

Application for Water Right Instream Transfer



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.wrd.state.or.us

Part 1 of 5 – Minimum Requirements Checklist

This transfer application will be returned if Parts 1 through 5 and all required attachments are not completed and included.
For questions, please call (503) 986-0900, and ask for Transfer Section.

FOR ALL INSTREAM TRANSFER APPLICATIONS

Check all items included with this application. (N/A = Not Applicable)

- Part 1 – Completed Minimum Requirements Checklist.
- Part 2 – Completed Map Checklist.
- Part 3 – Completed Instream Transfer Application – Applicant Information and Signature.
- Part 4 – Completed Instream Transfer Application – Water Right Information. Please include a separate Part 4 for each water right. List all water right certificates to be transferred here: **74145**.
- Part 5 – Completed Instream Transfer Application - Proposed Instream Use Information.

Attachments:

- Completed Instream Transfer Application Map.
- Completed Evidence of Use Affidavit and supporting documentation.
- Fees – Amount enclosed: \$ **800**.
See the Department’s Fee Schedule at www.wrd.state.or.us or call (503) 986-0883.
Note: Instream transfers are considered both a change in place of use and character of use. In addition, an automatic 50% fee waiver applies to all instream transfers.
- N/A Affidavit(s) of Consent.
- N/A Supplemental Form D – For water rights served by or issued in the name of an irrigation district. Complete when the transfer applicant is not the irrigation district.
- Land Use Notice - Notice of the intent to file an instream transfer application must be provided to each affected local government along the proposed reach. Copies of the notices must be enclosed with the instream transfer application.

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(For Staff Use Only)

WE ARE RETURNING YOUR APPLICATION FOR THE FOLLOWING REASON(S):

___ Application fee not enclosed/insufficient	___ Map not included or incomplete
___ Land Use Form not enclosed or incomplete	___ Land use notice not included or incomplete
___ Additional signature(s) required	___ Part ___ is incomplete

Other/Explanation _____

Staff: _____ 503-986-0____ Date: ____/____/____

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Part 2 of 5 – Map Checklist

Your transfer application will be returned if any of the map requirements listed below are not met.

Please be sure that the transfer application map you submit includes all the required items and matches the existing water right map. Check all boxes that apply.

- N/A Certified Water Right Examiner (CWRE) Stamp and Original Signature. For list of CWREs see http://www1.wrd.state.or.us/pdfs/cwre_listing.pdf.
- OR**
- N/A Waiver of requirement that map be prepared by a CWRE. Completed map waiver form is signed by the Department's Regional Manager and included in the application. The map **must** still meet Department mapping requirements described below.
- N/A If **more than three** water rights are involved, separate maps are needed for each water right.
- Permanent quality printed with dark ink on white or clear paper or film.
- The size of the map can be 8½ x 11 inches, 8½ x 14 inches, or up to 30 x 30 inches. For 30 x 30 inch maps, three (3) paper copies and an electronic copy in a .pdf, .tiff or .jpg format are required.
- A north arrow, a legend, and scale.
- The scale of the map must be: 1 inch = 400 feet, 1 inch = 1,320 feet, the scale of the Final Proof/Claim of Beneficial Use Map (the map used when the permit was certificated), the scale of the county assessor map if the scale is not smaller than 1 inch = 1,320 feet, or a scale that has been pre-approved by the Department.
- Township, Range, Section, quarter-quarter, DLC, Government Lot, and other recognized public land survey lines.
- Tax lot boundaries (property lines) are required. Tax lot numbers are recommended.
- Major physical features including rivers and creeks showing direction of flow, lakes and reservoirs, roads, and railroads.
- Major water delivery system features from the point(s) of diversion/appropriation such as main pipelines, canals, and ditches.
- Existing place of use that includes separate hachuring for each water right, priority date and use including number of acres in each quarter-quarter section, government lot, or in each quarter-quarter section as projected within government lots, donation land claims, or other recognized public land survey subdivisions. If less than the entirety of the water right is being changed, a separate hachuring is needed for lands left unchanged.
- Existing diversion point(s) with distance and bearing or coordinates from a recognized survey corner. This information can generally be found in your water right certificate or permit.

