

Water Resources Department  
ATTN: Joan Smith  
725 Summer Street NE, Suite A  
Salem, OR 97301  
12/9/2016

**RE: USFS, BMPRD, Swalley ID NUR-IRR cleanup project Ph.2 (USFS)**

To Whom it May Concern at OWRD:

Swalley ID has been diligently working with OWRD, Bend Metro Parks & Recreation (BMPRD), and the US Forest Service (USFS) to clean up certain water rights at the old Bend Pine Nursery property (recently converted to a large park under BMPRD ownership, and also the USFS headquarters for Central Oregon). In late September of 2016, Swalley submitted a transfer application involving the BMPRD portion of water rights involved in said cleanup project. Currently, Swalley nursery (NUR) rights exist on the property whereby some of these rights were historically doubled up for rate. These doubled up NUR rights have existed on the property since adjudication and have passed through the 3111 process. As records will show, OWRD has allowed leasing of some of these rights in the very recent past. After consulting with OWRD staff, BMPRD, and USFS, we find it in all parties' interest to apply for a concurrent non-district transfer of the POU and USE, unlayer the doubled up NUR rights, and to set back down irrigation (IRR) and NUR rights where applicable to current beneficial uses and needs. A portion of currently doubled up BMPRD NUR rights (in addition to non-doubled up BMPRD NUR rights) will be picked up and set back down as standard duty IRR rights, while existing USFS NUR rights (processed through this separate transfer) will be picked up and set back down as both standard IRR and standard NUR rights. For the balance of newly unlayered NUR rights not being immediately remapped and put to beneficial use for both USFS and BMPRD transfers, Swalley would like to quitclaim and instream lease these excess rights in their existing NUR USE type for the protection of other water users within Swalley. A quitclaim and instream transfer application for these unlayered NUR rights will come at a later date once the fate of this and the previous BMPRD (Phase1) application is known.

We understand that undergoing the concurrent processes of changing a portion of the existing NUR rights to IRR rights, unlayering a portion of NUR rights that were intentionally doubled up in the original mapping process, putting rights down in the proper configuration, while intending to eventually quitclaim and lease the balance of unused NUR rights instream is seemingly complex, but we have been advised to this approach by OWRD staff. Swalley, BMPRD, and USFS support this process (and intent) and find the proposed transfer activities to be in the best interest of the public they serve. Further, we hope to have an approved application prior to the April 2017 irrigation season so that our fellow governmental agencies will be able to resume their services to the public without irrigation delays or interruptions. USFS wishes to use a portion of the reconfigured NUR rights to grow and harvest restoration materials for important local habitat conservation projects as soon as possible, while it is also important that BMPRD parklands are kept green and useable for the public at-large. ***BMPRD and USFS transfer applications have been submitted separately. Attached are the USFS-based transfer application materials.***

We very much appreciate your review and assistance in processing the following transfer application. Please do not hesitate to contact my office with any questions.

Very Sincerely,  
Jer Camarata, GM

Phone 541/388-0658  
Fax 541/389-0433

64672 COOK AVENUE  
SUITE ONE  
BEND, OREGON 97701

www.swalley.com

A large, stylized handwritten signature in black ink, appearing to be "Jer Camarata".

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SALEM, OR

T 12535



State of Oregon  
Water Resources Department  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1266  
(503) 986-0900

# Application for Permanent Water Right Transfer

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.

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

- Part 1 – Completed Minimum Requirements Checklist. DEC 14 2016
- Part 2 – Completed Transfer Application Map Checklist. SALEM, OR
- Part 3 – Application Fee, payable by check to the Oregon Water Resources Department, and completed Fee Worksheet, page 3. Try the new online fee calculator at: [http://apps.wrd.state.or.us/apps/misc/wrd\\_fee\\_calculator](http://apps.wrd.state.or.us/apps/misc/wrd_fee_calculator). If you have questions, call Customer Service at (503) 986-0801.
- Part 4 – Completed Applicant Information and Signature.
- Part 5 – Information about Water Rights to be Transferred: **How many water rights are to be transferred? 5.12 acres List them here: Certificate 74145**  
Please include a separate Part 5 for each water right. (See instructions on page 6)

