>Require-<br>ments | Net<br>Water<br>Available |
|----------|---------------------------|----------------------------------|----------------------------|----------------------------|-------------------------------|---------------------------|
| 1        | 4660.00                   | 646.00                           | 4010.00                    | 119.00                     | 4500.00                       | -605.00                   |
| 2        | 5190.00                   | 704.00                           | 4490.00                    | 119.00                     | 4500.00                       | -133.00                   |
| 3        | 5710.00                   | 973.00                           | 4740.00                    | 119.00                     | 4500.00                       | 119.00                    |
| 4        | 6380.00                   | 992.00                           | 5390.00                    | 119.00                     | 4000.00                       | 1270.00                   |
| 5        | 5890.00                   | 1170.00                          | 4720.00                    | 119.00                     | 4000.00                       | 600.00                    |
| 6        | 5590.00                   | 1250.00                          | 4340.00                    | 119.00                     | 4000.00                       | 221.00                    |
| 7        | 4560.00                   | 1030.00                          | 3530.00                    | 119.00                     | 4000.00                       | -590.00                   |
| 8        | 4260.00                   | 899.00                           | 3360.00                    | 119.00                     | 3500.00                       | -258.00                   |
| 9        | 4320.00                   | 772.00                           | 3550.00                    | 119.00                     | 3800.00                       | -371.00                   |
| 10       | 4430.00                   | 778.00                           | 3650.00                    | 119.00                     | 3800.00                       | -267.00                   |
| 11       | 4440.00                   | 841.00                           | 3600.00                    | 119.00                     | 3800.00                       | -320.00                   |
| 12       | 4590.00                   | 763.00                           | 3830.00                    | 119.00                     | 4500.00                       | -791.00                   |
| Stor-50% | 3620000                   | 654100                           | 2970000                    | 86200                      | 2950000                       | 133000                    |

## DETAILED REPORT OF CONSUMPTIVE USES AND STORAGES

Water Availability as of 5/29/2007 for  
DESCHUTES R > COLUMBIA R - AB SHITIKE CRWatershed ID #: 30530643  
Time: 16:13

Basin: DESCHUTES

Exceedance Level: 50  
Date: 05/29/2007

| Mo | Storage | Irrig   | Munic | Ind/Man | Commer | Domest | Agricul | Other | Total   |
|----|---------|---------|-------|---------|--------|--------|---------|-------|---------|
| 1  | 594.00  | 0.38    | 45.70 | 0.50    | 0.07   | 3.93   | 0.70    | 0.00  | 645.00  |
| 2  | 653.00  | 0.00    | 45.70 | 0.50    | 0.07   | 3.93   | 0.70    | 0.00  | 704.00  |
| 3  | 849.00  | 72.90   | 45.70 | 0.50    | 0.07   | 3.93   | 0.70    | 0.00  | 973.00  |
| 4  | 450.00  | 491.00  | 45.70 | 0.50    | 0.07   | 3.93   | 0.70    | 0.00  | 992.00  |
| 5  | 69.80   | 1050.00 | 45.70 | 0.50    | 0.07   | 3.93   | 0.70    | 0.00  | 1170.00 |
| 6  | 31.10   | 1130.00 | 80.50 | 0.50    | 0.07   | 3.93   | 0.70    | 0.00  | 1250.00 |
| 7  | 25.20   | 920.00  | 80.50 | 0.50    | 0.07   | 3.93   | 0.70    | 0.00  | 1030.00 |
| 8  | 23.50   | 790.00  | 80.50 | 0.50    | 0.07   | 3.93   | 0.70    | 0.00  | 899.00  |
| 9  | 23.80   | 662.00  | 80.50 | 0.50    | 0.07   | 3.93   | 0.70    | 0.00  | 772.00  |
| 10 | 426.00  | 301.00  | 45.70 | 0.50    | 0.07   | 3.93   | 0.70    | 0.00  | 778.00  |
| 11 | 785.00  | 5.14    | 45.70 | 0.50    | 0.07   | 3.93   | 0.70    | 0.00  | 841.00  |
| 12 | 708.00  | 3.17    | 45.70 | 0.50    | 0.07   | 3.92   | 0.70    | 0.00  | 762.00  |

## DETAILED REPORT OF RESERVATIONS FOR CONSUMPTIVE USE

Water Availability as of 5/29/2007 for

DESCHUTES R &gt; COLUMBIA R - AB SHITIKE CR

Watershed ID #: 30530643

Basin: DESCHUTES

Exceedance Level: 50

Time: 16:13

Date: 05/29/2007

| -----Reservations----- |          |          |          |          |      |      |      |        |  |
|------------------------|----------|----------|----------|----------|------|------|------|--------|--|
| APP #                  | TY 70503 | TY 70503 | TY 70504 | TY 70504 | 0    | 0    | 0    | TOTAL  |  |
| Status                 | Treaty   | Treaty   | Treaty   | Treaty   |      |      |      |        |  |
| Use                    | Other    | Other    | Other    | Other    |      |      |      |        |  |
| 1                      | 4.80     | 61.30    | 27.90    | 25.00    | 0.00 | 0.00 | 0.00 | 119.00 |  |
| 2                      | 4.80     | 61.30    | 27.90    | 25.00    | 0.00 | 0.00 | 0.00 | 119.00 |  |
| 3                      | 4.80     | 61.30    | 27.90    | 25.00    | 0.00 | 0.00 | 0.00 | 119.00 |  |
| 4                      | 4.80     | 61.30    | 27.90    | 25.00    | 0.00 | 0.00 | 0.00 | 119.00 |  |
| 5                      | 4.80     | 61.30    | 27.90    | 25.00    | 0.00 | 0.00 | 0.00 | 119.00 |  |
| 6                      | 4.80     | 61.30    | 27.90    | 25.00    | 0.00 | 0.00 | 0.00 | 119.00 |  |
| 7                      | 4.80     | 61.30    | 27.90    | 25.00    | 0.00 | 0.00 | 0.00 | 119.00 |  |
| 8                      | 4.80     | 61.30    | 27.90    | 25.00    | 0.00 | 0.00 | 0.00 | 119.00 |  |
| 9                      | 4.80     | 61.30    | 27.90    | 25.00    | 0.00 | 0.00 | 0.00 | 119.00 |  |
| 10                     | 4.80     | 61.30    | 27.90    | 25.00    | 0.00 | 0.00 | 0.00 | 119.00 |  |
| 11                     | 4.80     | 61.30    | 27.90    | 25.00    | 0.00 | 0.00 | 0.00 | 119.00 |  |
| 12                     | 4.80     | 61.30    | 27.90    | 25.00    | 0.00 | 0.00 | 0.00 | 119.00 |  |

## DETAILED REPORT OF INSTREAM REQUIREMENTS

Water Availability as of 5/29/2007 for

DESCHUTES R &gt; COLUMBIA R - AB SHITIKE CR

Watershed ID #: 30530643

Basin: DESCHUTES

Exceedance Level: 50

Time: 16:13

Date: 05/29/2007

| -----ISWRs----- |          |          |      |      |      |      |      |         |  |
|-----------------|----------|----------|------|------|------|------|------|---------|--|
| APP #           | SY 90506 | TY 70501 | 0    | 0    | 0    | 0    | 0    | MAXIMUM |  |
| Status          | SWW      | Treaty   |      |      |      |      |      |         |  |
| 1               | 4500.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 4500.00 |  |
| 2               | 4500.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 4500.00 |  |
| 3               | 4500.00  | 3500.00  | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 4500.00 |  |
| 4               | 4000.00  | 3500.00  | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 4000.00 |  |
| 5               | 4000.00  | 3500.00  | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 4000.00 |  |
| 6               | 4000.00  | 3500.00  | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 4000.00 |  |
| 7               | 4000.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 4000.00 |  |
| 8               | 3500.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 3500.00 |  |
| 9               | 3800.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 3800.00 |  |
| 10              | 3800.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 3800.00 |  |
| 11              | 3800.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 3800.00 |  |
| 12              | 4500.00  | 3000.00  | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 4500.00 |  |

DETAILED REPORT ON THE WATER AVAILABILITY CALCULATION

Water Availability as of 5/29/2007 for  
 DESCHUTES R > COLUMBIA R - AB BUCKHORN CAN

Watershed ID #: 30530112  
 Time: 16:13

Basin: DESCHUTES

Exceedance Level: 50  
 Date: 05/29/2007

| Month    | Natural Stream Flow | Consumptiv Use and Storage | Expected Stream Flow | Reserved Stream Flow | Instream Requirements | Net Water Available |
|----------|---------------------|----------------------------|----------------------|----------------------|-----------------------|---------------------|
| 1        | 1380.00             | 614.00                     | 767.00               | 0.00                 | 500.00                | 267.00              |
| 2        | 1460.00             | 518.00                     | 942.00               | 0.00                 | 500.00                | 442.00              |
| 3        | 1470.00             | 515.00                     | 955.00               | 0.00                 | 500.00                | 455.00              |
| 4        | 1640.00             | 1080.00                    | 562.00               | 0.00                 | 500.00                | 62.10               |
| 5        | 1720.00             | 2040.00                    | -321.00              | 0.00                 | 250.00                | -571.00             |
| 6        | 1840.00             | 2340.00                    | -499.00              | 0.00                 | 250.00                | -749.00             |
| 7        | 1390.00             | 2410.00                    | -1018.00             | 0.00                 | 250.00                | -1268.00            |
| 8        | 1320.00             | 2200.00                    | -880.00              | 0.00                 | 250.00                | -1130.00            |
| 9        | 1340.00             | 1810.00                    | -476.00              | 0.00                 | 250.00                | -726.00             |
| 10       | 1380.00             | 1300.00                    | 83.10                | 0.00                 | 500.00                | -417.00             |
| 11       | 1330.00             | 916.00                     | 414.00               | 0.00                 | 500.00                | -86.40              |
| 12       | 1370.00             | 788.00                     | 582.00               | 0.00                 | 500.00                | 82.40               |
| Stor-50% | 1060000             | 1001100                    | 258000               | 0                    | 286000                | 77900               |

DETAILED REPORT OF CONSUMPTIVE USES AND STORAGES

Water Availability as of 5/29/2007 for  
 DESCHUTES R > COLUMBIA R - AB BUCKHORN CAN

Watershed ID #: 30530112  
 Time: 16:13

Basin: DESCHUTES

Exceedance Level: 50  
 Date: 05/29/2007

| Mo | Storage | Irrig   | Munic | Ind/Man | Commer | Domest | Agricul | Other | Total   |
|----|---------|---------|-------|---------|--------|--------|---------|-------|---------|
| 1  | 462.00  | 79.80   | 70.70 | 0.23    | 0.03   | 0.95   | 0.08    | 0.00  | 614.00  |
| 2  | 360.00  | 86.10   | 70.70 | 0.23    | 0.03   | 0.95   | 0.08    | 0.00  | 518.00  |
| 3  | 297.00  | 146.00  | 70.70 | 0.23    | 0.03   | 0.95   | 0.08    | 0.00  | 515.00  |
| 4  | 29.00   | 977.00  | 70.70 | 0.23    | 0.03   | 0.95   | 0.08    | 0.00  | 1080.00 |
| 5  | 39.00   | 1930.00 | 70.70 | 0.23    | 0.03   | 0.95   | 0.08    | 0.00  | 2040.00 |
| 6  | 2.22    | 2250.00 | 81.80 | 0.23    | 0.03   | 0.95   | 0.08    | 0.00  | 2340.00 |
| 7  | 1.61    | 2320.00 | 81.80 | 0.23    | 0.03   | 0.95   | 0.08    | 0.00  | 2400.00 |
| 8  | 1.48    | 2120.00 | 81.80 | 0.23    | 0.03   | 0.95   | 0.08    | 0.00  | 2200.00 |
| 9  | 1.50    | 1730.00 | 81.80 | 0.23    | 0.03   | 0.95   | 0.08    | 0.00  | 1810.00 |
| 10 | 374.00  | 851.00  | 70.70 | 0.23    | 0.03   | 0.95   | 0.08    | 0.00  | 1300.00 |
| 11 | 732.00  | 113.00  | 70.70 | 0.23    | 0.03   | 0.95   | 0.08    | 0.00  | 917.00  |
| 12 | 614.00  | 102.00  | 70.70 | 0.23    | 0.03   | 0.95   | 0.08    | 0.00  | 788.00  |



## DETAILED REPORT ON THE WATER AVAILABILITY CALCULATION

Water Availability as of 5/29/2007 for  
DESCHUTES R > COLUMBIA R - AB TUMALO CRWatershed ID #: 197 Basin: DESCHUTES Exceedance Level: 50  
Time: 16:13 Date: 05/29/2007

| Month    | Natural<br>Stream<br>Flow | Consumptiv<br>Use and<br>Storage | Expected<br>Stream<br>Flow | Reserved<br>Stream<br>Flow | Instream<br>Require-<br>ments | Net<br>Water<br>Available |
|----------|---------------------------|----------------------------------|----------------------------|----------------------------|-------------------------------|---------------------------|
| 1        | 1250.00                   | 554.00                           | 696.00                     | 0.00                       | 660.00                        | 36.10                     |
| 2        | 1270.00                   | 453.00                           | 817.00                     | 0.00                       | 660.00                        | 157.00                    |
| 3        | 1270.00                   | 449.00                           | 821.00                     | 0.00                       | 1000.00                       | -179.00                   |
| 4        | 1430.00                   | 983.00                           | 447.00                     | 0.00                       | 1000.00                       | -553.00                   |
| 5        | 1530.00                   | 1890.00                          | -353.00                    | 0.00                       | 1600.00                       | -1953.00                  |
| 6        | 1610.00                   | 2150.00                          | -535.00                    | 0.00                       | 1600.00                       | -2135.00                  |
| 7        | 1280.00                   | 2260.00                          | -975.00                    | 0.00                       | 1600.00                       | -2575.00                  |
| 8        | 1250.00                   | 2080.00                          | -830.00                    | 0.00                       | 1600.00                       | -2430.00                  |
| 9        | 1280.00                   | 1710.00                          | -426.00                    | 0.00                       | 1600.00                       | -2026.00                  |
| 10       | 1310.00                   | 1220.00                          | 98.30                      | 0.00                       | 1000.00                       | -902.00                   |
| 11       | 1250.00                   | 845.00                           | 405.00                     | 0.00                       | 660.00                        | -255.00                   |
| 12       | 1270.00                   | 726.00                           | 543.00                     | 0.00                       | 660.00                        | -117.00                   |
| Stor-50% | 966000                    | 926400                           | 229000                     | 0                          | 825000                        | 11000                     |

## DETAILED REPORT OF CONSUMPTIVE USES AND STORAGES

Water Availability as of 5/29/2007 for  
DESCHUTES R > COLUMBIA R - AB TUMALO CRWatershed ID #: 197 Basin: DESCHUTES Exceedance Level: 50  
Time: 16:13 Date: 05/29/2007

| Mo | Storage | Irrig   | Munic | Ind/Man | Commer | Domest | Agricul | Other | Total   |
|----|---------|---------|-------|---------|--------|--------|---------|-------|---------|
| 1  | 460.00  | 67.60   | 25.10 | 0.20    | 0.03   | 0.80   | 0.06    | 0.00  | 554.00  |
| 2  | 358.00  | 69.20   | 25.10 | 0.20    | 0.03   | 0.80   | 0.06    | 0.00  | 453.00  |
| 3  | 295.00  | 128.00  | 25.10 | 0.20    | 0.03   | 0.80   | 0.06    | 0.00  | 449.00  |
| 4  | 27.00   | 930.00  | 25.10 | 0.20    | 0.03   | 0.80   | 0.06    | 0.00  | 983.00  |
| 5  | 37.00   | 1820.00 | 25.10 | 0.20    | 0.03   | 0.80   | 0.06    | 0.00  | 1880.00 |
| 6  | 0.05    | 2120.00 | 25.70 | 0.20    | 0.03   | 0.80   | 0.06    | 0.00  | 2150.00 |
| 7  | 0.04    | 2230.00 | 25.70 | 0.20    | 0.03   | 0.80   | 0.06    | 0.00  | 2260.00 |
| 8  | 0.04    | 2050.00 | 25.70 | 0.20    | 0.03   | 0.80   | 0.06    | 0.00  | 2080.00 |
| 9  | 0.04    | 1680.00 | 25.70 | 0.20    | 0.03   | 0.80   | 0.06    | 0.00  | 1710.00 |
| 10 | 372.00  | 813.00  | 25.10 | 0.20    | 0.03   | 0.80   | 0.06    | 0.00  | 1210.00 |
| 11 | 730.00  | 88.50   | 25.10 | 0.20    | 0.03   | 0.80   | 0.06    | 0.00  | 845.00  |
| 12 | 612.00  | 88.30   | 25.10 | 0.20    | 0.03   | 0.80   | 0.06    | 0.00  | 726.00  |



**This table will calculate flow rate factors and duty for Central Oregon Irrigation District  
Instream Leases with water instream under October 31, 1900 priority date only**

|  |   |               |
|--|---|---------------|
| Enter Total Number of Acres to be Leased Instream Here | → | <b>39.580</b> |
|--|---|---------------|

**Information highlighted with blue font is to be entered on to the Instream Lease Application Form**

**For Primary Water Right - Certificate 76358**

**Rate (CFS) associated with leased rights for Section 1.5 of the Lease Application Form**

| Enter Rates by season and priority date on Instream Lease Form | Full Rate | October 31, 1900 | December 2, 1907 |
|--|-----------|------------------|------------------|
| Season 1   | 0.495     | <b>0.495</b>     |                  |
| Season 2   | 0.660     | <b>0.660</b>     |                  |
| Season 3   | 1.222     | <b>0.871</b>     | <b>0.351</b>     |

**Duty (AF) associated with leased right for Section 1.5 of the Lease Application Form**

|                         |               |
|-------------------------|---------------|
| Duty (decree) AF/Acre = | 9.91          |
|                         | <b>392.24</b> |

| Rate (CFS) leased instream for Section 2.2 of the Lease Application Form |  | Volume (AF) leased instream for Section 2.2 of the Lease Application Form |               |
|--|--|---|---------------|
| Enter Rates by season on Instream Lease Application Form                 | Full Rate if under October 31, 1900 priority date only | Enter Duty on Instream Lease Application Form                             |               |
| Season 1   | <b>0.272</b>   | Duty (decree) AF/Acre = 5.45  |               |
| Season 2   | <b>0.363</b>   | Max volume =  | <b>215.73</b> |
| Season 3   | <b>0.672</b>   |   |               |

**Additional Conditions to Prevent Injury for Section 2.2 of the Lease Application Form**

|                | # days | AF/Season | 9.91 AF Duty - 45% = | 5.45   |
|----------------|--------|-----------|----------------------|--------|
| Season 1*      | 56     | 30.22     | Total =              | 215.73 |
| Season 2       | 30     | 21.59     |                      |        |
| Season 3       | 123    | 163.92    |                      |        |
| Season total = |        | 215.73    |                      |        |

**Water protected instream: April 1 through October 26**

\* Note - The number of days that water may be protected instream in Season 1 has been reduced to prevent enlargement of the right.