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Type of Instream Transfer

Permanent Instream Transfer or **Time-Limited Instream Transfer**

Applicant Information

APPLICANT/BUSINESS NAME Deschutes River Conservancy & Swalley Irrigation District			PHONE NO. 541-382-4077 x 21	ADDITIONAL CONTACT NO. 541-382-4077 x 16
ADDRESS 700 NW Hill				FAX NO. 541-382-4078
CITY Bend	STATE OR	ZIP 97701	E-MAIL zach@deschutesriver.org, gen@deschutesriver.org	

Agent Information – The agent is authorized to represent the applicant in all matters relating to this application.

APPLICANT/BUSINESS NAME			PHONE NO.	ADDITIONAL CONTACT NO.
ADDRESS				FAX NO.
CITY	STATE	ZIP	E-MAIL	

If an agent is listed above, please check **one** of the following:

- Please send all correspondence to Agent. Send copies of correspondence to Applicant; **OR**
- Please send all correspondence to Applicant. Send copies of correspondence to Agent.

Check this box if this project is fully or partially funded by the American Recovery and Reinvestment Act. (Federal stimulus dollars)

Is the applicant the sole owner of the land on which the water right, or portion thereof, proposed for transfer is located? Yes No

If NO, include signatures of all landowners (and mailing address if different than the applicant's) or attach affidavits of consent (and mailing addresses) from all landowners or individuals/entities to which the water right(s) has been conveyed.

Check one box

- By signing this application, I understand that, upon receipt of the draft preliminary determination and prior to Department approval of the transfer, I will be required to provide landownership information and evidence that I am authorized to pursue the transfer as identified in OAR 690-380-4010(5); **OR**
- I affirm the applicant is a municipality as defined in ORS 540.510(3)(b) and that the right is in the name of the municipality or a predecessor; **OR**
- I affirm that the applicant is an entity with the authority to condemn property and is acquiring by condemnation the property to which the water right proposed for transfer is appurtenant and have supporting documentation.

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I (we) affirm that the information contained in this application is true and accurate.

Suzanne Butterfield
Applicant signature
Tod Heisler for
Applicant signature

Suzanne Butterfield, Gen. Manager, Swalley ID
Name (and title if applicable) (print)
Tod Heisler, Executive Director, DRC
Name (and title if applicable) (print)

7/21/2010
Date
7/21/2010
Date

In your own words tell us what change(s) you want made and the reason for the change(s): **Irrigation water to permanently transfer instream for to improve streamflow and create mitigation credits.**

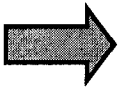
Check the following boxes that apply:

Check here if any of the water rights proposed for transfer are located within or served by an irrigation district or other water district before the transfer. (Tip: Complete and attach Supplemental Form D.)

IRRIGATION DISTRICT NAME Swalley Irrigation District	ADDRESS 64672 Cook Avenue, Suite #1	
CITY Bend	STATE OR	ZIP 97701

Check here if water for any of the rights is supplied under a water service agreement or other contract for stored water with a federal agency or other entity.

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP



To meet State Land Use Consistency Requirements, you must list all local governments (each county, city, municipal corporation, or tribal government) within whose jurisdiction the proposed instream reach will be located.

ENTITY NAME City of Bend	ADDRESS 710 NW Wall Street	
CITY Bend	STATE OR	ZIP 97701

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

ENTITY NAME Deschutes County Planning Department	ADDRESS 117 Lafayette Ave.	
CITY Bend	STATE OR	ZIP 97701

ENTITY NAME Jefferson County Planning Department	ADDRESS 66 SE D Street	
CITY Madras	STATE OR	ZIP 97741

ENTITY NAME Confederated Tribes of the Warm Springs Res.	ADDRESS 1233 Veterans Street	
CITY Warm Springs	STATE OR	ZIP 97761

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Please use a separate Part 4 for each water right being changed. See instructions at <http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml>.

