

Application for Permanent Water Right Transfer

Part 1 of 5 – Minimum Requirements Checklist



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.oregon.gov/OWRD

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.

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

- Part 1 – Completed Minimum Requirements Checklist.
- Part 2 – Completed Transfer Application Map Checklist.
- 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. 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? one List them here: C-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 Oregon Water Resources Department’s Land Use Information Form with approval and signature (or signed land use form receipt stub) from each local land use authority in which water is to be diverted, conveyed, and/or used. 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):

<input type="checkbox"/> Application fee not enclosed/insufficient	<input type="checkbox"/> Map not included or incomplete
<input type="checkbox"/> Land Use Form not enclosed or incomplete	<input type="checkbox"/> Evidence of Use Form not enclosed or incomplete
<input type="checkbox"/> Additional signature(s) required	<input type="checkbox"/> Part _____ is incomplete

Other/Explanation _____

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

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Part 2 of 5 – Transfer Application Map

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/. 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 five or more digits after the decimal (example – 42.53764°).

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Part 4 of 5 – Applicant Information and Signature

Applicant Information

APPLICANT/BUSINESS NAME Tumalo Irrigation District		PHONE NO. 541-382-3053	ADDITIONAL CONTACT NO.
ADDRESS 64697 Cook Avenue			FAX NO. N/A
CITY Bend	STATE OR	ZIP 97703	E-MAIL staff@tumalo.org
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.			

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
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.			

Explain in your own words what you propose to accomplish with this transfer application, and why:
 Permanent transfer of 5 acres of surface water to be used for irrigation from Certificate 74145 downstream to new Place of Use.
 If you need additional space, continue on a separate piece of paper and attach to the application as "Attachment 1".

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.

By my signature below, I confirm that I understand:

- 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: _____.
- Amendments to the application may only be made in response to the Department's Draft Preliminary Determination (DPD). The applicant will have a period of at least 30 days to amend the application to address any issues identified by the Department in the DPD, or to withdraw the application. Note that amendments may be subject to additional fees, pursuant to ORS 536.050.
- Failure to complete an approved change in place of use and/or change in character of use will result in loss of the water right (OAR 690-380-6010).

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

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Chris Schull
Applicant signature

Chris Schull, Interim Manager
Print Name (and Title if applicable)

June 24, 2021 OWRD
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: https://www.oregon.gov/owrd/WRDFormsPDF/Transfer_Property_Transactions.pdf

RECEIVING LANDOWNER NAME Water User: Bendis Homes Pinehurst, LLC			PHONE NO.	ADDITIONAL CONTACT NO.
ADDRESS				FAX NO.
CITY	STATE	ZIP	E-MAIL	

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 Tumalo Irrigation District	ADDRESS 64697 Cook Avenue		
CITY Bend	STATE OR	ZIP 97703	

- 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, **RECEIVED** municipality, or tribal governments within whose jurisdiction water will be diverted, conveyed or used. **NOV 19 2021**

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

ENTITY NAME Deschutes County	ADDRESS 1300 NW Wall Street, Suite 200		
CITY Bend	STATE OR	ZIP 97703	

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 # _____

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 comes in from lateral and goes into pond, which is then pumped out to a wheel line or hand line.**

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	29	SE	NE		985 feet North and 617 feet West from the E 1/4 corner of Section 29
15	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed		15	S	12	E	14	NW	SE		2170 feet North and 1350 feet West from SE Corner of Section 14
19	<input type="checkbox"/> Authorized <input checked="" type="checkbox"/> Proposed		17	S	12	E	32	NW	NE		2050 feet West from the NE Corner of Section 32
	<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 type="checkbox"/> Character of Use (USE) | <input type="checkbox"/> Point of Appropriation/Well (POA) |
| <input checked="" 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?

- 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 ¼ ¼. 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	¼ ¼	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	¼ ¼	Tax Lot	Gvt Lot or DLC	Acres	New Type of USE	POD(s)/ POA(s) to be used (from Table 1)	Priority Date		
EXAMPLE																						
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		
16	S	12	E 26	NW SW	201	2.49	IRR	POD #3 POD #15	9/1/1899	POU/POD	16	S	11	E 25	SW NW	400		4.00	POD #9	9/1/1899		
16	S	12	E 29	SE SE	1200	2.51	IRR	POD #3 POD #15	9/1/1899	POU/POD	16	S	11	E 25	SE NW	400		1.00	POD #9	9/1/1899		
TOTAL ACRES:						5.00						TOTAL ACRES:						5.00				

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Additional remarks: _____

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 # _____.

For a change from Supplemental Irrigation Use to Primary Irrigation Use

Identify the primary certificate to be cancelled. Certificate # _____

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

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

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Application for Water Right Transfer

Evidence of Use Affidavit



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

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more spacing. Supporting documentation must be attached.

State of Oregon)
) ss
 County of DESCHUTES)

I, JER CAMARATA, in my capacity as DISTRICT MANAGER OF SWALLEY IRRIGATION DISTRICT,
 mailing address 64672 COOK AVE, SUITE #1, BEND, OR 97703.
 telephone number (541)388-0658, being first duly sworn depose and say:

1. My knowledge of the exercise or status of the water right is based on (check one):
 Personal observation Professional expertise

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2. I attest that:

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- Water was used during the previous five years on the **entire** place of use for Certificate # ____; **OR**

- My knowledge is specific to the use of water at the following locations within the last five years:

Certificate #	Township		Range		Mer	Sec	¼ ¼		Lot	Acres (if applicable)
74145	16	S	12	E	WM	29	SE	SE	1200	2.51
74145	16	S	12	E	WM	26	NW	SW	201	2.49

- OR**
- Confirming Certificate # ____ has been issued within the past five years; **OR**
- Part or all of the water right was leased instream at some time within the last five years. The instream lease number is: IL-1558 (LOT 1200, IL-1662 (LOT 201) (Note: If the entire right proposed for transfer was not leased, additional evidence of use is needed for the portion not leased instream.); **OR**
- The water right is not subject to forfeiture and documentation that a presumption of forfeiture for non-use would be rebutted under ORS 540.610(2) is attached.
- Water has been used at the actual current point of diversion or appropriation for more than 10 years for Certificate # ____ (For Historic POD/POA Transfers)

(continues on reverse side)

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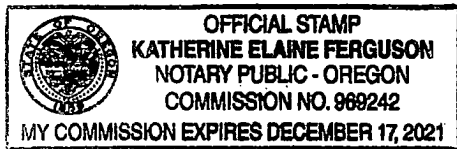
3. The water right was used for: (e.g., crops, pasture, etc.): INSTREAM LEASE

4. I understand that if I do not attach one or more of the documents shown in the table below to support the above statements, my application will be considered incomplete.