**Attachments:**

- Completed Transfer Application Map.
- Completed Evidence of Use Affidavit and supporting documentation.
- N/A Affidavit(s) of Consent from Landowner(s) (if the applicant does not own the land the water right is on.)
- 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.
- N/A Land Use Information Form with approval and signature (or signed land use form receipt stub). Not required if water is to be diverted, conveyed, and/or used only on federal lands or if **all** of the following apply: a) a change in place of use only, b) no structural changes, c) the use of water is for irrigation only, and d) the use is located within an irrigation district or an exclusive farm use zone.
- N/A Water Well Report/Well Log for changes in point(s) of appropriation (well(s)) or additional point(s) of appropriation.
- N/A Geologist Report for a change from a surface water point of diversion to a ground water point of appropriation (well), if the proposed well is more than 500' from the surface water source and more than 1000' upstream or downstream from the point of diversion. See OAR 690-380-2130 for requirements and applicability.

(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
- Additional signature(s) required  Part \_\_\_\_\_ is incomplete

Other/Explanation \_\_\_\_\_

Staff: \_\_\_\_\_ 503-986-0 \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

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 a list of CWREs, see [http://apps.wrd.state.or.us/apps/wr/cwre\\_license\\_view/](http://apps.wrd.state.or.us/apps/wr/cwre_license_view/). CWRE stamp and signature are not required for substitutions.
- 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 good quality paper.
- The size of the map can be 8½ x 11 inches, 8½ x 14 inches, 11 x 17 inches, or up to 30 x 30 inches. For 30 x 30 inch maps, one extra copy is 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, ¼ ¼, 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.
- N/A Proposed 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.
- Existing point(s) of diversion or well(s) with distance and bearing or coordinates from a recognized survey corner. This information can be found in your water right certificate or permit.
- N/A If you are proposing a change in point(s) of diversion or well(s), show the proposed location and label it clearly with distance and bearing or coordinates. If GPS coordinates are used, latitude-longitude coordinates may be expressed as either degrees-minutes-seconds with at least one digit after the decimal (example – 42°32'15.5") or degrees-decimal with one or more digits after the decimal (example – 42.53764°).



## Part 4 of 5 – Applicant Information and Signature

### Applicant Information

APPLICANT/BUSINESS NAME <b>Swalley Irrigation District</b>		PHONE NO. <b>541-388-0658</b>	ADDITIONAL CONTACT NO.
ADDRESS <b>64672 Cook Ave., Ste. 1</b>			FAX NO. <b>541-389-0433</b>
CITY <b>Bend</b>	STATE <b>OR</b>	ZIP <b>97703</b>	E-MAIL <b>kathy@swalley.com</b>
<b>BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.</b>			

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

AGENT/BUSINESS NAME		PHONE NO.	ADDITIONAL CONTACT NO.
ADDRESS			FAX NO.
CITY	STATE	ZIP	E-MAIL
<b>BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.</b>			

Explain in your own words what you propose to accomplish with this transfer application, and why:

If you need additional space, continue on a separate piece of paper and attach to the application as "Attachment 1".

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

### Check One Box

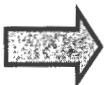
- By signing this application, I understand that, upon receipt of the draft preliminary determination and prior to Department approval of the transfer, I will be required to provide landownership information and evidence that I am authorized to pursue the transfer as identified in OAR 690-380-4010(5); **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 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 understand that prior to Department approval of the transfer application, I may be required to submit payment to the Department for publication of a notice in a newspaper with general circulation in the area where the water right is located, once per week for two consecutive weeks. If more than one qualifying newspaper is available, I suggest publishing the notice in the following newspaper: Bend Bulletin.

