

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

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-14365, Deschutes County) A DISTRICT PERMANENT TRANSFER FOR A
) CHANGE IN 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 8, 2023, 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-14365.
2. Notice of the District Permanent Transfer Application was published on December 26, 2023, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.
3. On January 11 & 31, 2024 and February 2 & 29, 2024, SID submitted new maps to correct scrivener’s errors and provide clarification. On January 11, 2024, OID submitted new place of use tables to correct scrivener's errors.
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 24.01 ACRES

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 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
15	15 S	12 E	WM	14	NW SE	Direct Diversion: 2170 FEET NORTH AND 1350 FEET WEST FROM THE SE CORNER OF SECTION 14
11	16 S	12 E	WM	30	SE SE	1248.59 FEET NORTH AND 38 FEET WEST FROM THE SE CORNER OF SECTION 30

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres	Taxlot	Water User	Notice	POD
15 S	12 E	WM	36	SE SW	0.80	1510	TSSP LLC	2023-31	3 & 15
16 S	12 E	WM	1	SE SE	0.35	700	SWALLEY ID - QUITCLAIM	2023-03	3 & 15
16 S	12 E	WM	14	NW NE	0.82	600	KEVIN D THOMPSON LIVING TRUST	2023-28	3 & 15
16 S	12 E	WM	14	NE NW	1.82	700	BRIAN & BRIAN	2023-25	3 & 15
16 S	12 E	WM	14	NE NW	0.68	703	BRIAN & BRIAN	2023-25	3 & 15
16 S	12 E	WM	20	SW NE	0.55	500	MARCHBANKS	2023-08	3 & 15
16 S	12 E	WM	20	SW NE	0.54	400	MEYER	2023-38	3 & 15
16 S	12 E	WM	20	SW NE	0.24	701	ORTIZ	2023-34	3 & 15
16 S	12 E	WM	20	NW SE	1.10	1100	DALE	2023-24	3 & 15
16 S	12 E	WM	20	NW SE	0.30	1105	FRANKS	2023-36	3 & 15
16 S	12 E	WM	21	NW NW	0.95	203	DRY FLY TRUST	2023-41	3 & 15
16 S	12 E	WM	27	SE NE	0.24	1700	SWALLEY ID - QUITCLAIM	2023-03	3 & 15
16 S	12 E	WM	27	SE NE	0.41	1800	SWALLEY ID - QUITCLAIM	2023-03	3 & 15
16 S	12 E	WM	27	SW SE	0.53	602	BALDWIN	2023-35	3 & 15
16 S	12 E	WM	28	NE SW	0.09	500	G R MARTIN & D L MARTIN REVOCABLE TRUST	2023-21	3 & 15
16 S	12 E	WM	28	NW SW	0.03	500	G R MARTIN & D L MARTIN REVOCABLE TRUST	2023-21	3 & 15
16 S	12 E	WM	29	SE NE	0.70	200	BACK FORTY LLC	2023-13	3 & 15
16 S	12 E	WM	29	SE NE	0.11	202	BACK FORTY LLC	2023-13	3 & 15

