



DESCHUTES RIVER CONSERVANCY

December 11, 2007

Mr. Bob Rice
Water Resources Department
725 Summer Street NE, Suite "A"
Salem, OR 97301-1271

Dear Bob:

Enclosed please find an application for an Allocation and Use of Conserved Water. The Deschutes River Conservancy (DRC) is the Agent for the Swalley Irrigation District (SID) on this application and is acting as the primary point of contact for comments and questions that you may have. In addition to the complete application, I have enclosed the following Exhibits for your information.

- Exhibit A: Evidence of Water Use
- Exhibit B: Map of Piping Project
- Exhibit F: SID Conserved Water Policy
- Exhibit G: Land-Use Form
- Exhibit I: Letters of Support

Given your high level of experience processing conserved water applications for distribution projects within Swalley Irrigation District (certificate #74145), the DRC requests that you please make every effort to produce a Final Order by the beginning of the Swalley irrigation season (April 1) or soon after. Please deduct the \$350 fee from our account with OWRD. If you find you have any questions about the application please feel free to contact me at 541.728.8688, or andy@deschutesriver.org.

Sincerely,

Andy Fischer
Conservation Project Manager

RECEIVED

DEC 17 2007

**WATER RESOURCES DEPT
SALEM, OREGON**

700 NW Hill Street • Bend, Oregon 97701
(P.O. Box 1560 • 97709)
541.382.4077 • Fax 541.382.4078
www.deschutesriver.org / info@deschutesriver.org



State of Oregon
Water Resources Department
 725 Summer Street NE, Suite "A"
 Salem, Oregon 97301-1271
 (503) 986-0900

Application for Allocation and Use of Conserved Water

Please type or print in dark ink. If your application is found to be incomplete, inaccurate or does not include the required fees, we will return it to you. If any requested information does not apply to your application, insert "n/a." If you need additional space to answer any of the questions, attach a separate sheet of writing paper and reference the section number and question. A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/OWRD/PUBS/forms.shtml.

1. APPLICANT INFORMATION

Name: Swalley Irrigation District
 Address: 64672 Cook Ave., Suite 1
 Bend, OR 97701
 Phone(s): 541-388-0658
 *Fax: 541-389-0433 *E-Mail address: jan@swalley.com

**Optional information*

2. AGENT INFORMATION

The agent listed is authorized to represent the applicant in all matters relating to this allocation of conserved water application.

Name: Deschutes River Conservancy
 Address: PO Box 1560
 Bend, OR 97709
 Phone(s): 541-382-4077 ext. 13
 *Fax: 541-382-4078 *E-Mail address: andy@deschutesriver.org

**Optional information*

RECEIVED

DEC 17 2007

WATER RESOURCES DEPT
 SALEM OREGON

3. IRRIGATION & WATER CONTROL DISTRICTS

Is the project within the boundaries of an irrigation district or water control district?

Yes No

If yes, include Exhibit E and list the name and mailing address of the district:

Swalley Irrigation District
 64672 Cook Ave., Suite 1
 Bend, OR 97701

Did an irrigation district organized under ORS Chapter 545 or a water control district organized under ORS Chapter 553 file this allocation of conserved water?

Yes No

If yes, when was the District's OAR 690-018-0025 allocation of conserved water policy adopted? 4/19/2005

4. CURRENT WATER RIGHT INFORMATION

A separate page providing the information in Section 4 must be completed for each certificate, permit, decree, or other right involved in the proposed allocation of conserved water.

Water Right Subject to Transfer (check and complete **one** of the following):

<input checked="" type="checkbox"/> Certificated Right	74145	Deschutes Decree
--	-------	------------------

	Certificate Number	Permit Number or Decree Name
<input type="checkbox"/> Adjudicated, Un-certificated Right	_____	_____
	Name of Decree	Page Number
<input type="checkbox"/> Permit for which Proof has been Approved	_____	_____
	Permit Number	Date Claim of Beneficial Use Submitted
<input type="checkbox"/> Transferred Right for which Proof has been Filed	_____	_____
	Previous Transfer Number	Date Claim of Beneficial Use Submitted

Name on Permit, Certificate, or Decree: Swalley Irrigation District

County: Deschutes

Provide the following information about the water right of record:

1. Priority Date: September 1, 1899
2. Source of Water: Deschutes River
3. Type of Use: irrigation, dust abatement, industrial use, park maintenance, nursery use, pond maintenance, domestic and stock use

RECEIVED
DEC 17 2007
WATER RESOURCES DEPT
SALEM, OREGON

Does the application involve a water right on lands under more than one ownership?

