

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

In the Matter of Transfer Application                    )     **FINAL ORDER APPROVING A**  
T-11709, Deschutes County                                )     **DISTRICT PERMANENT TRANSFER**

**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 30, 2013, 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-11709.
2. Notice of the application for transfer was published on January 7, 2014, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.
3. On April 3, 2014, the applicant provided information and an amended application map showing the proposed location of the portion of the right to be transferred for nursery use.
4. The portion of the right to be transferred is as follows:

**Certificate:** 74145, SWALLEY IRRIGATION DISTRICT (confirmed by decree of the Circuit Court of the State of Oregon for Deschutes County)

**Use:** IRRIGATION of 13.36 acres and NURSERY USE on 1.31 acres

**Priority Date:** SEPTEMBER 1, 1899

**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

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.

**Authorized Places of Use:**

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
17S	12E	WM	5	NW NE	1.00	2100	WALDRON	2013-01
17S	12E	WM	5	NW NE	1.00	2200	WALDRON	2013-01
16S	12E	WM	29	NW NE	0.60	306	KORISH	583
17S	12E	WM	28	NE NW	0.24	900	FRAZEE	776
17S	12E	WM	17	NW SW	0.23	708	SPORALSKY	1325
17S	12E	WM	16	SE SW	0.50	900	GROSSMAN	563
17S	12E	WM	16	SE SW	0.33	300	O'CALLAGHAN	907
17S	12E	WM	16	SE SW	0.30	1300	VARCOE	2012-10
17S	12E	WM	16	SE SW	0.10	1301	VARCOE	2012-11
17S	12E	WM	17	SW NW	1.00	1500	SPENCER	884
16S	12E	WM	22	SE SE	0.67	1401	LOW	2013-04
16S	12E	WM	5	NW SW	0.85	1700	MARCUM	2013-05
16S	12E	WM	16	NE SE	1.24	201	HANSON	2013-06
16S	12E	WM	16	SE SE	0.06	201	HANSON	2013-06
17S	12E	WM	4	NW SE	1.08	512	EILERS	2013-07
17S	12E	WM	4	NW NE	0.65	227	KNIGHT/LOWE LANE PROPERTIES	2013-09
16S	12E	WM	29	NE NW	0.08	600	WILSON/DESHANE	2013-10
16S	12E	WM	32	SW SW	0.74	715	HESKETT	2013-11
16S	12E	WM	29	NW NE	2.69	306	KORISH	583
<b>Total:</b>					<b>13.36</b>			

NURSERY								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
17S	12E	WM	22	NW NE	1.31	103	BEND LAPINE SCHOOL DISTRICT	2013-12

5. Transfer Application T-11709 proposes to change the places of use to:

**Proposed Places of Use:**

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
17S	12 E	WM	05	NW NE	0.70	2100	WALDRON	2013-01
17S	12 E	WM	05	NW NE	1.30	2200	WALDRON	2013-01
17S	12 E	WM	04	NW NE	2.30	217	KNIGHT/LOWE LANE PROPERTIES	2013-02
17S	12 E	WM	08	NW SE	0.72	1100	COSTELLO	2013-03
17S	12 E	WM	08	SW SE	0.28	1100	COSTELLO	2013-03
16S	12 E	WM	22	SE SE	0.67	1401	LOW	2013-04
16S	12 E	WM	05	NW SW	0.85	1700	MARCUM	2013-05
16S	12 E	WM	16	NE SE	0.42	200	HANSON	2013-06
16S	12 E	WM	16	NE SE	0.76	201	HANSON	2013-06
16S	12 E	WM	16	SE SE	0.12	201	HANSON	2013-06
17S	12 E	WM	04	NW SE	1.08	512	EILERS	2013-07
17S	12 E	WM	04	NW NE	0.65	227	KNIGHT/LOWE LANE PROPERTIES	2013-09
16S	12 E	WM	29	NE NW	0.08	600	WILSON/DESHANE	2013-10
16S	12 E	WM	32	SW SW	0.74	715	HESKETT	2013-11
16 S	12 E	WM	29	NW NE	2.69	306	WILLARD	2013-12
<b>Total:</b>					<b>13.36</b>			

NURSERY								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
16S	12E	WM	29	NW NE	1.31	306	WILLARD	2013-12

6. The district permanent transfer application satisfies the criteria of OAR 690-385-4000 contains the information required under OAR 690-385-2000 and includes maps meeting the requirements of OAR 690-385-2200.
7. The water right is subject to transfer as defined in OAR 690-385-0100.
8. The proposed change in places of use will not result in enlargement of the right.
9. The proposed change in places of use will not result in injury to other water rights.

### Conclusions of Law

The proposed changes in place of use as proposed in Transfer Application T-11709 satisfy the requirements of ORS 540.574(3) and 540.580.

### 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 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, 2015**. 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 superseding certificates describing the rights when it determines it is necessary for record keeping.

Dated at Salem, Oregon this 4 day of April 2014.

  
Dwight French, Water Right Services Administrator for  
PHILLIP C. WARD, DIRECTOR

Mailing Date: \_\_\_\_\_