Twp	Rng	Mer	Sec	Q-Q	Acres	Taxlot	Water User	Notice	POD
16 S	12 E	WM	29	SE NE	0.19	203	BACK FORTY LLC	2023-13	3 & 15
16 S	12 E	WM	29	NE NW	0.45	400	ADAMS GILBERT TRUST / ADAMS & RIEF-ADAMS	2023-15	3 & 15
16 S	12 E	WM	29	NE NW	0.35	200	HARTLEY & SMITH	NONE	3 & 15
16 S	12 E	WM	29	SW NW	0.20	2100	KUNZE QUINN TRUST	2023-18	3 & 15
16 S	12 E	WM	29	SE NW	0.10	2100	KUNZE QUINN TRUST	2023-18	3 & 15
16 S	12 E	WM	29	SE NW	0.08	1402	MILLER	2023-10	3 & 15
16 S	12 E	WM	29	SW SW	1.00	3402	DUBLE	NONE	11
16 S	12 E	WM	29	SW SW	0.32	3600	DUENWALD	2023-05	11
16 S	12 E	WM	29	SW SW	0.38	4700	DUNN REVOCABLE TRUST	2023-27	11
16 S	12 E	WM	30	SE SE	0.22	3600	DUENWALD	2023-05	11
16 S	12 E	WM	30	SE SE	0.12	4700	DUNN REVOCABLE TRUST	2023-27	11
16 S	12 E	WM	32	SE SW	0.21	712	HANSON & WISEMAN	2023-23	3 & 15
16 S	12 E	WM	32	SE SW	0.51	706	JEFFREY	NONE	3 & 15
16 S	12 E	WM	32	SE SW	0.11	713	JEFFREY	NONE	3 & 15
16 S	12 E	WM	33	NW NE	0.70	207	MORRIS	2023-03	3 & 15
17 S	12 E	WM	3	NE SW	0.69	102	F.S.M.H.P. LLC	2023-33	3 & 15
17 S	12 E	WM	3	NW SW	1.22	102	F.S.M.H.P.LLC	2023-33	3 & 15
17 S	12 E	WM	3	SW SW	0.04	102	F.S.M.H.P. LLC	2023-33	3 & 15
17 S	12 E	WM	4	NW NE	0.37	227	MCKEAGE BYPASS TRUST & MCKEAGE SURVIVORS	2023-22	3 & 15
17 S	12 E	WM	4	SW NE	0.03	227	MCKEAGE BYPASS TRUST & MCKEAGE SURVIVORS	2023-22	3 & 15
17 S	12 E	WM	4	NW SE	0.43	511	LEE	2023-17	3 & 15
17 S	12 E	WM	5	NW NE	0.46	1900	LENOWITZ	NONE	3 & 15
17 S	12 E	WM	5	SW NE	1.30	2401	PREMUS	2023-11	3 & 15
17 S	12 E	WM	5	NW NW	0.33	2002	JOHANSEN	NONE	3 & 15
17 S	12 E	WM	5	SW SW	0.17	900	DELMAR & DELORES KENNEL JOINT TRUST	2023-40	3 & 15
17 S	12 E	WM	5	SE SW	0.60	700	KENNEL	2023-29	3 & 15
17 S	12 E	WM	8	NE NE	0.73	100	SABELMAN	2023-09	3 & 15
17 S	12 E	WM	8	SW NE	0.12	3700	HANNA	2023-39	3 & 15
17 S	12 E	WM	8	SW NE	0.20	3800	VARNER	2023-04	3 & 15
17 S	12 E	WM	8	SE NE	0.08	700	COMBRE & LANGOU	2023-02	3 & 15
17 S	12 E	WM	8	SE NE	0.64	1000	KENNEL	2023-30	3 & 15
17 S	12 E	WM	9	SW NW	0.10	700	COMBRE & LANGOU	2023-02	3 & 15
17 S	12 E	WM	9	SW SE	0.04	3800	WATSON	2023-12	3 & 15
17 S	12 E	WM	16	NW NE	0.02	2800	DORITY	2023-19	3 & 15
17 S	12 E	WM	16	NW NE	0.19	600	SCHWEIZERHOF	2023-14	3 & 15
17 S	12 E	WM	16	SW NE	0.28	2800	DORITY	2023-19	3 & 15
17 S	12 E	WM	16	SW NE	0.27	400	KIMBERLY WEBER EVANS TRUST	2023-20	3 & 15
17 S	12 E	WM	16	SW SE	0.10	1800	R READER & C READER REVOCABLE TRUST	2023-37	3 & 15
17 S	12 E	WM	17	NW SW	0.15	703	SHERRILL	2023-32	3 & 15
17 S	12 E	WM	20	NE NE	0.25	409	SWALLEY ID - QUIT CLAIM	2023-35	3 & 15
TOTAL					24.01				