CERTIFICATE # 74145

Name on Certificate: Swalley Irrigation District

Date(s) of Priority: 09/01/1899

Source(s) of Water to be Affected by the Transfer: Deschutes River

Description of Water Delivery System

System capacity: 125.0 cubic feet per second (cfs) OR
 _____ gallons per minute (gpm)

Describe the current water delivery system or the system that was in place at some time within the last five years. Include information on the pumps, canals, pipelines and sprinklers used to divert, convey and apply the water at the authorized place of use. **See exhibit A.**

Other Water Rights

Are there other water right certificates, water use permits or ground water registrations associated with the "from" lands? Yes No

If YES, list the certificate, water use permit, or ground water registration numbers: _____.

Pursuant to ORS 540.510, any "layered" water use such as an irrigation right that is supplemental to a primary right proposed for transfer must be included in the transfer or be cancelled. Any change to a ground water registration must be filed separately in a ground water registration modification application.

Table 1. Location of Authorized Point(s) of Diversion (POD)

(Note: If the POD name is not specified on the certificate, assign it a name or number here.
 Also, if the POD is not described in the Certificate, provide a description below)

POD Name or Number	Priority Date (if different between PODs)	Twp	Rng	Sec	¼ ¼	Tax Lot, DLC or Gov't Lot	Measured Distances (from a recognized survey corner)
See Exhibit A							

Will the proposed instream transfer affect the entire water right?

Yes Then Table 2 on Page 6 does not need to be completed.
 No Then complete all of Table 2 to describe the portion of the water right to be changed.

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Table 2. Description of Change to Water Right Certificate # 74145

List only the part of the right that will be changed. For the acreage in each quarter-quarter, list the change proposed. If more than one change, specify the acreage associated with each change. If more than one POD, specify the acreage associated with each POD.

Twp		Rng			Sec	¼ ¼		Tax Lot	Gov't Lot or DLC	Acres if Applicable	Type of USE listed on Certificate	Priority Date (if not the same for all acres or type of use)	POD(s) (name or number from Table 1)
2	S	9	E	14	NE	NW	100			15.0	Irrigation	4/1/1900	POD #1 POD #2
"	"	"	"	"	"	"	"	"	"	EXAMPLE	"	"	"
16	S	13	E	06	S W	SW	400			13.0	IRR	9/1/1899	See exhibit A
TOTAL ACRES										13.0			

Additional remarks: Instream transfer for mitigation, credits to be assigned to SID and DRC - but will ultimately be used by Avion Water Co.

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Part 5 of 5 – Proposed Instream Use Information

Identify the Public Use for which the instream right is requested (check at least one box):

- Conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values.
- Recreation
- Navigation
- Pollution Abatement

Instream use proposed to be created by the instream transfer:

Originating Water Right Number (as identified in Part 4)	Priority Date	Source	Proposed Instream Period	Rate (cfs)*	Volume (ac-ft)**
74145	9/1/1899	Deschutes River	4/1 - 11/1	See exhibit B	See exhibit B
TOTAL VOLUME					

***Tip:** To calculate rate (if other than the rate allowed by the right), divide the volume by the number of days in the period and then divide by 1.983471; or

****Tip:** To calculate volume, multiply the rate by the number of days in the instream period and then multiply by 1.983471.

Note: The instream rate may not exceed the max rate allowed by the existing right(s) and the total volume may not exceed to max volume or duty allowed by the existing right(s).

Additional Information: _____.

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Identify the location of the proposed instream water right.

- Water is requested to be protected at a point.
Location (i.e. the point of diversion (POD) – use the POD Name or Number from Table 1): _____.
- Water is requested to be protected within a reach:
Location of proposed reach (If an instream water right reach is requested, identify the upstream and downstream extent of the reach): **From Swalley Irrigation District main diversion to Lake Billy Chinook RM 164.5 - RM 120.**

Recommendations for conditions on the instream use to avoid taking away or impairing existing water rights.