Yes No

If yes, are all owners applicants to this allocation of conserved water?

Yes No. If no, see Exhibit J.

A) What is the maximum rate and annual duty (volume) of water that may be diverted as stated on the water right of record? *(If the water right is only limited by rate, do not list a duty, and conversely, if the water is only limited by duty, do not list a rate.)*

1. Rate* (cfs): 106.80
Note: 1 miner's inch = 1/40 cfs; 1 cfs = 448.8 gpm
2. Duty* (acre feet): 36,294.38
Note: 1 cfs = 1.98 ac-ft/day

* If there are multiple **Priority Dates** on the water right, list the rate and duty by priority date.

B) What is the maximum amount of water that can be diverted using the pre-project facilities? *(If the water right is only limited by rate, do not list a duty, and conversely, if the water is only limited by duty, do not list a rate.)*

1. Rate (cfs): 106.80
2. Duty (acre feet): 36,294.38

C) Describe the pre-project water delivery system. Include information on the diversion structure, pumps, and conveyance facilities (including canals, pipelines and sprinklers used to divert, convey and apply the water at the authorized place of use). *Provide sufficient detail to confirm that the applicant is ready, willing, and able to exercise the right.*

There are 34 turnouts which serve 61 customers in the 3.5 miles of Phase II of the project. The diversion is from the Deschutes River at North Canal Dam. The point of diversion is SE 1/4 of NE 1/4, Section 29, Township 17S, Range 12 E., W.M.; 985 feet North and 617 feet West from the East 1/4 Corner of Section 29(as described on the certificate). This point of diversion is for the entire district. The district's entire water supply is withdrawn at this diversion and flows through the Phase II area before being diverted into other laterals in the district. (So in essence almost every customer in the

district is served by this diversion.) There are no pumps within the district's delivery system. The Swalley Main Canal was constructed between 1899 and 1902. The entire length of the main canal is 12.1 miles.

RECEIVED

DEC 17 2007

WATER RESOURCES DEPT
SALEM OREGON

5. CONSERVATION MEASURES

A) Describe the type of project, check all that apply:

- On-Farm efficiency project
 Distribution project, such as a ditch piping or lining project
 Other, _____

B) Describe the proposed changes to the physical system, operations and application methods that will result in the conservation of water. If these proposed changes will change the point of diversion, see point of diversion requirement for Exhibit B. *Provide sufficient detail for public noticing of the project.*

The Swalley Main Canal Piping (Phase II) project proposes to replace approximately 18,700 feet (3.5 miles) of open unlined canal with 42, 48, and 54 inch diameter High Density Polyethylene Pipe (HDPE) buried pipe. Turnouts built in to the pipe at current delivery locations will allow customers to pipe their on-farm distribution systems in the future if they so chose to take advantage of pressurized water. By piping the open canal, water seepage through the unlined floor and sides of the canal will be eliminated.

C) Place of Use*: "entire right affected" _____

Township Range Section Quarter/Quarter Total No. Acres

* Not required for a distribution project that does not propose to affect the on-farm rate or duty.
If the entire water right is being affected, just state "entire right affected."

6. CONSERVED WATER

A) What amount of water will be needed for the existing, authorized use after implementing conservation measures? (If the water right is only limited by rate, do not list a duty, and conversely, if the water is only limited by duty, do not list a rate.)

1. Rate* (cfs): season 1 -39.64 cfs: season 2 - 39.64 cfs: season 3 - 86.80 cfs
2. Duty* (acre feet): 29,980.38

* If there are multiple **Priority Dates** on the water right, list the rate and duty by priority date.

B) What amount of water will be conserved as a result of the implementation of the conservation measures? Subtract 6A from the smaller of 4A or 4B under "irrigation system" above.

1. Rate* (cfs): season 1 - 2.71 cfs: season 2 - 18.60 cfs: season 3 - 20.00 cfs
2. Duty* (acre feet): season 1 - 327.89 AF: season 2 - 1,106.78 AF: season 3 - 4,879.34 AF

* If there are multiple **Priority Dates** on the water right, list the rate and duty by priority date.

