

STATE OF OREGON  
COUNTY OF DESCHUTES  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO:

SWALLEY IRRIGATION DISTRICT  
64672 COOK AVENUE, SUITE 1  
BEND, OR 97701

confirms the right to use up to 63 CUBIC FEET PER SECOND (cfs) of the waters of the DESCHUTES RIVER, tributary to the COLUMBIA RIVER, for HYDROELECTRIC PRODUCTION of 1145 THEORETICAL HORSEPOWER (THP).

The use of water for hydroelectric purposes shall be in conjunction with water used under the right of Swalley Irrigation District for purposes, as evidenced by Certificate 74145 and as delivered through the Swalley Main Canal. Use of water shall be limited to periods when the water right holder's water right under Certificate 74145 is put to beneficial use without waste. The amount of water used shall not be greater than the quantity of water diverted to satisfy the authorized specific use under Certificate 74145. The use of water shall be limited by rate, duty, season and any other limitations of Certificate 74145.

The applicant shall measure and report the quantity of water diverted.

This right was filed under application PC 888.

The point of diversion is located: 985 FEET NORTH AND 617 FEET WEST FROM E1/4 CORNER OF SECTION 29, being within the SE ¼ NE ¼, SECTION 29, TOWNSHIP 17 SOUTH, RANGE 12 EAST, W.M.

The authorized place of use is located: Tax Lot 800, NE ¼ NW ¼, SECTION 3, TOWNSHIP 17 SOUTH, RANGE 12 EAST, W.M.

Appeal Rights

**This is a final order in other than 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.**

**This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law.**

### **Project Description:**

Water will be diverted from the Deschutes River, via Swalley's Main Canal and Pipeline, approximately 5.1 miles to a horizontal Francis turbine and generator located within a 900 square foot reinforced concrete vault. The turbine will use up to 63 cubic feet per second (cfs) of water for hydroelectric generation with an operating head of 160 feet. This provides approximately 1,145 theoretical horsepower (thp) of capacity. After the water flows through the turbine it will continue in the Main Canal another 7.0 miles to the remainder of the irrigation districts laterals and water users. The Project will serve as a dissipater for the pressure within the pipeline. Pressure will be reduced from 70 pounds per square inch upstream to atmospheric pressure for discharge into the open canal.


### **WATER RIGHT CONDITIONS**

Upon review of the application, Oregon Water Resources Department (OWRD) finds that the Project, with the conditions set forth below is consistent with the public interest. The Project is well adapted to the development and utilization of the water power involved.

1. The water right holder shall comply with all statutes and rules applicable to the Project.
2. The water right holder shall construct and build the Project according to the maps, plans and specifications filed with the application within five years of issuance of this water right certificate or by any lawful extension thereof.
3. The water right holder shall construct, operate and maintain all fish screens, by-pass devices and fish passages as required by the Oregon Department of Fish and Wildlife.
4. The water right holder shall allow the OWRD Director and authorized agents and employees of the Oregon Department of Environmental Quality, Oregon Department of Fish and Wildlife, and OWRD free and unrestricted access in, through, and across the Project in the performance of their official duties, and shall allow free access to all reports, accounts, records, and other data relating to said Project.
5. The restrictions established in ORS 543.660 shall apply as conditions of use.
6. This certificate shall be invalidated upon a change in the point of diversion of the water right for the Swalley Main Canal and Pipeline.
7. The Water Resources Department shall conduct a review of this certificate upon approval of any changes or adjustments made to the applicant's existing water right for the Swalley Main Canal and Pipeline to determine if a revised certificate should be issued.
8. The right to use water under this certificate is invalidated if the Federal Energy Regulatory Commission exemption related to the certificate is canceled or invalidated.

9. This certificate does not have its own priority date. The Department shall not regulate for or against this certificate. This certificate does not grant a right to divert water for hydroelectric purposes other than in conjunction with the water right as used under Certificate 74145.
10. This certificate is subject to review by the Department 50 years after the date of issuance pursuant to ORS 543.765.
11. The water right holder shall pay, upon receiving an invoice from OWRD, an annual fee to OWRD under ORS 543.078. This amount shall be due by the date specified on the invoice.
12. Failure to comply with any of the provisions of this water right may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the water right.

Issued December 30, 2009

  
Dwight W. French, Administrator  
Water Rights and Adjudications Division  
Oregon Water Resources Department, for

Phillip C. Ward, Director  
Oregon Water Resources Department

Recorded in State Record of Water Right Certificates numbered 86003.