



# Oregon

Theodore R. Kulongoski, Governor

## Water Resources Department

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May 27, 2009

CENTRAL OREGON IRRIGATION DISTRICT  
1055 SW LAKE COURT  
REDMOND, OR 97756

CITY OF REMOND  
716 SW EVERGREEN AVE  
REDMOND, OR 97756

SUBJECT: Transfer Application T-10778 & Mitigation Project MP-125

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-10778. 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 there is a 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. Please have the newspaper prepare and mail an original affidavit of publication to me at the address shown in the letterhead, by July 13, 2009.

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 Wilke  
Flow Restoration Program Coordinator

cc: Jeremy Giffin, District #11 Watermaster  
T-10778

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

In the Matter of Instream Transfer	)	PRELIMINARY DETERMINATION
Application T-10778 and Mitigation Credit	)	PROPOSING APPROVAL OF A
Project MP-125, Deschutes County	)	CHANGE IN PLACE OF USE AND
	)	CHARACTER OF USE, PRELIMINARY
	)	AWARD OF MITIGATION CREDITS,
	)	CANCELLATION OF PERMIT
	)	G-12329, AND PARTIAL
	)	CANCELLATION OF CERTIFICATE
	)	76714

**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 540.510 establishes the process in which the Department may cancel a supplemental water right not included as part of the transfer application.

OAR 690-505-0500 to 690-505-0630 establishes the process in which anyone may submit a ground water mitigation project to the Department for the purpose of providing mitigation for a ground water permit application in the Deschutes Ground Water Study Area.

**Applicant**

CENTRAL OREGON IRRIGATION DISTRICT (COID)  
1055 SW LAKE COURT  
REDMOND OR 97756

CITY OF REDMOND  
PO BOX 726  
REDMOND, OR 97756

**Findings of Fact**

**Background**

1. On January 30, 2009, the Central Oregon Irrigation District (COID) and City of Redmond filed an application to change the place of use and character of use under Certificate 83571 to instream use. The Department assigned the application number T-10778.

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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2. The portion of the first right to be transferred is as follows:

**Certificate:** 83571 in the name of Central Oregon Irrigation District  
**Use:** Irrigation of 87.9 acres and 6.3 acres equivalent of Pond Maintenance  
**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  
 May 1 through May 14 & September 16 through September 30  
 May 15 through September 15

**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, a tributary to the Columbia River

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

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
17 S	12 E	WM	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 (POU):**

Twp	Rng	Mer	Sec	Q-Q	Use	Acres
15 S	13 E	WM	3	SE NW	IR	20.8
15 S	13 E	WM	15	SE NW	IR	0.5
15 S	13 E	WM	15	NE SW	PM	2.4
15 S	13 E	WM	15	NE SW	IR	16.3
15 S	13 E	WM	15	NW SW	IR	1.3
15 S	13 E	WM	15	SW SW	PM	3.9
15 S	13 E	WM	15	SW SW	IR	23.4
15 S	13 E	WM	15	SE SW	IR	18.1
15 S	13 E	WM	15	NW SE	IR	0.8
15 S	13 E	WM	15	SW SE	IR	0.3
15 S	13 E	WM	22	NW NW	IR	6.4

- The Department has information that the season of use described in Certificate 83571 contains scrivener errors. Consistent with the Decree for the Deschutes River (Volume 12, Page 282), the irrigation season should be:

**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 15 through September 30 described herein as Season 2

May 15 through September 14 described herein as Season 3

- Certificate 83571 is a deficient water right. If the water were diverted simultaneously to all authorized lands and uses described in the right at the maximum rates and duty (described in Finding of Fact #2), 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 POD (described in Finding of Fact #2), the portion of the right involved in this transfer would be limited as described in the table below. These rates and duty are also the quantities by which Certificate 83571 shall be reduced.