C) What portions of the conserved water will be allocated to the state and applicant?

1. Portion going to the state (list by percent, rate and duty):
100 Percent season 1 - 2.71 cfs: season 2 - 18.60 cfs: season 3 - 20.00 cfs
Rate (cfs) season 1 - 327.89 AF: season 2 - 1,106.78 AF: season 3 - 4,879.34
Duty (AF)

2. Portion going to the applicant (list by percent, rate and duty):
N/A Percent _____ Rate (cfs) _____ Duty (AF)

- D) The priority for the conserved water is requested to be:
 The same as the original right, or
 One minute junior to the original right.
- E) If all or part of the applicants' portion of the conserved water is to be used for an out-of-stream use at an identified location:
 1. Name and address of the person using the water: _____
 2. Description of the type of beneficial use of the water: _____
 3. Legal description of the place of use: _____
- F) If all or part of the applicants' portion of the conserved water is to be leased*, dedicated or temporarily reserved instream, a statement identifying the quantity of water to be managed as an instream water right: _____
 * *Water can be temporarily protected instream without filing an OAR 690-077 Short-Term Instream Lease application.*

7. LOCATION OF PROPOSED USE

- A) For new out-of-stream uses, describe the boundaries of the expected area within which the diversion structures and places of use of the applicants' conserved water right would be located. This is land other than that to which this water right is appurtenant. See Exhibit B.
 N/A
- B) For instream uses, to the extent possible, identify the stream reach(es) for which the state's portion of the conserved water should be managed under an instream water right. Be as explicit as possible, by giving river miles, or other identifying information that might be included in the instream certificate.
 Permanent instream use in the Deschutes River from the North Canal Dam (RM 165) to near Lake Billy Chinook (RM 120).
- C) Describe the proposed benefit to instream uses.
 for instream use for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values.
 other, please describe: _____

8. MITIGATION

- A) Describe any expected effects on other water rights from the proposed allocation of conserved water. Identify what currently happens to the water that is proposed to be conserved.
 No effects on other users are expected from this proposed allocation of conserved water. The water to be conserved is lost from the system through seepage and evaporation, and is not available to other appropriators.
- B) Describe any mitigation or other measures that are planned to avoid harm to other water rights.
 No harm to other water rights will occur from this project.

9. FUNDING

RECEIVED

DEC 17 2007

WATER RESOURCES DEPT
SALEM, OREGON FSD

If more than 25% of the conserved water is proposed to be allocated to the applicant then provide Exhibit C and identify what portion of project funds (expressed as a percentage) come from federal or state public sources that are not subject to repayment. N/A

Does the Oregon Watershed Enhancement Board (OWEB) have a contractual interest in this project?

Yes No

If yes, what is the OWEB project number? 207-319

10. PROJECT SCHEDULE

If project is not yet complete:

Proposed date construction has/will begin: November 1, 2007

Proposed date construction will be completed and notice of project completion will be filed: Incrementally- March 15, 2008 (partial completion) & March 15, 2009 (remaining portion)

Proposed date the project will be finalized: Incrementally Upon Completion

RECEIVED

DEC 17 2007

WATER RESOURCES DEPT
SALEM OREGON

If project is already complete:

Date it was implemented: _____ (Provide Exhibit K)

The applicant requests:

That the allocation be finalized, or

Additional time be granted to prove that the project worked to the applicant's satisfaction before finalizing the allocation of conserved water. Indicate the amount of time desired _____ (up to five years after completion of the project may be allocated).

11. ACKNOWLEDGMENT OF FORFEITURE

Complete this if the Certified Water Right Examiner's map shows less acreage has been irrigated over the past five years than allowed under the right.

I am aware that _____ acre(s) have not been irrigated for the last five years and I am abandoning that portion of the water right and make no further claim for the water. I ask that this _____ acre(s) portion of the right be permanently canceled.

12. EXHIBITS

Check each of the following attachments included with this application. All attachments are required unless otherwise noted. The application will be returned if all required attachments are not included.

Exhibit (Form) A – Evidence of Use Affidavits

At least one Evidence of Use Affidavit documenting that the right has been used during the last five years or that the right is not subject to forfeiture under ORS 540.610 is attached. The affidavit provided must be the original, not a copy. The form is available at <http://www1.wrd.state.or.us/pdfs/TransferAffidavit-2003.pdf>

Exhibit B – Map

See OAR 690-018-0040(17) and 690-018-0062(3)(a) and additional information page.

