

STATE OF OREGON

COUNTY OF DESCHUTES

ORDER APPROVING A CHANGE IN USE AND PLACE OF USE

Pursuant to ORS 537.348 and ORS 540.510 to 540.530, after notice was given and no objections were filed, and finding that no injury to existing water rights would result, this order approves, as conditioned or limited herein, TRANSFER 8519 submitted by

SWALLEY IRRIGATION DISTRICT  
P.O. BOX 5126  
BEND, OREGON 97708-5126.

The right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for DESCHUTES County as evidenced by a PORTION of Certificate 74145. The decree is recorded in the Order Record of the Water Resources Director in Volume 12, at Page 282 and Volume 16, at Pages 148 and 396. The date of priority is SEPTEMBER 1, 1899.

The right allows the use of the DESCHUTES RIVER, a tributary of the COLUMBIA RIVER, for IRRIGATION OF 21.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.144 CUBIC FOOT PER SECOND (CFS) from APRIL 1 TO MAY 1 AND OCTOBER 1 TO

**This is an 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 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

NOVEMBER 1; 0.193 CFS from MAY 1 TO MAY 15 AND SEPTEMBER 15 TO OCTOBER 1; and 0.358 CFS from MAY 15 TO SEPTEMBER 15, if available at the authorized point of diversion: SE¼ NE¼, SECTION 29, T 17 S, R 12 E, W.M.; NORTH CANAL DAM - 985 FEET NORTH AND 617 FEET WEST FROM THE E¼ CORNER, SECTION 29, or its equivalent in case of rotation, measured at the point of diversion from the source.

The amount of water diverted directly from the Deschutes River and not through the main Swalley Irrigation District canal shall be limited to the above diversion rates without the 43% transmission loss allowed by the March 24, 1933 decree, and shall not exceed 5.46 acre-feet for each acre irrigated during the irrigation season.

The authorized place of use is located as follows:

SW¼ SE¼	0.1 ACRES (Taxlot 1000)
SE¼ SE¼	0.7 ACRES (Taxlot 0134)
SE¼ SE¼	0.1 ACRES (Taxlot 1000)
SE¼ SE¼	14.8 ACRES (Taxlot 1300)

SECTION 14

NE¼ NE¼	3.7 ACRES (Taxlot 0134)
NE¼ NE¼	0.7 ACRES (Taxlot 1000)
NE¼ NE¼	0.9 ACRES (Taxlot 1300)

SECTION 23

TOWNSHIP 15 SOUTH, RANGE 12 EAST, W.M.

The right to use 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 the decree.

The applicant proposes to change the USE and PLACE OF USE to INSTREAM USE for FISHERIES ENHANCEMENT in the DESCHUTES RIVER. The reach is from river mile 164.8 (North Canal Dam) downstream to river mile 120 (Lake Billy Chinook).

The Director finds, in accordance with OAR 690-77-075(2):

1. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water right; and,
2. The proposed reaches are 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; and,
  - c. There are no known areas of natural loss of streamflow to the river bed.

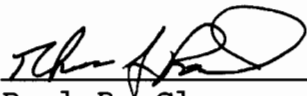
IT IS HEREBY ORDERED THAT:

1. The proposed changes shall be effective upon the date of this order.
2. The former place of use shall no longer be irrigated as a part of this water right.
3. There shall be created an instream water right for fisheries enhancement in the Deschutes River for 0.144 cubic foot per second (cfs) from April 1 to May 1 and October 1 to November 1; 0.193 cfs from May 1 to May 15 and September 15 to October 1; and 0.358 cfs from May 15 to September 15 with a priority date of September 1, 1899. The reach is from the authorized diversion point located in SE¼ NE¼, SECTION 29, T 17 S, R 12 E, W.M.; NORTH CANAL DAM - 985 FEET NORTH AND 617 FEET WEST FROM THE E¼ CORNER, SECTION 29 at river mile 164.8 (North Canal Dam) downstream to NE¼ SW¼, SECTION 29, T 12 S, R 12 E, W.M. at river mile 120 (Lake Billy Chinook).

The right evidenced by a portion of Certificate 74145 is modified as described herein. A new certificate confirming the instream water right will be issued.

WITNESS the signature of the Water Resources

Director, affixed SEP 21 2001.

  
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For Paul R. Cleary, Director