Priority Date	Season 1	Season 2	Season 3	Total Duty
<b>Irrigation Use</b>				
October 31, 1900	1.096 CFS	1.461 CFS	1.932 CFS	868.88 AF
December 2, 1907			0.774 CFS	
<b>Pond Maintenance</b>				
October 31, 1900	0.079 CFS	0.105 CFS	0.138 CFS	62.27 AF
December 2, 1907			0.056 CFS	
<b>Totals</b>				
<b>October 31, 1900</b>	<b>1.175 CFS</b>	<b>1.566 CFS</b>	<b>2.070 CFS</b>	
<b>December 2, 1907</b>			<b>0.830 CFS</b>	<b>931.16 AF</b>

- A total of 513.44 acre-feet (AF) of water, excluding transmission losses, may be beneficially used annually for primary irrigation and pond maintenance under the portion of existing Certificate 83571 proposed for transfer.
- Supplemental rights, Certificate 76714 and Permit G-12329, are appurtenant to the same lands from which the primary right, Certificate 83571, is proposed to be transferred to instream use. The applicants requested the affected portion of Certificate 76714 and all of Permit G-12329 be cancelled upon issuance of the Final Order approving T-10778.
- The applicants are not the owners of a portion of the lands to which the water right described in Finding of Fact #2 is appurtenant. However, a water right conveyance agreement has been completed and interest in the water right has been conveyed to COID from the landowner described in the table below. The portion of this right to be transferred was appurtenant to lands owned by the identified landowner 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	Tax Lot at Time of Water Right Conveyance Agreement
S&H/EVERT REDMOND 40, LLC	COID	15 S	13 E	3	SE NW	600

8. Application T-10778 proposes to change the character of use to instream use for fish and wildlife habitat enhancement, pollution abatement, and recreation. The applicant has also requested that this transfer be used to establish mitigation water for Ground Water Permit Application G-16749, filed by City of Redmond.
9. Application T-10778 proposes to change the place of use of the right to create an instream reach from the COID North Canal POD #11 (described in Finding of Fact #2) to River Mile 120.
10. The applicants propose that water be protected instream during the period April 1 through October 26. Season 3 would end on October 26.
11. The applicants propose the quantities water to be transferred instream to be protected as follows:

Certificate	Priority Date	Instream Rate	Instream Volume
83571	October 31, 1900	Season 1: 0.648 cfs Season 2: 0.864 cfs Season 3: 1.599 cfs	513.44 AF

12. 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 24, 1990.
13. The applicants propose that any instream water right established as a result of this instream transfer 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.
14. The applicants have 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. The applicants have provided notification of the proposed action to the City of Bend, and Deschutes and Jefferson Counties. Additionally, the Department provided notification of the proposed action to these local governments upon receipt of Transfer Application T-10778.
16. Notice of the application for transfer was published on February 17, 2009, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
17. On May 14, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10778 to the applicants. The cover letter for the draft Preliminary Determination set forth a deadline of June 12, 2009, for the applicants to respond and provide additional information necessary to complete the application. The additional information requested by the Department was received on May 18, 2009. On May 20, 2009, the applicants concurred with the draft Preliminary Determination and requested that the Department proceed with issuance of a Preliminary Determination.

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

18. The portion of the right proposed for transfer was leased instream within the five-year period prior to submission of Transfer T-10778 under IL-530 and IL-760. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
19. 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-10778 for a portion of the right proposed for transfer. A delivery system does not appear to have been in place within the five-year period prior to submission of the transfer application for other portions of the water right proposed for transfer. However, those portions appear to have been leased instream within the last five years under IL-530 during the period 2004 through 2008.
20. The proposed change would not result in enlargement of the right.
21. The proposed change would not result in injury to other water rights.
22. The amount and timing of the proposed instream flow, as described in Finding of Fact #11, is allowable within the limits and use of the original water right.
23. 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.
24. Within the reach proposed by the applicant, 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 pollution abatement. In addition to flows for the designated Scenic Waterway and pending instream water right application, which are at times not met during the requested period for instream protection, portions of this segment of the Deschutes River are also on the Department of Environmental Quality's 303d list of water quality limited streams and a TMDL (Total Maximum Daily Load) study is underway.
25. By adding to existing instream water rights transferred instream within the same reach, 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; pollution abatement; and recreation.
26. By replacing a portion of any instream right within the same reach, 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 an earlier priority date.
27. 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.
28. 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.

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

29. There are two existing supplemental rights, Certificate 76714 and Permit G-12329, appurtenant to the portion of lands on which Certificate 83571 is proposed for transfer to instream use. The applicants have not submitted an affidavit certifying that the affected portions under Certificate 76714 or Permit G-12329 have been abandoned. The applicants have requested that affected portions of the supplemental water rights under Certificate

76714 and all of Permit G-12329 be cancelled upon issuance of the Final Order approving T-10778.