Exhibit C - Project Funding Description

Provide if more than 25% of water goes to applicant.

Exhibit H - Ownership & Lien Information

Provide if application involves:

- on-farm efficiency project, and/or
- distribution project affecting specified lands.

Provide a report of ownership and lien information or a current recorded deed to the subject lands.

Exhibit I – Support Letters from ODFW, DEQ and OP&RD

Letters from ODFW, DEQ, and OP&RD indicating that they have been consulted and indicating that at least one of the agencies attests that conserved water is needed to support instream uses. See OAR 690-018-0050(4)(f).

Exhibit J – Water Right Clarification &

See OAR 690-018-0040(18).

Exhibit D – Identification and Resolution of Water Right Conflicts

Provide if construction has begun or been completed and if more than 25% of the project costs have been expended prior to filing this application. See OAR 690-018-0040(19).

Exhibit E – Letter of Approval from the Irrigation District

Provide if project is located within boundaries of an irrigation district and the district is not the applicant. See OAR 690-018-0040(20).

Exhibit F – District Conserved Water Policy

Provide if applicant is an Irrigation District or Water Control District. See OAR 690-018-0040(21) & 690-018-0025.

Exhibit G - Land Use Information Form

See OAR 690-018-0040(22).
The land use form is available at:
<http://www1.wrd.state.or.us/pdfs/landuseform.pdf>

Notification of Affected Persons

Provide if the application involves water rights for

- lands under multiple ownerships and not all of the owners are applicants, and the project is not being submitted by a District as a distribution project and/or
- which the current final proof survey maps for lands involved in the application do not adequately describe the location of the place of use or the associated priority dates of the associated water rights

See additional information page. *Consult with Department staff if there is any question regarding the need for submittal*

Exhibit K –Evidence that the Project was Implemented Within 5 Years.

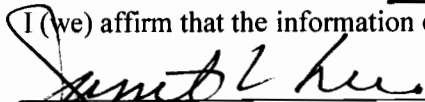
Provide if project was completed before application submittal. See OAR 690-018-0040(12)(a).

Fees:

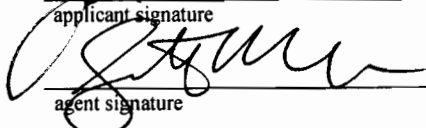
Amount enclosed: \$ 350.00
See OAR 690-018-0040(25) and the Department's Fee Schedule at
<http://oregon.gov/OWRD/PUBS/forms.shtml#fees>
or call (503) 986-0900.

13. SIGNATURE

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



applicant signature



agent signature

Jan Lee, District Manager 12 07 07
name (print) date

Scott McCaulou, Senior Program Manager 12 12 07
name (print) date

Before submitting your application, be sure you have:

- Answered each question completely.
- Included the required attachments.
- Provided original signatures for all named deed holders or other parties with an interest in the right.
- Included a check payable to the Oregon Water Resources Department for the appropriate amount.

RECEIVED
DEC 17 2007
WATER RESOURCES DEPT
SALEM OREGON

Additional Information

The complete OAR Chapter 690, Division 018 Allocation of Conserved Water rules are available at: http://www1.wrd.state.or.us/files/Publications/Notices/new_oars/OAR_Chapter_690_Division_18-Allocation_of_Conserved_Water.pdf

690-018-0040

Application Requirements (Excerpt)

Applicants for allocation of conserved water shall provide to the Department the information described in this rule in substantially the same order as listed. The information shall include:

