BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-12547, Deschutes County)	A DISTRICT PERMANENT TRANSFER
•)	FOR PLACE OF USE

Authority

ORS 540.570 to 540.580 establishes the process in which a district may submit a request to transfer a water right within district boundaries. OAR Chapter 690, Division 385 implements the statutes and provides the Department's procedures and criteria for evaluating district transfer applications.

Applicant

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

Findings of Fact

- 1. On December 28, 2016, Swalley Irrigation District (SID) filed a district transfer application to permanently change the place of use under Certificate 74145. The Department assigned the application number T-12547.
- 2. Notice of the District Permanent Transfer Application was published on January 10, 2016, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.
- 3. On March 29, 2017, SID amended the application to withdraw 2.04 acres from the transfer request.
- 4. The portion of the right to be transferred is as follows:

Certificate: 74145 in the name of SWALLEY IRRIGATION DISTRICT (confirmed by

decree of the Circuit Court of the State of Oregon for Deschutes County)

Use: IRRIGATION of 8.59 acres

Priority Dates: SEPTEMBER 1, 1899

Seasons of Use: Season 1: April 1 through April 30 & October 1 through October 31

Season 2: May 1 through May 14 & September 15 through September 30

Season 3: May 15 through September 14

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

Season 1: Limited to 1/83 cubic foot per second (cfs) per acre

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 137-004-0080, 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.

Within 20 days after this final order is issued (i.e., mailing date), the district or any protestant may file with the commission exceptions to the final order. The commission shall issue an order granting or denying the exceptions within 30 days after receiving the exceptions. ORS 540.580(10).

Season 2: Limited to 1/62 cfs per acre

Season 3: Limited to 1/33.45 cfs per acre

Maximum Duty that can be applied to an acre:

Not to exceed 9.58 acre-feet (af) per acre per year.

The above listed rates and duty reflect allowance of a 43% transmission loss as determined by decree of the Circuit Court of Deschutes County, dated March 24, 1933. Those lands not served by direct pumping from the Deschutes River, are not allowed the 43% transmission loss and shall not exceed 5.46 af per acre per year.

Source: The DESCHUTES RIVER, tributary to the COLUMBIA RIVER

Authorized Points of Diversion:

POD	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3	17 S	12 E	WM	29	SE NE	SWALLEY MAIN CANAL- 985 FEET NORTH AND 617 FEET WEST FROM THE E¼ CORNER OF SECTION 29
10	16 S	12 E	WM	30	SE SE	192 FEET NORTH AND 1069 FEET WEST FROM THE SE CORNER OF SECTION 30
11	16 S	12 E	WM	30	SE SE	1248.59 FEET NORTH AND 38 FEET WEST FROM THE SE CORNER OF SECTION 30
15	15 S	12 E	WM	14	NW SE	2170 FEET NORTH AND 1350 FEET WEST FROM THE SE CORNER OF SECTION 14

Authorized Place of Use:

IRRIGATION									
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice	POD
16 S	12 E	WM	14	SE NW	0.47	702	RUSSELL	n/a	3 & 15
16 S	12 E	WM	29	SW NE	0.18	300	GELLING	n/a	3 & 15
16 S	12 E	WM	29	SW NE	0.05	303	GELLING	n/a	3 & 15
16 S	12 E	WM	29	SW SW	0.17	3402	BABCOCK	n/a	11
16 S	12 E	WM	29	SW SW	0.28	4600	SUMMER	n/a	11
16 S	12 E	WM	30	SE SE	0.10	806	HARRISON	n/a	10
16 S	12 E	WM	30	SE SE	0.26	807	HARRISON	n/a	10
16 S	12 E	WM	30	SE SE	0.25	808	GOODMAN	n/a	10
16 S	12 E	WM	33	NW NW	0.45	1400	HAAS	n/a	3 & 15
16 S	12 E	WM	33	NW NW	0.59	1500	SCHLECHT	n/a	3 & 15
17 S	12 E	WM	05	SW NE	0.83	2402	PRATT	n/a	3 & 15
17 S	12 E	WM	05	SW NE	1.05	2403	MILTON	n/a	3 & 15
17 S	12 E	WM	05	NE NW	1.04	800	FAULKNER	n/a	3 & 15
17 S	12 E	WM	09	NE NE	0.68	2001	QUITCLAIM - SPINK	n/a	3 & 15
17 S	12 E	WM	09	NW NE	1.20	2000	QUITCLAIM - SPINK	n/a	3 & 15
17 S	12 E	WM	09	NWNE	0.12	2001	QUITCLAIM - SPINK	n/a	3 & 15
17 S	12 E	WM	09	NE SE	0.87	6700	SHAMROCK TARPONAIRE LLC	n/a	3 & 15
				Total:	8.59				

Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice	POD
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16 S	12 E	WM	29	SW NE	0.18	300	GELLING	n/a	3 & 15
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16 S	12 E	WM	29	NWSW	0.17	3400	BABCOCK	n/a	11
16 S	12 E	WM	29	SW SW	0.28	4600	SUMMER	n/a	11
16 S	12 E	WM	30	SE SE	0.10	806	HARRISON	n/a	10
16 S	12 E	WM	30	SE SE	0.26	807	HARRISON	n/a	10
16 S	12 E	WM	30	SE SE	0.25	808	GOODMAN	n/a	10
16 S	12 E	WM	33	NW NW	0.45	1400	HAAS	n/a	3 & 15
16 S	12 E	WM	33	NW NW	0.59	1500	SCHLECHT	n/a	3 & 15
17 S	12 E	WM	05	SW NE	0.83	2402	PRATT	n/a	3 & 15
17 S	12 E	WM	05	SW NE	1.05	2403	MILTON	n/a	3 & 15
17 S	12 E	WM	05	NE NW	1.04	800	FAULKNER	n/a	3 & 15
17 S	12 E	WM	05	NW SW	1.74	1100	MOELLER/MARTIN	n/a	3 & 15
17 S	12 E	WM	05	SW SW	0.26	1100	MOELLER/MARTIN	n/a	3 & 15
17 S	12 E	WM	09	NE SE	0.66	6700	SHAMROCK TARPONAIRE LLC	n/a	3 & 15
17 S	12 E	WM	09	NW SE	0.10	6700	SHAMROCK TARPONAIRE LLC	n/a	3 & 15
17 S	12 E	WM	09	SE SE	0.11	6700	SHAMROCK TARPONAIRE LLC	n/a	3 & 15
				Total:	8.59				

6. Certificate 74145 contains errors in the location descriptions for POD 11 and POD 15, which were corrected in Special Order Volume 61, Page 634. The correct locations for the PODs are as follows:

POD	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
11	16 S	12 E	WM	30	SE SE	1248.59 FEET NORTH AND 138 FEET WEST FROM THE SE CORNER OF SECTION 30
15	15 S	12 E	WM	14		2065.82 FEET NORTH AND 1401.41 FEET EAST FROM THE S¼ CORNER OF SECTION 14

- 7. The Department finds that the district permanent transfer application satisfies the criteria of OAR 690-385-4000 and contains the information required under OAR 690-385-4200 and includes maps meeting the requirements of OAR 690-385-4300.
- 8. The water right is subject to transfer as defined in OAR 690-385-0100(17).
- 9. The proposed change in place of use will not result in enlargement of the right.
- 10. The proposed change in place of use will not result in injury to other water right.

Conclusions of Law

The proposed changes in place of use as proposed in Transfer Application T-12547 satisfy the requirements of ORS 540.574(3) and 540.580.

Now, therefore, it is ORDERED:

- 1. The proposed change in place of use to the water right evidenced by Certificate 74145 is approved.
- 2. 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 74145 and any related decree.

- 3. The former places of use shall no longer be irrigated as part of this water right.
- 4. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
- 5. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before October 1, 2018. A Claim of Beneficial Use shall be submitted by SID to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
- 6. Water right certificate 74145 is modified. The Department will issue a superseding certificate describing the right when it determines it is necessary for record keeping.

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Signed at Salem, Oregon this	2	day of March 2017.

Dwight French, Water Right Services Administrator for

THOMAS M. BYLER, DIRECTOR Oregon Department of Water Resources

Mailing Date: _____APR 01 2017