Signature of Affiant

6/29/21
Date

Signed and sworn to (or affirmed) before me this 29 day of June, 2021.



Katherine Elaine Ferguson
Notary Public for Oregon

My Commission Expires: 12-17-2021

Supporting Documents	Examples
<input type="checkbox"/> Copy of a water right certificate that has been issued within the last five years. (not a remaining right certificate)	Copy of confirming water right certificate that shows issue date
<input type="checkbox"/> Copies of receipts from sales of irrigated crops or for expenditures related to use of water	<ul style="list-style-type: none"> ● Power usage records for pumps associated with irrigation use ● Fertilizer or seed bills related to irrigated crops ● Farmers Co-op sales receipt
<input type="checkbox"/> Records such as FSA crop reports, irrigation district records, NRCS farm management plan, or records of other water suppliers	<ul style="list-style-type: none"> ● District assessment records for water delivered ● Crop reports submitted under a federal loan agreement ● Beneficial use reports from district ● IRS Farm Usage Deduction Report ● Agricultural Stabilization Plan ● CREP Report
<input type="checkbox"/> Aerial photos containing sufficient detail to establish location and date of photograph	<p>Multiple photos can be submitted to resolve different areas of a water right. If the photograph does not print with a "date stamp" or without the source being identified, the date of the photograph and source should be added.</p> <p>Sources for aerial photos: OSU – www.oregonexplorer.info/imagery OWRD – www.wrd.state.or.us Google Earth – earth.google.com TerraServer – www.terra-server.com</p>
<input checked="" type="checkbox"/> Approved Lease establishing beneficial use within the last 5 years	Copy of instream lease or lease number

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Swalley

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Instream Lease Application) DETERMINATION and
IL-1558, Deschutes County) FINAL ORDER ON PROPOSED
) INSTREAM LEASE

Authority

Oregon Revised Statute (ORS) 537.348 establishes the process in which a water right holder may submit a request to lease an existing water right for instream purposes. Oregon Administrative Rule (OAR) Chapter 690, Division 077 implements the statutes and provides the Department's procedures and criteria for evaluating instream lease applications.

Lessor

Pooled Instream Lease for several water right holders (described in Finding of Fact No. 2)

Co-Lessor

Swalley Irrigation District (SID)
64672 Cook Ave., Suite 1
Bend, OR 97703
kathy@swalley.com

Lessee

Deschutes River Conservancy (DRC)
700 NW Hill St., Ste #1
Bend, Oregon 97703
gen@deschutesriver.org

Findings of Fact

1. On June 24, 2016, the DRC and SID, on behalf of several water right holders, filed an application to lease a portion of Certificate 74145 for instream use. The Department assigned the application number IL-1558.
2. On July 27, 2016, the Department contacted the applicant regarding deficiencies in the application, mainly there was acreage that did not appear to have met the evidence of use standard and clarification was requested on some descriptions. On August 4, 9 and 17, 2016 and September 1, 2016, the applicant submitted evidence on some portions and removed 1.12 acres from the lease application.
3. The portion of the right to be leased is as follows:

Certificate: 74145 in the name of Swalley Irrigation District (confirmed by the Deschutes River Decree, of record at Salem, in the Order Record of the Water Resources Director, in Volume 12, at Page 282 and Volume 16, at Pages 148 and 39)

This is a final order in other than 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 either 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.

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Priority Date: September 1, 1899

Use: Irrigation of 24.07 acres

Season of Use: April 1 to November 1, further limited as follows:

April 1 to May 1 and Oct. 1 to Nov. 1 described herein as Season 1

May 1 to May 15 and Sept. 15 to Oct. 1 described herein as Season 2

May 15 to Sept. 15 described herein as Season 3

Quantity: Rate: Season 1 (limited to 1/83rd Cubic Foot per Second (CFS)/acre)
Season 2 (limited to 1/62nd CFS/acre)
Season 3 (limited to 1/33.45 CFS/acre)

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion not to exceed the quantity determined by decree of the Circuit Court for Deschutes County, dated March 24, 1933 (listed above) for each acre irrigated from the Swalley Canal during the irrigation season of each year, not to exceed 9.58 acre-feet for each acre irrigated during the irrigation season as measured at the diversion from the source.

The quantities listed reflect allowance of a 43% transmission loss as determined by decree of the Circuit Court of Deschutes County, dated March 24, 1933, which is not allowed for direct diversions.

Source: Deschutes River, tributary to the Columbia River

Authorized Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17S	12E	WM	29	SE NE	(POD NO. 3) SWALLEY MAIN CANAL - 985 FEET NORTH AND 617 FEET WEST FROM THE EAST ¼ CORNER OF SECTION 29.

Authorized Place of Use (POU):

Irrigation							
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water Right Holder (Lessors)
15 S	12 E	WM	14	SW SE	6.50	800	Frank Chase
16 S	12 E	WM	15	SE NW	3.40	1300	Patrick Agnew
16 S	12 E	WM	29	SE SE	2.51	1200	Swalley Irrigation District
17 S	12 E	WM	8	NW SW	0.94	1200	Swalley Irrigation District
17 S	12 E	WM	8	NW SW	1.50	1300	RF Wilson
17 S	12 E	WM	8	NW SE	1.00	1200	William Lovelace
17 S	12 E	WM	9	NE SE	5.00	6700	Cascade Village / Paul Brewer
17 S	12 E	WM	17	SW NE	3.22	400	Vicki Brownrigg
Total Acres:					24.07		

4. Certificate 74145 is a deficient water right. Since Certificate 74145 was issued, the amount of water that may be diverted under this certificate has been affected (reduced) by allocation of conserved water projects, instream transfers, and other transfer actions. If water were diverted simultaneously to all authorized lands and uses described in the right at the maximum rates and duty allowed (described in Finding of Fact No. 3), the total rate and duty for the water right would be exceeded. In the event water were diverted simultaneously to all authorized lands and uses described in the right at the maximum rates and duty allowed at the POD's (described in Finding of Fact No. 3), the portion of the right involved in this instream lease would be limited as described in the table below. These rates and volume are also the

quantities by which the diversion under Certificate 74145 shall be reduced over the full irrigation season, if this instream lease is approved.