- (12) For a project that has already been completed:
 - (a) Evidence that the measure was implemented within five years prior to the date of filing the application; and
 - (b) The date on which the applicant intends to request that the allocation be finalized pursuant to OAR 690-018-0062(3).
- (17) A map with sufficient detail to locate and describe the facilities and areas affected by the conservation measures;
- (18) Identification of any federal or state public sources of project funds and, if federal or state public funds that are not subject to repayment will be used in the project, information showing the estimated project costs and anticipated sources of funds for the project including:
 - (a) The total cost for project engineering and construction;
 - (b) The present value of any incremental changes in the costs of operations and maintenance that are directly attributable to the project that would not be incurred or realized in the absence of the project;
 - (c) The amount of funding and the value of any in-kind contributions for project engineering and construction and for any incremental changes in the costs of operations and maintenance to be provided from federal or state public funds that are not subject to repayment; and
 - (d) The amount of funding and the value of any in-kind contributions for project engineering and construction and for any incremental change since costs of operations and maintenance to be provided from other funds.
- (19) If construction of the project has begun or been completed and if more than 25 percent of the project costs have been expended before applying for allocation of conserved water, evidence that the applicant has attempted to identify and resolve the concerns of water right holders in the area, governmental entities, or other organizations who have asked to be consulted regarding the allocation of conserved water;
- (20) A letter showing irrigation district or water control district approval if the conservation project is within the boundaries of the district;
- (21) For applications submitted by irrigation districts or water controls districts, evidence of an adopted policy consistent with the requirements of OAR 690-018-0025.
- (22) Land use information outlined in the Department's Land Use Planning Procedures Guide; and
- (23) Other information the Department or Commission deems necessary and appropriate to aid in the evaluation of the application.
- (24) The appropriate fee as required under ORS 536.050.
- (25) The Director shall waive the application fee based on the percent of conserved water allocated to the state for instream use, not to exceed 50 percent of the application fee, if the instream allocation is:
 - (a) To establish an instream water right pursuant to ORS 537.348;
 - (b) Necessary to complete a project funded by the Oregon Watershed Enhancement Board under ORS 541.375; or
 - (c) Determined and endorsed in writing by Oregon Department of Fish and Wildlife as a change that will result in a net benefit to fish and wildlife habitat.

690-018-0050

Processing a Conservation Application (Excerpt)

(4) The Department shall review the application and consider any comments received under section (3) of this rule to determine:

(f) In consultation with the Departments of Fish and Wildlife, Environmental Quality and Parks and Recreation, if conserved water is needed to support instream uses;

RECEIVED

DEC 17 2007

690-018-0062

Completion of Conservation Project (Excerpt)

(3) Prior to the expiration of the time allowed under OAR 690-018-0050(4)(i), the applicant may request that an allocation of conserved water be finalized. The request shall include:

(a) If all or part of the applicants' portion of the conserved water is to be used for an out-of-stream use at an identified location, the following information:

- (A) The name and address of the person using the water;
- (B) A description of the type of beneficial use of the water;
- (C) A legal description of the place of use; and
- (D) A map that meets the standards in OAR 690-310-0050 and

(b) If all or part of the applicants' portion of the conserved water is to be leased, dedicated or temporarily reserved instream, a statement identifying the quantity of water to be managed as an instream water right.

Exhibit B – Application Map

The application map shall include:

- a. Township, range, section, $\frac{1}{4}$ $\frac{1}{4}$, a north arrow, and a standard scale such as 1 inch = 400 feet or 1 inch = 1,320.
- b. Location of existing and new point of diversion, if applicable, with coordinates referenced to a recognized survey corner.
- c. For on-farm conservation involving only a portion of the place of use, the location of the lands to be affected by the project with acres described by $\frac{1}{4}$ $\frac{1}{4}$.
- d. Location of lands on which applicant's portion of conserved water is to be used if other than those currently authorized with acres described by $\frac{1}{4}$ $\frac{1}{4}$.

If the applicant is requesting that the project be finalized upon approval of this application, then the applicant must complete a map consistent with OAR 690-310-0050 as identified in OAR 690-018-0062.

Exhibit J – Water Right Clarification and Evidence of Notification of Effected Persons

If the application:

1) Involves rights for lands under more than one ownership and not all of the owners are applicants; and/or
2) The final proof survey maps on file with the Department for any quarter-quarter section in which lands involved in the application are located do not adequately describe the location of the place of use or the associated priority dates of the associated water rights, the Department may require the following additional information:

- A list of the name and address of each landowner whose lands the Department concludes may be included in the portion of the water right proposed for allocation of conserved water and written proof of service of a copy of the application on those landowners and a map delineating the location, acreage, priority dates, and ownership of the subject water right; and
- Other information sufficient to establish that no portion of the right to be conserved is held by persons other than those proposing the conservation project and, for rights with multiple priority dates, the priority dates for the right to be transferred are consistent with the decree or other document establishing the right.

(The applicant should consult with Department staff if there is any question regarding the need for submittal of Exhibit J.)

RECEIVED

DEC 17 2007

WATER RESOURCES DEPT
SALEM OREGON