

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

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-13093, Deschutes County) A DISTRICT PERMANENT TRANSFER FOR
) PLACE OF USE

Authority

Oregon Revised Statutes (ORS) 540.570 to 540.580 establish the process in which a district may submit a request to transfer a water right within district boundaries. Oregon Administrative Rule (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 97703

Findings of Fact

1. On December 31, 2018, 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-13093.
2. Notice of the District Permanent Transfer Application was published on January 8, 2019, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.
3. On April 16, 2019, SID submitted eleven revised maps to correct scrivener’s errors or provide further clarification on maps submitted December 31, 2018. Amended tables and three revised maps were also submitted on April 30, 2019.
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)
Uses: IRRIGATION of 15.74 ACRES and NURSERY on 0.23 ACRE
Priority Date: 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

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 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

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 irrigated during the irrigation season.

Source: The DESCHUTES RIVER, tributary of the COLUMBIA RIVER

Authorized Point 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

Authorized Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
16 S	12 E	WM	16	SE SE	2.76	1700	OBR LAND MANAGEMENT LLC	2018-05
16 S	12 E	WM	21	SW NE	1.00	103	JOHNSTON	--
16 S	12 E	WM	21	SE NW	1.00	103	JOHNSTON	--
16 S	12 E	WM	21	NW SW	0.44	500	SWALLEY ID - QUITCLAIM	--
16 S	12 E	WM	26	NW SW	0.17	201	ACETI	--
16 S	12 E	WM	27	SE NE	0.76	1700	SWALLEY ID - QUITCLAIM	--
16 S	12 E	WM	28	SW SW	0.12	5101	BILLINGS	--
16 S	12 E	WM	29	NE NW	0.40	600	SWALLEY ID - QUITCLAIM	--
16 S	12 E	WM	29	NE NW	0.06	600	SWALLEY ID - QUITCLAIM	2018-03
16 S	12 E	WM	29	NE SE	2.10	1204	SWALLEY ID - QUITCLAIM	--
16 S	12 E	WM	32	NW NE	0.69	301	COOPER	2018-04
16 S	12 E	WM	33	NW NW	0.08	1400	KRUEGER	--
17 S	12 E	WM	3	SW SW	0.50	401	SWALLEY ID - QUITCLAIM	--
17 S	12 E	WM	4	NW NE	0.93	227	MCKEAGE	--
17 S	12 E	WM	8	NE SW	0.20	1200	SWALLEY ID - QUITCLAIM	2018-03
17 S	12 E	WM	8	NW SW	0.69	1200	SWALLEY ID - QUITCLAIM	2018-03
17 S	12 E	WM	8	NE SE	0.50	102	SWALLEY ID - QUITCLAIM	--
17 S	12 E	WM	8	NW SE	0.06	1500	HOLCOMB	--
17 S	12 E	WM	8	SE SE	1.01	102	SWALLEY ID - QUITCLAIM	--
17 S	12 E	WM	9	NW SW	1.00	102	SWALLEY ID - QUITCLAIM	2018-05
17 S	12 E	WM	9	SW SW	0.27	102	SWALLEY ID - QUITCLAIM	--
17 S	12 E	WM	9	SW SE	0.50	3700	SWALLEY ID - QUITCLAIM	2018-05
17 S	12 E	WM	16	SE SW	0.50	2404	SWALLEY ID - QUITCLAIM	--
Total					15.74			

NURSERY USE								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
17 S	12 E	WM	22	NW NE	0.23	103	SWALLEY I.D.- QUITCLAIM	2018-05

5. Proposed Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
16 S	12 E	WM	16	SW SE	4.43	1700	OBR LAND MANAGEMENT LLC	2018-05
16 S	12 E	WM	21	NW NE	0.03	100	JOHNSTON	--
16 S	12 E	WM	21	SW NE	1.67	100	JOHNSTON	--
16 S	12 E	WM	21	SE NW	0.30	100	JOHNSTON	--
16 S	12 E	WM	28	SW SW	0.12	5101	BILLINGS	--
16 S	12 E	WM	29	NW SE	1.00	1100	MARSHALL	2018-03
16 S	12 E	WM	32	NW NE	0.70	301	COOPER	2018-04
16 S	12 E	WM	33	NW NW	0.08	1400	KRUEGER	--
17 S	12 E	WM	4	NW NE	0.93	227	MCKEAGE	--
17 S	12 E	WM	8	NW SE	0.06	1500	HOLCOMB	--
17 S	12 E	WM	17	NE NW	6.42	100	ADMIN SCHOOL DIST #1	--
Total					15.74			

NURSERY USE								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
16 S	12 E	WM	16	SW SE	0.23	1700	OBR LAND MANAGEMENT LLC	2018-05

6. The Department finds that the district permanent transfer application was submitted according to ORS 540.580 and OAR 690-385-4000, contains the information required under OARs 690-385-4200 and OAR 690-385-2000, and includes maps meeting the requirements of OARs 690-385-4300 and 690-385-2200.
7. The Department finds that the proposed district permanent transfer meets all the criteria set forth in ORS 540.580 and OAR 690-385-4000.
8. The water right is subject to transfer as defined in OAR 690-385-0100(17).
9. The proposed change in places of use will not result in enlargement of the right as defined in OAR 690-385-0100(4).
10. The proposed change in place of use will not result in injury to other water rights as defined in OAR 690-385-0100(6).

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).

11. Any other applicable requirements for district permanent water right transfers are met as required in OAR 690-385-4500.

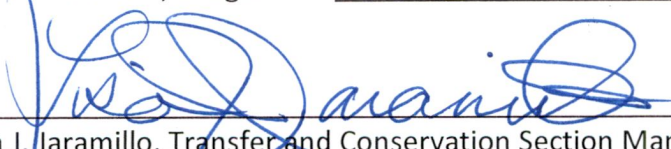
Conclusions of Law

The proposed changes in place of use as proposed in Transfer Application T-13093 comply with and satisfy the requirements of ORS 540.580 and OAR 690-385-4500.

Now, therefore, it is ORDERED:

1. The proposed changes in place of use to the water right evidenced by Certificate 74145 are approved.
2. The right to the use of the water is restricted to beneficial use at the place of use not modified by this order and is subject to all other conditions and limitations contained in Certificate 74145 and any related decree.
3. The place of use from which the water right is removed by T-13093 shall no longer be irrigated under the transferred rights.
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, 2020**. 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. After satisfactory proof of completion has been determined by the Department, a superseding confirming-remaining water right certificate will be issued when the Department determines it is necessary for record keeping.

Signed at Salem, Oregon this MAY 06 2019 .



Lisa J. Jaramillo, Transfer and Conservation Section Manager for
THOMAS M. BYLER, DIRECTOR
Oregon Water Resources Department

Mailing Date: MAY 07 2019