**For Supplemental Water Right from Crane Prairie Reservoir - Certificate 76714**

**Duty Associated with Leased Right for Section 1.5 of the Additional Water Right Form**

**392.24**

**Volume (AF) leased instream for Section 2.2 of the Additional Water Right Form**

**38.41**

















# Oregon

Theodore R. Kulongoski, Governor

File MP-108 (attached to T-10391)

Water Resources Department

725 Summer Street NE, Suite A

Salem, OR 97301-1271

503-986-0900

FAX 503-986-0904

March 18, 2008

Jan Wick  
Avion Water Company  
60813 Parrell Rd.  
Bend, OR 97702

Re: Assignment & Use of Mitigation Credits from Project MP-108 for  
Ground Water Permit G-16025 (file G-15851)

Dear Jan:

On March 14, 2008, the Department received documentary evidence that 23.73 mitigation credits have been obtained and are requested to be assigned from Mitigation Project MP-108 to Avion Water Company's Ground Water Permit G-16025.

As determined by the Department during the ground water permit application review process, this ground water permit has a mitigation obligation in the General Zone of Impact for 302.2 acre-feet of mitigation water (credits), with the first increment of mitigation being 17.9 acre-feet.

As determined by the Department during the application review process for instream transfer T-10391 (MP-108), mitigation credits awarded to this project may be used in the General Zone of Impact. Mitigation credits in the amount of 23.73 have been removed from the account under the name of Deschutes River Conservancy/Central Oregon Irrigation District, and permanently assigned to ground water permit G-16025 (and any subsequent certificates).

The amount of mitigation credits provided exceeds the amount needed for the first increment of mitigation. Based upon the incremental development plan currently on file, the second increment of mitigation is due in 2009 in the amount of 145.7 acre-feet. Please provide an update on your progress of implementing the incremental development plan. If modifications are needed to the incremental development plan, also please submit a revised plan for review by the Department.

If you have any questions regarding the mitigation credits that have been assigned to your ground water permit or your continued mitigation obligation, please give me a call at (503) 986-0884.

Sincerely,

Laura K. Snedaker

Senior Water Resources Coordinator

c: Jeremy Giffin, Watermaster District 11  
Zach Tillman, Deschutes River Conservancy  
Steve Johnson, Central Oregon Irrigation District  
Adam Sussman, GSI Water Solutions, Inc.  
file MP-108 (attached to file T-10391)  
file G-15851



# Oregon

Theodore R. Kulongoski, Governor

Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
503-986-0900  
FAX 503-986-0904

## OREGON WATER RESOURCES DEPARTMENT DESCHUTES BASIN MITIGATION CREDIT DOCUMENTARY EVIDENCE FORM

This form is to be completed when mitigation credits are obtained from a mitigation credit holder, other than a mitigation bank, by a ground water application/permit/certificate holder to satisfy a mitigation obligation under the Deschutes Ground Water Mitigation rules. If there are any questions about this form, please contact the Department. Phone: (503) 986-0884

### Ground Water User Information:

Name: Avion Water Company  
Mailing Address (Street, City, State, Zip): 60813 Parrell Rd, Bend, OR 97702  
Phone Number (Home and Work - including area code): 541-382-5342 E-Mail (optional): \_\_\_\_\_  
Ground Water Application, Permit, or Certificate #: G-16025  
Mitigation Obligation (amount) (see Notice of Mitigation Obligation or Initial Review for this information): 302.2  
Zone of Impact (see Notice of Mitigation Obligation or Initial Review for this information): General

### Mitigation Credit Holder Information:

Mitigation Credit Holder Name: Deschutes River Conservancy & Central Oregon Irrigation District  
Mailing Address: 700 NW Hill St, Bend, OR 97701  
Phone Number (Home and Work - including area code): 541-382-4077 x.21 E-Mail (optional): \_\_\_\_\_  
zach@deschutesriver.org

If mitigation credits have changed hands beyond the original credit holder, a complete assignment record (chain-of-custody) for the mitigation credits should be included with this documentary evidence form to help demonstrate that the credits are valid. This information may be obtained from the mitigation credit holder.

### Mitigation Credit Information:

In the following table, identify the mitigation project identification number(s), the number of credits assigned from each mitigation project, the zone of impact in which the credits are to be used (note - many credits may be used within more than one zone of impact) and the type of mitigation project upon which the credits are based.

Project Type Codes: Allocation of Conserved Water = ACW Permanent Instream Transfers = PT Storage Release = SR  
Aquifer Recharge = AR Other = Other (if other, please describe under project type in space provided below)

| <u>Mitigation Project ID</u> | <u># Mitigation Credits Assigned</u> | <u>Zone of Impact</u> | <u>Mitigation Project Type Code (see above)</u> |
|------------------------------|--------------------------------------|-----------------------|---|
| MP-108                       | 23.73                                | General               | PT  |
| MP-_____                     | _____                                | _____                 | _____   |

Add additional mitigation projects and credits below using above format:

Mitigation Project Operator (if other than original credit holder): \_\_\_\_\_ (for example, name of storage project or aquifer recharge project operator)  
Mailing Address: \_\_\_\_\_  
Phone Number (including area code): \_\_\_\_\_

For Stored Water Releases (if applicable):  
Name of Reservoir: \_\_\_\_\_  
Reservoir Permit/Certificate: \_\_\_\_\_ Contract Number(s): \_\_\_\_\_

**RECEIVED**

MAR 14 2008

WATER RESOURCES DEPT  
SALEM, OREGON

The above described mitigation credits have been transferred from DRC & COID, mitigation credit holder, to Avion Water Company, ground water application/permit/certificate holder.

[Signature] Executive Director, DRC  
Mitigation Credit Holder Signature  
[Signature] COID

3/5/08

12 March 2008

3/6/08

**Laura Snedaker**

**From:** Laura Snedaker  
**Sent:** Friday, February 29, 2008 8:20 AM  
**To:** 'rick.j.kepler@state.or.us'; 'Bonnie.Lamb@state.or.us'; 'Dave.Wright@state.or.us'; 'pmeasele@oda.state.or.us'; 'jjohnson@oda.state.or.us'; 'PUSTIS Nancy'; 'HOUCK Jan'; 'NIGG Eric'; Jeremy Giffin; 'Amy.M.Stuart@state.or.us'; 'Brett.L.Hodgson@coho2.dfw.state.or.us'  
**Cc:** Wayne Skladal; Ken Stahr  
**Subject:** Finalized Mitigation Project - MP-108 (Instream Transfer T-10391)

Greetings Everyone:

I just wanted to let you know that the Final Order approving instream transfer T-10391, mitigation credit project MP-108, has been issued and is available for those of you that would like to take a look at it by clicking on the following link.

[http://www1.wrd.state.or.us/files/Publications/Deschutes%20Mitigation/mitigation\\_projects/Approved\\_Projects/Active/MP-108\\_Credit\\_project\\_\(T-10391\)/T-10391-ord-approval-iswr-MP108.pdf](http://www1.wrd.state.or.us/files/Publications/Deschutes%20Mitigation/mitigation_projects/Approved_Projects/Active/MP-108_Credit_project_(T-10391)/T-10391-ord-approval-iswr-MP108.pdf)

This transfer protects water in the Deschutes River, tributary to the Columbia River. It generated mitigation credits that are available for use in the Middle Deschutes and General Zones of Impact. This is a project that you were previously notified of and provided an opportunity to comment. The Final Order is the result of review of the project and consideration of any comments that were received.

Here's a link to the new instream certificate (83896):

[http://www1.wrd.state.or.us/files/Publications/Deschutes%20Mitigation/mitigation\\_projects/Approved\\_Projects/Active/MP-108\\_Credit\\_project\\_\(T-10391\)/T-10391-cf-83896-iswr-MP108.pdf](http://www1.wrd.state.or.us/files/Publications/Deschutes%20Mitigation/mitigation_projects/Approved_Projects/Active/MP-108_Credit_project_(T-10391)/T-10391-cf-83896-iswr-MP108.pdf)

As always, thanks for your time and input on these projects. Let me know if you have any trouble with the above link.

Laura Snedaker

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

2/29/2008



# Oregon

Theodore R. Kulongoski, Governor

## Water Resources Department

725 Summer Street NE, Suite A

Salem, OR 97301-1271

503-986-0900

FAX 503-986-0904

February 29, 2007

Central Oregon Irrigation District  
1055 SW Lake Court  
Redmond, OR 97756

Deschutes River Conservancy  
700 NW Hill Street  
Bend, OR 97701

Re: Instream Transfer T-10391 & Mitigation Credit **Project MP-108**

Thank you for participating in the Instream Transfer and Deschutes Mitigation Credit program. I want to express appreciation for your participation in these programs and cooperation in helping to improve streamflows for fish and aquatic life and to provide mitigation water to ground water users in the Deschutes Ground Water Study Area.

As identified in the attached Final Order, this Instream Transfer has been approved and awarded mitigation credits. Mitigation credits awarded to this project have been assigned jointly to Central Oregon Irrigation District and Deschutes River Conservancy.

These mitigation credits may be used to satisfy the mitigation obligation of a ground water permit or application or may be assigned to any person or mitigation bank. The mitigation credits awarded to this project are valid until used to fulfill the mitigation obligation of a ground water permit application(s) and/or an existing ground water right(s) in the General Zone of Impact and/or Middle Deschutes River Zone of Impact within the Deschutes Ground Water Study Area. A ground water user wanting to demonstrate that mitigation credits are being used to satisfy a mitigation obligation needs to submit documentary evidence to the Department showing that mitigation credits have been obtained and assigned to them.

Mitigation credit transactions should be reported to the Water Resources Department. The Department has a Documentary Evidence form, copy enclosed (along with an example), available for your use or any subsequent mitigation credit holder, to assign the credits to a ground water user. The Department's Documentary Evidence form contains pertinent information needed by the Department to evaluate the use and validity of the mitigation credits.

If you decide to assign the mitigation credits to someone other than a ground water user, the Department would like to suggest that the enclosed Assignment of Mitigation Credits form (chain-of-custody) be used to assign credits to another party. An additional Assignment of Mitigation Credit form is also enclosed. These assignment forms will help establish a chain-of-custody for the ownership of the mitigation credits. Please provide a copy of the complete assignment record (from original credit holder to current credit holder) and a blank assignment form to any new credit holders so that they may continue the mitigation credit assignment record as well. A general example is enclosed for your reference.

Once the mitigation credits are assigned to a ground water user, the ground water user will need to submit documentary evidence that valid mitigation credits have been obtained to satisfy their mitigation obligation. If credits have changed hands beyond the original credit holder, the Department will ask the ground water user to demonstrate that the credits they are intending to use are indeed valid. A complete assignment record will help demonstrate the validity of the credits being used.

Also enclosed is a copy of the final order and new instream water right certificate. If you have any questions regarding the instream transfer and new certificate or the award of mitigation credits, please call me at (503) 986-0884.

Sincerely,



Laura K. Snedaker  
Field Services Division

c: Jeremy Giffin, Watermaster District 11 w/enc  
file T-10391 & MP-108

**Laura Snedaker**

---

**From:** Laura Snedaker  
**Sent:** Thursday, December 27, 2007 4:39 PM  
**To:** 'Brett.L.Hodgson@coho2.dfw.state.or.us'; 'Ted.G.Wise@state.or.us'  
**Subject:** FW: Preliminary Determination completed for Instream Transfer T-10391 (MP-108)

Greetings:

I've been using some outdated routing lists today and got the below e-mail routed in at least one wrong direction. Amy indicated that this should come to both of you.

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

---

**From:** Laura Snedaker  
**Sent:** Thursday, December 27, 2007 11:16 AM  
**To:** 'rick.j.kepler@state.or.us'; 'Bonnie.Lamb@state.or.us'; 'Dave.Wright@state.or.us'; 'pmeasele@oda.state.or.us'; 'jjohnson@oda.state.or.us'; 'PUSTIS Nancy'; 'HOUCK Jan'; 'NIGG Eric'; Jeremy Giffin; 'Amy.M.Stuart@state.or.us'; 'Terry.M.Shrader@state.or.us'  
**Subject:** Preliminary Determination completed for Instream Transfer T-10391 (MP-108)

Greetings:

The Preliminary Determination for instream transfer T-10391, mitigation credit project MP-108, has been issued and is available for those of you that would like to take a look at it by following the below link.

[http://www1.wrd.state.or.us/files/Publications/Deschutes%20Mitigation/mitigation\\_projects/MP-108\\_Credit\\_project\\_\(T-10391\)/mp-108-pd-iswr-T10391.pdf](http://www1.wrd.state.or.us/files/Publications/Deschutes%20Mitigation/mitigation_projects/MP-108_Credit_project_(T-10391)/mp-108-pd-iswr-T10391.pdf)

If you click on this link, a copy of the Preliminary Determination should open up via Adobe. Please let me know if you have any trouble with this link.

This transfer is proposed to create an instream water right on the Deschutes River from the original point of diversion to Lake Billy Chinook.

This is a project that you were previously notified of and provided an opportunity to comment. The Preliminary Determination is the result of review of the project and consideration of any comments that were received.

As always, thanks for your time and input on these projects.

Laura Snedaker

12/27/2007

**Laura Snedaker**

---

**From:** Laura Snedaker  
**Sent:** Thursday, December 27, 2007 11:16 AM  
**To:** 'rick.j.kepler@state.or.us'; 'Bonnie.Lamb@state.or.us'; 'Dave.Wright@state.or.us'; 'pmeasele@oda.state.or.us'; 'jjohnson@oda.state.or.us'; 'PUSTIS Nancy'; 'HOUCK Jan'; 'NIGG Eric'; Jeremy Giffin; 'Amy.M.Stuart@state.or.us'; 'Terry.M.Shrader@state.or.us'  
**Subject:** Preliminary Determination completed for Instream Transfer T-10391 (MP-108)

Greetings:

The Preliminary Determination for instream transfer T-10391, mitigation credit project MP-108, has been issued and is available for those of you that would like to take a look at it by following the below link.

[http://www1.wrd.state.or.us/files/Publications/Deschutes%20Mitigation/mitigation\\_projects/MP-108\\_Credit\\_project\\_\(T-10391\)/mp-108-pd-iswr-T10391.pdf](http://www1.wrd.state.or.us/files/Publications/Deschutes%20Mitigation/mitigation_projects/MP-108_Credit_project_(T-10391)/mp-108-pd-iswr-T10391.pdf)

If you click on this link, a copy of the Preliminary Determination should open up via Adobe. Please let me know if you have any trouble with this link.

This transfer is proposed to create an instream water right on the Deschutes River from the original point of diversion to Lake Billy Chinook.

This is a project that you were previously notified of and provided an opportunity to comment. The Preliminary Determination is the result of review of the project and consideration of any comments that were received.

As always, thanks for your time and input on these projects.

Laura Snedaker

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

12/27/2007



# Oregon

Theodore R. Kulongoski, Governor

**Water Resources Department**  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
503-986-0900  
FAX 503-986-0904

May 30, 2007

Zach Tillman  
Deschutes River Conservancy  
PO Box 1560  
Bend, OR 97709

Re: Deschutes Mitigation Credit Project MP-108 (Instream Transfer T-10391)

Dear Gen:

I just wanted to let you know that the Department has public noticed the above referenced mitigation credit project. Notice of the application as a mitigation credit project was made in the Department's weekly Public Notice of Water Use Requests on May 29, 2007. A copy of the mitigation credit project public notice is enclosed for your records.

In the public notice, the Department has included a preliminary determination as to the amount of mitigation credits that may be made available from the proposed project.

If you have any questions, please give me a call at (503) 986-0884.

Sincerely,

Laura K. Snedaker  
Senior Water Resources Coordinator

cc: Jeremy Giffin, Watermaster 11  
Leslie Clark, Central Oregon Irrigation District

enc

**Mitigation Project #: MP-107**

Project Applicant: Deschutes Water Exchange (DWE) Mitigation Bank and Central Oregon Irrigation District

Mitigation Project And Process: Instream Lease Application IL-834 for Certificate 76358 (Also see Instream Lease Section of the May 29, 2007 public notice for application details)

Subbasin/Source: Middle Deschutes River Subbasin – Deschutes River, tributary to the Columbia River

Amount of Water: Proposed Instream: up to 0.503 CFS  
Maximum Seasonal Volume – 161.61 AF

Current Use: Irrigation of 29.65 acres

Credits Assigned to: DWE Mitigation Bank

**Preliminary Mitigation**

Credit Determination: 53.4 Mitigation Credits  
May be available for use in the Middle Deschutes and General Zones of Impact

Contact: Laura Snedaker, Phone: (503) 986-0884

**Mitigation Project #: MP-108**

Project Applicant: Deschutes River Conservancy (DRC) and Central Oregon Irrigation District (COID)

Mitigation Project And Process: Instream Transfer Application T-10391 for Certificate 76358 (Also see Transfer Section of the May 29, 2007 public notice for application details)

Subbasin/Source: Middle Deschutes River Subbasin – Deschutes River, tributary to the Columbia River

Amount of Water: Proposed Instream: up to 0.672 CFS  
Maximum Seasonal Volume – 215.73 AF

Current Use: Irrigation of 39.58 acres

Credits Assigned to: DRC and COID

**Preliminary Mitigation**

Credit Determination: 71.2 Mitigation Credits  
May be available for use in the Middle Deschutes and General Zones of Impact

Contact: Laura Snedaker, Phone: (503) 986-0884

**Laura Snedaker**

---

**From:** Laura Snedaker  
**Sent:** Thursday, May 24, 2007 3:51 PM  
**To:** 'Zach Tillman'  
**Subject:** Mitigation Credits for T-10391

Zach:

On the transfer that the DRC and COID just submitted for 39.58 acres, whom should any mitigation credits awarded to this project be assigned? The DRC? COID? Or both?

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)



DESCHUTES RIVER  
CONSERVANCY

5/16/2007

Oregon Water Resources Department  
Attn. Laura Snedaker  
Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301

RE: PERMANENT INSTREAM TRANSFER *FOR MITIGATION* OF 39.58 ACRES OF  
COID SENIOR DESCHUTES RIVER WATER RIGHTS

Dear Laura,

Enclosed please find the transfer application, supplemental forms and required documentation for the permanent instream transfer *for Mitigation* of 39.58 acres of Central Oregon Irrigation District, senior Deschutes River water rights. Central Oregon Irrigation District and the Deschutes River Conservancy are co-applicants in this transfer.

Attached to this cover letter is a table that may be used as a reference to the documentation included with this application.

It is the intention of the co-applicants that this transfer application be processed using Reimbursement Authority, thus expediting the process to the greatest extent possible. Once the application has been received and assigned a transfer number, it will be sent to contractors for bids to process the application using receipts authority. It is my understanding that we may reasonably expect these bids/estimates within 2-3 weeks of submitting the transfer to OWRD.

Also included is the required transfer fee of \$475.00 (\$350.00 application fee, plus \$125.00 for Receipts Authority bid processing). Please feel free to contact me via email or by phone if you have questions regarding this, or other transfer applications. Thank you.