Irrigation			
Season 1	Season 2	Season 3	Volume
0.184 CFS	0.246 CFS	0.464 CFS	159.18 AF

5. The lease application includes the information required under OAR 690-077-0076(3). The Department provided notice of the lease application pursuant to OAR 690-077-0077(1). No comments were received.
6. The Co-Lessor and Lessee have requested to protect water instream from Swalley Main Canal POD No. 3 (as described in Finding of Fact No. 3) to the mouth of the Deschutes River. A portion of the water diverted at the POD returns to the Deschutes River within the proposed reach and is available to downstream water right holders. Return flows from the existing use are generally back in the river system once river flows reach the Madras Gage. To prevent injury to downstream water right holders, the quantity of water that may be protected instream requires modification and return flows should be accounted for at the Madras Gage.
7. The instream use is as follows:

Deschutes River, tributary to the Columbia River;

Instream Reach No. 1: From the Swalley Main Canal (POD No. 3) (as described in Finding of Fact No. 3) to the Madras Gage

Certificate	Priority Date	Instream Rate (cfs)	Instream Volume (af)	Period Protected Instream
74145	9/1/1899	Season 1: 0.165 Season 2: 0.221 Season 3: 0.410	131.18	April 1 - Oct. 25

Instream Reach No. 2: From the Madras Gage to the mouth of the Deschutes River

Certificate	Priority Date	Instream Rate (cfs)	Instream Volume (af)	Period Protected Instream
74145	9/1/1899	0.105	43.33	April 1 - Oct. 25

8. Other conditions to prevent injury and enlargement are:

Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion. Stream channel losses and gains calculated based on available data and the use of water by senior appropriators will determine the amount of water to which this right is entitled downstream from the original points of diversion within the specified stream reach.

The amount of water to be leased instream under Certificate 74145 does not include a 43% transmission loss associated with this right when used for its originally authorized purpose. The transmission loss may not be leased and protected instream.

9. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water right.

10. The protection of flows within the proposed reach is appropriate, considering:
 - a. The instream water use begins at the recorded point of diversion;
 - b. The location of confluences with other streams downstream of the point of diversion.
 - c. There are known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
 - d. Return flows resulting from the exercise of the existing water right would re-enter the river within the reach of the instream water right below the POD. The quantity of water to be protected instream in Reach No. 2 has been reduced to account for return flows.
11. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach will provide for a beneficial purpose.
12. The total monthly quantities of water to be protected instream under existing and proposed instream rights in the reach do not exceed the estimated average natural flow.
13. If approved, this instream lease is not reasonably expected to significantly affect land use as prescribed by ORS 197.180, OAR Chapter 660, Divisions 30 and 31, and OAR Chapter 690, Division 5.
14. Based upon review of the application, information provided by the Department's Watermaster, and other available information, the Department finds that the lease, as conditioned, will not result in injury or enlargement. The order approving this instream lease may be modified or revoked under OAR 690-077-0077 if the Department later finds that the lease is causing injury to any existing water right or enlargement of the original right.
15. If a right which has been leased is later proposed to be leased again, transferred and/or reviewed under an allocation of conserved water, a new injury review shall be required. For example, instream transfers will be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380 and Division 077. Approval of this lease does not establish a precedent for approval of any future transactions.
16. The Lessors and Lessee have requested that the lease terminate on October 31, 2016. The lease may commence on the date this final order is signed.

Conclusions of Law

The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

Now, therefore it is ORDERED:

1. The Lease as described herein is APPROVED.

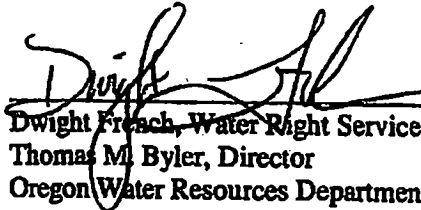
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2. During the term of the lease, the former place of use will no longer receive water as part of this right, any supplemental rights, or any other layered irrigation water rights, including ground water registrations and permits.
3. The term of the lease will commence upon approval of the instream lease and terminate on October 31, 2016.

Dated at Salem, Oregon this 15 day of September, 2016.


Dwight French, Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

*This document was prepared by Sarah
Henderson, if you have any questions,
please call 503-986-0890*

Mailing date: AUG 19 2016

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After Recording Return To:
SWALLEY IRRIGATION DISTRICT
64672 Cook Avenue, Suite 1
Bend, Oregon 97701

2

QUITCLAIM DEED
FOR TRANSFER OF INTEREST IN A WATER RIGHT

Grantor, John and Rebecca Marshall releases and quitclaims to Swalley Irrigation District (SID) all rights, title and interest in the following: By this agreement and signed transfer application form, Grantor, the owner of the lands listed in Exhibit A, release their claim and responsibility for 2.51 acres of Swalley Irrigation District water right that are appurtenant to the lands listed in Exhibit A, to Swalley Irrigation District. Swalley Irrigation District may elect to complete the transfer application and submit it to the Water Resources Department for approval of use of the water right at a new location and/or use. Swalley Irrigation District may attach this agreement to the Oregon Water Resources Department's lease form and file with the District's annual Short Term Water Right Lease Agreement.

By entry of this deed, grantor hereby notifies any subsequent purchaser of the lands listed in Exhibit A that grantor, as owner of the subject land, approved the transfer (including a change in the place and type of use and point of diversion) of the water rights that are appurtenant to the subject land; and that upon completion of a transfer, by election of SID, the subject land no longer will have an appurtenant water right, if the transfer includes a change in the place of use.

Furthermore, upon signing of this agreement and the accompanying transfer application John and Rebecca Marshall shall no longer be liable for any district assessment or charges pertaining to the 2.51 acres of water right incurred after the date of signing. The water right in question is further described as a portion of certificate # 74145, priority of 1899, located:

T16S-R12E,WM-SEC29-SE/SE-01200

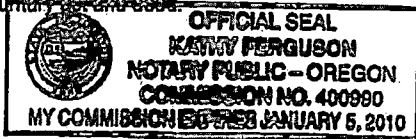
This agreement is binding upon the heirs, executors, administrators, successors, and permitted assigns of the parties to this agreement. Consideration for this Quitclaim is \$2,510.00

Grantor:

John Marshall Date 3-18-08
Rebecca Marshall Date 3/18/08

State of Oregon SS.
County of Deschutes

Personally appeared John + Rebecca Marshall and acknowledged the forgoing instrument to be his / her voluntary act and deed.