5. Transfer Application T-14365 proposes to change the place of use to:

Proposed Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres	Taxlot	Water User	Notice	POD
15 S	12 E	WM	36	SE SW	0.80	1510	TSSP LLC	2023-31	3 & 15
16 S	12 E	WM	14	NW NE	0.82	600	KEVIN D THOMPSON LIVING TRUST	2023-28	3 & 15
16 S	12 E	WM	14	NE NW	0.84	700	BRIAN & BRIAN	2023-25	3 & 15
16 S	12 E	WM	14	NE NW	1.66	703	BRIAN & BRIAN	2023-25	3 & 15
16 S	12 E	WM	20	SW NE	0.55	500	MARCHBANKS	2023-08	3 & 15
16 S	12 E	WM	20	SW NE	0.54	400	MEYER	2023-38	3 & 15
16 S	12 E	WM	20	SW NE	0.24	701	ORTIZ	2023-34	3 & 15
16 S	12 E	WM	20	NW SE	1.10	1100	DALE	2023-24	3 & 15
16 S	12 E	WM	20	NW SE	0.30	1105	FRANKS	2023-36	3 & 15
16 S	12 E	WM	21	NW NW	0.95	203	DRY FLY TRUST	2023-41	3 & 15
16 S	12 E	WM	27	SW SE	0.78	602	BALDWIN	2023-35	3 & 15
16 S	12 E	WM	28	NE SW	0.06	500	G R MARTIN & D L MARTIN REVOCABLE TRUST	2023-21	3 & 15
16 S	12 E	WM	28	NW SW	0.06	500	G R MARTIN & D L MARTIN REVOCABLE TRUST	2023-21	3 & 15
16 S	12 E	WM	29	SE NE	1.00	203	BACK FORTY LLC	2023-13	3 & 15
16 S	12 E	WM	29	NE NW	0.45	400	ADAMS GILBERT TRUST / ADAMS & RIEF-ADAMS	2023-15	3 & 15
16 S	12 E	WM	29	NE NW	0.35	200	HARTLEY / SMITH	NONE	3 & 15
16 S	12 E	WM	29	SE NW	0.30	2100	KUNZE QUINN TRUST	2023-18	3 & 15
16 S	12 E	WM	29	SE NW	0.08	1402	MILLER	2023-10	3 & 15
16 S	12 E	WM	29	NW SW	1.00	3400	WALTER & JACQUELINE BABCOCK TRUST	NONE	11
16 S	12 E	WM	29	SW SW	0.13	4700	DUNN REVOCABLE TRUST	2023-27	11
16 S	12 E	WM	30	SE SE	0.54	3600	DUENWALD	2023-05	11
16 S	12 E	WM	30	SE SE	0.37	4700	DUNN REVOCABLE TRUST	2023-27	11
16 S	12 E	WM	32	SE SW	0.21	712	HANSON & WISEMAN	2023-23	3 & 15
16 S	12 E	WM	32	SE SW	0.51	706	JEFFREY	NONE	3 & 15
16 S	12 E	WM	32	SE SW	0.11	713	JEFFREY	NONE	3 & 15
16 S	12 E	WM	33	NW NE	1.70	207	MORRIS	2023-03	3 & 15
17 S	12 E	WM	3	NE SW	0.88	102	F.S.M.H.P. LLC	2023-33	3 & 15
17 S	12 E	WM	3	NW SW	1.02	102	F.S.M.H.P. LLC	2023-33	3 & 15
17 S	12 E	WM	3	SW SW	0.05	102	F.S.M.H.P. LLC	2023-33	3 & 15
17 S	12 E	WM	4	NW NE	0.40	227	MCKEAGE BYPASS TRUST & MCKEAGE SURVIVORS	2023-22	3 & 15
17 S	12 E	WM	4	NW SE	0.43	511	LEE	2023-17	3 & 15
17 S	12 E	WM	5	NW NE	0.46	1900	LENOWITZ	NONE	3 & 15
17 S	12 E	WM	5	SW NE	1.30	2401	PREMUS	2023-11	3 & 15
17 S	12 E	WM	5	NW NW	0.33	2002	JOHANSEN	NONE	3 & 15
17 S	12 E	WM	5	SW SW	0.17	900	DELMAR & DELORES KENNEL JOINT TRUST	2023-40	3 & 15
17 S	12 E	WM	5	SE SW	0.60	700	KENNEL	2023-29	3 & 15
17 S	12 E	WM	8	NE NE	0.73	100	SABELMAN	2023-09	3 & 15
17 S	12 E	WM	8	SW NE	0.12	3700	HANNA	2023-39	3 & 15
17 S	12 E	WM	8	SW NE	0.20	3800	VARNER	2023-04	3 & 15
17 S	12 E	WM	8	SE NE	0.64	1000	KENNEL	2023-29	3 & 15

Twp	Rng	Mer	Sec	Q-Q	Acres	Taxlot	Water User	Notice	POD
17 S	12 E	WM	9	SW NW	0.18	700	COMBRE & LANGOU	2023-02	3 & 15
17 S	12 E	WM	9	SW SE	0.04	3800	WATSON	2023-12	3 & 15
17 S	12 E	WM	16	NW NE	0.30	2800	DORITY	2023-19	3 & 15
17 S	12 E	WM	16	NW NE	0.19	600	SCHWEIZERHOF	2023-14	3 & 15
17 S	12 E	WM	16	SW NE	0.27	400	KIMBERLY WEBER EVANS TRUST	2023-19	3 & 15
17 S	12 E	WM	16	SW SE	0.10	1800	R READER & C READER REVOCABLE TRUST	2023-37	3 & 15
17 S	12 E	WM	17	NW SW	0.15	703	SHERRILL	2023-32	3 & 15
TOTAL					24.01				

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 place 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

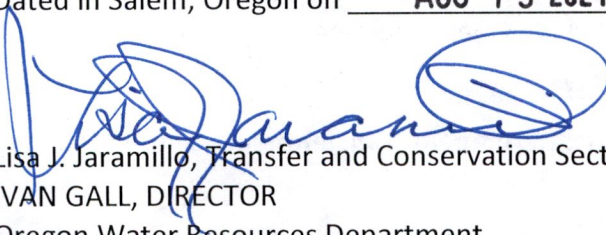
The proposed change in place of use as proposed in Transfer Application T-14365 comply with and satisfy the requirements of ORS 540.580 and OAR 690-385-4500.

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 place of use from which the water right is transferred off by Transfer T-14365 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, 2025**. 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.

Dated in Salem, Oregon on **AUG 13 2024**



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
IVAN GALL, DIRECTOR
Oregon Water Resources Department

Mailing Date: **AUG 14 2024**