

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

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-14150, 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 23, 2022, Swalley Irrigation District (SID) mailed a district transfer application to permanently change the place of use under Certificate 74145. The application was received on January 17, 2023, due to damage during shipping. The Department assigned the application number T-14150.
2. Notice of the District Permanent Transfer Application was published on January 31, 2023, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.
3. On April 26, 2023 and May 1, 2023, SID submitted corrections to the place of use tables and maps.
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 30.07 ACRES and NURSERY on 0.17 ACRE
Priority Date: SEPTEMBER 1, 1899

This final order in a contested case and is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075(2) and OAR 137-003-0675, 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).

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
 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
15	15 S	12 E	WM	14	NE SE	* 2065.82 FEET NORTH AND 1401.41 FEET EAST FROM THE S¼ CORNER OF SECTION 14

* Certificate 74145 contains an error in the location description for POD 15, which was corrected in Special Order Volume 61, Page 634. The corrections are shown in **bold** font.

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres	Taxlot	Water User
16 S	12 E	WM	16	NE NE	0.47	100	THORNTON BROWN TRUST
16 S	12 E	WM	20	SW NE	0.20	601	PATON
16 S	12 E	WM	20	NW SE	0.15	1200	WARNER
16 S	12 E	WM	27	NE SE	0.50	100	SWALLEY ID QUITCLAIM
16 S	12 E	WM	28	NE NW	0.31	100	HIGGINS
16 S	12 E	WM	28	SE NW	0.63	303	NELSON
16 S	12 E	WM	28	SW SW	0.11	5101	SWALLEY ID QUITCLAIM
16 S	12 E	WM	28	SW SW	1.00	5300	SWALLEY ID QUITCLAIM
16 S	12 E	WM	29	SW NE	0.35	300	SWALLEY ID QUITCLAIM
16 S	12 E	WM	29	NE SW	0.15	3800	SWALLEY ID QUITCLAIM
16 S	12 E	WM	29	NE SW	0.23	3603	HEPKAT HOLDING LLC / KENNEALLY
16 S	12 E	WM	29	SW SW	0.52	4500	FREDE
16 S	12 E	WM	29	SE SW	0.13	4100	CUSHMAN
16 S	12 E	WM	32	NW SE	0.80	701	LALLOS / NELSON
17 S	12 E	WM	4	NE NW	0.34	220	HEERERN TRUSTEES
17 S	12 E	WM	5	NW NE	0.27	1800	IMWALLE
17 S	12 E	WM	7	NE NE	9.00	100	SWALLEY ID QUITCLAIM
17 S	12 E	WM	7	SE NE	12.69	100	SWALLEY ID QUITCLAIM
17 S	12 E	WM	8	NW NE	0.20	1800	ROARK

Twp	Rng	Mer	Sec	Q-Q	Acres	Taxlot	Water User
17 S	12 E	WM	8	NW SW	0.15	1200	BREIT
17 S	12 E	WM	8	NW SE	0.03	1900	OLIVER
17 S	12 E	WM	9	NE NW	0.13	500	RILEY
17 S	12 E	WM	9	SE NW	0.34	500	RILEY
17 S	12 E	WM	16	NW NE	0.13	2700	TAYLOR
17 S	12 E	WM	16	SE SW	0.14	1200	MCKEEVER / LENTERS
17 S	12 E	WM	16	SW SE	0.03	2700	DUNCAN
17 S	12 E	WM	20	NW NE	0.70	1900	SWALLEY ID QUITCLAIM
17 S	12 E	WM	22	NW SE	0.11	6000	PUTNAM FAM PROPERTIES LLC
17 S	12 E	WM	22	NW SE	0.26	6100	PUTNAM FAM PROPERTIES LLC
TOTAL					30.07		

NURSERY USE							
Twp	Rng	Mer	Sec	Q-Q	Acres	Taxlot	Water User
17 S	12 E	WM	22	NW NE	0.17	103	SWALLEY ID QUITCLAIM