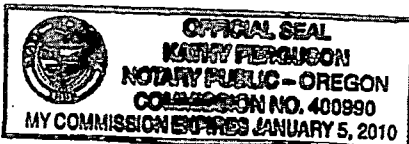


Kathy Ferguson
My commission expires 1-5-2010

Swalley Irrigation District:
Janet Lee Date 3/11/08
Janet L. Lee, Manager

State of Oregon SS.
County of Deschutes

Personally appeared, Janet L. Lee as Manager for Swalley Irrigation District, and acknowledged the forgoing instrument to be her voluntary act and deed.



Kathy Ferguson
My commission expires 1-5-2010

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Tax statement: No change.

13867

John and Rebecca Marshall
#1840

EXHIBIT A

Legal Description:	Taxlot	Serial#	WR Acres:
T16S-R12E-WM-SEC 29-SE/SE-01200	1612290001200		2.51 AC

Total Water Rights: 2.51 Acres

Exhibit "A"

PARCEL 1:

The East Half of the Southeast Quarter (E1/2SE1/4) in Section Twenty-nine (29), Township Sixteen (16) South, Range Twelve (12), East of the Willamette Meridian, Deschutes County, Oregon.

EXCEPTING THEREFROM:

Section 29: The Northeast Quarter, Southeast Quarter, (NE1/4SE1/4) and the West Half of the Southeast Quarter of the Southeast Quarter (W1/2SE1/4SE1/4) of said Section as set forth in that certain warranty deed recorded May 22, 1987, in Book 146, Page 73 of the official records of Deschutes County, Oregon.

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Swalley 2018

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Instream Lease Application)
IL-1662, Deschutes County) DETERMINATION and
FINAL ORDER ON PROPOSED
INSTREAM LEASE

Authority

Oregon Revised Statute (ORS) 537.348 establishes the process in which a water right holder may submit a request to lease an existing water right for instream purposes. Oregon Administrative Rule (OAR) Chapter 690, Division 077 implements the statutes and provides the Department's procedures and criteria for evaluating instream lease applications.

Lessor

Pooled Instream Lease for several water right holders (described in Finding of Fact No. 2)

Co-Lessor

Swalley Irrigation District (SID)
64672 Cook Ave., Suite 1
Bend, OR 97703
Kathy@swalley.com

Lessee

Deschutes River Conservancy (DRC)
700 NW Hill Street, Suite 1
Bend, Oregon 97703
gen@deschutesriver.org

Findings of Fact

1. On March 28, 2018, the DRC and SID, on behalf of several water right holders, filed an application to lease a portion of Certificate 74145 for instream use. The Department assigned the application number IL-1662.
2. The portion of the right to be leased is as follows:

Certificate: 74145 in the name of Swalley Irrigation District (confirmed by the Deschutes River Decree, of record at Salem, in the Order of Record of the Water Resources Director, in Volume 12 at Page 282, and Volume 16 at Pages 148 and 390)

Priority Date: September 1, 1899

Use: Irrigation of 33.20 acres

Season of Use: April 1 to November 1, further limited as follows:
 April 1 to May 1 and Oct. 1 to Nov. 1 described herein as Season 1
 May 1 to May 15 and Sept. 15 to Oct. 1 described herein as Season 2
 May 15 to Sept. 15 described herein as Season 3

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This is a final order in other than 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 either 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.

IL-1662:alh

Quantity: Rate: Season 1 (limited to 1/83rd Cubic Foot per Second (CFS)/acre)
 Season 2 (limited to 1/62nd CFS/acre)
 Season 3 (limited to 1/33.45 CFS/acre)

Limit: Duty: Limited to 9.58 acre-feet per acre
 The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion not to exceed the quantity determined by decree of the Circuit Court for Deschutes County, dated March 24, 1933 (listed above) for each acre irrigated from the Swalley Canal during the irrigation season as measured at the diversion from the source.

The quantities listed reflect allowance of a 43% transmission loss as determined by decree of the Circuit Court of Deschutes County, dated March 24, 1933, which is not allowed for direct diversion.

Source: Deschutes River, tributary to the Columbia River

Authorized Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	12 E	WM	29	SE NE	SWALLEY MAIN CANAL (POD NO.3) - 985 FEET NORTH AND 617 FEET WEST FROM THE E1/4 CORNER OF SECTION 29

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water Right Holder (lessors)
16 S	12 E	WM	14	NE NW	5.62	703	FRANK AND CAROL BRIAN
16 S	12 E	WM	16	SW SE	7.37	1701	VERNE AND ANDREA HOLLETT
16 S	12 E	WM	26	NW SW	16.00	201	TONI ACETI
16 S	12 E	WM	26	NW SW	3.71	201	SID
17 S	12 E	WM	08	SW SE	0.50	900	GARTH AND LISA ELLEFSON
Total Acres					33.20		

3. Certificate 74145 is a deficient water right. Since Certificate 74145 was issued, the amount of water that may be diverted under this certificate has been affected (reduced) by allocation of conserved water projects, instream transfers, and other transfer actions. If water were diverted simultaneously to all authorized lands and uses described in the right at the maximum rates and duty allowed (described in Finding of Fact No. 2), the total rate and duty for the water right would be exceeded. In the event water were diverted simultaneously to all authorized lands and uses described in the right at the maximum rates and duty allowed at the POD (described in Finding of Fact No. 2), the portion of the right involved in this instream lease would be limited as described in the table below. These rates and volume are also the quantities by which the diversion under Certificate 74145 shall be reduced over the full irrigation season, if this instream lease is approved.

Season 1	Season 2	Season 3	Volume
0.254	0.339	0.641	219.56

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4. The lease application includes the information required under OAR 690-077-0076(3). The Department provided notice of the lease application pursuant to OAR 690-077-0077(1). No comments were received.