Best Regards,

Zachary Tillman, DRC  
541-382-4077 x.21  
[zach@deschutesriver.org](mailto:zach@deschutesriver.org)

RECEIVED

MAY 18 2007

WATER RESOURCES DEPT  
SALEM, OREGON

700 NW Hill Street • Bend, Oregon 97701  
(P.O. Box 1560 • 97709)  
541.382.4077 • Fax 541.382.4078  
[www.deschutesrc.org/](http://www.deschutesrc.org/) / [Info@deschutesrc.org](mailto:Info@deschutesrc.org)

COID #6 (Avion)

| QC | Cty. File # | Grantor Last              | Acres | T/L | POU | QC |          |        | WR Map |        |             |         | Proof of Use |        |      |
|----|-------------|---------------------------|-------|-----|-----|----|----------|--------|--------|--------|-------------|---------|--------------|--------|------|
|    |             |                           |       |     |     | QC | Warranty | Report | Map    | Waiver | Cert. Pg. # | Rem WR? | Affadavit    | Aerial | Year |
| 1  | 2006-12427  | CHW Enterprises           | 9.5   | 1   | 2   | Y  | Y        | Y      | Y      | Y      | 33-4        | N       | Y            | Y      | 2005 |
| 1  | 2006-06110  | Wagenblast                | 6.4   | 1   | 1   | Y  | Y        | Y      | Y      | Y      | 30          | Y       | Y            | Y      | 2005 |
| 1  | 2006-15526  | Redmond Investments, LLC  | 15.0  | 1   | 1   | Y  | Y        | Y      | Y      | Y      | 39          | N       | Y            | Y      | 2004 |
| 1  | 2006-47263  | High Ridge Dev., LLC      | 4.65  | 1   | 2   | Y  | Y        | Y      | Y      | Y      | 39, T-9113  | N       | Y            | Y      | 2004 |
| 1  | 2006-15108  | Bradley                   | 1.7   | 1   | 1   | Y  | Y        | Y      | Y      | Y      | 31          | N       | Y            | Y      | 2005 |
| 1  | 2005-86303  | Tri-County Builders Corp. | 2.33  | 1   | 1   | Y  | Y        | Y      | Y      | Y      | 40          | N       | Y            | Y      | 2004 |

6 39.58 6 8

T 10391

**RECEIVED**

MAY 18 2007

WATER RESOURCES DEPT  
SALEM, OREGON

**WATER RESOURCES DEPARTMENT  
REIMBURSEMENT AUTHORITY ESTIMATE APPLICATION**

*House Bill 2551(2003 Oregon Laws) authorizes the Oregon Water Resources Department to expedite or enhance regulatory processes voluntarily requested under the agreement. The voluntary agreement can be entered into with any person requesting services and agreeing to pay the Department's costs of providing the service.*

*The Department has established a pool of qualified contractors to perform expedited services for water right transfers, water right permits extensions, and water right certificates.*

The purpose of this application is to obtain an estimate from the next qualified contractor in the appropriate pool. There is a non-refundable application fee of \$125.00 per request. The contractor will provide an estimate of the cost and of the time required to process and develop a recommendation on the request of a: (check one):

| <u>REQUEST</u>                      | <u>TYPE</u>               | <u>FILE NUMBER</u> |
|-------------------------------------|---------------------------|--------------------|
| <input checked="" type="checkbox"/> | Transfer Application      | _____              |
| <input type="checkbox"/>            | Certificate Request       | _____              |
| <input type="checkbox"/>            | Extension of Time Request | _____              |

| <u>Applicant Information</u> |  | <u>Applicant's Representative/Contact</u> |
|------------------------------|--|---|
| Name: (Please Print)         | Deschutes River Conservancy & Central Oregon Irrigation District | Zachary Tillman - DRC                     |
| Address:                     | 700 NW Hill St.<br>Bend, OR 97701                                |   |
| Phone:                       | 541-382-4077 x.21  |   |
| Fax                          | 541-382-4078   |   |
| E-Mail Address:              | zach@deschutesriver.org  |   |

I understand the following:

- There is a non-refundable application fee of \$125.00 per request.
- That upon receipt of my non-refundable application fee in the amount of \$ 125.00, OWRD will assign my request to the next contractor in the pool of contractors performing expedited services.
- That this fee covers the copying, the mailing cost, as well as the cost for the contractor to evaluate and provide the estimate for processing of the request.
- That OWRD will provide all pertinent information to the assigned contractor within three (3) business days.
- That OWRD will, within fourteen (14) days, notify me in writing of the estimates of costs and time frame for the expedited service.
- That upon receiving the estimates I may agree or decline to enter into a formal contract to pay the estimated cost in advance to initiate the expedited service.
- An incomplete or inaccurate application may delay the process and increase the cost to process my request.
- Expedited processing does not guarantee a favorable review of my request.
- Send completed Application and payment to: **OWRD – Reimbursement Authority Program  
725 Summer St. NE, Suite A  
Salem, OR 97301-1266.**

I certify that I am the (check one)  Applicant  Applicant's Representative  Other (Please specify) \_\_\_\_\_

Signature: Zachary Tillman Name: Zachary Tillman

| <u>OWRD USE ONLY</u>                         |   |
|--|---|
| Contractor Assigned: <u>Terrence Anthony</u> | Total Amount Paid: \$ <u>125<sup>xx</sup></u> |
| OWRD Approval:                               |   |

**RECEIVED**

Revised 6/21/2004

MAY 18 2007

WATER RESOURCES DEPT  
SALEM OREGON

T 10391

# INTEROFFICE MEMO

DATE: May 21, 2007

TO: Sarah Henderson

FROM: Laura Snedaker

SUBJECT: Acceptance of IS Transfer Application/Mitigation Project MP-108

T-10391

The attached IS transfer application is ok to accept. Please do the following as applicable:

- Please debit \$\_\_\_\_\_ from \_\_\_\_\_ account.
- Please accept application and fees **once additional fees are received – need \$87.50.**
- Refund Due: \_\_\_\_\_
- Please put IS transfer application in a transfer file folder.
- Please make copy of the IS transfer for the Watermaster.
- Please make copy of IS transfer (including attachments – unless otherwise specified) and put in dark blue Mitigation Project file folder.
- Please scan IS transfer application and save to appropriate transfer file folder as T-\*\*\*\*-application-MP109
- Please put copy of this page in IS transfer file folder.

Notes: Applicant has checked all public use boxes, including navigation, on Supplemental Form C (instream use form). Will need additional information on the navigation use (why necessary).

Need to send notice of the IS transfer application using notice letter & include attached memo in file:

(1) City of Bend – Planning Division  
710 NW Wall Street  
Bend, OR 97701

(2) Jefferson County Planning Department  
66 SE "D" Street  
Madras, OR 97741

(3) Confederated Tribes of Warm Springs  
Planning Department  
1233 Veterans St.  
Warm Springs, OR 97761

T 10391



STATE OF OREGON  
WATER RESOURCES DEPARTMENT  
INTEROFFICE MEMO

DATE: May 21, 2007  
TO: Application File T-10391  
FROM: Laura Snedaker, Field Services  
SUBJECT: Land Use Compatibility – Affected Local Government Notice

In addition to affected local governments identified in the application, the Department also mailed notice of the instream transfer application to:

City of Bend – Planning Division  
Jefferson County – Community Development – Planning Division  
Confederated Tribes of Warm Springs – Planning Department

These represent affected local governments in which the proposed place of use (instream reach) is located.

A Land Use Information form was filled out and signed by Deschutes County.

This notice is being done to be consistent with the Department's Land Use Planning Procedures guide for instream actions under Division 77.

OREGON WATER RESOURCES DEPARTMENT  
**ACCOUNT ACTIVITY RECORD**

Account Name: DRC - Deschutes Resource Conservancy - CA0004

Activity Date: May 22, 2007 - A

*Please complete and leave at the WRIG counter.*

| Transaction Description                       | Number of items or hours | Project Name   | Customer contact name | Department personnel providing service | Amount of Activity |
|---|--------------------------|----------------|-----------------------|--|--------------------|
| Deposit to account                            |                          |                |                       |  |                    |
| Copying                                       |                          |                |                       |  |                    |
| Faxing  |                          |                |                       |  |                    |
| <b>Other:<br/>Transfer/Mitigation Project</b> | 1                        | T-10391/MP-108 | Genevieve Hubert      | Sarah Henderson for Laura Snedaker     | \$ 87.50           |

Your account may be required to provide an account project number per your accounting department. If required, please have your project number ready upon any service request.

T 10391

**Laura Snedaker**

---

**From:** Laura Snedaker  
**Sent:** Tuesday, May 22, 2007 2:09 PM  
**To:** 'Zach Tillman'  
**Cc:** Sarah Henderson  
**Subject:** fees for T-10391

Zach:

As we discussed the fee for this transfer is as follows:

\$350 for the first change

\$350 for the second change

\$175 for each additional cfs or fraction thereof beyond the 1<sup>st</sup> CFS (based on face value of the right proposed for transfer)

This is equal to \$875. For instream transfers a 50% fee waiver applies, which brings the fee down to \$437.50.

With this application fees in the amount of \$350 (for the transfer) and \$125 (for the reimbursement estimate) were submitted. An additional \$87.50 is needed for the transfer application. Per our conversation, \$87.50 has been withdrawn from the DRC account at OWRD and applied to this transfer.

Thanks,  
Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

T 10391

5/22/2007

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

|   |   |                             |
|---|---|-----------------------------|
| In the Matter of Instream Transfer        | ) | FINAL ORDER APPROVING A     |
| Application T-10391 and Mitigation Credit | ) | CHANGE IN PLACE OF USE AND  |
| Project MP-108, Deschutes County          | ) | CHARACTER OF USE, PARTIAL   |
|   | ) | CANCELLATION OF A           |
|   | ) | SUPPLEMENTAL WATER RIGHT,   |
|   | ) | AND PRELIMINARY AND FINAL   |
|   | ) | 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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

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**

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

DESCHUTES RIVER CONSERVANCY  
700 NW HILL STREET  
BEND, OR 97701

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, 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.

## Findings of Fact

### *Background*

1. On May 18, 2007, the Central Oregon Irrigation District (COID) and Deschutes River Conservancy (DRC) 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-10391.
2. This instream transfer application originally proposed to change the character of use to instream use for fish and wildlife habitat enhancement; pollution abatement; navigation; and recreation. The applicants amended the application on May 22, 2007, to remove navigation from the list of proposed uses.
3. On September 26, revised application maps were received replacing a couple of the maps submitted with the application. A corrected report of title and lien information was also received. On October 4 2007, the Department also received a corrected affidavit of use for certain lands described in the transfer application.
4. On September 26, 2007, Certificate 83571 was issued superseding Certificate 76358.
5. That portion of the right to be transferred is as follows:

**Certificate:** 83571 in the name of Central Oregon Irrigation District

**Use:** Irrigation of 39.58 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<sup>th</sup> 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:** The Deschutes River, tributary to the Columbia River

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

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

**Authorized Places of Use:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Acres |
|----------|---|-------|---|----------|-----|-------|-------|
| 15       | S | 13    | E | WM       | 3   | NW SW | 6.40  |
| 15       | S | 13    | E | WM       | 4   | SW NE | 1.70  |
| 15       | S | 13    | E | WM       | 8   | NE NW | 1.50  |
| 15       | S | 13    | E | WM       | 8   | SE NW | 8.00  |
| 15       | S | 13    | E | WM       | 19  | SW NE | 0.20  |
| 15       | S | 13    | E | WM       | 19  | SE NW | 4.45  |
| 15       | S | 13    | E | WM       | 19  | SW SW | 15.00 |
| 15       | S | 13    | E | WM       | 20  | NE SE | 2.33  |

6. 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 #5), 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 PODs (described in Finding of Fact #5), the portion of the right involved in this transfer would be limited as described in the tables 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  | Season 2  | Season 3  | Duty      |
|------------------|-----------|-----------|-----------|-----------|
| October 31, 1900 | 0.494 CFS | 0.658 CFS | 0.870 CFS | 391.27 AF |
| December 2, 1907 |           |           | 0.349 CFS |           |

7. A total of 215.73 AF of water, excluding transmission losses, may be beneficially used annually for primary irrigation under the portion of existing Certificate 83571 proposed for transfer.
8. Supplemental right, Certificate 76714, is appurtenant to the same lands from which the primary right under Certificate 83571 is proposed to be transferred to instream use. The applicant has requested that the affected portion of Certificate 76714 be cancelled upon issuance of the Final Order approving T-10391.
9. The applicants are not the owners of the lands to which the water right described in Finding of Fact #5 is appurtenant. However, water right conveyance agreements have been completed and interest in the water rights has been conveyed to COID from each landowner described in the table below. The portion of this right to be transferred was appurtenant to

lands owned by the identified land landowners at the time interest in the water right was conveyed through a Quit Claim, a water right conveyance agreement.

| Landowner                       | Water Right Interest Holder | T   | R   | Sec | ¼ ¼   | Current Tax Lot |
|---------------------------------|-----------------------------|-----|-----|-----|-------|-----------------|
| David M. and Gail L. Wagenblast | COID                        | 15S | 13E | 3   | NW SW | 1401            |
| James C. and Tari R. Bradley    | COID                        | 15S | 13E | 4   | SW NE | 500             |
| CHW Enterprises LLC             | COID                        | 15S | 13E | 8   | NE NW | 1000            |
| CHW Enterprises LLC             | COID                        | 15S | 13E | 8   | SE NW | 1000            |
| High Ridge Development LLC      | COID                        | 15S | 13E | 19  | SW NE | 701             |
| High Ridge Development LLC      | COID                        | 15S | 13E | 19  | SE NW | 701             |
| Redmond Investments LLC         | COID                        | 15S | 13E | 19  | SW SW | 1200            |
| Tri-County Builders Corp.       | COID                        | 15S | 13E | 20  | NE SE | 1501            |

10. Application T-10391 proposes to change the character of use to instream use for fish and wildlife habitat enhancement; recreation; and pollution abatement.
11. Application T-10391 proposes to change the place of use of the right to create the following instream reach:

Reach: From COID North Canal POD #11 (described in Finding of Fact #5) to Lake Billy Chinook.

12. The applicant proposes the quantities of water to be transferred and protected instream be as follows:

| Certificate | Priority Date    | Rate Instream   | Volume Instream |
|-------------|------------------|---|-----------------|
| 83571       | October 31, 1900 | Season 1: 0.272 CFS<br>Season 2: 0.363 CFS<br>Season 3: 0.672 CFS | 215.73 AF       |

13. There are existing instream water rights within the same reach as that proposed for the new instream water right. All of the existing instream water rights were established under ORS 537.348, the instream transfer process, and ORS 537.470, the allocation of conserved water process. 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 POD #11 to Lake Billy Chinook, which if approved will have a priority date of September 19, 1990.
14. The applicant proposes that any instream water right established as a result of this instream transfer to be additive to 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 applicant also proposes that any instream water right established as a result of this instream transfer replace a portion of any existing 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.

15. The applicant has requested to protect water instream under the October 31, 1900, priority date. Water is diverted at the point 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 by the applicant to be transferred instream, as described in Finding of Fact #12, 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 May 29, 2007, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
18. On September 25, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10391 to the applicants. The draft Preliminary Determination set forth a deadline of October 24, 2007, for the applicants to respond. The additional information requested by the Department was received on September 26, 2007, and October 4, 2007. On October 1, 2007, the Department also sent a second 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 20, 2007, the applicants concurred with the draft Preliminary Determination and the red-lined changes and requested that the Department proceed with issuance of a Preliminary Determination.
19. On December 26, 2007, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10391 and mailed a copy to the applicant. 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 1, 16, and 23, 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. Water 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.
21. 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 Application T-10391.
22. The period during which water is requested to be protected instream requires modification to prevent injury and enlargement. At the full rates and duty allowed by the water right to be

transferred instream, water may be protected instream for a period of 209 days. The period requested by the applicant is 214 days.

23. Based on the previous Finding of Fact, on October 1 and November 20, 2007, the applicants agreed to modify the quantities to be transferred and protected instream as follows:

Reach: COID North Canal POD #11 (as described in Finding of Fact #5) to Lake Billy Chinook

| Certificate | Priority Date    | Instream Period                       | Instream Rate | Instream volume |
|-------------|------------------|---------------------------------------|---------------|-----------------|
| 83571       | October 31, 1900 | Season 1 (modified to end October 26) | 0.272 CFS     | 215.73          |
|             |                  | Season 2                              | 0.363 CFS     |                 |
|             |                  | Season 3                              | 0.672 CFS     |                 |

24. The proposed change, as modified, would not result in enlargement of the right.
25. The proposed change, as modified, would not result in injury to other water rights.
26. The amount and timing of the proposed instream flow are allowable within the limits and use of the original water right.
27. The protection of flows within the proposed reach 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) Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.
28. 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 habitat, aquatic life, recreation, aesthetics, and minimizing pollution. 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 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.
29. By adding to other water rights leased or transferred instream at the same location, or created through the conserved water statutes, the instream right will provide protection for additional

streamflows necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement.

30. By replacing a portion of instream rights created at the request of state agencies or under the minimum streamflow conversion process, the instream right will provide protection for streamflows previously identified as necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement under earlier priority dates.
31. During the period April 1 through October 26 any instream water right established by this transfer application may 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.
32. The total monthly quantities of water to be protected under the proposed instream right, in addition to the existing instream water rights, within the proposed reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

***Partial Cancellation of a Water Right***

33. 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-10391. The portion of Certificate 76714 to be cancelled has been quit claimed to COID.
34. Consistent with OAR 690-380-2250, the Department provided notice (as part of the draft Preliminary Determination identified in Finding of Fact #18) to the applicants of the Department's intent to cancel the portions of the supplemental water right 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. No response was received to the notice.
35. That portion of the supplemental water right to be cancelled is as follows:  
**Certificate:** 76714 in the name of Central Oregon Irrigation District  
**Use:** Supplemental Irrigation of 39.58 acres  
**Priority Date:** February 28, 1913  
**Source:** Crane Prairie Reservoir, constructed under permit R-1687, tributary to the Deschutes River

**Authorized PODs:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Survey Coordinates  |
|----------|---|-------|---|----------|-----|-------|---|
| 21       | S | 8     | E | W.M.     | 17  | NE NE | CRANE PRAIRIE RESERVOIR DAM   |
| 17       | S | 12    | E | W.M.     | 29  | SE NE | POD #11 (COID NORTH CANAL):<br>850 FEET NORTH AND 630 FEET<br>EAST FROM THE NORTH ¼<br>CORNER OF SECTION 29 |

**Authorized Places of Use:**

| Township | Range | Meridian | Sec | ¼ ¼ | Tax Lot | Acres |      |       |
|----------|-------|----------|-----|-----|---------|-------|------|-------|
| 15       | S     | 13       | E   | WM  | 3       | NW SW | 1401 | 6.40  |
| 15       | S     | 13       | E   | WM  | 4       | SW NE | 500  | 1.70  |
| 15       | S     | 13       | E   | WM  | 8       | NE NW | 1000 | 1.50  |
| 15       | S     | 13       | E   | WM  | 8       | SE NW | 1000 | 8.00  |
| 15       | S     | 13       | E   | WM  | 19      | SW NE | 701  | 0.20  |
| 15       | S     | 13       | E   | WM  | 19      | SE NW | 701  | 4.45  |
| 15       | S     | 13       | E   | WM  | 19      | SW SW | 1200 | 15.00 |
| 15       | S     | 13       | E   | WM  | 20      | NE SE | 1501 | 2.33  |

36. 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):<br>850 FEET NORTH & 630 FEET<br><u>WEST FROM THE EAST</u> ¼<br>CORNER OF SECTION 29 |

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

37. COID and the DRC (the Applicant) have requested this instream transfer application be used to establish mitigation credits in the Deschutes Ground Water Study Area. The Applicant has requested that any mitigation credits generated from this project be assigned to COID and the DRC.
38. The Department assigned this mitigation credit project number MP-108.
39. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300 (6) on May 29, 2007. No comments were received in response to this notice.
40. 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 May 29, 2007. Comments were received from ODFW and OPRD. ODFW identified that this project will provide effective instream

protection of flows during the irrigation season and also identified, along with general comments on the mitigation program, that instream flow protection is needed during the months outside of the irrigation season. OPRD identified that this instream transfer will enhance aesthetics and add water needed for recreation (boating opportunities). OPRD deferred to ODFW for appropriate timing of when flows should be protected instream.