- None
- Other (such conditions may include, but are not limited to, reductions in the instream flow levels in cfs per month or total ac-ft, the effective reach(es) or lake levels of the instream flow, measuring locations and the strategy for monitoring the instream flow or lake levels): _____.

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Are there any existing instream water rights on the same point or within the same requested reach(es) or lake, or on a portion thereof:

- No
- Yes (identify other instream water rights): **OWRD maintains list of current instream water rights.**

Note: New instream water rights are generally (but not always) additive to instream water rights established under ORS 537.348 (instream transfer application process) and ORS 537.470 (allocation of conserved water) and replace a portion of instream water rights established under ORS 537.341 (state agency application process) or ORS 537.346 (conversion of minimum perennial streamflows) with an earlier priority date.

Is it your intent to have the proposed instream water right transfer be additive to any instream water right established under ORS 537.348 and ORS 537.470 and replace a portion of any instream water right established under ORS 537.341 and ORS 537.346 with an earlier priority date?

- Yes
- No. If no, please explain your intent below:

If the proposed conversion would add to the amounts of an existing instream water right(s) established under ORS 537.341 or 537.346, provide documentation demonstrating why additional instream flows are necessary. Supporting documentation should include information from the Oregon Dept. of Fish and Wildlife (ODFW) (fish life), Dept. of Environmental Quality (DEQ) (pollution abatement), and/or Parks and Recreation Dept. (recreation).

Is the requested instream flow intended to exceed the estimated average natural flow or level occurring from the drainage system?

- No; **OR**
- Yes (Provide supporting documentation that demonstrates why additional flows are significant for the public use requested.); **OR**
- Yes, and it is presumed that flows that exceed the estimated average natural flow or natural lake levels are significant because:
 - The requested flow does not exceed the maximum amount of any instream water right application applied for under ORS 537.341 (state agency instream water right application process) for the same reach or portion thereof, and the requested public use is for the same public use as the afore mentioned instream water right application, **and**
 - For the specified time period that flows are requested to exceed the estimated average natural flow or lake level, the stream is in an ODFW flow restoration priority watershed. A copy of the priority watershed map indicating the specific watershed involved should be included with the application. Priority watershed maps may be found on the OWRD web page; **or**
 - The stream is listed as water quality limited and DEQ has provided scientific information that demonstrates that increased flows would improve water quality. The scientific information provided by DEQ should be included with the transfer application.

For a Time Limited Instream Transfer, please answer the following:

- The time-limited instream transfer is for a specific number of years:
_____ Begin Year to _____ End Year
- Time-limited instream transfer is to terminate based upon other conditions:
Conditions: _____.

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Water Right Transfer Supplemental Form D

WATER RIGHTS ISSUED IN THE NAME OF AN IRRIGATION DISTRICT

The Department encourages applicants to coordinate with districts during the planning and preparation of transfer applications involving water rights issued in the name of an irrigation district or involving the transfer of water rights located within the boundaries of an irrigation district.

This form must be included with your transfer application if the transfer involves rights issued in the name of an irrigation district.

1. APPLICANT INFORMATION

Name: Deschutes River Conservancy

Address: 700 NW Hill St.