5. The Co-Lessors and Lessee have requested to protect water instream from the Swalley Main Canal POD No. 3 (as described in Finding of Fact No. 2) to the mouth of the Deschutes River. A portion of the water diverted at the POD returns to the Deschutes River within the proposed reach and is available to downstream water right holders. Return flows from the existing use are generally back in the river system once river flows reach the Madras Gage. To prevent injury to downstream water right holders, the quantity of water that may be protected instream requires modification and return flows should be accounted for at the Madras Gage.
6. The instream use has been modified from the lease application to prevent injury and enlargement and is as follows:

Deschutes River, tributary to the Columbia River;

Instream Reach No. 1: From the Swalley Main Canal (POD No. 3) (as described in Finding of Fact No. 2) to the Madras Gage

Certificate	Priority Date	Use	Instream Rate (CFS)			Instream Volume (AF)	Period Protected Instream
			Season 1	Season 2	Season 3		
74145	9/1/1899	IR	0.228	0.305	0.566	181.11	April 1 – October 25

Instream Reach No. 2: From the Madras Gage to the mouth of the Deschutes River

Certificate	Priority Date	Use	Instream Rate (cfs)	Instream Volume (af)	Instream Period
74145	9/1/1899	IR	0.145	59.76	April 1 – October 25

7. Other conditions to prevent injury and enlargement are:

Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion. Stream channel losses and gains calculated based on available data and the use of water by senior appropriators will determine the amount of water to which this right is entitled downstream from the original points of diversion within the specified stream reach.

The amount of water to be leased instream under Certificate 74145 does not include a 43% transmission loss associated with this right when used for its originally authorized purpose. The transmission loss may not be leased and protected instream.

8. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water right.

9. The protection of flows within the proposed reach is appropriate, considering:

- The instream water use begins at the recorded point of diversion;
- The location of confluences with other streams downstream of the point of diversion.
- There are known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
- Return flows resulting from the exercise of the existing water right would re-enter the river within the reach of the instream water right below the POD. The quantity of water to be protected instream in Reach No. 2 has been reduced to account for return flows.

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10. The total monthly quantities of water to be protected instream under existing and proposed instream rights in the reach do not exceed the estimated average natural flow.
11. If approved, this instream lease is not reasonably expected to significantly affect land use as prescribed by ORS 197.180, OAR Chapter 660, Divisions 30 and 31, and OAR Chapter 690, Division 5.
12. Based upon review of the application, information provided by the Department's Watermaster, and other available information, the Department finds that the lease will not result in injury or enlargement. The order approving this instream lease may be modified or revoked under OAR 690-077-0077 if the Department later finds that the lease is causing injury to any existing water right or enlargement of the original right.
13. If a right which has been leased is later proposed to be leased again, transferred and/or reviewed under an allocation of conserved water, a new injury review shall be required. For example, instream transfers will be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380 and Division 077. Approval of this lease does not establish a precedent for approval of any future transactions.
14. The Co-Lessors and Lessee have requested that the lease terminate on November 1, 2018. The lease may commence on the date this final order is signed.


Conclusions of Law

The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

Now, therefore it is ORDERED:

1. The Lease as described herein is APPROVED.
2. During of the term of the lease, the former place of use will no longer receive water as part of this right, any supplemental rights, or any other layered irrigation water rights, including ground water registrations and permits.
3. The term of the lease will commence upon approval of the instream lease and terminate on November 1, 2018.

Dated at Salem, Oregon this day MAY 10 2018


 Dwight French, Water Right Services Division Administrator, for
 Thomas M. Byler, Director, Oregon Water Resources Department

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*This document was prepared by
 Arla Heard and if you have any
 questions, please call 503-986-0806.*

Mailing date: MAY 10 2018



12/04/2015 11:10:00 AM

D-D Cnt=1 Str=4 SRB
\$10.00 \$11.00 \$21.00 \$10.00 \$8.00

After Recording Return To:
SWALLEY IRRIGATION DISTRICT
64672 Cook Avenue, Suite 1
Bend, Oregon 97701

QUITCLAIM DEED
FOR TRANSFER OF INTEREST IN A WATER RIGHT

Grantor, Anthony Aceti, releases and quitclaims to Swalley Irrigation District (SID) all rights, title and interest in the following: By this agreement and signed transfer application form, Grantor, the owner of the lands listed in Exhibit A, release their claim and responsibility for 3.71 acres of Swalley Irrigation District water right that are appurtenant to the lands listed in Exhibit A, to Swalley Irrigation District. Swalley Irrigation District may elect to complete the transfer application and submit it to the Water Resources Department for approval of use of the water right at a new location and/or use. Swalley Irrigation District may attach this agreement to the Oregon Water Resources Department's lease form and file with the District's annual Short Term Water Right Lease Agreement.

By entry of this deed, grantor hereby notifies any subsequent purchaser of the lands listed in Exhibit A that grantor, as owner of the subject land, approved the transfer (including a change in the place and type of use and point of diversion) of the water rights that are appurtenant to the subject land; and that upon completion of a transfer, by election of SID, the subject land no longer will have an appurtenant water right, if the transfer includes a change in the place of use.

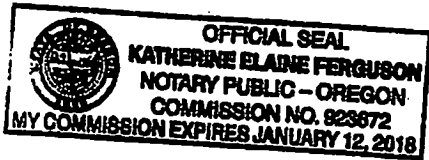
Furthermore, upon signing of this agreement and the accompanying transfer application Anthony Aceti shall no longer be liable for any district assessment or charges pertaining to the 3.71 acres of water right incurred after the date of signing. The water right in question is further described as a portion of certificate # 74145, priority of 1899, located:
T16S-R12E,WN-SEC26-NW/SW-00201

This agreement is binding upon the heirs, executors, administrators, successors, and permitted assigns of the parties to this agreement.
Consideration for this Quitclaim is 0.00

Grantor: [Signature] Date 10-28-15
Anthony Aceti

State of Oregon SS.
County of Deschutes

Personally appeared Anthony Aceti and acknowledged the forgoing instrument to be his / her voluntary act and deed.

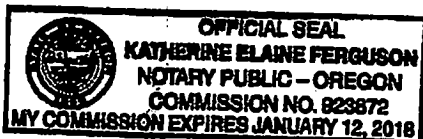


[Signature]
My commission expires 1-12-2018

Swalley Irrigation District:
[Signature] Date 11-9-2015
Suzanne Butterfield, General Manager

State of Oregon SS.
County of Deschutes

Personally appeared, Suzanne Butterfield as Manager for Swalley Irrigation District, and acknowledged the forgoing instrument to be her voluntary act and deed.



[Signature]
My commission expires 1-12-2018

Tax statement: No change.