41. The Department is unable to expand the period during which instream flows may be protected outside of the irrigation season, as recommended by ODFW, without causing injury to other water rights. The shaping proposed by the instream transfer application does protect water instream over almost the entire irrigation season at the maximum rates possible. Therefore, no modifications were made to the proposed instream period upon comments received.
42. The proposed transfer of 39.58 acres of irrigation use to instream use will provide 71.2 acre-feet of mitigation water. Therefore, 71.2 mitigation credits (1.0 mitigation credit = 1.0 AF of mitigation water) may be awarded to this mitigation credit project and assigned to COID and the DRC. 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 and/or General Zones of Impact.
43. A total of 215.73 AF is proposed to be transferred to instream use and 71.2 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.
44. The Department shall award final mitigation credits upon completion of the approved project by the applicant and verification by the Department that the project is complete. The issuance of a certificate(s) 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.
45. Mitigation credits awarded to this mitigation credit project will be valid beginning the first calendar year that water will be protected instream under any new instream water right created as a result of this instream transfer application.

### **Conclusions of Law**

The changes in character of use and place of use to instream use proposed in application T-10391 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 portion of the right 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-10391 are approved. The portion of the right that has been abandoned is 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:

| Priority Date    | Season 1  | Season 2  | Season 3  | Duty      |
|------------------|-----------|-----------|-----------|-----------|
| October 31, 1900 | 0.494 CFS | 0.658 CFS | 0.870 CFS | 391.27 AF |
| December 2, 1907 |           |           | 0.349 CFS |           |

3. The portion of Certificate 76714 that has been abandoned is cancelled. Water right certificate 76714 is modified. The Department shall issue a new water right certificate on a determination that it is necessary to produce a certificate to confirm that portion of the water right not affected by the cancellation described in Finding of Fact #35. Modification of this supplemental water right shall reduce by 39.58 acres the number of acres to which stored water may be applied for supplemental irrigation under the right.
4. The instream water right shall provide for the protection of streamflows 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:

Reach: from COID North Canal POD #11 (as described in Finding of Fact #5) to Lake Billy Chinook.

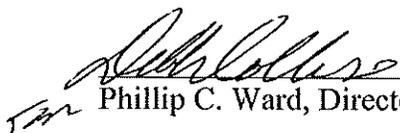
| Priority Date    | Period Protected Instream                                     | Instream Rate | Instream Volume |
|------------------|---|---------------|-----------------|
| October 31, 1900 | April 1 through April 30 and<br>October 1 through October 26  | 0.272 CFS     | 215.73 AF       |
|                  | May 1 through May 14 and<br>September 16 through September 30 | 0.363 CFS     |                 |
|                  | May 15 through September 15                                   | 0.672 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. Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion.
7. 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.

8. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to other conditions and limitations as may be germane to instream rights, that are contained in Certificate 83571 and any related decree.
9. The former place of use of the transferred water shall no longer receive water as part of these rights.
10. **Final 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 the attached 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 **71.2** credits, as described herein, are awarded to this mitigation project and assigned to COID and the DRC. 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 General Zones of Impact**.
11. 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.
12. 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 26<sup>th</sup> day of February, 2008.

  
Phillip C. Ward, Director

Mailing Date: MAR 03 2008

STATE OF OREGON

COUNTY OF

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

STATE OF OREGON  
WATER RESOURCES DEPARTMENT

confirms the right to use the waters of the Deschutes River, a tributary of the Columbia River, to maintain instream flows for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values; pollution abatement; and recreation.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Deschutes County. The decree is of record at Salem in the Order Record of the Water Resources Director, in Volume 12, at Page 282 and in Volume 16, at Pages 1 and 390. The date of priority is October 31, 1900.

The description of the stream reach in which flows are to be maintained is as follows:

From the location of the diversion authorized previously under Certificate 83571, located approximately at:

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Location  |
|----------|---|-------|---|----------|-----|-------|---|
| 17       | S | 12    | E | W.M.     | 29  | SE NE | POD #11 (COLD NORTH CANAL): 850 FEET NORTH AND 630 FEET WEST FROM THE EAST ¼ CORNER OF SECTION 29 |

To Lake Billy Chinook.

The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed:

|                 |  |   |                                |
|-----------------|--|---|--------------------------------|
| Instream Period | April 1 through April 30 and<br>October 1 through October 26 | May 1 through May 14 and<br>September 15 through September 30 | May 15 through<br>September 14 |
| Instream Rate   | 0.272 Cubic Foot per Second (CFS)                            | 0.363 CFS   | 0.672 CFS                      |

or its equivalent in case of rotation during the period from April 1 through October 26 of each year.

Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the originally authorized diversion as adjusted for stream channel losses and gains calculated based on available data and the use of senior appropriators.

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 shall be in addition to instream water rights established pursuant to ORS 537.348 or 537.470, during the period April 1 through October 26 of each year, unless otherwise specified by a subsequent order establishing a new instream water right under these statutes.

This certificate is issued to confirm a change in character of use and place of use approved by an order of the Water Resources Director approving Transfer T-10391, and supersedes a portion of Certificate 83571, State Record of Water Right Certificates.

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 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.

Mitigation Credit Award

Mitigation Project: MP-108  
Mitigation Credits Awarded: 71.2  
Zone of Impact: These mitigation credits may be used to satisfy a mitigation obligation within the Middle Deschutes Zone of Impact and/or General Zone of Impact

Each mitigation credit equals 1.0 AF of mitigation water, as determined by the Department.

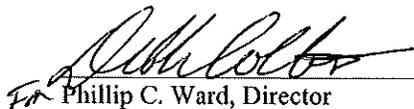
The number of mitigation credits awarded is a portion of the total volume transferred instream, being 215.73 AF. The remaining balance of water dedicated to instream use, and not used to satisfy the mitigation obligation of a ground water permit (and subsequent certificate(s)), will benefit instream flows.

The mitigation credits or mitigation water established by this instream water right may be used to satisfy a mitigation obligation of a ground water permit application(s) and/or a ground water permit(s)/ certificate(s) within the Deschutes Ground Water Study Area pursuant to the Deschutes Ground Water Mitigation Rules.

Mitigation credits valid until used to satisfy a mitigation obligation of a ground water permit applicant and/or ground water permit/certificate holder.

The right to the use of the water for the above purpose is restricted to beneficial use in the place of use described and is subject to all other conditions and limitations contained in said decree.

WITNESS the signature of the Water Resources Director, affixed *February 21, 2008*

  
\_\_\_\_\_  
For Phillip C. Ward, Director



# Oregon

Theodore R. Kulongoski, Governor

Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
503-986-0900  
FAX 503-986-0904

December 26, 2007

Zach Tillman  
Deschutes River Conservancy  
700 NW Hill Street  
Bend, Oregon 97701

Leslie Clark  
Central Oregon Irrigation District  
1055 SW Lake Court  
Redmond, OR 97756

SUBJECT: Instream Transfer Application T-10391 / Mitigation Credit Project MP-108

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-10391. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication simultaneously with issuance of the Preliminary Determination. The notice initiates a 30-day period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision.

Because of the change in character of use, the applicant is responsible for giving public notice of the transfer changes in a local newspaper having a general circulation in the area of the water right. The notice must be published at least once a week for three consecutive weeks. We have prepared the notice for you (enclosed). The deadline for individuals to file protests or standing statements is 30 days after the date of last publication. Please have the newspaper insert the date of last publication in the proper place. After publication, the Department needs to receive an affidavit specifying the dates the notice was published. Typically, the newspaper will prepare and mail an original *affidavit of publication* to the Department, however you will want to request specifically that they do so. The newspaper can mail the affidavit to me at the address above.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me at (503) 986-0884 if I may be of assistance.

Sincerely,

Laura Snedaker  
Field Services Division

cc: District 11 Watermaster—Jeremy Giffin

encs

**Notice of Preliminary Determination for  
Water Right Transfer T-10391 (Mitigation Credit Project MP-108)**

T-10391 filed by Central Oregon Irrigation District and the Deschutes River Conservancy (700 NW Hill St., Bend, OR 97701), proposes changes in place of use and character of use under Certificate 83571. The right allows the use of 0.494 cubic feet per second (cfs) (April 1 to May 1 and Oct 1 to Nov 1); 0.658 cfs (May 1 to May 15 and Sept 15 to Oct 1); and 1.219 (May 15 to Sept 15) (priority dates October 31, 1900 and December 2, 1907) from a diversion (COID North Canal) in Sec. 29, T17S, R12E, W.M. (Deschutes River Basin) for irrigation in Sections 3, 4, 8, 19 and 20 in T15S, R13E, W.M. The applicant proposes to change the place of use and character of use to instream use in the Deschutes River (from COID North Canal to Lake Billy Chinook), at a maximum of 0.672 cfs, and to establish mitigation credits in the Deschutes Groundwater Study Area. The applicant also proposed a cancellation of a portion of supplemental rights under Certificate 76714. The application was amended with respect to the instream period and beneficial use. The Water Resources Department has concluded that the proposed transfer appears to be consistent with the requirements of ORS Chapter 540 and OAR 690-380-5000. The Department has also concluded that the proposed transfer appears to result in mitigation credits pursuant to OAR 690-521-0300 & OAR 690-521-0400.

Any person may file, jointly or severally, with the Department a protest or standing statement within 30 days after the date of final publication of notice in the Department's weekly notice or of this newspaper notice, whichever is later. A protest form and additional information on filing protests may be obtained by calling (503) 986-0881. The last date of newspaper publication is [DATE OF LAST PUBLICATION]. If no protests are filed, the Department will issue a final order consistent with the preliminary determination.

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

|   |   |                            |
|---|---|----------------------------|
| In the Matter of Instream Transfer        | ) | PRELIMINARY DETERMINATION  |
| Application T-10391 and Mitigation Credit | ) | PROPOSING APPROVAL OF A    |
| Project MP-108, Deschutes County          | ) | CHANGE IN PLACE OF USE AND |
|   | ) | CHARACTER OF USE, PARTIAL  |
|   | ) | CANCELLATION OF A          |
|   | ) | SUPPLEMENTAL WATER RIGHT,  |
|   | ) | 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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

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**

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

DESCHUTES RIVER CONSERVANCY  
700 NW HILL STREET  
BEND, OR 97701

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.

## Findings of Fact

### *Background*

1. On May 18, 2007, the Central Oregon Irrigation District (COID) and Deschutes River Conservancy (DRC) 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-10391.
2. This instream transfer application originally proposed to change the character of use to instream use for fish and wildlife habitat enhancement; pollution abatement; navigation; and recreation. The applicants amended the application on May 22, 2007, to remove navigation from the list of proposed uses.
3. On September 26, revised application maps were received replacing a couple of the maps submitted with the application. A corrected report of title and lien information was also received. On October 4 2007, the Department also received a corrected affidavit of use for certain lands described in the transfer application.
4. On September 26, 2007, Certificate 83571 was issued superseding Certificate 76358.
5. That portion of the right to be transferred is as follows:

**Certificate:** 83571 in the name of Central Oregon Irrigation District

**Use:** Irrigation of 39.58 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<sup>th</sup> 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:** The Deschutes River, tributary to the Columbia River

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

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

**Authorized Places of Use:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Acres |
|----------|---|-------|---|----------|-----|-------|-------|
| 15       | S | 13    | E | WM       | 3   | NW SW | 6.40  |
| 15       | S | 13    | E | WM       | 4   | SW NE | 1.70  |
| 15       | S | 13    | E | WM       | 8   | NE NW | 1.50  |
| 15       | S | 13    | E | WM       | 8   | SE NW | 8.00  |
| 15       | S | 13    | E | WM       | 19  | SW NE | 0.20  |
| 15       | S | 13    | E | WM       | 19  | SE NW | 4.45  |
| 15       | S | 13    | E | WM       | 19  | SW SW | 15.00 |
| 15       | S | 13    | E | WM       | 20  | NE SE | 2.33  |

6. 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 #5), 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 PODs (described in Finding of Fact #5), the portion of the right involved in this transfer would be limited as described in the tables 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  | Season 2  | Season 3  | Duty      |
|------------------|-----------|-----------|-----------|-----------|
| October 31, 1900 | 0.494 CFS | 0.658 CFS | 0.870 CFS | 391.27 AF |
| December 2, 1907 |           |           | 0.349 CFS |           |

7. A total of 215.73 AF of water, excluding transmission losses, may be beneficially used annually for primary irrigation under the portion of existing Certificate 83571 proposed for transfer.
8. Supplemental right, Certificate 76714, is appurtenant to the same lands from which the primary right under Certificate 83571 is proposed to be transferred to instream use. The applicant has requested that the affected portion of Certificate 76714 be cancelled upon issuance of the Final Order approving T-10391.
9. The applicants are not the owners of the lands to which the water right described in Finding of Fact #5 is appurtenant. However, water right conveyance agreements have been completed and interest in the water rights has been conveyed to COID from each landowner described in the table below. The portion of this right to be transferred was appurtenant to

lands owned by the identified land landowners at the time interest in the water right was conveyed through a Quit Claim, a water right conveyance agreement.

| Landowner                       | Water Right Interest Holder | T   | R   | Sec | ¼ ¼   | Current Tax Lot |
|---------------------------------|-----------------------------|-----|-----|-----|-------|-----------------|
| David M. and Gail L. Wagenblast | COID                        | 15S | 13E | 3   | NW SW | 1401            |
| James C. and Tari R. Bradley    | COID                        | 15S | 13E | 4   | SW NE | 500             |
| CHW Enterprises LLC             | COID                        | 15S | 13E | 8   | NE NW | 1000            |
| CHW Enterprises LLC             | COID                        | 15S | 13E | 8   | SE NW | 1000            |
| High Ridge Development LLC      | COID                        | 15S | 13E | 19  | SW NE | 701             |
| High Ridge Development LLC      | COID                        | 15S | 13E | 19  | SE NW | 701             |
| Redmond Investments LLC         | COID                        | 15S | 13E | 19  | SW SW | 1200            |
| Tri-County Builders Corp.       | COID                        | 15S | 13E | 20  | NE SE | 1501            |

10. Application T-10391 proposes to change the character of use to instream use for fish and wildlife habitat enhancement; recreation; and pollution abatement.
11. Application T-10391 proposes to change the place of use of the right to create the following instream reach:

Reach: From COID North Canal POD #11 (described in Finding of Fact #5) to Lake Billy Chinook.

12. The applicant proposes the quantities of water to be transferred and protected instream be as follows:

| Certificate | Priority Date    | Rate Instream   | Volume Instream |
|-------------|------------------|---|-----------------|
| 83571       | October 31, 1900 | Season 1: 0.272 CFS<br>Season 2: 0.363 CFS<br>Season 3: 0.672 CFS | 215.73 AF       |

13. There are existing instream water rights within the same reach as that proposed for the new instream water right. All of the existing instream water rights were established under ORS 537.348, the instream transfer process, and ORS 537.470, the allocation of conserved water process. 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 POD #11 to Lake Billy Chinook, which if approved will have a priority date of September 19, 1990.
14. The applicant proposes that any instream water right established as a result of this instream transfer to be additive to 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 applicant also proposes that any instream water right established as a result of this instream transfer replace a portion of any existing 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.

15. The applicant has requested to protect water instream under the October 31, 1900, priority date. Water is diverted at the point 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 by the applicant to be transferred instream, as described in Finding of Fact #12, 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 May 29, 2007, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
18. On September 25, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10391 to the applicants. The draft Preliminary Determination set forth a deadline of October 24, 2007, for the applicants to respond. The additional information requested by the Department was received on September 26, 2007, and October 4, 2007. On October 1, 2007, the Department also sent a second 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 20, 2007, the applicants concurred with the draft Preliminary Determination and the red-lined changes and requested that the Department proceed with issuance of a Preliminary Determination.

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

19. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
20. 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 Application T-10391.
21. The period during which water is requested to be protected instream requires modification to prevent injury and enlargement. At the full rates and duty allowed by the water right to be transferred instream, water may be protected instream for a period of 209 days. The period requested by the applicant is 214 days.

22. Based on the previous Finding of Fact, on October 1 and November 20, 2007, the applicants agreed to modify the quantities to be transferred and protected instream as follows:

Reach: COID North Canal POD #11 (as described in Finding of Fact #5) to Lake Billy Chinook

| Certificate | Priority Date    | Instream Period                       | Instream Rate | Instream volume |
|-------------|------------------|---------------------------------------|---------------|-----------------|
| 83571       | October 31, 1900 | Season 1 (modified to end October 26) | 0.272 CFS     | 215.73          |
|             |                  | Season 2                              | 0.363 CFS     |                 |
|             |                  | Season 3                              | 0.672 CFS     |                 |

23. The proposed change, as modified, would not result in enlargement of the right.
24. The proposed change, as modified, would not result in injury to other water rights.
25. The amount and timing of the proposed instream flow are allowable within the limits and use of the original water right.
26. The protection of flows within the proposed reach 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) Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.
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 habitat, aquatic life, recreation, aesthetics, and minimizing pollution. 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 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.

28. By adding to other water rights leased or transferred instream at the same location, or created through the conserved water statutes, the instream right will provide protection for additional streamflows necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement.
29. By replacing a portion of instream rights created at the request of state agencies or under the minimum streamflow conversion process, the instream right will provide protection for streamflows previously identified as necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement under earlier priority dates.
30. During the period April 1 through October 26 any instream water right established by this transfer application may 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.
31. The total monthly quantities of water to be protected under the proposed instream right, in addition to the existing instream water rights, within the proposed reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

***Partial Cancellation of a Water Right***

32. 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-10391. The portion of Certificate 76714 to be cancelled has been quit claimed to COID.
33. Consistent with OAR 690-380-2250, the Department provided notice (as part of the draft Preliminary Determination identified in Finding of Fact #18) to the applicants of the Department's intent to cancel the portions of the supplemental water right 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. No response was received to the notice.
34. That portion of the supplemental water right to be cancelled is as follows:
 

|                       |  |
|-----------------------|--|
| <b>Certificate:</b>   | 76714 in the name of Central Oregon Irrigation District                                    |
| <b>Use:</b>           | Supplemental Irrigation of 39.58 acres   |
| <b>Priority Date:</b> | February 28, 1913  |
| <b>Source:</b>        | Crane Prairie Reservoir, constructed under permit R-1687, tributary to the Deschutes River |

**Authorized PODs:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Survey Coordinates  |
|----------|---|-------|---|----------|-----|-------|---|
| 21       | S | 8     | E | W.M.     | 17  | NE NE | CRANE PRAIRIE RESERVOIR DAM   |
| 17       | S | 12    | E | W.M.     | 29  | SE NE | POD #11 (COID NORTH CANAL):<br>850 FEET NORTH AND 630 FEET<br>EAST FROM THE NORTH ¼<br>CORNER OF SECTION 29 |

**Authorized Places of Use:**

| Township | Range | Meridian | Sec | ¼ ¼ | Tax Lot | Acres            |
|----------|-------|----------|-----|-----|---------|------------------|
| 15       | S     | 13       | E   | WM  | 3       | NW SW 1401 6.40  |
| 15       | S     | 13       | E   | WM  | 4       | SW NE 500 1.70   |
| 15       | S     | 13       | E   | WM  | 8       | NE NW 1000 1.50  |
| 15       | S     | 13       | E   | WM  | 8       | SE NW 1000 8.00  |
| 15       | S     | 13       | E   | WM  | 19      | SW NE 701 0.20   |
| 15       | S     | 13       | E   | WM  | 19      | SE NW 701 4.45   |
| 15       | S     | 13       | E   | WM  | 19      | SW SW 1200 15.00 |
| 15       | S     | 13       | E   | WM  | 20      | NE SE 1501 2.33  |

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):<br>850 FEET NORTH & 630 FEET<br><u>WEST FROM THE EAST ¼</u><br>CORNER OF SECTION 29 |

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

36. COID and the DRC (the Applicant) have requested this instream transfer application be used to establish mitigation credits in the Deschutes Ground Water Study Area. The Applicant has requested that any mitigation credits generated from this project be assigned to COID and the DRC.
37. The Department assigned this mitigation credit project number MP-108.
38. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300 (6) on May 29, 2007. 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 May 29, 2007. Comments were received from ODFW and OPRD. ODFW identified that this project will provide effective instream

protection of flows during the irrigation season and also identified, along with general comments on the mitigation program, that instream flow protection is needed during the months outside of the irrigation season. OPRD identified that this instream transfer will enhance aesthetics and add water needed for recreation (boating opportunities). OPRD deferred to ODFW for appropriate timing of when flows should be protected instream.