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



*[Signature]*  
Applicant signature

**Jer Camarata/Manager**  
Print Name (and Title if applicable)

12/9/16  
Date

\_\_\_\_\_  
Applicant signature

\_\_\_\_\_  
Print Name (and Title if applicable)

\_\_\_\_\_  
Date

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 deeded landowners (and mailing and/or e-mail addresses if different than the applicant's) or attach affidavits of consent (and mailing and/or e-mail addresses) from all landowners or individuals/entities to which the water right(s) were conveyed.*

Check the following boxes that apply:

- The applicant is responsible for completion of change(s). Notices and correspondence should continue to be sent to the applicant.
- The receiving landowner will be responsible for completing the proposed change(s) after the final order is issued. Copies of notices and correspondence should be sent to this landowner.
- Both the receiving landowner and applicant will be responsible for completion of change(s). Copies of notices and correspondence should be sent to this landowner and the applicant.

At this time, are the lands in this transfer application in the process of being sold?  Yes  No

If YES, and you know who the new landowner will be, please complete the receiving landowner information table below. If you do not know who the new landowner will be, then a request for assignment will have to be filed for at a later date.

If a property sells, the certificated water right(s) located on the land belong to the new owner, unless a sale agreement or other document states otherwise. For more information see: <http://www.oregon.gov/owrd/docs/transfer-propertytransactions.pdf>

RECEIVING LANDOWNER NAME <b>United State Forest Service</b>			PHONE NO. <b>541-383-5566</b>	ADDITIONAL CONTACT NO.
ADDRESS <b>63095 Deschutes Market Rd</b>				FAX NO. <b>541-383-5531</b>
CITY <b>Bend</b>	STATE <b>OR</b>	ZIP <b>97701</b>	E-MAIL <b>rtanner@fs.fed.us</b>	

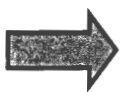
Describe any special ownership circumstances here: \_\_\_\_\_

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

IRRIGATION DISTRICT NAME <b>Swalley Irrigation District</b>	ADDRESS <b>64672 Cook Ave., Ste. 1</b>		
CITY <b>Bend</b>	STATE <b>OR</b>	ZIP <b>97703</b>	

- Check here if water for any of the rights 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 county, city, municipal corporation, or tribal governments within whose jurisdiction water will be diverted, conveyed or used.

ENTITY NAME <b>City of Bend</b>	ADDRESS <b>710 Wall Street</b>		
CITY <b>Bend</b>	STATE <b>OR</b>	ZIP <b>97701</b>	

ENTITY NAME	ADDRESS		
CITY	STATE	ZIP	

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## INSTRUCTIONS for editing the Application Form

To add additional lines to tables within the forms or to copy and paste additional Part 5 pages, please **save the application form to your computer**. Unlock the document by using one of the following instructions for your Microsoft Word software version:

### Microsoft Word 2003

Unlock the document by one of the following:

- Using the **Tools** menu => click **Unprotect Document**;
- OR**
- Using the **Forms** toolbar => click on the **Protect/Unprotect** icon.

To relock the document to enable the checkboxes to work, you will need to:

- Using the **Tools** menu => click **Protect Document**;
- OR**
- Using the **Forms** toolbar => click on the **Protect/Unprotect** icon.

### Microsoft Word 2007

- Unlock the document by clicking the **Review** tab, then click **Protect Document**, then click **Stop Protect**
- To relock the document, click **Editing Restrictions**, then click **Allow Only This Type of Editing**, select **Filling In Forms** from the drop-down menu, then check **Yes, Start Enforcing Protection**.

### Microsoft Word 2010

- Unlock the document by clicking the **Review** tab, toggle the **Restrict Editing** icon at the upper right, then click **Stop Protect** at the bottom right. Then uncheck the "Allow only this type of editing in the document: **Filling in forms**" in the "Editing restrictions" section on the right-hand list of options.
- To relock the document, check the **Editing Restrictions/Allow Only This Type of Editing/Filling In Forms** box from the drop-down menu, then check **Yes, Start Enforcing Protection**. You do not need to assign a password for the editing restrictions.