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Anthony Aceti
21235 Tumalo Rd.
Bend, OR 97703

Acct: # 1502

EXHIBIT A

Legal Description:	Taxlot	Serial#	WR Acres:
T16S-R12E-WM-SEC26-NW/SW-00201	161226CB000201	132973	3.71

That portion of the Southeast Quarter of the Southeast Quarter (SE1/4SE1/4) of said Section 27, described as: Beginning at the SE corner of said Section 26; thence North along said section line, a distance of 520.0 feet to a point; thence North 90°00' West, 40.00 feet to the true point of beginning; thence continuing North 90°00' West, 260.0 feet to a point; thence South 61°05' West, 760.7 feet to a point; thence South 78°05' West, 161.5 feet, more or less, to a point on the West line of said SE1/4SE1/4; thence North along said West line to the NW corner of said SE1/4SE1/4; thence East along the North boundary of said SE1/4SE1/4 to a point which is 40 feet West from the NE corner of said SE1/4SE1/4; thence South along a line which is parallel to and 40 feet West of the East boundary line of said SE1/4SE1/4 to the true point of beginning.

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**Application for Water Right
Transfer
Consent by Deeded Landowner**



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

State of Oregon)
)ss
County of Deschutes)

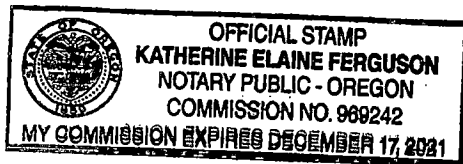
I Jer Camarata in my capacity as District Manager of Swalley Irrigation District,
mailing address 64672 Cook Ave, Suite #1, Bend, OR 97703,
telephone number (541) 388-0658, duly sworn depose and say that I
consent to the proposed changes to Water Right Certificate Number 74145
described in a Transfer Application (T-TBD) submitted by Tumalo Irrigation District,
on the property in tax lot number 201, Section 26, Township 16_South, Range 12 East, W.M.,
located at 21235 Tumalo Pl., Bend, OR 97703. And tax lot 1200, Section 29, Township 16
South, Range 12 East, W.M., located at 64885 Old Bend Redmond Hwy, Bend, OR 97703.



Signature of Affiant

6/29/21
Date

Subscribed and Sworn to before me this 29 day of June, 2021.



Katherine Elaine Ferguson
Notary Public for Oregon

My commission expires 12-17-2021

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April 10, 2023

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Supplemental Form D

Water Right Transfers Within the Boundaries of or Served by an Irrigation District or other Water Supplier (Association, Ditch Co., etc.)

[For transfers submitted under OAR Chapter 690 Division 380]

OREGON



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
503-986-0900
www.oregon.gov/OWRD

The Department requires non-district applicants to communicate with districts/water suppliers during the planning and preparation of transfer applications involving water rights having a point of diversion or appropriation (POD/POA) or place of use (POU) served by or located within the boundaries of an irrigation district, or other type of water supplier to which assessments are paid. In some cases consent will be required from the district or water supplier.

This form must be included with any transfer application that involves rights served by or located within the boundaries of a district or other type of water supplier.

1. APPLICANT INFORMATION

NAME TUMALO IRRIGATION DISTRICT		PHONE (HM) 541-382-3053	
PHONE (WK) 541-382-3053	CELL N/A	FAX N/A	
ADDRESS 64697 COOK AVE			
CITY BEND	STATE OR	ZIP 97703	E-MAIL** STAFF@TUMALO.ORG

2. DISTRICT or WATER SUPPLIER INFORMATION

DISTRICT/WATER SUPPLIER NAME SWALLEY IRRIGATION DISTRICT		PHONE (HM) (541) 388-0658	
PHONE (WK) (541) 388-0658	CELL N/A	FAX N/A	
ADDRESS 64672 COOK AVE., SUITE #1			
CITY BEND	STATE OR	ZIP 97703	E-MAIL** KATHY@SWALLEY.COM

** By providing an e-mail address, the applicant and/or the district/water supplier consents to receive all correspondence from the Department electronically. Copies of final order documents will also be mailed.

3. WATER RIGHTS ISSUED IN THE NAME OF, or LOCATED WITHIN, or SERVED BY AN IRRIGATION DISTRICT, OTHER DISTRICT, OR WATER SUPPLIER

a. List the water right(s) involved in this transfer:

	Application / Decree	Permit / Previous Transfer	Certificate	Is the water right in the name of a district, water supplier, or BOR*?
1.		-	74145	YES <input checked="" type="checkbox"/>

Attach additional pages for additional water rights if necessary.

*Bureau of Reclamation

April 10, 2023

QWRD

b. Determine a district's/water supplier's connection to your points of diversion (POD) or appropriation (POA) and places of use (POU). [You may need to consult with your district/water supplier.]

CURRENT ASSOCIATIONS Please answer the following "yes" or "no" questions:

YES NO One or more of the current POD(s) / POA(s) involved in the transfer are served by Swalley Irrigation District.

YES NO All or a portion of the current POU involved in this proposed transfer receives water for either primary or supplemental irrigation from Swalley Irrigation District.

PROPOSED ASSOCIATIONS Please answer the following "yes" or "no" questions:

YES NO One or more of the proposed POD(s) / POA(s) involved in the transfer will be served by Tumalo Irrigation District if the transfer is approved.

YES NO All or a portion of the proposed POU involved in this proposed transfer will receive either primary or supplemental irrigation from Tumalo Irrigation District.

COMMENTS OR ADDITIONAL INFORMATION THE WATER RIGHT WILL REMAIN ON CERT #74145, UNDER SWALLEY IRRIGATION. TUMALO IRRIGATION DISTRICT WILL DELIVER THE WATER THROUGH THEIR POD, DESCRIBED AS POD #9.

4. APPLICANT'S SIGNATURE

(1) I certify that I have notified the district/water supplier about the proposed water right transfer application by [check one]:

email, phone, postal mail, in person, or other (please specify) Signed Agreement.

(2) I certify that to the best of my knowledge the information contained in this Supplemental Form D is true and accurate.


Applicant Signature

CHRIS SCHULL
Name (print)

4/10/23
Date

5. (WHEN REQUIRED) DISTRICT or WATER SUPPLIER CONSENT TO THE PROPOSED WATER RIGHT TRANSFER

District Manager or Water Supplier consent is required if any box on this form is marked "YES."

The district/water supplier certifies the following:

(1) The district/water supplier has reviewed the applicant's proposed water right transfer application and maps; and

(2) The district/water supplier consents to the proposed water right transfer application.