40. The Department is unable to expand the period during which instream flows may be protected outside of the irrigation season, as recommended by ODFW, without causing injury to other water rights. The shaping proposed by the instream transfer application does protect water instream over almost the entire irrigation season at the maximum rates possible. Therefore, no modifications were made to the proposed instream period upon comments received.
41. The proposed transfer of 39.58 acres of irrigation use to instream use will provide 71.2 acre-feet of mitigation water. Therefore, 71.2 mitigation credits (1.0 mitigation credit = 1.0 AF of mitigation water) may be awarded to this mitigation credit project and assigned to COID and the DRC. 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 and/or General Zones of Impact.
42. A total of 215.73 AF is proposed to be transferred to instream use and 71.2 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 applicant and verification by the Department that the project is complete. The issuance of a certificate(s) 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.
44. Mitigation credits awarded to this mitigation credit project will be valid beginning the first calendar year that water will be protected instream under any new instream water right created as a result of this instream transfer application.

#### **Determination and Proposed Action**

The changes in character of use and place of use to instream use proposed in application T-10391 appear to be 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 portion of the right should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved and the abandoned portion of the right will be cancelled.

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

If application T-10391 is approved, the final order will include the following:

1. The changes in character of use and place of use to instream use proposed in application T-10391 are approved. The portion of the right that has been abandoned is 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:

| Priority Date    | Season 1  | Season 2  | Season 3  | Duty      |
|------------------|-----------|-----------|-----------|-----------|
| October 31, 1900 | 0.494 CFS | 0.658 CFS | 0.870 CFS | 391.27 AF |
| December 2, 1907 |           |           | 0.349 CFS |           |

3. The portion of Certificate 76714 that has been abandoned is cancelled. Water right certificate 76714 is modified. The Department shall issue a new water right certificate on a determination that it is necessary to produce a certificate to confirm that portion of the water right not affected by the cancellation described in Finding of Fact #34. Modification of this supplemental water right shall reduce by 39.58 acres the number of acres to which stored water may be applied for supplemental irrigation under the right.
4. The instream water right shall provide for the protection of streamflows 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:

Reach: from COID North Canal POD #11 (as described in Finding of Fact #5) to Lake Billy Chinook.

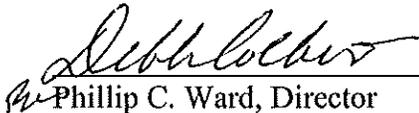
| Priority Date    | Period Protected Instream                                     | Instream Rate | Instream Volume |
|------------------|---|---------------|-----------------|
| October 31, 1900 | April 1 through April 30 and<br>October 1 through October 26  | 0.272 CFS     | 215.73 AF       |
|                  | May 1 through May 14 and<br>September 15 through September 30 | 0.363 CFS     |                 |
|                  | May 15 through September 14                                   | 0.672 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. Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion.
7. 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.*

- 8. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to other conditions and limitations as may be germane to instream rights, that are contained in Certificate 83571 and any related decree.*
- 9. The former place of use of the transferred water shall no longer receive water as part of these rights.*
- 10. 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, will result in completion of the project and verification by the Department that the project is complete. If completed as proposed, mitigation credits, in the amount of 71.2 credits, as described herein, may be awarded to this mitigation project and assigned to COID and the DRC. 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 General Zones of Impact. The awarded mitigation credits are valid beginning the first calendar year that water will be protected instream under the new instream water right.*
- 11. 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.*
- 12. 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 26<sup>th</sup> day of December, 2007.

  
Phillip C. Ward, Director

This Preliminary Determination was prepared by a Reimbursement Authority contractor. If you have questions about the information in this document, you may reach Laura Snedaker at 503-986-0884 or [Laura.K.Snedaker@wr.d.state.or.us](mailto:Laura.K.Snedaker@wr.d.state.or.us).

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.

**Laura Snedaker**

**From:** Laura Snedaker  
**Sent:** Tuesday, September 25, 2007 1:40 PM  
**To:** 'Leslie Clark'; 'Zach Tillman'  
**Subject:** DPD for T-10391  
**Attachments:** 10391-dpd-cover-iswr-MP108-RA.pdf; 10391-dpd-approve-iswr-MP108-RA.pdf

Good Afternoon to you both,

Attached is the draft preliminary determination for instream transfer T-10391. A hard copy has been placed in the mail and sent over to COID.

Please give me a call if you have any questions.

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

9/25/2007



# Oregon

Theodore R. Kulongoski, Governor

**Water Resources Department**  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
503-986-0900  
FAX 503-986-0904

September 25, 2007

Deschutes River Conservancy  
Attn: Zachary Tillman  
700 NW Hill Street  
Bend, OR 97701

Central Oregon Irrigation District  
Attn: Steve Johnson  
1055 SW Lake Court  
Redmond, OR 97756

**SUBJECT: Instream Transfer Application T-10391 and Mitigation Credit Project MP-108**

Enclosed find a draft of our Preliminary Determination regarding transfer application T-10391 / mitigation credit project MP-108. The document reflects the Department's conclusion that, based on the information currently available, the transfer will be approved. This draft is intended to provide you with an opportunity to comment on our findings and conclusions should you wish to do so. Please review the draft carefully to evaluate whether the document is consistent with your intent in seeking the transfer, and whether you agree with the proposed action.

In addition, the following information or application materials are needed to complete the review of the transfer application:

- The application contains some conflicting information with regard to season of use and priority date. The draft Preliminary Determination includes an assumption that the proposed instream water right will conform to the 209-day restriction placed on season of use of a previous instream lease as described in the COID calculations exhibit, but with the sole priority date of October 31, 1900 as listed on Form C. Please provide your concurrence with the assumption made in Finding of Fact #12 and the proposed shaping of the instream use provided in Finding of Fact #17.
- The application map for Tri-County Builders Corporation (T15S, R13E, Section 20, NE SE, Lot 1501) shows a total of 6.56 acres, including the 2.33 acres to be transferred to instream use. However, it appears based upon Department records that there are 7.26 acres (before the transfer) in this quarter quarter. Please provide clarification and, if necessary, a revised application map showing the correct number of acres to be transferred and remaining.
- The application map for James and Tari Bradley (T15S, R13E, Section 4, SW NE, Lot 500) shows a total of 3.3 acres, including the 1.7 acres to be transferred to instream use. However, it appears based upon Department records that there are 3.3 acres (before the transfer) in this quarter quarter. Please provide clarification and, if necessary, a revised application map showing the correct number of acres to be transferred and remaining.
- The title and lien report for the lands owned by Tri-County Builders Corporation appears to contain a scrivener's error in the legal description (the Partition Plat appears to be number 1991-5 and not 1995-5 as identified in the title and lien report). A letter from the title company acknowledging the typo or a corrected title report is needed.

- In addition, the Affidavit of Use for Tri-County Builders Corporation lacks information pertaining to the purpose or delivery system for the water right. A complete affidavit of use needs to be provided but the attachments do not need to be resubmitted. Please have the respective affiants provide clarification for these items.

Because of the change in character of use, the applicant is responsible for publishing notice of the transfer in a local newspaper having a general circulation in the area of the water right. The notice must be published at least once a week for three consecutive weeks. We will provide a copy of the required notice to you upon issuance of the Preliminary Determination.

Issuance of the Preliminary Determination will occur shortly after we receive both your written response and the report of ownership and lien information. If we do not receive your response and the report by October 24, 2007, a Preliminary Determination may be issued denying the application as incomplete.

Please do not hesitate to contact me at 503-986-0884 or [Laura.K.Snedaker@wrd.state.or.us](mailto:Laura.K.Snedaker@wrd.state.or.us) if you have questions or if I may be of assistance.

Sincerely,

Laura K. Snedaker  
Field Services Division

cc: Jeremy Giffin, District 11 Watermaster

enc

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

In the Matter of Instream Transfer )  
Application T-10391 and Mitigation Credit )  
Project MP-108, Deschutes County )

**D R A F T**

PRELIMINARY DETERMINATION  
PROPOSING APPROVAL OF A  
CHANGE IN PLACE OF USE AND  
CHARACTER OF USE, PARTIAL  
CANCELLATION OF A  
SUPPLEMENTAL WATER RIGHT,  
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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

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**

CENTRAL OREGON IRRIGATION DISTRICT  
1055 SW LAKE COURT  
REDMOND OR 97756

DESCHUTES RIVER CONSERVANCY  
700 NW HILL STREET  
BEND, OREGON 97701

**Findings of Fact**

**Background**

- 13. On May 18, 2007, the Central Oregon Irrigation District (COID) and Deschutes River Conservancy (DRC) 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-10391.
- 14. This instream transfer application originally proposed to change the character of use to instream use for fish and wildlife habitat enhancement; pollution abatement; navigation; and recreation. The applicants amended the application on May 22, 2007, to remove navigation from the list of proposed uses.
- 15. That portion of the right to be transferred is as follows:

**Certificate:** 76358 in the name of Central Oregon Irrigation District  
**Use:** Irrigation of 39.58 acres  
**Priority Date:** October 31, 1900 and December 2, 1907  
**Season of Use:** April 1 to November 1 further limited as follows:  
 April 1 to May 1 and Oct 1 to Nov 1 described herein as Season 1  
 May 1 to May 15 and Sept 15 to Oct 1 described herein as Season 2  
 May 15 to Sept 15 described herein as Season 3

**Quantity:**

**Rate:** 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<sup>th</sup> CFS per acre

**Duty:** Not to exceed 9.91 acre-feet (AF) per acre per year.

| Priority Date    | Season 1  | Season 2  | Season 3  | Duty      |
|------------------|-----------|-----------|-----------|-----------|
| October 31, 1900 | 0.495 CFS | 0.660 CFS | 0.871 CFS | 392.24 AF |
| December 2, 1907 |           |           | 0.351 CFS |           |

**The quantities listed 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):**

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Location   |
|----------|---|-------|---|----------|-----|-------|--|
| 17       | S | 12    | E | W.M.     | 29  | SE NE | POD #11 (COID NORTH CANAL):<br>850 FEET NORTH AND 630 FEET<br>WEST FROM THE EAST ¼<br>CORNER OF SECTION 29 |

**Authorized Places of Use:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼ |    | Tax Lot | Acres |
|----------|---|-------|---|----------|-----|-----|----|---------|-------|
| 15       | S | 13    | E | WM       | 3   | NW  | SW | 1401    | 6.40  |
| 15       | S | 13    | E | WM       | 4   | SW  | NE | 500     | 1.70  |
| 15       | S | 13    | E | WM       | 8   | NE  | NW | 1000    | 1.50  |
| 15       | S | 13    | E | WM       | 8   | SE  | NW | 1000    | 8.00  |
| 15       | S | 13    | E | WM       | 19  | SW  | NE | 701     | 0.20  |
| 15       | S | 13    | E | WM       | 19  | SE  | NW | 701     | 4.45  |
| 15       | S | 13    | E | WM       | 19  | SW  | SW | 1200    | 15.00 |
| 15       | S | 13    | E | WM       | 20  | NE  | SE | 1501    | 2.33  |

16. A total of 215.73 AF of water, excluding transmission losses, may be beneficially used annually for primary irrigation under the portion of existing Certificate 76358 proposed for transfer.
17. Supplemental right, Certificate 76714, is appurtenant to the same lands from which the primary right under Certificate 76358 is proposed to be transferred to instream use. The applicant intends that the affected portion of Certificate 76714 be cancelled upon issuance of the Final Order approving T-10391.
18. 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 to COID from each landowner described in the table below. The portion of this right to be transferred was appurtenant to lands owned by the identified land landowners at the time interest in the water right was conveyed through a Quit Claim, a water right conveyance agreement.

| Landowner                       | Water Right Interest Holder | T       | R       | S  | Q-Q   | Current Tax Lot |
|---------------------------------|-----------------------------|---------|---------|----|-------|-----------------|
| David M. and Gail L. Wagenblast | COID                        | 15<br>S | 13<br>E | 3  | NW SW | 1401            |
| James C. and Tari R. Bradley    | COID                        | 15<br>S | 13<br>E | 4  | SW NE | 500             |
| CHW Enterprises LLC             | COID                        | 15<br>S | 13<br>E | 8  | NE NW | 1000            |
| CHW Enterprises LLC             | COID                        | 15<br>S | 13<br>E | 8  | SE NW | 1000            |
| High Ridge Development LLC      | COID                        | 15<br>S | 13<br>E | 19 | SW NE | 701             |
| High Ridge Development LLC      | COID                        | 15<br>S | 13<br>E | 19 | SE NW | 701             |
| Redmond Investments LLC         | COID                        | 15<br>S | 13<br>E | 19 | SW SW | 1200            |
| Tri-County Builders Corp.       | COID                        | 15<br>S | 13<br>E | 20 | NE SE | 1501            |

19. Application T-10391 proposes to change the character of use to instream use for fish and wildlife habitat enhancement; recreation; and pollution abatement.
20. Application T-10300 proposes to change the place of use of the right to create the following instream reach:

Reach: From COID North Canal POD #11 (described in Finding of Fact #3) to Lake Billy Chinook.

21. The applicant proposes the quantities of water to be transferred and protected instream as follows:

| Certificate | Priority Date       | Rate Instream   | Volume Instream |
|-------------|---------------------|---|-----------------|
| 76358       | October 31,<br>1900 | Season 1: 0.272 CFS<br>Season 2: 0.363 CFS<br>Season 3: 0.672 CFS | 215.73 AF       |

10. There are existing instream water rights within the same reach as that proposed for the new instream water right. All of the existing instream water rights were established under ORS 537.348, the instream transfer process, and ORS 537.470, the allocation of conserved water process. 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 POD #11 to Lake Billy Chinook, which if approved will have a priority date of September 19, 1990.
11. The applicant proposes that any instream water right established as a result of this instream transfer to be additive to 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 applicant also proposes that any instream water right established as a result of this instream transfer replace a portion of any existing 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.
12. The applicant has requested to protect water instream under the October 31, 1900 priority date. Water is diverted at the point 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 by the applicant to be transferred instream do not include the 45% transmission loss. The Department finds that water may be protected instream solely under the 1900 priority date.

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

13. Notice of the application for transfer was published on May 29, 2007, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.

14. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
15. 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 Application T-10391.
16. The period during which water is requested to be protected instream requires modification to prevent injury and enlargement. At the full rates and duty allowed by the water right to be transferred instream, water may be protected instream for a period of 209 days. The period requested by the applicant is 214 days.
17. Based on the previous Finding of Fact, on \_\_\_\_\_, the applicant agreed to modify the quantities to be transferred and protected instream as follows:

Reach: COID North Canal POD #11 (as described in Finding of Fact #3) to Lake Billy Chinook

| Certificate | Priority Date    | Instream Period                       | Instream Rate | Instream volume |
|-------------|------------------|---------------------------------------|---------------|-----------------|
| 76358       | October 31, 1900 | Season 1 (modified to end October 26) | 0.272 CFS     | 215.73          |
|             |                  | Season 2                              | 0.363 CFS     |                 |
|             |                  | Season 3                              | 0.672 CFS     |                 |

18. The proposed change, as modified, would not result in enlargement of the right.
19. The proposed change, as modified, would not result in injury to other water rights.
20. The amount and timing of the proposed instream flow are allowable within the limits and use of the original water right.
21. The protection of flows within the proposed reach 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) Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.
22. 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 habitat, aquatic life, recreation, aesthetics, and minimizing pollution. 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 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.

23. By adding to other water rights leased or transferred instream at the same location, or created through the conserved water statutes, the instream right will provide protection for additional streamflows necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement.
24. By replacing a portion of instream rights created at the request of state agencies or under the minimum streamflow conversion process, the instream right will provide protection for streamflows previously identified as necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values; recreation; and pollution abatement under earlier priority dates.
25. During the period April 1 through October 26 any instream water right established by this transfer application may 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.
26. The total monthly quantities of water to be protected under the proposed instream right, in addition to the existing instream water rights, within the proposed reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

#### *Partial Cancellation of a Water Right*

27. There is an existing supplemental right, Certificate 76714, appurtenant to the portion of lands on which Certificate 76358 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-10391. The portion of Certificate 76714 to be cancelled has been quit claimed to COID.
28. Consistent with OAR 690-380-2250, the Department is notifying the applicant of the Department's intent to cancel the portions of the supplemental water right described below unless within 30 days of the date of this notification, the applicant modifies the application to include the supplemental right or withdraws the application.
29. That portion of the supplemental water right to be cancelled is as follows:  
**Certificate:** 76714 in the name of Central Oregon Irrigation District

**Use:** Supplemental Irrigation of 39.58 acres  
**Priority Date:** February 28, 1913  
**Source:** Crane Prairie Reservoir, constructed under permit R-1687, tributary to the Deschutes River

**Authorized PODs:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼ |    | Location  |
|----------|---|-------|---|----------|-----|-----|----|---|
| 21       | S | 8     | E | W.M.     | 17  | NE  | NE | CRANE PRAIRIE RESERVOIR DAM   |
| 17       | S | 12    | E | W.M.     | 29  | SE  | NE | POD #11 (COID NORTH CANAL):<br>850 FEET NORTH AND 630 FEET<br>EAST FROM THE NORTH ¼<br>CORNER OF SECTION 29 |

**Authorized Places of Use:**

| Township | Range | Meridian | Sec | ¼ ¼ | Tax Lot | Acres |      |       |
|----------|-------|----------|-----|-----|---------|-------|------|-------|
| 15       | S     | 13       | E   | WM  | 3       | NW SW | 1401 | 6.40  |
| 15       | S     | 13       | E   | WM  | 4       | SW NE | 500  | 1.70  |
| 15       | S     | 13       | E   | WM  | 8       | NE NW | 1000 | 1.50  |
| 15       | S     | 13       | E   | WM  | 8       | SE NW | 1000 | 8.00  |
| 15       | S     | 13       | E   | WM  | 19      | SW NE | 701  | 0.20  |
| 15       | S     | 13       | E   | WM  | 19      | SE NW | 701  | 4.45  |
| 15       | S     | 13       | E   | WM  | 19      | SW SW | 1200 | 15.00 |
| 15       | S     | 13       | E   | WM  | 20      | NE SE | 1501 | 2.33  |

30. The Department has information that POD #11 (COID North Canal) described in Certificates 76358 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 |    | Location  |
|----------|---|-------|---|----------|-----|-----|----|---|
| 17       | S | 12    | E | W.M.     | 29  | SE  | NE | POD # 11 (COID NORTH CANAL):<br>850 FEET NORTH & 630 FEET<br>WEST FROM THE EAST ¼<br>CORNER OF SECTION 29 |

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

31. COID and the DRC (the Applicant) have requested this instream transfer application be used to establish mitigation credits in the Deschutes Ground Water Study Area. The Applicant has requested that any mitigation credits generated from this project be assigned to COID and the DRC.
32. The Department assigned this mitigation credit project number MP-108.
33. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300 (6) on May 29, 2007. No comments were received in response to this notice.