City: Bend State: OR Zip: 97701

Home Phone: _____ Work Phone: 541-382-4077, ext16 Other Phone: _____

Fax: 541-382-4078 E-Mail address: gen@deschutesriver.org

2. DISTRICT INFORMATION

District Name: Swalley Irrigation District

Address: 64672 Cook Avenue, Suite #1

City: Bend State: OR Zip: 97701

Home Phone: _____ Work Phone: 541-388-0658 Other Phone: _____

Fax: 541-389-0433 E-Mail address: kathy@swalley.com

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3. WATER RIGHT(S) ISSUED IN THE NAME OF AN IRRIGATION DISTRICT(S)

Water right(s) issued in the name of a district proposed for transfer:

	Application / Decree	Permit / Previous Transfer	Certificate
1.	Deschutes Decree	C-29054	74145
2.		C-29056	
3.		-	
4.		-	
5.		-	
6.		-	

4. DISTRICT CONCURRENCE WITH PROPOSED WATER RIGHT TRANSFER

The district certifies the following:

- (1) The applicant has conferred with the district about the proposed water right transfer application;
- (2) The district has reviewed the applicant's proposed water right transfer application and maps; and
- (3) The district concurs with the proposed water right transfer application.


 District Manager Signature

Suzanne Butterfield, SID Manager 7/21/2010
 Name (print) Date

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Exhibit A
13.0 acres

All water rights being transferred are diverted at Swalley Irrigation District's Main Diversion (Headworks) structure.

The Swalley Irrigation District Main Diversion is located at Township 17 South, Range 12 East, Section 29 (SENE); 985 Feet North and 617 Feet West from the East ¼ Corner of Section 29.

The Head Works is constructed of concrete and steel with a radial arm flow control structure. There is a fish screen and a fish bypass device. Flow is diverted into a 56" (interior) diameter steel pipe with a capacity of 125 cubic feet per second.

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Exhibit B - Reach #1

From: North Canal Dam (SID Main Diversion) to Lake Billy Chinook (RM 120)

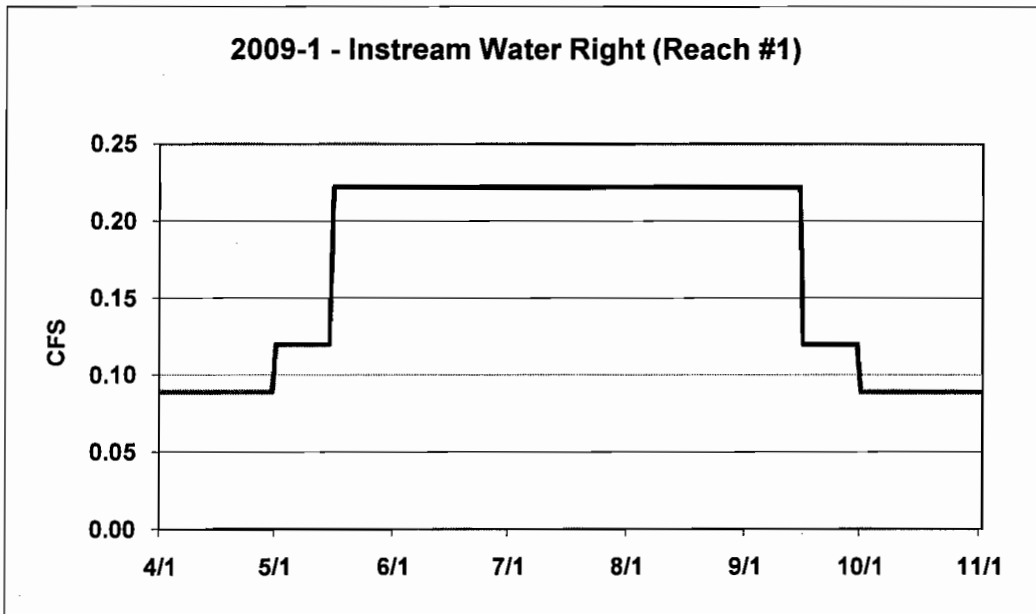
Instream Water Right

DWA Bank Allocation: 2009-1

Instream Rates	1899
Season 1	0.089 CFS
Season 2	0.120 CFS
Season 3	0.222 CFS

Instream Duty 71.10 Acre-Feet

Seasons are as follows:	
Season 1	4-1 through 5-1 & 10-1 through 11-1
Season 2	5-1 through 5-15 & 9-15 through 10-1
Season 3	5-15 through 9-15