YES NO After proof of completion, the confirming water right certificate is to remain in the name of the water supplier, Swalley Irrigation District.

YES NO Applicant, Tumalo Irrigation District, will be responsible for submitting the claim of beneficial use prepared by a Certified Water Rights Examiner (CWRE).


Signature of District Manager /Water Supplier

JEN CHAMBERLAIN, COM
Name (print), Title

4/10/23
Date



247-21-000631-PS

Subject Property:

- Tax Map: 16-11-25, Tax Lot: 400
Zoning: Exclusive Farm Use – Tumalo/ Redmond/ Bend Subzone (EFU)/ Multiple Use Agriculture – 10 Acres Minimum (MUA10)/ Conventional Housing Combining Zone (CHC)/ Landscape Management Combining Zone (LM)

Request: The applicant has requested a *Water Right Transfer* (0.08 cubic feet per second) from surface water (Deschutes River) for the subject parcel. The applicant has stated that the water use is for the irrigation of crops. Staff interprets the applicant's request as the irrigation of pasture for farm and agricultural use. Staff notes that the subject property is split zoned, and farm use is an outright permitted use in the EFU Zone and agricultural use is an outright permitted use in the MUA10 Zone. Pursuant to DCC Chapter 18.16.020(A), "Farm Use", as defined in DCC 18.04, is allowed in the EFU Zone.

Farm Use, as defined in DCC 18.04:

"Farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm Use" also includes the current employment of the land for the primary purpose of obtaining a profit in money by stabling or training equines, including but not limited to, providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described above. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in

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ORS 215.203(3). Current employment of the land for farm use also includes those uses listed under ORS 215.203(2)(b).

Pursuant to DCC Chapter 18.32.020(A), "Agricultural Use", as defined in DCC 18.04, is allowed in the MUA10 Zone.

Agricultural Use, as defined in DCC 18.04:

"Agricultural use" means any use of land, whether for profit or not, related to raising, harvesting and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof not specifically covered elsewhere in the applicable zone. Agricultural use includes the preparation and storage of the products raised on such land for human and animal use and disposal by marketing or otherwise. Agricultural use also includes the propagation, cultivation, maintenance and harvesting of aquatic species. Agricultural use does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees.

This LUCS only confirms that the use of irrigation water for "Farm Use" and "Agricultural Use" is allowed outright on the subject property.

To the extent the irrigation is for crops including marijuana/cannabis, staff notes this LUCS does not confirm compliance with State or Federal administered regulations for medical or recreational marijuana. Additionally, there are specific County regulations for both medical and recreational marijuana. This LUCS does not expressly or implicitly confirm the subject property could comply with the adopted rules governing medical or recreational marijuana. The applicant/property owner shall comply with all applicable regulations in place at the time of establishment of the use.

To the extent other uses or structures are included on the LUCS application sheet, this LUCS does not review or approve those uses.

This LUCS does not review or approve:

- Construction of buildings,
- Earthmoving or construction in floodplains,
- Earthmoving, construction, or vegetation changes in wetlands,
- Surface mining, and/or
- Other primary or accessory uses regulated by the Deschutes County Code

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Each of the listed uses would require separate land use permits and/or building permits, which are not covered by this LUCS. This LUCS does not confirm compliance with wetlands or floodplain regulations. On-site sales or on-site processing of farm crops may require additional permits. Any development on the properties are subject to all requirements of Title 18 of the Deschutes County

Code (DCC), the requirements of the Environmental Soils and Building Safety Divisions, and the Deschutes County Road Department for access to public roads

Staff Notes: These properties contains areas of mapped wetlands. **Please be aware that DCC 18.16.030(T) requires Conditional Use Permit approval for all excavation, grading and fill, and removal within the bed and banks of a stream or river or in a wetland subject to DCC 18.120.050 and 18.128.270.** Additional permits for development within a wetland may be required by the Oregon Department of State Lands.

For more information, please contact the Planning Division office at 541-388-6560.

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WATER RIGHTS TRANSFER AND WATER DELIVERY SERVICE AGREEMENT

Between

**Swalley Irrigation District
&
Tumalo Irrigation District**

This Water Rights Transfer and Water Delivery Service Agreement ("Agreement") is entered into by and between Swalley Irrigation District ("SID") and Tumalo Irrigation District ("TID"), both Oregon irrigation districts organized under ORS Chapter 545, effective this 12 day of MARCH, 2019. SID and TID are collectively referred to herein as the "Districts".

RECITALS

WHEREAS, ORS 545.221 authorizes the board of an irrigation district to "make and execute all necessary contracts," and to "generally perform all acts necessary to fully carry out the purposes of the Irrigation District Law"; and

WHEREAS, the Districts wish to work cooperatively to maximize water delivery efficiencies across District boundaries; and

WHEREAS, the Districts may accomplish such efficiencies through the transfer of water rights across district boundaries; and

WHEREAS, subject to approval by the Oregon Water Resources Department, such transfer applications may be submitted by the Districts on behalf of landowners to change the place of use of certain senior SID water rights to lands located within TID boundaries; and

WHEREAS, the Districts also desire to memorialize an arrangement for TID to deliver such SID water rights through TID's "Bend Feed Canal."

NOW, THEREFORE, in exchange for the mutual obligations contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Districts as follows:

1. TRANSFER OF WATER RIGHTS

- A. **TRANSFERRING AND DELIVERING THE RIGHTS.** Subject to approval of such transfer by the Oregon Water Resources Department, SID shall deliver water to TID pursuant to SID senior water rights bearing a priority date of on or before September 1, 1899, as outlined in Exhibit A (the "Transfer Water Rights"), which may be modified from time to time through signatures of both parties. SID and TID shall work cooperatively to identify, assemble, draft, approve, and file the applications necessary to transfer the Transfer Water Rights to lands within TID. TID and SID shall equally split all transfer application and mapping costs incurred to support the initial transfer process.