34. 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 May 29, 2007. Comments were received from ODFW and OPRD. ODFW identified that this project will provide effective instream protection of flows during the irrigation season and also identified, along with general comments on the mitigation program, that instream flow protection is needed during the months outside of the irrigation season. OPRD identified that this instream transfer will enhance aesthetics and add water needed for recreation (boating opportunities). OPRD deferred to ODFW for appropriate timing of when flows should be protected instream.
35. The Department is unable to expand the period during which instream flows may be protected outside of the irrigation season, as recommended by ODFW, without causing injury to other water rights. The shaping proposed by the instream transfer application does protect water instream over almost the entire irrigation season at the maximum rates possible. Therefore, no modifications were made to the lease based upon comments received.
36. The proposed transfer of 39.58 acres of irrigation use to instream use will provide 71.2 acre-feet of mitigation water. Therefore, 71.2 mitigation credits (1.0 mitigation credit = 1.0 AF of mitigation water) may be awarded to this mitigation credit project and assigned to COID and the DRC. 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 and/or General Zones of Impact.
37. A total of 215.73 AF is proposed to be transferred to instream use and 71.2 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.
38. The Department shall award final mitigation credits upon completion of the approved project by the applicant and verification by the Department that the project is complete. The issuance of a certificate(s) for the proposed instream water right shall result in completion of the project and verification that the project is complete.

#### **Determination and Proposed Action**

The changes in character of use and place of use to instream use proposed in application T-10391 appear to be 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 rights should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved and the abandoned rights will be cancelled.

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

*If application T-10391 is approved, the final order will include the following:*

1. *The changes in character of use and place of use to instream use proposed in application T-10391 are approved.*
2. *Water Right Certificate 76358 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 76358 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 76358 by the following:*

| <i>Priority Date</i>    | <i>Season 1</i>  | <i>Season 2</i>  | <i>Season 3</i>  | <i>Duty</i>      |
|-------------------------|------------------|------------------|------------------|------------------|
| <i>October 31, 1900</i> | <i>0.495 CFS</i> | <i>0.660 CFS</i> | <i>0.871 CFS</i> | <i>392.24 AF</i> |
| <i>December 2, 1907</i> |                  |                  | <i>0.351 CFS</i> |                  |

3. *The portion of Certificate 76714 that has been abandoned is cancelled. Water right certificate 76714 is modified. The Department shall issue a new water right certificate on a determination that it is necessary to produce a certificate to confirm that portion of the water right not affected by the cancellation described in Finding of Fact #29. Modification of this supplemental water right shall reduce by 39.58 acres the number of acres to which stored water may be applied for supplemental irrigation under the right.*
4. *The instream water right shall provide for the protection of streamflows 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:*

*Reach 1: from COID North Canal POD #11 (as described in Finding of Fact #3) to Lake Billy Chinook.*

| <i>Priority Date</i>    | <i>Period Protected Instream</i>  | <i>Instream Rate</i> | <i>Instream Volume</i> |
|-------------------------|---|----------------------|------------------------|
| <i>October 31, 1900</i> | <i>April 1 through April 30 and<br/>October 1 through October 26</i>      | <i>0.272 CFS</i>     | <i>215.73 AF</i>       |
|                         | <i>May 1 through May 14 and<br/>September 15 through<br/>September 30</i> | <i>0.363 CFS</i>     |                        |
|                         | <i>May 15 through September 14</i>  | <i>0.672 CFS</i>     |                        |

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. *Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion.*
7. *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.*

8. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to other conditions and limitations as may be germane to instream rights, that are contained in Certificate 76358 and any related decree.*
9. *The former place of use of the transferred water shall no longer receive water as part of these rights.*
10. ***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, will result in completion of the project and verification by the Department that the project is complete. If completed as proposed, mitigation credits, in the amount of 71.2 credits, as described herein, may be awarded to this mitigation project and assigned to COID and the DRC. 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 General Zones of Impact.***
11. *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.*

Dated at Salem, Oregon this \_\_\_\_\_ day of \_\_\_\_\_ 2007.

**D R A F T**

\_\_\_\_\_  
Phillip C. Ward, Director

This draft Preliminary Determination was prepared by a Reimbursement Authority contractor. If you have questions about the information in this document, you may reach Laura Snedaker at 503-986-0884 or [Laura.K.Snedaker@wrdd.state.or.us](mailto:Laura.K.Snedaker@wrdd.state.or.us).

**Laura Snedaker**

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**From:** Zach Tillman [zach@deschutesriver.org]  
**Sent:** Thursday, May 24, 2007 4:06 PM  
**To:** Laura Snedaker  
**Subject:** RE: Mitigation Credits for T-10391

Both please. Thanks for checking.

Zachary Tillman, DRC  
541-382-4077, x.21  
[zach@deschutesriver.org](mailto:zach@deschutesriver.org)

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**From:** Laura Snedaker [mailto:snedaklk@wrd.state.or.us]  
**Sent:** Thursday, May 24, 2007 3:51 PM  
**To:** Zach Tillman  
**Subject:** Mitigation Credits for T-10391

Zach:

On the transfer that the DRC and COID just submitted for 39.58 acres, whom should any mitigation credits awarded to this project be assigned? The DRC? COID? Or both?

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

**Laura Snedaker**

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**From:** Zach Tillman [zach@deschutesriver.org]  
**Sent:** Tuesday, May 22, 2007 1:18 PM  
**To:** Laura Snedaker  
**Subject:** Transfer #10391

Hi Laura,

Please correct the instream transfer application #10391 (MP#108) to remove "navigation" from the public uses for which the instream right is being requested in Supplemental Form C. Thank you.

Zachary Tillman, DRC  
541-382-4077, x.21  
[zach@deschutesriver.org](mailto:zach@deschutesriver.org)

T 10391

5/22/2007

**Mitigation Project #: MP-107**

Project Applicant: Deschutes Water Exchange (DWE) Mitigation Bank and Central Oregon Irrigation District

Mitigation Project And Process: Instream Lease Application IL-834 for Certificate 76358 (Also see Instream Lease Section of the May 29, 2007 public notice for application details)

Subbasin/Source: Middle Deschutes River Subbasin – Deschutes River, tributary to the Columbia River

Amount of Water: Proposed Instream: up to 0.503 CFS  
Maximum Seasonal Volume – 161.61 AF

Current Use: Irrigation of 29.65 acres

Credits Assigned to: DWE Mitigation Bank

**Preliminary Mitigation**

Credit Determination: 53.4 Mitigation Credits  
May be available for use in the Middle Deschutes and General Zones of Impact

Contact: Laura Snedaker, Phone: (503) 986-0884

**Mitigation Project #: MP-108**

Project Applicant: Deschutes River Conservancy (DRC) and Central Oregon Irrigation District (COID)

Mitigation Project And Process: Instream Transfer Application T-10391 for Certificate 76358 (Also see Transfer Section of the May 29, 2007 public notice for application details)

Subbasin/Source: Middle Deschutes River Subbasin – Deschutes River, tributary to the Columbia River

Amount of Water: Proposed Instream: up to 0.672 CFS  
Maximum Seasonal Volume – 215.73 AF

Current Use: Irrigation of 39.58 acres

Credits Assigned to: DRC and COID

**Preliminary Mitigation**

Credit Determination: 71.2 Mitigation Credits  
May be available for use in the Middle Deschutes and General Zones of Impact

Contact: Laura Snedaker, Phone: (503) 986-0884



# Oregon

Theodore R. Kulongoski, Governor

Department of Fish and Wildlife

High Desert Region

61374 Parrell Road

Bend, OR 97702

(541) 388-6363

FAX (541) 388-6281

June 8, 2007

Laura Snedaker  
Oregon Water Resources Department  
725 Summer Street N.E., Suite "A"  
Salem, Oregon 97301-2430

Re: MP-108

Dear Laura;

Oregon Department of Fish and Wildlife (ODFW) has reviewed the Deschutes Ground Water Mitigation Credit Project Review Sheets for project MP-108 and is providing comments with respect to the Central Oregon Irrigation District proposal to transfer 39.58 acres of water permanently instream for mitigation credits.

Groundwater in the middle Deschutes Basin has been determined to connect directly with surface water. New consumptive water use associated with groundwater withdrawal will be attenuated over the entire year and ultimately reduce year around base flow in the lower Deschutes River by the amount of the new consumptive use. Reduced streamflows in the lower Deschutes will directly reduce habitat availability for threatened fish species including summer steelhead and bull trout, and affect other anadromous and resident gamefish species, nongame fish species, and other aquatic resources. To avoid this impact, effective mitigation should be provided in place, time, and volume to offset the new consumptive use.

It is our understanding that the proposed transfer will result in the permanent transfer of 0.272 cfs to 0.672 cfs of water in the Deschutes River between April 1 and October 31 and protected from the North Canal Dam downstream to Lake Billy Chinook. As proposed, the transfer should offset impacts of consumptive use from new groundwater rights and enhance streamflows and fish habitat in the middle Deschutes downstream to Lake Billy Chinook during the transfer period. The Oregon Department of Fish and Wildlife (ODFW) follows its Fish and Wildlife Habitat Mitigation Policy (OAR 635-415-0000 through 0025) in evaluating actions that may have an effect on fish and wildlife. The Habitat Mitigation Policy set consistent goals and standards to mitigate impacts to fish and wildlife habitat caused by land and water development actions. In order to fully offset effects of new groundwater use, provide sustainable fish habitat, and meet biological needs of fish, ODFW recommends extending flows beyond the proposed April 1 through October 26 period to encompass the period from early March through late November or seek alternative projects and transfers to cover this time period.

**RECEIVED**

**JUN 18 2007**

**WATER RESOURCES DEPT  
SALEM, OREGON**

Thank you for the opportunity to provide comments.

Sincerely,



Terry Shrader  
Acting District Fisheries Biologist

**RECEIVED**

**JUN 18 2007**

**WATER RESOURCES DEPT  
SALEM, OREGON**

**Laura Snedaker**

---

**From:** PUSTIS Nancy [Nancy.Pustis@state.or.us]  
**Sent:** Saturday, June 02, 2007 10:26 AM  
**To:** Laura Snedaker  
**Subject:** RE: Deschutes Mitigation Project Review Request for MP-108 (Instream Transfer T-10391)

DSL has no comment.

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**From:** Laura Snedaker [mailto:snedaklk@wrdd.state.or.us]  
**Sent:** Tuesday, May 29, 2007 8:25 AM  
**To:** KUNKEL Clair M; KEPLER Rick J; MARX Steven D; LAMB Bonnie; WRIGHT Dave; MEASELES Paul A; JOHNSON James W; PUSTIS Nancy; HOUCK Jan; NIGG Eric; Jeremy Giffin  
**Subject:** Deschutes Mitigation Project Review Request for MP-108 (Instream Transfer T-10391)

Good Morning Everyone:

This is a request for evaluation of a mitigation credit project, MP-108. The Department is seeking your input on how best to protect water instream (shaping), including considering the instream needs of where water is proposed to be protected instream (in this case on the Deschutes River, tributary to the Columbia River) in order to make the most effective use of the project and the mitigation water.

Attached to this e-mail is a summary of the proposed project and agency evaluation form (and a summary of existing instream water rights). A copy of the project application can be found by opening the application materials file folder at:

[http://www1.wrd.state.or.us/files/Publications/Deschutes%20Mitigation/mitigation\\_projects/MP-108\\_Credit\\_project\\_\(T-10391\)/](http://www1.wrd.state.or.us/files/Publications/Deschutes%20Mitigation/mitigation_projects/MP-108_Credit_project_(T-10391)/)

There are two files in this directory, one being the application and the other being supplemental materials for the application (affidavits of use, quit claims, etc).

The water right to be leased can be found by typing in the certificate number on the Department's web page at:

<http://apps2.wrd.state.or.us/apps/wr/wrinfo/>

Please let me know if you have any questions or trouble accessing any of the documents. The deadline for comments is June 19, 2007.

As always, thanks for your time and input on these projects.

Laura Snedaker

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

6/4/2007

**Laura Snedaker**

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**From:** Jan Houck [Jan.Houck@state.or.us]  
**Sent:** Thursday, June 07, 2007 2:15 PM  
**To:** Laura K SNEDAKER  
**Subject:** Deschutes Mitigation Project Review

**Attachments:** MP-108 (Transfer T-10391).doc; MP-106 (Instream Lease IL-833).doc; MP-107 (Instream Lease L-834).doc



MP-108 (Transfer T-10391).doc ... MP-106 (Instream Lease IL-833)... MP-107 (Instream Lease L-834)....

Comments attached.

**DESCHUTES GROUND WATER MITIGATION CREDIT PROJECT REVIEW SHEET**

The Oregon Water Resources Department is requesting an evaluation of the mitigation credit project described below pursuant to OAR 690-521-0300 (7) and OAR 690-505-0630 (2)

**Project Summary (the following is to be filled out by WRD):**

Date: May 29, 2007      21 Day Deadline Date: June 19, 2007      Mitigation Credit Project ID #: MP-108

Project Applicant's Name: Driver River Conservancy and Central Oregon ID

Type of Mitigation Project: Instream Transfer      Project ID #(ie transfer applic): T-10391  
 Project Duration: permanent

Potential Mitigation Credits that may be awarded to the project: 71.2 (1 mitigation credit = 1 AF)  
 Description of how mitigation credits were determined: In this case, the number of mitigation credits that may be generated by an instream lease are based upon the consumptive use of the originating water right or water rights. For this instream lease, the number of mitigation credits were determined by multiplying the number of irrigated acres to be leased instream by the irrigation consumptive use factor of 1.8 acre-feet of consumptive use for each acre of irrigation. (39.58 acres \* 1.8 AF/acre = 71.2 AF of consumptive use). No issues have been identified, at this point in the process, which would cause the Department to reduce the amount of mitigation credits generated.

If the project were awarded mitigation credits, the credits could be used to mitigate a ground water use(s) in the following zone(s) of impact:

- General Zone of Impact       Metolius River Zone of Impact
- Middle Deschutes River Zone of Impact       Upper Deschutes River Zone of Impact
- Crooked River Zone of Impact       Little Deschutes River Zone of Impact
- Squaw Creek Zone of Impact

**Water Right to be protected instream:**

Certificate 76358  
 Water Source: Deschutes River      Use: Primary Irrigation      Acres: 39.58 acres of irrigation

Irrigation Season: April 1 through October 31, further defined as:  
Season 1 ( April 1 to May 1 & October 1 to November 1) (61 days)  
Season 2 (May 1 to May 15 & September 15 to October 1) (30 days)  
Season 3 (May 15 to September 15) (123 days)

Priority Dates: October 31, 1900 & December 2, 1907

Rate/Duty: This right has three rates within the irrigation season:

| By Priority Date             | Season 1  | Season 2 | Season 3  | Duty      |
|------------------------------|-----------|----------|-----------|-----------|
| Central Oregon Canal POD #11 |           |          |           |           |
| October 31, 1900             | 0.495 CFS | 0.66 CFS | 0.871 CFS |           |
| December 2, 1907             |           |          | 0.351 CFS |           |
| Totals                       | 0.495 CFS | 0.66 CFS | 1.222 CFS | 392.24 AF |

**Instream use to be created by the project:**

Reach #1: From CO North Canal (POD #11 – SE NE, Section 29, T17S, R12E, W.M.; 850 FT N & 630 FT W from E ¼ Corner of Sec 29) to Lake Billy Chinook

Requested Instream Protection Purpose: Fish and wildlife habitat enhancement, pollution abatement and recreation and scenic attraction.

Rate/Volume/Period Instream:

| Priority Date | Instream Rate (cfs)                                   | Instream Volume (af) | Period Protected Instream     |
|---------------|---|----------------------|-------------------------------|
| 10/31/1900    | Season 1: 0.272<br>Season 2: 0.363<br>Season 3: 0.672 | 215.73               | April 1 – Oct. 31 (requested) |

*Note:* The amount of water that may be transferred/leased instream accounts for a 45% transmission loss that may not be transferred/leased and protected instream.

Water may be protected instream for a period of 209 days at the rate and volume requested. The applicant has requested to protect water during the period April 1 through October 31, a 214 day period.

Identify any issues that would limit when water could be protected instream during the irrigation season: The proposed period will be limited to protect water instream over a 209 day period, possibly being April 1 through October 26.

Frequency that new use will likely be met within described reach: The instream use should be met 100% of the time.

**Other Instream Water Rights within the same Reach:**

*Note:* This section provides background information on existing instream flow protections already in place and is provided to help agencies make recommendations for shaping of the above described mitigation project.

Identify any instream Water Rights within the same reach as requested by the applicant: See attached table.

WRD Project Contact: Laura Snedaker, Field Services Division  
 Phone: (503)-986-0884 / Fax: (503)-986-00903 / e-mail Laura.K.Snedaker@wrd.state.or.us

**Mitigation Project (MP-108 (T-10391)) Review Section:**

The following is to be completed by the WRD Watermaster, DEQ, ODFW, Parks, Agriculture and DSL:

1. Will the proposed mitigation project provide a resource benefit within the above identified zone(s) of impact? Yes

Please explain and if the project will provide a resource benefit, please identify the specific resource that will benefit:

The permanent transfer of water instream will increase the wetted perimeter of the river improving the aesthetics of the riverine setting and adding more depth for potential boating opportunities.

2. How can the proposed mitigation project be conditioned to enhance resource benefits and to make the most effective use of the mitigation project and mitigation water pursuant to OAR 690-521-0300 (7)? (i.e. time period water should be protected instream)

Please describe: OPRD will defer to ODFW for the preferred time of instream protection.

3. Other comments on the above referenced mitigation project: None

Agency Representative: Jan Houck Date: June 7, 2007

Agency: OPRD

L-385 L-387 L-389 L-391 L-393 L-395 L-397 L-399 L-401 L-403  
 L-386 L-388 L-392 L-394 L-396 L-398 L-400 L-402 L-404 L-406

T-8692 Sp. v.55p 941 v.56p.2014  
 T-8693 sp. v.55p 617 v.56p.999 v.57p.1203  
 T-8982 v.56p.124  
 T-8983 v.56p.127  
 T-8984 v.56p.130  
 T-8985 v.56p.133  
 T-9214 A pou./pov.57 p.190 (withdrawn)  
 T-9163 v.44 p.45  
 T-981 v.43 p.52

T-9299 AUSE/POU Instream Leake #s  
 T-9313 APOU 116 260, 261, 257, 259,  
 T-9314 v.56p 258, 256, 266, 263,  
 T-9315 262, 264, 265, 277  
 (v.57) T-9343 AUSE/POU

COUNTY OF DESCHUTES

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO  
 CENTRAL OREGON IRRIGATION DISTRICT  
 2598 N HIGHWAY 97  
 REDMOND, OREGON 97756

T-9555 WITHDRAWN v.60 p.32A  
 T-9553  
 T-9557  
 T-9558  
 T-9597  
 T-9605  
 T-9603  
 T-9604  
 T-9499  
 T-9423 WITHDRAWN v.57 p.115  
 T-9424 WITHDRAWN v.57 p.115  
 T-9439  
 T-9440  
 T-9441  
 T-9463  
 T-9462  
 T-9500  
 T-9017, 9018, 9020, 9021,  
 9022, 9023, 9024  
 T-9113 v.56p.1030  
 T-9150  
 T-9156 v.56p.1053  
 T-9195 v.56p.2051  
 T-9276  
 T-9516  
 T-9769  
 T-9784  
 T-9785  
 T-9816  
 T-9817

confirms the right to use the waters of THE DESCHUTES RIVER, a tributary of THE COLUMBIA RIVER, for IRRIGATION OF ACRES 43,746.93 ACRES, 781.957 ACRES/EQUIVALENT FOR MUNICIPAL USE, 158.01 ACRES/EQUIVALENT FOR POND MAINTENANCE, 87.10 ACRES/EQUIVALENT FOR INDUSTRIAL USE, 7.0 ACRES/EQUIVALENT FOR QUASI-MUNICIPAL USE, 2.80 ACRES/EQUIVALENT FOR DUST ABATEMENT, STOCK WATER, AND DOMESTIC USE.