5. Transfer Application T-14151 proposes to change the Place of use to:

Proposed Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres	Taxlot	Water User
16 S	12 E	WM	16	NE NE	1.47	100	THORNTON BROWN TRUST
16 S	12 E	WM	20	SW NE	0.60	601	PATON
16 S	12 E	WM	20	NW SE	0.15	1200	WARNER
16 S	12 E	WM	28	NE NW	1.31	100	HIGGINS
16 S	12 E	WM	28	NE NW	1.65	802	TAPPOUNI
16 S	12 E	WM	28	SE NW	0.63	303	NELSON
16 S	12 E	WM	29	NE SW	0.43	3603	HEPKAT HOLDING LLC / KENNEALLY
16 S	12 E	WM	29	NW SW	0.80	3603	HEPKAT HOLDING LLC / KENNEALLY
16 S	12 E	WM	29	NW SW	0.35	4500	FREDE
16 S	12 E	WM	29	SW SW	0.17	4500	FREDE
16 S	12 E	WM	29	SE SW	2.28	4100	CUSHMAN
16 S	12 E	WM	32	NW SE	2.40	701	LALLOS & NELSON
17 S	12 E	WM	4	NW NE	0.56	228	GROSCUP TRUSTEES
17 S	12 E	WM	4	NW NE	0.05	220	HEEREN TRUSTEES
17 S	12 E	WM	4	NE NW	1.10	220	HEEREN TRUSTEES
17 S	12 E	WM	4	NE SW	2.50	510	ZADOFF TRUST
17 S	12 E	WM	5	NW NE	0.77	1800	IMWALLE
17 S	12 E	WM	8	NW NE	0.70	1800	ROARK
17 S	12 E	WM	8	NE SW	0.32	1200	BREIT
17 S	12 E	WM	8	NW SW	8.83	1200	BREIT
17 S	12 E	WM	8	NW SE	0.23	1900	OLIVER
17 S	12 E	WM	9	NE NW	0.01	400	RILEY
17 S	12 E	WM	9	NE NW	0.31	500	RILEY
17 S	12 E	WM	9	SE NW	0.48	500	RILEY
17 S	12 E	WM	16	NW NE	0.63	2700	TAYLOR
17 S	12 E	WM	16	SE SW	0.14	1200	MCKEEVER & LENTERS
17 S	12 E	WM	16	SW SE	0.37	2700	DUNCAN

Twp	Rng	Mer	Sec	Q-Q	Acres	Taxlot	Water User
17 S	12 E	WM	22	NW SE	0.17	6000	PUTNAM FAMILY PROPERTIES LLC
17 S	12 E	WM	22	NW SE	0.66	6100	PUTNAM FAMILY PROPERTIES LLC
TOTAL					30.07		

NURSERY USE							
Twp	Rng	Mer	Sec	Q-Q	Acres	Taxlot	Water User
16 S	12 E	WM	34	NW NE	0.17	200	BSK VENTURES LLC / WILSON

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 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).
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-14150 comply with and satisfy the requirements of ORS 540.580 and OAR 690-385-4500.

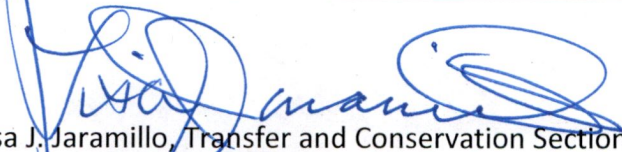
Now, therefore, it is ORDERED:

1. The proposed changes in place of use to the water right evidenced by Certificate 74145 are approved.
2. The place of use from which the water right is transferred off by Transfer T-14150 shall no longer be irrigated and is cancelled from Certificate 74145.
3. The right to the use of the water at the place of use NOT modified by this order is restricted to beneficial and is subject to all other conditions and limitations contained in Certificate 74145, and any related decree.
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, 2024**. 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 water right certificate will be issued when the Department determines it is necessary for record keeping.

MAY 17 2023

Dated in Salem, Oregon on _____


Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
Douglas E. Woodcock, Acting Director
Oregon Water Resources Department

Mailing Date: **MAY 18 2023**