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**This table will calculate flow rate factors and duty for Swalley Irrigation District
Instream Leases & Transfers**

Canal Diversion - Enter Total Number of Acres to be Leased Instream Here	13.000		
Direct Diversion - Enter Total Number of Acres to be Leased Instream Here			
Starting Point - Direct Diversion to be Leased	108.310		
Starting Point - Canal Diversion to be Leased	4441.625		
Starting Point - Full Right		Direct Diversion only - Starting Point - Rate	Canal Diversion only - Starting Point - Rate
Season 1	34.486	0.723	38.743
Season 2	46.089	0.968	45.124
Season 3	86.844	1.795	85.049
Duty	29779.810	573.056	29,204.75

* Approximate starting point

Information highlighted with purple font is to be entered on to the Instream Lease Application Form

Start Point Accounts for CW-13

T-8519

T-8154

CW-40

CW-41
CW-47
CW-43
CW-48
T-10356
CW-54 - 1st increment
CW-54 - 2nd increment
T-10669 - xfer to DD
T-10713 - iswr

For Permanent Water Right Certificate 74145

For Canal Diversion Only		Rate and duty identified in this section includes the 43% transmission loss allowed by decree	
Rate (CFS) associated with leased rights for Section 1.5 of the Lease Application Form	Full Rate	Duty (AF) associated with leased right for Section 1.5 of the Lease Application Form	
Season 1*	0.099	Duty AF/Acre* =	6.81
Season 2*	0.133		
Season 3*	0.250		85.98

* Note - The rates and duty identified have been proportion to prevent enlargement of the right and to reflect the amount at which the diversion should be reduced. (for example, S3 = starting canal rate divided by 4441.765 canal acres)

Rates and Volumes Identified in this section do not include the 43% transmission loss		Volume (AF) leased Instream for Section 2.2 of the Lease Application Form	
Rate (CFS) leased Instream for Section 2.2 of the Lease Application Form	Full Rate	Duty (decree) AF/Acre =	5.46
		Total =	70.99
Season 1	0.089	# of Days in each Season	61
Season 2	0.120		30
Season 3	0.222		123
		AF/ Season	10.77
			7.14
			54.16
			72.07

Additional Conditions to Prevent Injury for Section 2.2 of the Lease Application Form			
	# days	AF/Season	
Season 1*	55	9.71	
Season 2	30	7.14	
Season 3	123	54.16	
Season total =	208	71.01	Does not exceed duty
Water protected instream: April 1 through October 25			

* Note - The number of days that water may be protected instream in Season 1 has been reduced on revent enlargement of the right. The instream rates identified in this section are based upon the face value of the water right minus 43%.

For Direct Diversion Only

Rate (CFS) associated with leased rights for Section 1.5 of the Lease Application Form		Rate and duty identified in this section does not include the 43% transmission loss	
	Full Rate	Duty (AF) associated with leased right for Section 1.5 of the Lease Application Form	
Season 1	0.000	Duty (decree) AF/Acre =	5.46
Season 2	0.000		
Season 3	0.000		0.00

Rates and Volumes Identified in this section do not include the 43% transmission loss		Volume (AF) leased Instream for Section 2.2 of the Lease Application Form	
Rate (CFS) leased Instream for Section 2.2 of the Lease Application Form	Full Rate	Duty (decree) AF/Acre =	5.46
		Max instream volume =	0.00
Season 1	0.000	# of Days in each Season	61
Season 2	0.000		30
Season 3	0.000		123
		AF/ Season if full season	0.00
			0.00
			0.00
			0.00

Additional Conditions to Prevent Injury for Section 2.2 of the Lease Application Form			
	# days	AF/Season	
Season 1*	55	0.00	
Season 2	30	0.00	
Season 3	123	0.00	
Season total =	208	0.00	Does not exceed duty
Water protected instream: April 1 through October 25			

* Note - The number of days that water may be protected instream in Season 1 has been reduced on revent enlargement of the right.

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