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

In the Matter of Transfer Application)
T-10466, Crook, Deschutes, Jefferson)
County)
)
) PRELIMINARY DETERMINATION
) PROPOSING APPROVAL OF A
) CHANGE IN POINT OF DIVERSION
) AND PLACE OF USE

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.

Applicant

Central Oregon Irrigation District
for Bend Metropolitan Park & Recreation District
1055 SW Lake Court
Redmond, OR 97756

Findings of Fact

Background

1. On January 8, 2007, the Central Oregon Irrigation District (COID), for Bend Metropolitan Park & Recreation District, filed an application to change the place of use and point of diversion under Certificates 76358 and 76714. The Department assigned the application number T-10466.
2. On September 26, 2007, Certificate 76358 was cancelled and superseded by Certificate 83571.
3. The portion of the first right to be transferred is as follows:
Certificate: 83571 in the name of the Central Oregon Irrigation District
Use: Irrigation of 6.31 acres
Priority Date: October 31, 1900
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

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.
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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 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

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: Deschutes River, tributary to the Columbia River

Authorized Point of Diversion:

Township	Range	Meridian	Sec	¼	¼	Survey Coordinates
18	S	11	E	W.M.	13	SW NE CENTRAL OREGON CANAL POD 1: 1520 FEET SOUTH AND 1535 FEET WEST FROM THE NE CORNER OF SECTION 13

Authorized Place of Use:

Township	Range	Meridian	Sec	¼	¼	Tax Lot	Acres
18	S	12	E	W.M.	3	NE NE	200 1.50
18	S	12	E	W.M.	4	SE SW	100 4.00
18	S	13	E	W.M.	3	SE SW	1000 0.81

- 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 #3), 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.

Priority Date	Season 1	Season 2	Season 3	Duty
October 31, 1900	0.08 cfs	0.11 cfs	0.14 cfs	62.26 AF

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

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

Use: Supplemental Irrigation of 6.31 acres

Priority Date: February 28, 1913

Season of Use: April 1 through November 1

Quantity: Not to exceed a portion of 50,000 acre-feet of stored water only for the entire right, if available at the authorized point of diversion from the source, limited to the duty of water as set out in the modified supplemental decree of the circuit court dated March 24, 1933, in the matter of the determination of the relative rights to the use of the water of the Deschutes River and its tributaries. The amount of water allowed under this right, together with the amount secured under any other right existing for the same lands shall not exceed the limitation allowed herein, and is further limited to the terms of the Central Oregon Irrigation District, Crook County Improvement District #1, and the Arnold Irrigation District, and subject to such reasonable rotation system as may be ordered by the proper state officer.

Source: Crane Prairie Reservoir, tributary to the Deschutes River

Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼	¼	Survey Coordinates
18	S	12	E	W.M.	13	SW	NE	1520 FEET SOUTH AND 1535 FEET WEST FROM THE NE CORNER OF SECTION 13

Authorized Place of Use:

Township		Range		Meridian	Sec	¼	¼	Tax Lot	Acres
18	S	12	E	W.M.	3	NE	NE	200	1.50
18	S	12	E	W.M.	4	SE	SW	100	4.00
18	S	13	E	W.M.	3	SE	SW	1000	0.81

6. Transfer Application T-10466 proposes to move the authorized point of diversion approximately 4.0 miles downstream to:

Township		Range		Meridian	Sec	¼	¼	Survey Coordinates
18	S	12	E	W.M.	5	SE	NW	SOUTH 65 DEGREES 46 MINUTES 27 SECONDS WEST 3621.45 FEET FROM THE NE CORNER OF SECTION 5

7. Application T-10466 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼	¼	Tax Lot	Acres
18	S	12	E	W.M.	5	NW	SW	101	2.74
18	S	12	E	W.M.	6	NE	SE	101	1.15
18	S	12	E	W.M.	6	NE	SE	2200	2.26
18	S	12	E	W.M.	6	NW	SE	2200	0.16
TOTAL									6.31

8. The receiving lands are owned by Bend Metropolitan Park & Recreation District, 200 NW Pacific Park Lane, Bend, OR 97702. The receiving landowner will be responsible for completion of the proposed changes.
9. Notice of the application for transfer was published on November 6, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
10. On December 10, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10466 to the applicant(s). The draft Preliminary Determination set forth a deadline of January 10, 2008, for the applicant(s) to respond. The applicant(s) requested that the Department proceed with issuance of a Preliminary Determination. The applicant provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer when originally filing the application.
11. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is currently equipped with an appropriate fish screening and/or by-pass device.

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

12. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
13. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights are present, and water has been used within the last five years under the terms and conditions of the rights.
14. The rate and duty allowed under Certificate 83571 (under the terms of the decree) for each acre irrigated by the Central Oregon Irrigation District main canal systems reflect a 45% transmission loss. 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.
15. Transfer Application T-10466 proposes to change the point of diversion and delivery system for this portion of the right from the COID canal system to a direct pumping point on the Deschutes River. Therefore, the rate including provision for transmission losses can not be allowed and the transfer will be limited to the rates listed below and an annual duty not to exceed 5.45 acre-feet per acre:

Time of Year	Total Area	Total Diversion Rate without 45% transmission loss
	(acres)	(cfs)
April 1 to May 1	6.31	0.04
May 1 to May 15	6.31	0.06

May 15 to Sep 15	6.31	0.11
Sep 15 to Oct 1	6.31	0.06
Oct 1 to Nov 1	6.31	0.04

16. The water rights proposed for transfer are served by a diversion upstream of the proposed new diversion. The changes in place of use and point of diversion proposed in Transfer Application T-10466 will not result in injury to other water rights.
17. The proposed change would not result in enlargement of the rights.

Determination and Proposed Action

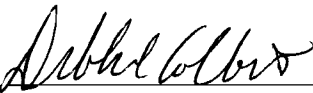
The changes in place of use and point of diversion proposed in application T-10466 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If application T-10466 is approved, the final order will include the following:

1. *The changes in place of use and point of diversion proposed in application T-10466 are approved.*
2. *Water right certificates 83571 and 76714 are modified. The Department will issue a superseding certificate describing the right when it determines that is necessary for record keeping.*
3. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificates 83571 and 76714 and any related decree.*
4. *The maximum rates of diversion from the Deschutes River under the portion of the right evidenced by Certificate 83571 for delivery to the applicant's property shall continue to be based on 6.31 acres of irrigation right transferred, excluding a 45% transmission loss, being:*
0.04 cfs from April 1 through April 30 & October 1 through October 31;
0.06 cfs from May 1 through May 14 & September 16 through September 30;
0.11 cfs from May 15 through September 15
5. *The quantity of water diverted at the additional/new point of diversion, together with that diverted at the original point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.*
6. *The former place of use of the transferred rights shall no longer receive water under the rights.*
7. *The water user shall maintain and operate a fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with the Oregon Department of Fish and Wildlife's operational and maintenance standards.*

8. *The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.*
9. *The water user shall maintain the existing headgate and shall make such improvements as may be required by the Department.*
10. *The approved changes shall be completed and full beneficial use of the water shall be made on or before October 1, 2009. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.*

Dated at Salem, Oregon this 27th day of December 2007.


Phillip C. Ward, Director

This Preliminary Determination was prepared by Doug Parrow. If you have questions about the information in this document, you may reach me at 503-986-0881 or Douglas.M.Parrow@wrд.state.or.us.

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Salem, OR 97301-1266.