30. A portion of Certificate 76714 and all of Permit G-12329 are appurtenant to lands owned by the City of Redmond. The remaining portion of Certificate 76714 requested to be cancelled is appurtenant to lands from which the interest in a portion of Certificate 83571 has been conveyed to COID through a quit claim deed (described in Finding of Fact #7). However, the interest in Certificate 76714 was not conveyed to COID as part of the quit claim deed. All persons who are owners of the property from which the primary irrigation rights under Certificate 83571 were quit claimed to COID have not been notified of the intent to cancel Certificate 76714.
31. Supplemental water rights (layered water rights) must be included in a transfer application or cancelled.
32. Consistent with OAR 690-380-2250, the Department provided notice (as part of the draft Preliminary Determination identified in Finding of Fact #17) to the applicants and affected landowners of the Department's intent to cancel *all* of water right Permit G-12329 and the portion of Certificate 76714 described below unless within 30 days of the date of notification, the applicant modified the application to include the supplemental right or requested that the application be withdrawn. No response was received to the notice.
33. The portion of the first right to be cancelled is:

**Certificate:** 76714 in the name of Central Oregon Irrigation District  
**Use:** Supplemental Irrigation of 94.2 acres  
**Priority Date:** February 28, 1913  
**Source:** Crane Prairie Reservoir, constructed under permit R-1687, tributary to the Deschutes River

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
21 S	08 E	WM	17	NE NE	CRANE PRAIRIE RESERVOIR
17 S	12 E	WM	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:**

Twp	Rng	Mer	Sec	Q-Q	Use	Acres
15 S	13 E	WM	3	SE NW	IR	20.8
15 S	13 E	WM	15	SE NW	IR	0.5
15 S	13 E	WM	15	NE SW	PM	2.4
15 S	13 E	WM	15	NE SW	IR	16.3
15 S	13 E	WM	15	NW SW	IR	1.3
15 S	13 E	WM	15	SW SW	PM	3.9
15 S	13 E	WM	15	SW SW	IR	23.4



Twp	Rng	Mer	Sec	Q-Q	Use	Acres
15 S	13 E	WM	15	NW SE	IR	0.8
15 S	13 E	WM	15	SW SE	IR	0.3
15 S	13 E	WM	15	SE SW	IR	18.1
15 S	13 E	WM	22	NW NW	IR	6.4

34. 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:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
17 S	12 E	WM	29	SE NE	POD #11 (COID NORTH CANAL): 850 FEET NORTH AND 630 FEET WEST FROM THE EAST ¼ CORNER OF SECTION 29

35. The second right to be cancelled is:

**Permit:** G-12329 in the name of City of Redmond

**Use:** Supplemental Irrigation of 67.1 acres

**Season of Use:** April 1 to November 1

**Priority Date:** November 10, 1992

**Source:** A well in the Deschutes River Basin

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
15 S	13 E	WM	16	SE SE	15 FEET SOUTH AND 35 FEET WEST FROM THE NW CORNER OF SW ¼ SW ¼, SECTION 15

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	Use	Acres
15 S	13 E	WM	3	SE NW	IR	0.5
15 S	13 E	WM	15	NE SW	IR	16.3
15 S	13 E	WM	15	NW SW	IR	1.3
15 S	13 E	WM	15	SW SW	IR	23.4
15 S	13 E	WM	15	NW SE	IR	0.8
15 S	13 E	WM	15	SW SE	IR	0.3
15 S	13 E	WM	22	NW NW	IR	6.4

**Mitigation Project Review Criteria**

36. COID and the City of Redmond (the Applicants) have requested that this transfer be used to establish mitigation water for Ground Water Permit Application G-16749, filed by City of Redmond.

37. The Department assigned this mitigation project number MP-125.

38. 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 690-505-0630 (2) on April 30, 2008. No comments were received.
39. Ground Water Permit Application G-16749 has been determined to have a mitigation obligation of 169.6 AF in the General Zone of Impact, as described in the Final Order issued approving this application on April 30, 2009.
40. The proposed transfer of 87.9 acres of irrigation use may provide 158.2 AF of mitigation water and the proposed transfer of 6.3 acres equivalent of pond maintenance (surface area of 2.06 acres) to instream use may provide an additional 5.5 AF of mitigation water. This project may generate a total of 163.7 AF of mitigation water.
41. The proposed reach would protect instream flows within both the Middle Deschutes and General Zones of Impact. Mitigation water generated from this instream transfer may be used to satisfy the mitigation obligation of a ground water permit application within the General Zone of Impact.
42. Based upon Findings of Fact #39 through #41, it appears that that the proposed mitigation project, if completed as proposed, will satisfy a portion of the mitigation obligation for Ground Water Permit Application G-16749.
43. A total of 513.44 AF is proposed to be transferred to instream use and 163.7 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. Mitigation water generated by this project may be used to satisfy a portion of the mitigation obligation for Ground Water Permit Application G-16749 upon completion of the approved project (the instream transfer) 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-10778 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 rights should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved and the abandoned right will be cancelled.