This right was confirmed by decree of the Circuit Court of the State of Oregon for DESCHUTES County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 12, at Page 282 and in Volume 16, at pages 1 and 390. The dates of priority are OCTOBER 31, 1900 FOR 985.0 CUBIC FEET PER SECOND, AND DECEMBER 2, 1907 FOR THE BALANCE ALLOWED BY DECREE.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of not to exceed the quantity determined by decree of the Circuit Court for Deschutes County, dated March 24, 1933, being:

|  |                     |
|--|---------------------|
| April 1 to May 1 and Oct. 1 to Nov. 1  | 1 cfs to 80.0 acres |
| May 1 to May 15 and Sept. 15 to Oct. 1 | 1 cfs to 60.0 acres |
| May 15 to Sept. 15                     | 1 cfs to 32.4 acres |

L-448 T-9521 76  
 T-9524  
 (MP-24) L-523  
 (MP-16) L-445 L-464  
 L-497 L-496

for each acre irrigated by the Central Oregon Irrigation District main canal systems during the irrigation season of each year, not to exceed 9.91 acre-feet for each acre irrigated during the irrigation season as measured at the diversion from the source. The quantities reflect a 45% transmission loss as determined by decree of the Circuit Court for Deschutes County, dated March 24, 1933. Those lands not served from the district main canal systems but by direct pumping from the Deschutes River will not be allowed the 45% transmission loss.

The points of diversion are located as follows:

1. Central Oregon Canal: SW 1/4 NE 1/4, Section 13, T. 18 S., R. 11 E., W.M.; 1520 feet south and 1535 feet west from the NE Corner of Section 13.
 

L-520 L-529 L-525 L-534 L-539 L-545  
 L-522 L-530 L-526 L-535 L-540 L-546  
 L-523 L-531 L-527 L-536 L-542 L-547  
 L-528 L-521 L-532 L-537 L-543 L-548  
 L-524 L-533 L-538 L-544 L-549  
 L-567  
 L-568  
 L-569  
 L-570  
 L-571  
 L-564
2. Smith Properties, Inc.: Lot 4 (NW 1/4 NW 1/4), Section 5, T. 18 S., R. 12 E., W.M.; 440 feet south and 970 feet east from the NW Corner of Section 5.
 

L-571  
 L-564
3. Columbia Park: SE 1/4 SE 1/4, Section 31, T. 17 S., R. 12 E., W.M.; 740 feet north and 490 feet west from the SE Corner of Section 31.
 

L-675  
 L-640
4. Drake Park South: NE 1/4 SE 1/4, Section 31, T. 17 S., R. 12 E., W.M.; 700 feet north and 120 feet west from the SE Corner of NE 1/4 SE 1/4, Section 31.
 

L-631
5. Drake Park North: SW 1/4 NW 1/4, Section 32, T. 17 S., R. 12 E., W.M.; 2150 feet south and 750 feet east from the NW Corner of Section 32.
 

L-657
6. Harmon Park: SW 1/4 NW 1/4, Section 32, T. 17 S., R. 12 E., W.M.; 700 feet south and 680 feet west from the NE Corner of SW 1/4 NW 1/4, Section 32.
 

v.56p.2014  
 T-9055, 9056, 9040  
 T-9027  
 v.54p.549  
 T-8486 T-8485 v.56p.2015

L-380 Instream Leake #187 5/2/2001-10/31/2002  
 L-368 Instream Leake #234 7-12-01/9-30-01 v. 55 pg. 167

7. Pioneer Park (South): NW¼ NE¼, Section 32, T. 17 S., R. 12 E., W.M.; 600 feet south and 450 feet west from the NE Corner of the NW¼ NE¼ of Section 32.
8. Pioneer Park (North): NW¼ NE¼, Section 32, T. 17 S., R. 12 E., W.M.; 560 feet west from the NE Corner of the NW¼ NE¼ of Section 32.
9. T.I.D. Bend Feed Canal: NW¼ NE¼, Section 32, T.17S., R. 12 E., W.M.; 2050 feet west from the NE Corner of Section 32.
10. Rivers Edge Golf Club: SW¼ NE¼, Section 29, T. 17 S., R. 12 E., W.M.; 1980 feet south and 1160 feet east from the N¼ Corner of Section 29.
11. C.O.I.D. North Canal: SE¼ NE¼, Section 29, T. 17 S., R. 12 E., W.M.; 850 feet north and 630 feet west from the E¼ Corner of Section 29.
12. Cline Falls State Park: NW¼ SE¼, Section 14, T. 15 S., R. 12 E., W.M.; 425 feet south and 1475 feet west from the E¼ Corner of Section 14.

A description of the place of use to which this right is appurtenant is as follows:

| QTR/QTR                                | TL   | USE | ACRES  | DIV. PT. | OWNER                  |
|--|------|-----|--------|----------|------------------------|
| SW¼ SE¼                                | 401  | IR  | 1.820  | 12       | OREGON STATE PARKS     |
| SE¼ SE¼                                | 600  | IR  | 1.660  | 12       | OREGON STATE PARKS     |
| Section 32                             |      |     |        |          |                        |
| SW¼ NE¼                                | 200  | IR  | 6.600  | 11       | THORNBURGH, EVERETT    |
| SE¼ NE¼                                | 200  | IR  | 8.900  | 11       | THORNBURGH, EVERETT    |
| NE¼ SW¼                                | 500  | IR  | 13.250 | 11       | BRADEN, SONDRAD        |
| NW¼ SW¼                                | 500  | IR  | 1.000  | 11       | BRADEN, SONDRAD        |
| SW¼ SW¼                                | 500  | IR  | 19.200 | 11       | BRADEN, SONDRAD        |
| SE¼ SW¼                                | 600  | IR  | 26.000 | 11       | PRATT, DOROTHY LOU     |
| NE¼ SE¼                                | 300  | IR  | 36.650 | 11       | THORNBURGH, EVERETT    |
| SW¼ SE¼                                | 400  | IR  | 0.100  | 11       | THORNBURGH, EVERETT    |
| SE¼ SE¼                                | 400  | IR  | 32.350 | 11       | THORNBURGH, EVERETT    |
| Section 33                             |      |     |        |          |                        |
| SW¼ NW¼                                | 400  | IR  | 7.700  | 11       | THORNBURGH, EVERETT    |
| NE¼ SW¼                                | 100  | IR  | 4.000  | 11       | HARPER, VIRGIL         |
| NW¼ SW¼                                | 400  | IR  | 36.300 | 11       | THORNBURGH, EVERETT    |
| SW¼ SW¼                                | 400  | IR  | 37.400 | 11       | THORNBURGH, EVERETT    |
| SE¼ SW¼                                | 100  | IR  | 2.000  | 11       | HARPER, VIRGIL         |
| SE¼ SW¼                                | 103  | IR  | 14.000 | 11       | GREGERSON, GARY E      |
| Section 34                             |      |     |        |          |                        |
| Township 13 South, Range 13 East, W.M. |      |     |        |          |                        |
| NE¼ NE¼                                | 300  | IR  | 12.000 | 11       | CLARK, DAVID L         |
| SE¼ NE¼                                | 300  | IR  | 6.200  | 11       | CLARK, DAVID L         |
| Section 12                             |      |     |        |          |                        |
| SE¼ NE¼                                | 4300 | IR  | 14.000 | 11       | BETTESWORTH, JAY       |
| SE¼ NE¼                                | 4400 | IR  | 5.000  | 11       | GREGG, MARGARET        |
| NE¼ SE¼                                | 300  | IR  | 1.000  | 11       | BITTLER, SCOTT         |
| NE¼ SE¼                                | 400  | IR  | 1.400  | 11       | SCHULTZ, RUTH A        |
| Section 36                             |      |     |        |          |                        |
| Township 14 South, Range 12 East, W.M. |      |     |        |          |                        |
| SW¼ NE¼                                | 600  | IR  | 3.200  | 11       | HUMPHREYS FAMILY TRUST |
| SE¼ NE¼                                | 600  | IR  | 4.000  | 11       | HUMPHREYS FAMILY TRUST |
| NE¼ NW¼                                | 700  | IR  | 8.100  | 11       | GARDNER, JAMES         |

|              |    |       |   |                                |
|--------------|----|-------|---|--------------------------------|
| NE¼ NW¼ 1800 | IR | 0.030 | 9 | SHORT, WALTER JOHN             |
| NE¼ NW¼ 2200 | IR | 0.080 | 9 | BARRIE, BETTY J. & COX, SUSAN  |
| NE¼ NW¼ 2400 | IR | 0.140 | 9 | BRAINERD, HAROLD G. ET UX      |
| NE¼ NW¼ 2500 | IR | 0.330 | 9 | BIANUCCI, JOHN ET AL           |
| NE¼ NW¼ 2700 | IR | 0.190 | 9 | CURL, ANITA G.                 |
| NE¼ NW¼ 2900 | IR | 0.120 | 9 | THOMSON, G.J. & OTTENFELD, D.  |
| NE¼ NW¼ 3000 | IR | 0.200 | 9 | BOLLMAN, A.W., TRUSTEE         |
| NE¼ NW¼ 3101 | IR | 0.200 | 9 | DE KAT, GARY H. & VIRGINIA A.  |
| NE¼ NW¼ 3300 | IR | 1.710 | 9 | RIMROCK ASSOC. OF BEND, INC.   |
| NE¼ NW¼ 3800 | IR | 1.170 | 9 | RIMROCK ASSOC. OF BEND, INC.   |
| NW¼ NW¼ 500  | IR | 0.350 | 9 | LAMARCHE, H.J. ET UX           |
| NW¼ NW¼ 600  | IR | 0.520 | 9 | NASH, DONAL B. & DEBORAH L.    |
| NW¼ NW¼ 700  | IR | 0.310 | 9 | HEISTUMAN, T. & LAMBERT, S.    |
| NW¼ NW¼ 2700 | IR | 0.180 | 9 | CURL, ANITA G.                 |
| NW¼ NW¼ 3200 | IR | 0.030 | 9 | CREASEY, DOUGLAS K. & KAREN L. |

Section 20

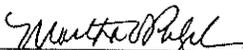
Township 17 South, Range 12 East, W.M.

This certificate is issued to confirm changes in use and place of use approved by an order of the Water Resources Department Director entered 12/6/99, approving the Central Oregon Irrigation District petition for water rights mapping under ORS 541.325 to 541.331 and confirms those changes in place of use and points of diversion approved by orders of the Water Resources Director entered May 9, 1980; January 19, 1981; January 19, 1990; and May 9, 1990, not eligible for inclusion in the district water rights mapping petition.

This certificate supersedes certificate of water right numbered 29052.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in said decrees.

WITNESS the signature of the Water Resources Director, affixed 12/6/99.

  
Martha O. Pagel, Director

*Instrument Decree # 306 4-02/10-02  
# 307 7-02/10-02  
# 297 7-02/10-02  
# 325 8-02/10-02  
# 326 8-02/10-02  
# 327 8-02/10-02  
# 259 8-02/10-02  
# 298 7-02/10-02  
# 262 6-02/10-02  
# 261 6-02/10-02  
# 265 6-02/10-02*

## TRANSFER FOR CERTIFICATE #76358

| Transfer # | Type | Volume | Page | Change |
|------------|------|--------|------|--------|
| 8485       | DIST | 54     | 549  |        |
| 8486       | REG  | 55     | 167  |        |
| 8514       | DIST | 54     | 560  |        |
| 8532       | DIST | 54     | 566  |        |
| 8534       | REG  | 55     | 1365 |        |
| 8692       | DIST | 55     | 941  |        |
| 8693       | DIST | 55     | 617  |        |
| 8982       | DIST | 56     | 124  |        |
| 8983       | DIST | 56     | 127  |        |
| 8984       | DIST | 56     | 130  |        |
| 8985       | DIST | 56     | 133  |        |
| 9017       | DIST | 56     | 488  |        |
| 9018       | DIST | 56     | 2042 |        |
| 9020       | DIST | 56     | 485  |        |
| 9021       | DIST | 56     | 849  |        |
| 9022       | DIST | 56     | 482  |        |
| 9023       | DIST | 56     | 475  |        |
| 9024       | DIST | 56     | 1027 |        |
| 9027       | DIST | 56     | 478  |        |
| 9035       | DIST | 56     | 2048 |        |
| 9036       | DIST | 56     | 470  |        |
| 9040       | DIST | 56     | 457  |        |
| 9113       | DIST | 56     | 1030 |        |
| 9150       | REG  |        |      |        |
| 9156       | DIST | 56     | 1033 |        |

TRANSFER FOR CERTIFICATE #76356

| Transfer # | Type | Volume | Page | Change      |
|------------|------|--------|------|-------------|
| 9195       | DIST | 56     | 2051 |             |
| 9214       | REG  | 57     | 490  |             |
| 9276       | DIST | 64     | 422  |             |
| 9283       | REG  | 64     | 265  | POD POU USE |
| 9299       | REG  |        |      |             |
| 9313       | DIST | 58     | 165  |             |
| 9314       | DIST | 64     | 419  |             |
| 9315       | DIST | 64     | 416  |             |
| 9343       | REG  |        |      |             |
| 9423       | DROU | 57     | 1155 |             |
| 9424       | DROU | 57     | 1155 |             |
| 9439       | DIST | 64     | 412  |             |
| 9440       | DIST | 64     | 403  | POU         |
| 9441       | DIST | 64     | 406  | POU         |
| 9462       | DIST | 64     | 409  | POU         |
| 9463       | ALT  |        |      |             |
| 9499       | DIST |        |      |             |
| 9500       | DIST |        |      |             |
| 9516       | DIST |        |      |             |
| 9524       | REG  |        |      |             |
| 9527       | REG  |        |      |             |
| 9553       | ISWR |        |      |             |
| 9555       | ISWR |        |      |             |
| 9557       | DIST |        |      |             |
| 9558       | DIST |        |      |             |

▶-ENTRY BY KD 8/9/05

TRANSFER FOR CERTIFICATE #76358

| Transfer # | Type     | Volume | Page | Change    |
|------------|----------|--------|------|-----------|
| 9597       | REG      | 62     | 32   | Withdrawn |
| 9603       | ISWR     |        |      |           |
| 9604       | DIST     |        |      |           |
| 9605       | REG      |        |      |           |
| 9623       | dist     |        |      | POU       |
| 9723       | dist     |        |      | POU       |
| 9722       | dist     |        |      | POU       |
| 9721       | dist     |        |      | POU       |
| 9731       | Reg      |        |      |           |
| 9732       | Reg      |        |      |           |
| 9748       | Dist     |        |      | POU       |
| 9747       | Dist     |        |      | POU       |
| 9763       | Reg      | 64     | 487  | USE/POU   |
| 9769       | Reg      | 64     | 265  | POU/POD   |
| 9768       |          |        |      |           |
| 9784       |          |        |      |           |
| 9785       |          |        |      |           |
| 9816       |          |        |      |           |
| 9817       |          |        |      |           |
| 9836       |          |        |      |           |
| 9833       |          |        |      |           |
| 9834       |          |        |      |           |
| 9861       |          |        |      |           |
| 9883       | Instream | 66     | 131  |           |
| 9898       |          |        |      |           |

## TRANSFER FOR CERTIFICATE #76356

| Transfer # | Type    | Volume | Page | Change      |
|------------|---------|--------|------|-------------|
| 9897       |         |        |      |             |
| 9985       | Dist    | 67     | 117  | PO4         |
| 9984       |         | 67     | 120  | PO4         |
| 9983       |         | 67     | 124  | PO4         |
| 9982       |         | 67     | 127  | PO4         |
| 9981       | Dist    | 67     | 114  | PO4         |
| 7574       | " & REG | 64     | 265  | POD POU USE |
| 10004      | Reg     |        |      | POD PO4     |
| 10008      |         |        |      | PO4         |
| L-641      |         |        |      |             |
| L-632      |         |        |      |             |
| L-645      |         |        |      |             |
| T-9955     |         |        |      |             |
| L-626      |         |        |      |             |
| L-636      |         |        |      |             |
| L-626      |         |        |      |             |
| T-9824     |         | 66     | 94   |             |
| 9849       |         | 66     | 19   |             |
| L-654      |         |        |      |             |
| L-602      |         |        |      |             |
| L-603      |         |        |      |             |
| T-10035    |         |        |      |             |
| T-10036    |         |        |      |             |
| T-10058    | Pend    |        |      |             |
| T-10155    | Pend    |        |      |             |

CHANGES DONE ON CERTIFICATE 76:58

| Transfer # or Lease # | Type | Volume | Page | Change |
|-----------------------|------|--------|------|--------|
| L-627                 |      |        |      |        |
| L-637                 |      |        |      |        |
| L-638                 |      |        |      |        |
| L-633                 |      |        |      |        |
| L-635                 |      |        |      |        |
| L-639                 |      |        |      |        |
| L-397                 |      |        |      |        |
| L-567                 |      |        |      |        |
| L-600                 |      |        |      |        |
| L-543                 |      |        |      |        |
| L-599                 |      |        |      |        |
| L-608                 |      |        |      |        |
| L-380                 |      |        |      |        |
| L-539                 |      |        |      |        |
| L-710-mp 68           |      |        |      |        |
| T-10224               |      |        |      |        |
| L-725/mp 76           |      |        |      |        |
| L-729/mp 80           |      |        |      |        |
| L-730/mp 81           |      |        |      |        |
| L-713/mp 72           |      |        |      |        |
| L-731/mp 82           |      |        |      |        |
| L-734                 |      |        |      |        |
| L-732/mp 83           |      |        |      |        |
| L-726/mp 77           |      |        |      |        |
| L-724/mp 75           |      |        |      |        |

L-727/mp 78

L-728/mp 79

L-738

L-755/mp 89

withdrawn 00 69 P 36

over

L-758 Corrected but not Superseded U. 64 7263  
U. 61 P 584-585

L-779 Correcting not Superseded 001 69 P 566  
69 624-625

L-726 MP 77

L-724 / MP 75

L-727 MP 78

L-728 / MP 79

-738

L-711 MP 69

L-705 MP 70

-712 MP 71

-708 MP 66

-709 MP 67

-714

-715 MP 73

-702 MP 61

-706 MP 64

-703 MP 62

704 MP 63

-698 MP 58

-707 MP 65

CHANGES DONE ON CERTIFICATE 763-8

| Transfer # or Lease # | Type       | Volume | Page           | Change                           |
|-----------------------|------------|--------|----------------|----------------------------------|
| L-763                 |            | 69     | 581-<br>583    |                                  |
| L-776                 |            | 69     | 577-<br>579    |                                  |
| L-779                 |            | 69     | 566-<br>568    |                                  |
| L-761                 |            | 69     | 569-<br>572    |                                  |
| L-762                 |            | 69     | 574-<br>576    |                                  |
| L-753/mp 87           |            | 69     | 151-<br>155    |                                  |
| L-754/mp 88           |            | 69     | 156-<br>160    |                                  |
| 1-777                 | Correcting | 69     | 261-<br>262    |                                  |
| L-758                 |            | 69     | 263-<br>266    |                                  |
| 1-725/mp 76           |            |        |                |                                  |
| L-729/mp 80           |            |        |                |                                  |
| 1-730/mp 81           |            |        |                |                                  |
| L-713/mp 72           |            |        |                |                                  |
| L-731/mp 82           |            |        |                |                                  |
| L-734                 |            |        |                |                                  |
| L-732/mp 83           |            |        |                |                                  |
| L-599/mp 30           | Term       | 63     | <del>388</del> | 2/24/06                          |
| L-399                 |            |        |                |                                  |
| L-402                 | Term       | 57     | 695            | 2/22/06                          |
| L-378                 |            |        |                |                                  |
| L-602                 |            |        |                |                                  |
| L-400                 |            |        |                |                                  |
| L-392                 |            |        |                |                                  |
| F-9603                |            | 60     | 659            | partial cancellation<br>new ESWR |
| F-10241               |            |        |                |                                  |

T-10242 L-760  
 L-765 L-765  
 L-778  
 L-764  
 1-777



**Laura Snedaker**

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**From:** Jon LaMarche  
**Sent:** Tuesday, August 21, 2007 2:54 PM  
**To:** Laura Snedaker  
**Subject:** RE: Request for Zone of Impact Determination on Mitigation Credit Project MP-108  
**Attachments:** mp-108.jpg; mp-108.doc

Results for MP108.

