

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-11944, 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 19, 2014, 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-11944.
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 15.67 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 |
| 15 S | 12E | WM | 36 | NE SE | 0.18 | 400 | TASSIE | 2014-9 |
| 15 S | 12E | WM | 36 | NW SE | 0.34 | 5300 | COOPER | 2014-9 |
| 16 S | 12E | WM | 15 | SE NW | 1.00 | 101 | HANSON | 2014-1 |
| 16 S | 12E | WM | 27 | SW SE | 0.28 | 700 | RATTIGAN/ RHODUS | 2014-20 |
| 16 S | 12E | WM | 28 | SW SW | 0.69 | 4800 | PETERSON | 2014-16 |
| 16 S | 12E | WM | 29 | NE NE | 0.43 | 101 | PERRET | 2014-12 |
| 16 S | 12E | WM | 29 | NW NE | 0.30 | 302 | NICOLL | 2014-2 |
| 16 S | 12E | WM | 29 | NW NE | 0.48 | 304 | CREW | 2014-7 |
| 16 S | 12E | WM | 29 | NE SW | 0.36 | 3800 | TENNIS | 2014-3 |
| 16 S | 12E | WM | 29 | NE SE | 0.65 | 1204 | CRUGER | 2014-22 |
| 16 S | 12E | WM | 29 | SW SE | 0.63 | 1103 | LESHAW | 2014-23 |
| 16 S | 12E | WM | 30 | SE SE | 0.18 | 800 | LANSING/ MONTOYA | 2014-15 |
| 16 S | 12E | WM | 30 | SE SE | 0.13 | 809 | LANSING/ MONTOYA | 2014-15 |
| 16 S | 12E | WM | 32 | NE NE | 0.34 | 200 | CHANG | 2014-4 |
| 16 S | 12E | WM | 32 | SE SW | 0.30 | 712 | MURPHY | 2014-10 |
| 17 S | 12E | WM | 3 | NE SW | 0.61 | 103 | SCHOFIELD | 2014-17 |
| 17 S | 12E | WM | 3 | NW SW | 0.39 | 107 | SCHOFIELD | 2014-18 |
| 17 S | 12E | WM | 3 | SW SW | 5.00 | 401 | MAYEA | 2014-13 |
| 17 S | 12E | WM | 5 | SW NE | 0.10 | 2500 | CREEK | 2014-14 |
| 17 S | 12E | WM | 5 | SE NW | 0.08 | 2500 | CREEK | 2014-14 |
| 17 S | 12E | WM | 5 | SE NW | 0.59 | 900 | KENT | 2014-19 |
| 17 S | 12E | WM | 8 | SW SE | 0.25 | 2300 | SWALLEY IRRIGATION DISTRICT | 2014-21 |
| 17 S | 12E | WM | 9 | NW NW | 0.34 | 1400 | MCKIM | 2014-5 |
| 17 S | 12E | WM | 9 | SW SW | 1.74 | 102 | COMMUNITY OF CHRIST CHURCH | 2014-11 |
| 17 S | 12E | WM | 17 | NW SE | 0.28 | 1300 | BOESCHOW | 2014-6 |
| Total: | | | | | 15.67 | | | |

5. Transfer Application T-11944 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 |
| 15 S | 12 E | WM | 36 | NE SE | 0.18 | 400 | TASSIE | 2014-9 |
| 15 S | 12 E | WM | 36 | NW SE | 0.34 | 5300 | COOPER | 2014-8 |
| 16 S | 12 E | WM | 16 | SE NE | 1.00 | 200 | HANSON | 2014-1 |
| 16 S | 12 E | WM | 27 | SW SE | 0.28 | 700 | RATTIGAN/ RHODUS | 2014-20 |
| 16 S | 12 E | WM | 28 | NW SW | 0.09 | 4800 | PETERSEN | 2014-16 |
| 16 S | 12 E | WM | 28 | SW SW | 0.60 | 4800 | PETERSEN | 2014-16 |
| 16 S | 12 E | WM | 29 | NE NE | 0.43 | 101 | PERRET | 2014-12 |
| 16 S | 12 E | WM | 29 | NW NE | 0.30 | 302 | NICOLL | 2014-2 |
| 16 S | 12 E | WM | 29 | NW NE | 0.48 | 304 | CREW | 2014-7 |
| 16 S | 12 E | WM | 29 | NE SW | 0.36 | 3800 | TENNIS | 2014-3 |
| 16 S | 12 E | WM | 29 | NE SE | 0.65 | 1204 | CRUGER | 2014-22 |
| 16 S | 12 E | WM | 29 | SW SE | 0.63 | 1103 | LESHAW | 2014-23 |
| 16 S | 12 E | WM | 30 | SE SE | 0.31 | 809 | LASING/MONTOYA | 2014-15 |
| 16 S | 12 E | WM | 30 | SE SE | 0.02 | 809 | LASING/MONTOYA | 2014-21 |
| 16 S | 12 E | WM | 30 | SE SE | 0.23 | 800 | LASING/MONTOYA | 2014-21 |
| 16 S | 12 E | WM | 32 | NE NE | 0.34 | 200 | CHANG | 2014-4 |
| 16 S | 12 E | WM | 32 | SE SW | 0.30 | 712 | MURPHY | 2014-10 |
| 17 S | 12 E | WM | 3 | NE SW | 0.50 | 103 | SCHOFIELD | 2014-17 |
| 17 S | 12 E | WM | 3 | NE SW | 0.08 | 107 | SCHOFIELD | 2014-18 |
| 17 S | 12 E | WM | 3 | NW SW | 0.11 | 103 | SCHOFIELD | 2014-17 |

| IRRIGATION | | | | | | | | |
|--------------|------|-----|-----|-------|--------------|---------|----------------------------|---------|
| Twp | Rng | Mer | Sec | Q-Q | Acres | Tax Lot | Water User | Notice |
| 17 S | 12 E | WM | 3 | NW SW | 0.31 | 107 | SCHOFIELD | 2014-18 |
| 17 S | 12 E | WM | 4 | NW NE | 0.10 | 221 | WILKINSON | 2014-13 |
| 17 S | 12 E | WM | 4 | NE NW | 4.90 | 221 | WILKINSON | 2014-13 |
| 17 S | 12 E | WM | 5 | SW NE | 0.18 | 2500 | CREEK | 2014-14 |
| 17 S | 12 E | WM | 5 | SE NW | 0.59 | 900 | KENT | 2014-19 |
| 17 S | 12 E | WM | 8 | SE SE | 1.49 | 102 | COMMUNITY OF CHRIST CHURCH | 2014-11 |
| 17 S | 12 E | WM | 9 | NW NW | 0.34 | 1400 | MCKIM | 2014-5 |
| 17 S | 12 E | WM | 9 | SW SW | 0.25 | 102 | COMMUNITY OF CHRIST CHURCH | 2014-11 |
| 17 S | 12 E | WM | 17 | NW SE | 0.28 | 1300 | BIESCHOW | 2014-16 |
| Total | | | | | 15.67 | | | |

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-11944 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, 2016**. 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 10 day of February, 2015.



Dwight French, Water Right Services Administrator for
THOMAS M. BYLER, DIRECTOR
Oregon Water Resources Department

Mailing Date: FEB 13 2015