This mitigation project appears to result in mitigation water pursuant to ORS 537.746 and OAR 690-505-0610.

If application T-10778 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-10778 are approved. The appurtenant supplemental rights are 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:

<b>Priority Date</b>	<b>Season 1</b>	<b>Season 2</b>	<b>Season 3</b>	<b>Total Duty</b>
<b>Irrigation Use</b>				
October 31, 1900	1.096 CFS	1.461 CFS	1.932 CFS	868.88 AF
December 2, 1907			0.774 CFS	
<b>Pond Maintenance</b>				
October 31, 1900	0.079 CFS	0.105 CFS	0.138 CFS	62.27 AF
December 2, 1907			0.056 CFS	
<b>Totals</b>				
October 31, 1900	<b>1.175 CFS</b>	<b>1.566 CFS</b>	<b>2.070 CFS</b>	
December 2, 1907			<b>0.830 CFS</b>	<b>931.16 AF</b>

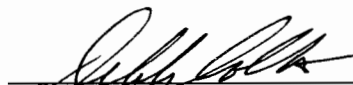
3. The portion of Certificate 76714 that has been abandoned is cancelled. Water right certificate 76714 is modified. The Department shall issue a new water right certificate on a determination that it is necessary to produce a certificate to confirm that portion of the water right not affected by the cancellation described in Finding of Fact #34. Modification of this supplemental water right shall reduce by 94.2 acres the number of acres to which stored water may be applied for supplemental irrigation under the right but does not reduce the total quantity of water available for supplemental irrigation.
4. Permit G-12329 is cancelled.
5. 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:

From COID North Canal POD #11 (as described in Finding of Fact #2) to Lake Billy Chinook (RM 120).

<b>Priority Date</b>	<b>Instream Period</b>	<b>Instream Rate</b>	<b>Instream volume</b>
October 31, 1900	April 1 through April 30 and October 1 through October 26	0.648 CFS	513.44 AF
	May 1 through May 14 and September 15 through September 30	0.864 CFS	
	May 15 through September 14	1.599 CFS	

6. *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.*
7. *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.*
8. *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.*
9. *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 Certificate 83571 and any related decree.*
10. *The former place of use of the transferred water shall no longer receive water as part of this right.*
11. **Mitigation Water:** *Mitigation Water generated by this project will be used to satisfy a portion of the mitigation obligation for Ground Water Permit Application G-16749 upon completion of the project and verification by the Department that the project has been completed as proposed. Issuance of 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. This project will generate 163.7 AF of Mitigation Water in the **General Zone of Impact**.*
12. *The instream certificate created from this transfer shall be identified as a mitigation project/source for a ground water permit, issued as a result of approval of Ground Water Permit Application G-16749. Within the instream certificate, the volume of mitigation water, the zone of impact in which the mitigation water was 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 27<sup>th</sup> day of May, 2009.

  
Phillip C. Ward, Director *P*

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

**Notice of Preliminary Determination for  
Water Right Transfer T-10778 (Mitigation Project MP-125)**

T-10778 filed by City of Redmond and the Central Oregon Irrigation District (1055 SW Lake Court, Redmond, OR 97756), proposes a change in place of use and a change in character of use under Certificate 83571. The right allows the use of up to 2.90 Cubic Feet per Second (priority dates of October 31, 1900 and December 2, 1907) from a diversion (COID North Canal) on the Deschutes River in Sec. 29, T 17S, R 12E, W.M. for Irrigation and Pond Maintenance in Sec. 15 and 22, T 15S, R 13E, W.M. The applicants propose to create an instream use in the Deschutes River (from COID North Canal to Lake Billy Chinook [RM 120]), at a maximum rate of 1.599 cfs, and to establish mitigation water in the Deschutes Ground Water Study Area for Ground Water Permit Application G-16749. The applicants also propose cancellation of a portion of a supplemental right under Certificate 76714 and the cancellation of supplemental right Permit G-12329. 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 water pursuant to OAR 690-505-0610 and OAR 690-505-0615.

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) 986-0883. 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.