-J

Jonathan La Marche, P.E.  
Hydrologist,  
Oregon Water Resources Department  
1128 NW Harriman Street  
Bend, OR 97701

tel: 541-330-4659  
fax: 541-388-5101  
email: jon.l.lamarche@wrdd.state.or.us

---

**From:** Laura Snedaker  
**Sent:** Tuesday, August 21, 2007 12:40 PM  
**To:** Jon LaMarche  
**Subject:** FW: Request for Zone of Impact Determination on Mitigation Credit Project MP-108  
**Importance:** High

Jonathan:

Here's an e-mail that I sent you a while back asking for feedback on the zone of impact for the mitigation project and return flows. We're getting to the point where the first report in the review process for the transfer could be issued and I'd like to have this information in hand as part of the review process.

Thanks much!  
Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

---

**From:** Laura Snedaker  
**Sent:** Thursday, May 24, 2007 3:42 PM  
**To:** Jon LaMarche

8/21/2007

**Cc:** Ken Lite

**Subject:** Request for Zone of Impact Determination on Mitigation Credit Project MP-108

Jonathan:

This is a request for a zone of impact determination for MP-108.

This is an instream transfer T-10391 submitted by COID. Here's a link to the transfer application materials:

[http://www1.wrd.state.or.us/files/Publications/Deschutes%20Mitigation/mitigation\\_projects/MP-108\\_Credit\\_project\\_\(T-10391\)/](http://www1.wrd.state.or.us/files/Publications/Deschutes%20Mitigation/mitigation_projects/MP-108_Credit_project_(T-10391)/)

Let me know if you need anything else. The open comment period on this ends 6/29/2007 (approx).

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
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Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

8/21/2007

*Oregon Water Resources Department***MEMO****August 21, 2007**  
(Date)**TO** Mitigation Project Application MP-108**FROM** GW: Jonathan La Marche  
(Reviewer's Name)**SUBJECT** Mitigation Project Zone of Impact Evaluation for Deschutes Ground Water Study Area

The source of appropriation is the Middle Deschutes. The original place of use, if applicable, is within the Crooked and Middle Deschutes River sub-basins.

This project proposes to protect water instream within the Middle Deschutes.

**For all mitigation project types except aquifer recharge and storage releases:**

Return flows from the original authorized use normally returned to the surface water system within the Middle Deschutes, Crooked and General Zone of Impact (as noted on POU table in attached map) and return flows from transmission loss, if any, from the original use would have returned to the surface water system within the General zone(s) of impact.

**For aquifer recharge and storage release mitigation projects:**

The zone of impact for the mitigation project is the \_\_\_\_\_ zone of impact.

**Current Zones of Impact:**

*General Zone of Impact* where ground water generally discharges to surface water in the confluence area of the Deschutes River, Crooked River and Metolius River above the Madras gage.

*Crooked River Zone of Impact* where ground water generally discharges to surface water in the at Osborne Canyon (River Mile 13.8) area.

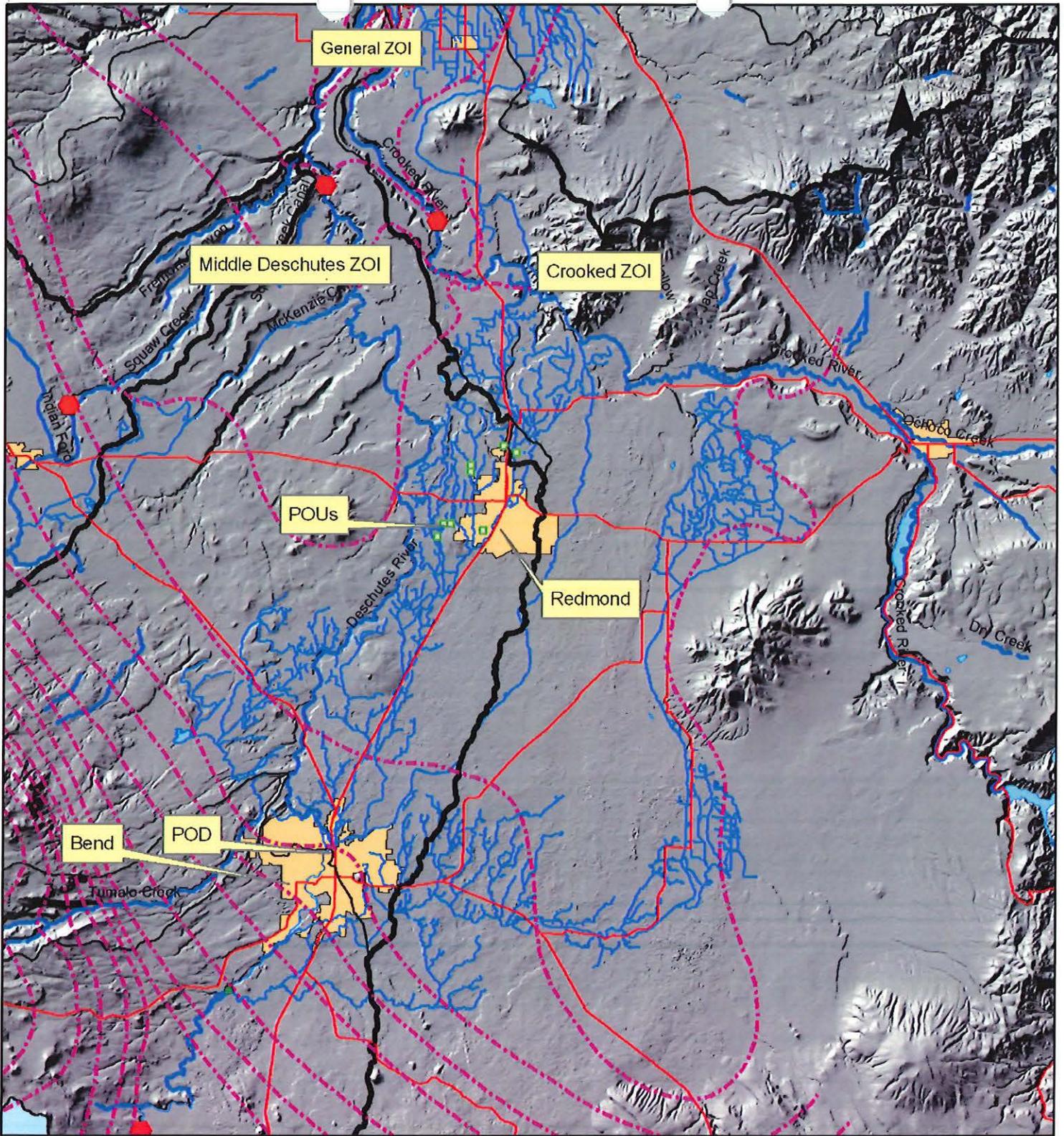
*Middle Deschutes River Zone of Impact* where ground water generally discharges to surface water in the Sundown Canyon Road (approximately River Mile 125) area.

*Metolius River Zone of Impact* where ground water generally discharges to surface water above the confluence with Jefferson Creek (approximately RM 28).

*Whychus Creek Zone of Impact* where ground water generally discharges to surface water in the McKinney Butte (RM 16) area.

*Upper Deschutes River Zone of Impact* where ground water generally discharges to surface water above RM 185, which is downstream from the confluence with Spring River.

*Little Deschutes River Zone of Impact* where ground water generally discharges to surface water above the mouth of the Little Deschutes River.



MP-108

POD: T17S, R12E, S29, SENE (North Canal, POD#11)

POU: see table

Other:

51% canal losses, 57% on farm losses.  
cert 76358, Lease Expiration: permanent

**Findings:**

| Legend |                        |
|--------|------------------------|
|        | mp-108_pou             |
|        | Roads                  |
|        | Rivers                 |
|        | Zones of Impact        |
|        | zone of impact change  |
|        | Canals                 |
|        | Regional Head Gradient |
|        | Sub-Basin Boundary     |
|        | City                   |

| Location           | Zone of Impact for On Farm Losses | acres | total acre | Zone of Impact for Transmission |          |    | POD #     | exp date |
|--------------------|-----------------------------------|-------|------------|---------------------------------|----------|----|-----------|----------|
|                    |                                   |       |            | Losses                          | cert num |    |           |          |
| T15S,R13E,S4,SWNE  | middle deschutes                  | 1.70  | 39.68      | general                         | 76358    | 11 | permanent |          |
| T15S,R13E,S3,NW5W  | crooked                           | 6.40  | 39.68      | general                         | 76358    | 11 | permanent |          |
| T15S,R13E,S8,NENW  | middle deschutes                  | 1.50  | 39.68      | general                         | 76358    | 11 | permanent |          |
| T15S,R13E,S8,SENE  | middle deschutes                  | 8.00  | 39.68      | general                         | 76358    | 11 | permanent |          |
| T15S,R13E,S19,SENE | middle deschutes                  | 4.50  | 39.68      | general                         | 76358    | 11 | permanent |          |
| T15S,R13E,S19,SWNE | middle deschutes                  | 0.20  | 39.68      | general                         | 76358    | 11 | permanent |          |
| T16S,R13E,S20,NESE | general                           | 2.33  | 39.68      | general                         | 76358    | 11 | permanent |          |
| T15S,R13E,S19,SW5W | middle deschutes                  | 15.00 | 39.68      | general                         | 76358    | 11 | permanent |          |

**Laura Snedaker**

---

**From:** Laura Snedaker  
**Sent:** Tuesday, May 29, 2007 8:25 AM  
**To:** 'clair.m.kunkel@state.or.us'; 'rick.j.kepler@state.or.us'; 'Steven.D.Marx@state.or.us'; 'Bonnie.Lamb@state.or.us'; 'Dave.Wright@state.or.us'; 'pmeasele@oda.state.or.us'; 'jjohnson@oda.state.or.us'; 'PUSTIS Nancy'; 'HOUCK Jan'; 'NIGG Eric'; Jeremy Giffin  
**Subject:** Deschutes Mitigation Project Review Request for MP-108 (Instream Transfer T-10391)  
**Attachments:** ISWR's for Deschutes River.xls; Mitigation Credit Project Agency Review Form for MP-108 (T-10391).doc

Good Morning Everyone:

This is a request for evaluation of a mitigation credit project, MP-108. The Department is seeking your input on how best to protect water instream (shaping), including considering the instream needs of where water is proposed to be protected instream (in this case on the Deschutes River, tributary to the Columbia River) in order to make the most effective use of the project and the mitigation water.

Attached to this e-mail is a summary of the proposed project and agency evaluation form (and a summary of existing instream water rights). A copy of the project application can be found by opening the application materials file folder at:

[http://www1.wrd.state.or.us/files/Publications/Deschutes%20Mitigation/mitigation\\_projects/MP-108\\_Credit\\_project\\_\(T-10391\)/](http://www1.wrd.state.or.us/files/Publications/Deschutes%20Mitigation/mitigation_projects/MP-108_Credit_project_(T-10391)/)

There are two files in this directory, one being the application and the other being supplemental materials for the application (affidavits of use, quit claims, etc).

The water right to be leased can be found by typing in the certificate number on the Department's web page at:

<http://apps2.wrd.state.or.us/apps/wr/wrinfo/>

Please let me know if you have any questions or trouble accessing any of the documents. The deadline for comments is June 19, 2007.

As always, thanks for your time and input on these projects.

Laura Snedaker

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

5/29/2007

**DESCHUTES GROUND WATER MITIGATION CREDIT PROJECT REVIEW SHEET**

The Oregon Water Resources Department is requesting an evaluation of the mitigation credit project described below pursuant to OAR 690-521-0300 (7) and OAR 690-505-0630 (2)

**Project Summary (the following is to be filled out by WRD):**

Date: May 29, 2007      21 Day Deadline Date: June 19, 2007      Mitigation Credit Project ID #: MP-108

Project Applicant's Name: Driver River Conservancy and Central Oregon ID

Type of Mitigation Project: Instream Transfer      Project ID #(ie transfer applic): T-10391  
 Project Duration: permanent

Potential Mitigation Credits that may be awarded to the project: 71.2 (1 mitigation credit = 1 AF)

Description of how mitigation credits were determined: In this case, the number of mitigation credits that may be generated by an instream lease are based upon the consumptive use of the originating water right or water rights. For this instream lease, the number of mitigation credits were determined by multiplying the number of irrigated acres to be leased instream by the irrigation consumptive use factor of 1.8 acre-feet of consumptive use for each acre of irrigation. (39.58 acres \* 1.8 AF/acre = 71.2 AF of consumptive use). No issues have been identified, at this point in the process, which would cause the Department to reduce the amount of mitigation credits generated.

If the project were awarded mitigation credits, the credits could be used to mitigate a ground water use(s) in the following zone(s) of impact:

- General Zone of Impact       Metolius River Zone of Impact
- Middle Deschutes River Zone of Impact       Upper Deschutes River Zone of Impact
- Crooked River Zone of Impact       Little Deschutes River Zone of Impact
- Squaw Creek Zone of Impact

**Water Right to be protected instream:**

Certificate 76358

Water Source: Deschutes River      Use: Primary Irrigation      Acres: 39.58 acres of irrigation

Irrigation Season: April 1 through October 31, further defined as:

- Season 1 ( April 1 to May 1 & October 1 to November 1) (61 days)
- Season 2 (May 1 to May 15 & September 15 to October 1) (30 days)
- Season 3 (May 15 to September 15) (123 days)

Priority Dates:      October 31, 1900 & December 2, 1907

Rate/Duty: This right has three rates within the irrigation season:

| By Priority Date             | Season 1  | Season 2 | Season 3  | Duty      |
|------------------------------|-----------|----------|-----------|-----------|
| Central Oregon Canal POD #11 |           |          |           |           |
| October 31, 1900             | 0.495 CFS | 0.66 CFS | 0.871 CFS |           |
| December 2, 1907             |           |          | 0.351 CFS |           |
| Totals                       | 0.495 CFS | 0.66 CFS | 1.222 CFS | 392.24 AF |

**Instream use to be created by the project:**

Reach #1: From CO North Canal (POD #11 – SE NE, Section 29, T17S, R12E, W.M.; 850 FT N & 630 FT W from E ¼ Corner of Sec 29) to Lake Billy Chinook

Requested Instream Protection Purpose: Fish and wildlife habitat enhancement, pollution abatement and recreation and scenic attraction.

Rate/Volume/Period Instream:

| Priority Date | Instream Rate (cfs)                                   | Instream Volume (af) | Period Protected Instream     |
|---------------|---|----------------------|-------------------------------|
| 10/31/1900    | Season 1: 0.272<br>Season 2: 0.363<br>Season 3: 0.672 | 215.73               | April 1 – Oct. 31 (requested) |

*Note:* The amount of water that may be transferred/leased instream accounts for a 45% transmission loss that may not be transferred/leased and protected instream.

Water may be protected instream for a period of 209 days at the rate and volume requested. The applicant has requested to protect water during the period April 1 through October 31, a 214 day period.

Identify any issues that would limit when water could be protected instream during the irrigation season: The proposed period will be limited to protect water instream over a 209 day period, possibly being April 1 through October 26.

Frequency that new use will likely be met within described reach: The instream use should be met 100% of the time.

**Other Instream Water Rights within the same Reach:**

*Note:* This section provides background information on existing instream flow protections already in place and is provided to help agencies make recommendations for shaping of the above described mitigation project.

Identify any instream Water Rights within the same reach as requested by the applicant: See attached table.

WRD Project Contact: Laura Snedaker, Field Services Division

Phone: (503)-986-0884 / Fax: (503)-986-00903 / e-mail Laura.K.Snedaker@wrd.state.or.us

**Mitigation Project (MP-108 (T-10391)) Review Section:**

The following is to be completed by the WRD Watermaster, DEQ, ODFW, Parks, Agriculture and DSL:

1. Will the proposed mitigation project provide a resource benefit within the above identified zone(s) of impact? \_\_\_\_\_ (yes or no)

Please explain and if the project will provide a resource benefit, please identify the specific resource that will benefit:

\_\_\_\_\_

2. How can the proposed mitigation project be conditioned to enhance resource benefits and to make the most effective use of the mitigation project and mitigation water pursuant to OAR 690-521-0300 (7)? (i.e. time period water should be protected instream)

Please describe: \_\_\_\_\_

3. Other comments on the above referenced mitigation project: \_\_\_\_\_

Agency Representative: \_\_\_\_\_ Date: \_\_\_\_\_

Agency: \_\_\_\_\_

Preliminary Calculation

MP-108

5/24/2007

| MITIGATION WATER/CREDIT CALCULATION FOR IRRIGATION (FULL SEASON) |                  |                             |  |  |  |
|--|------------------|-----------------------------|--|--|--|
| Preliminary Calculation  |                  |                             |  |  |  |
| Number of Acres  | CU PER Acre (AF) | Total CU (mitigation water) |  |  |  |
| 39.58  | 1.8              | 71.2                        |  |  |  |

cert 76358  
original acreage

10/31/1900

1.5

8

6.4

15.00

0.20

4.45

1.70

2.33

**totals 39.58 0 0 39.58**

**Laura Snedaker**

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**From:** Laura Snedaker  
**Sent:** Thursday, May 24, 2007 3:42 PM  
**To:** Jon LaMarche  
**Cc:** Ken Lite  
**Subject:** Request for Zone of Impact Determination on Mitigation Credit Project MP-108

Jonathan:

This is a request for a zone of impact determination for MP-108.

This is an instream transfer T-10391 submitted by COID. Here's a link to the transfer application materials:

[http://www1.wrd.state.or.us/files/Publications/Deschutes%20Mitigation/mitigation\\_projects/MP-108\\_Credit\\_project\\_\(T-10391\)/](http://www1.wrd.state.or.us/files/Publications/Deschutes%20Mitigation/mitigation_projects/MP-108_Credit_project_(T-10391)/)

Let me know if you need anything else. The open comment period on this ends 6/29/2007 (approx).

Thanks, Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)