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- B. **RELATIONSHIP OF TRANSFER WATER RIGHTS AND TID WATER USERS.** TID water users on whose lands the Transfer Water Rights are to become appurtenant shall at all times be considered TID water users, shall not be directly subject to SID rules and regulations, and shall not be entitled to any of the rights and privileges of SID water users. However, any use of water supplied by SID on those lands is subject to the applicable restrictions governing the relationship between TID and SID as set forth in Section 1.C.
- C. **RELATIONSHIP OF TID and SID.** TID, as a patron of SID, shall be subject to all SID rules and regulations and shall be entitled to all the rights and privileges of a SID patron, including the right to vote on SID matters.
- D. **PAYMENT.** Upon a fully approved water rights transfer application for the Transfer Water Rights, TID agrees to make an initial payment to SID of \$2,500 per acre transferred to TID.
- E. **ASSESSMENTS:** Commencing in the year in which the transfer of the Transfer Water Rights is perfected, and each year thereafter, TID shall make an annual payment to SID (the "Annual Payment") in the amount SID would assess and charge an SID water user for each acre transferred to TID, paying only a single "Account or Base Fee." Without limiting the foregoing, the Annual Payment shall include all assessments and charges applicable to SID water users whether for operation and maintenance, debt service, or other purpose as they may be levied by SID. If all or any portion of Transfer Water Rights are abandoned, cancelled, or lost by non-use on TID lands, TID shall be responsible for paying SID ten (10) years' worth of lost assessments and charges, calculated and due within the same year of formal declaration by Oregon Water Resources Department. TID will be entitled to any discounts, refunds or other payment dispersed by SID as applicable to all SID patrons.
- F. **REPRESENTATIONS AND WARRANTIES.** SID represents and warrants to TID as follows:
- a. The Transfer Water Rights are in good standing, have been regularly exercised including at least once in the past five years, and are not subject to forfeiture in whole or in part or any other enforcement proceedings; and
 - b. The transfer and delivery of the Transfer Water Rights does not violate any agreement, judgment, or other arrangement to which SID is a party.

2. **DELIVERY OF SID WATER RIGHTS**

- A. **DELIVERY RESPONSIBILITIES.** TID agrees to deliver the Transfer Water Rights to TID lands. The Transfer Water Rights will be diverted from the Deschutes River at TID's Bend Diversion Dam and delivered through TID's Bend Feed Canal to lands within TID boundaries. SID shall have no operation or maintenance responsibilities connected with the Transfer Water Rights other than such cooperation as may be necessary from time to time for good faith fulfillment of this Agreement.
- B. **WATER DELIVERY TERMS.** The Transfer Water Rights will be delivered by TID under the same time schedule and TID Rules and Regulations as to other TID water users, except as conditions affecting only the Bend Feed Canal itself may require variation or variations imposed by Oregon Water Resources Department. SID water right diversions at TID's Bend

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Diversion Dam shall be limited to SID's 74145 certificated right rates and duties as applicable to its Main Canal diversion only.

- C. **REPRESENTATIONS AND WARRANTIES.** SID represents and warrants that it holds legal title to the Transfer Water Rights and that TID's delivery of the Transfer Water Rights does not infringe upon the rights of any third party.

3. **MISCELLANEOUS**

- A. **ATTORNEY FEES.** If any arbitration, action, suit, or proceeding is instituted to interpret, enforce, or rescind this Agreement, or otherwise in connection with the subject matter of this Agreement, including but not limited to any proceeding brought under the United States Bankruptcy Code, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's reasonable attorney's fees and other fees, costs, and expenses of every kind, including but not limited to the costs and disbursements specified in ORCP 68 A(2), incurred in connection with the arbitration, action, suit, or proceeding, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the arbitrator or court.
- B. **AMENDMENT.** This Agreement may be amended, or terminated, by mutual agreement of the Districts. To be effective, all amendments shall be in writing and signed by authorized representatives of each party.
- C. **HOLD HARMLESS.** Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30.3300, each District shall indemnify, defend, and hold harmless the other District, its officers, board members, employees, contractors, and agents against any and all claims, damages, losses and expenses, including all attorney(s) fees and costs incurred by the indemnified party, arising out of, or resulting from its own acts and omissions in the performance of this Agreement.
- D. **MEDIATION.** The Districts agree that unless otherwise agreed, all disputes (except actions for collection) between them arising out of or relating to this Agreement will first be submitted to mediation prior to instituting any arbitration or litigation.
- E. **GOVERNING LAW; VENUE.** This Agreement shall be governed by the laws of Oregon. Any litigation, mediation, arbitration, or other dispute resolution proceeding arising from or relating to this Agreement shall be conducted in Deschutes County, Oregon.
- F. **FURTHER ASSURANCES.** The Districts will execute any additional documents and take all other actions reasonably necessary to further effect and evidence this Agreement.
- G. **SEVERABILITY.** The Districts agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or invalid in any respect, such declaration shall not affect the enforceability of the provision in any other respect nor affect the validity of the other terms.

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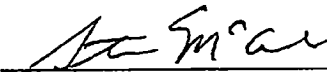
H. **ENTIRE AGREEMENT.** This Agreement contains the entire understanding of the parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the parties with respect to the subject matter of this Agreement.

I. **COUNTERPARTS.** This Agreement may be made in one or more counterparts, all of which shall be considered one agreement.

J.

IN WITNESS WHEREOF, the Districts have caused to be signed in their behalf to make and enter into this Agreement effective as of the date first written above.

SWALLEY IRRIGATION DISTRICT



Steve McCarrel, Board President

3/21/19

Date

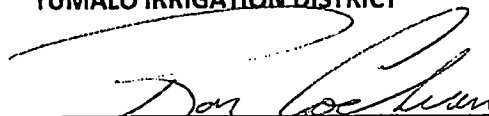


Jer Camarata, General Manager & Board Secretary

2/27/2019

Date

TUMALO IRRIGATION DISTRICT



Ron Cochran, Board Chairman

3/11/2019

Date



Kenneth Rieck, District Manager & Board Secretary

3-5-2019

Date

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TUMALO IRRIGATION DISTRICT

November 8, 2021

Oregon Water Resources Department
Transfer Section
725 Summer St. NE, Suite A
Salem, Oregon 97301-1271

Re: 2021 Application for Permanent Water Right Transfer

Enclosed are the following:

- 1) Completed Application for Permanent Water Right Transfer
- 2) Transfer Application Maps
- 3) Evidence of Use Affidavit and supporting documentation.
- 4) Affidavit of Consent from Landowner.
- 5) Supplemental Form D
- 6) Approved Land Use Information Form
- 7) Copy of Agreement between TID & SID
- 8) Payment for the application fee of \$2,450.00.

Please contact me by phone at 541-382-3053 or by e-mail at april@tumalo.org if you have any questions or need additional information. Thank you.

Respectfully,



April L. Harris Spath
Office Manager

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