### Other Alternatives:

- Photocopy pages or tables in Part 5, ~~mark through~~ any non-applicable information, insert/attach photocopied pages to document in the appropriate location, and manually amend page numbers as necessary (e.g. Page 5 of 10).
- You may refer to additional attachments that you may include, such as separately produced tables or spreadsheets to convey large numbers of rows of place of use listings, owner/property parcels, etc. You may contact the Department at 503-986-0900 and ask for Transfer Staff if you have questions.

Once the application has been unlocked, you may:

- add additional rows to tables using the Table tools, and
- select and copy the pages of Part 5 and paste as many additional sets of Part 5 pages as needed at the end of the application.

After editing, re-lock the document to enable checkboxes to work.

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## Part 5 of 5 – Water Right Information

Please use a separate Part 5 for each water right being changed. See instructions on page 6, to copy and paste additional Part 5s, or to add additional rows to tables within the form.

### CERTIFICATE # 74145

#### Description of Water Delivery System

System capacity: 3.57 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. **Water is turned out from Swalley Kotzman Lateral pipeline into a Cipolitti 30 inch wier. From there water goes into an 8 inch steel private pipeline. This flows into an irrigation pond then pumped out into another private pipeline into a cystem and then pumped out to a underground sprinkler system.**

**Table 1. Location of Authorized and Proposed Point(s) of Diversion (POD) or Appropriation (POA)**  
 (Note: If the POD/POA name is not specified on the certificate, assign it a name or number here.)

POD/POA Name or Number	Is this POD/POA Authorized on the Certificate or is it Proposed?	If POA, OWRD Well Log ID# (or Well ID Tag # L-___)	Twp		Rng		Sec		¼ ¼		Tax Lot, DLC or Gov't Lot	Measured Distances (from a recognized survey corner)
3	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed		17	S	12	E	23	SW	NW	1800	985 feet North and 617 feet West from the E 1/4 corner of Section 29	
3	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed		17	S	12	E	23	NW	NW	1800	985 feet North and 617 feet West from the E 1/4 corner of Section 29	
	<input type="checkbox"/> Authorized <input type="checkbox"/> Proposed											
	<input type="checkbox"/> Authorized <input type="checkbox"/> Proposed											

**Check all type(s) of change(s) proposed below (change "CODES" are provided in parentheses):**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Place of Use (POU)                 | <input type="checkbox"/> Supplemental Use to Primary Use (S to P) |
| <input checked="" type="checkbox"/> Character of Use (USE)             | <input type="checkbox"/> Point of Appropriation/Well (POA)        |
| <input type="checkbox"/> Point of Diversion (POD)                      | <input type="checkbox"/> Additional Point of Appropriation (APOA) |
| <input type="checkbox"/> Additional Point of Diversion (APOD)          | <input type="checkbox"/> Substitution (SUB)                       |
| <input type="checkbox"/> Surface Water POD to Ground Water POA (SW/GW) | <input type="checkbox"/> Government Action POD (GOV)              |

**Will all of the proposed changes affect the entire water right?**

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- Yes Complete only the Proposed (“to” or “on” lands) section of Table 2 on the next page. Use the “CODES” listed above to describe the proposed changes.
- No Complete all of Table 2 to describe the portion of the water right to be changed.

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Please use and attach additional pages of Table 2 as needed.  
See page 6 for instructions.

Do you have questions about how to fill-out the tables?  
Contact the Department at 503-986-0900 and ask for Transfer Staff.

**Table 2. Description of Changes to Water Right Certificate # 74145**

List the change proposed for the acreage in each 1/4 1/4. If more than one change is proposed, specify the acreage associated with each change.  
If there is more than one POD/POA involved in the proposed changes, specify the acreage associated with each POD/POA.

AUTHORIZED (the "from" or "off" lands) The listing that appears on the certificate BEFORE PROPOSED CHANGES List only that part or portion of the water right that will be changed.											Proposed Changes (see "CODES" from previous page)	PROPOSED (the "to" or "on" lands) The listing as it would appear AFTER PROPOSED CHANGES are made.															
Twp	Rng	Sec	1/4	1/4	Tax Lot	Gvt Lot or DLC	Acres	Type of USE listed on Certificate	POD(s) or POA(s) (name or number from Table 1)	Priority Date		Twp	Rng	Sec	1/4	1/4	Tax Lot	Gvt Lot or DLC	Acres	New Type of USE	POD(s)/ POA(s) to be used (from Table 1)	Priority Date					
<b>EXAMPLE</b>																											
2	S	9	E	15	NE	NW	100		15.0	Irrigation	POD #1 POD #2	1901	POU/POD	2	S	9	E	1	NW	NW	500	1	10.0		POD #5	1901	
															2	S	9	E	2	SW	NW	500		5.0		POD #6	1901
17	S	12	E	23	NW	NW	1800		3.23	NUR	3	1899	3-15	17	S	12	E	23	NW	NW	1800		.35	IRR	3	1899	
17	S	12	E	23	SW	NW	1800		1.33	NUR	3	1899		17	S	12	E	23	SW	NW	1800		2.66	NUR	3	1899	
															17	S	12	E	23	SW	NW	1800		1.55	NUR	3	1899
17	S	12	E	23	NW	NW	1800		.44	NUR	3	1899		17	S	12	E	23	NW	NW	1800		.44	IRR	3	1899	
17	S	12	E	23	SW	NW	1800		.12	NUR	3	1899		17	S	12	E	23	SW	NW	1800		.12	IRR	3	1899	
TOTAL ACRES:							5.12						TOTAL ACRES:							5.12							

Additional remarks: Page 29 on Certificate 74145. Instream Lease # IL-1291.


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**For Place of Use or Character of Use Changes**

Are there other water right certificates, water use permits or ground water registrations associated with the "from" or the "to" 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.

**For Substitution** (ground water supplemental irrigation will be substituted for surface water primary irrigation)

Ground water supplemental Permit or Certificate # \_\_\_\_\_;  
Surface water primary Certificate # \_\_\_\_\_.

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**For a change from Supplemental Irrigation Use to Primary Irrigation Use**

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Identify the primary certificate to be cancelled. Certificate # \_\_\_\_\_

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**For a change in point(s) of appropriation (well(s)) or additional point(s) of appropriation:**

Well log(s) are attached for each authorized and proposed well(s) that are clearly labeled and associated with the corresponding well(s) in Table 1 above and on the accompanying application map.

**Tip:** You may search for well logs on the Department's web page at:

[http://apps.wrd.state.or.us/apps/gw/well\\_log/Default.aspx](http://apps.wrd.state.or.us/apps/gw/well_log/Default.aspx)

**AND/OR**

Describe the construction of the authorized and proposed well(s) in Table 3 for any wells that do not have a well log. For *proposed wells not yet constructed or built*, provide "a best estimate" for each requested information element in the table. The Department recommends you consult a licensed well driller, geologist, or certified water right examiner to assist with assembling the information necessary to complete Table 3.

**Table 3. Construction of Point(s) of Appropriation**

Any well(s) in this listing must be clearly tied to corresponding well(s) described in Table 1 and shown on the accompanying application map. Failure to provide the information will delay the processing of your transfer application until it is received. The information is necessary for the department to assess whether the proposed well(s) will access the same source aquifer as the authorized point(s) of appropriation (POA). The Department is prohibited by law from approving POA changes that do not access the same source aquifer.

Proposed or Authorized POA Name or Number	Is well already built? (Yes or No)	If an existing well: OWRD Well ID Tag No. L-	Total well depth	Casing Diameter	Casing Intervals (feet)	Seal depth(s) (intervals)	Perforated or screened intervals (in feet)	Static water level of completed well (in feet)	Source aquifer (sand, gravel, basalt, etc.)	Well -specific rate (cfs or gpm). If less than full rate of water right