

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

In the Matter of Allocation of Conserved Water Application CW-64, Morrow County) ORDER APPROVING USE AND DISPOSITION OF A PORTION OF APPLICANT'S PORTION OF CONSERVED WATER

Applicant
Superior Farms
J B Land, LLC
PO Box 130
Hermiston, OR 97838

Applicable Law

ORS 537.455 to 537.500 authorize and establish the process in which a water right holder may submit a request for an allocation of conserved water. OAR Chapter 690, Division 18, implements the statutes and provides the Department's procedures and criteria for evaluating conserved water applications and for implementing the use of the conserved water.

Pursuant to ORS 537.470(3), the Department determined the allocation of conserved water under Conserved Water Application CW-64. Any person or agency allocated conserved water under ORS 537.470 may reserve the water instream for future out-of-stream use or otherwise use or dispose of the conserved water. Any person or agency to whom conserved water is allocated shall notify the Commission of any change in the type of use, place of use, or point of diversion. The notice must be submitted 60 days before the actual the change.

The Director shall approve a change in the type of use, place of use, or point of diversion for conserved water, if: 1) the proposed new use is within the area described under OAR 690-018-0050(4)(h); 2) the proposed change would not constitute an expansion of the right; and c) the approval is consistent with OAR 690-005-0045 (Standards for Goal Compliance and Compatibility with Acknowledged Comprehensive Plans).

Findings of Fact

1. On January 27, 2015, the Department issued a Superseding Final Order Approving and Finalizing Allocation of Conserved Water Project CW-64, Partial Cancellation of Certificate 80773, and Approval of Use under OAR 690-018-0090 (Superseding Final Order), recorded at Special Order Volume 93, Pages 1171 - 1192.

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

2. The proposed areas for the Applicants' portion of conserved water to be used for out-of-stream uses were identified in the Superseding Final Order as follows:

Township	Range
2 North	26, 27, and 28 East
3 North	26, 27, 28, 29, and 30 East
4 North	26, 27, 28, 29, and 30 East
5 North	26, 27, 28, 29, and 30 East

3. The Superseding Final Order identified the Applicant's portion of conserved water as follows:

Applicants' Portion of Conserved Water				Applied (Proof Required)		Used on Other Lands (690-018-00090)		Reserved Instream for Future Out-of-Stream Use	
Originating Certificate	Priority	Rate (cfs)	Volume (AF)	Rate (cfs)	Volume (AF)	Rate (cfs)	Volume (AF)	Rate (cfs)	Volume (AF)
80773	3/13/1972*	3.52	729.54	1.647	323.49	1.361	275.13	0.512	130.92
85285	3/13/1972*	0.27	56.19			0.226	45.76	0.044	10.43
	Totals	3.79	785.73	1.647	323.49	1.587	320.89	0.556	141.35

* - plus one minute

4. On March 12, 2015, the Applicants submitted a 60-Day Notice of Use or Disposition for a portion of the Applicants' Portion of Conserved Water for CW-64 along with the required documentation.
5. The Applicants propose to use a portion of their conserved water reserved instream for future out-of-stream use as follows:

Originating Certificate: 80773
Person/Entity Using the Water: JB Land, LLC
 Superior Farms
 PO Box 130
 Hermiston, OR 97838

Use: IRRIGATION of 22.8 ACRES
Priority Date: March 13, 1972, plus one minute
Rate/Volume: 0.381 CUBIC FEET PER SECOND (CFS), Limited to 77.06 ACRE FEET
Source: COLUMBIA RIVER, tributary to the PACIFIC OCEAN

Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	7	SE SW	460 FEET NORTH AND 1680 FEET EAST FROM THE SW CORNER OF SECTION 7

Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
5 N	29 E	WM	23	SE SE	304	0.8
5 N	29 E	WM	24	NE SW	100	6.6
5 N	29 E	WM	24	SW SW	100	4.6

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
5 N	29 E	WM	26	NE NE	2700	0.6
5 N	29 E	WM	26	SW SE	2701	6.7
5 N	29 E	WM	26	SE SE	2701	3.5
Total						22.8

6. The balance of the Applicants' Portion of Conserved Water to continue to be reserved and managed instream for future out-of-stream use is as follows:

Originating Certificate	Priority date	Rate (cfs)	Volume (AF)
80773	March 13, 1972, <i>plus one minute</i>	0.131	53.86
85285	March 13, 1972, <i>plus one minute</i>	0.044	10.43
Total		0.175	64.29

From the authorized point of diversion located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	7	SE SW	460 FEET NORTH AND 1680 FEET EAST FROM THE SW CORNER OF SECTION 7

To the mouth of the Columbia River.


Conclusions of Law

1. The proposed use is within the area described under OAR 690-018-0050(4)(h).
2. The proposed use would not constitute an expansion of the right.
3. The proposed use is consistent with OAR 690-005-0045(Standards for Goal Compliance and Compatibility with Acknowledged Comprehensive Plans).

Now, therefore, it is ORDERED:

1. The use of water as described in Finding of Fact #5 is approved.
2. The right is subject to the provisions of ORS 540.510 to 540.539, 540.572 to 540.578, and 540.610 to 540.670.

DATED at Salem, Oregon this 24 day of March, 2015.



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

Mailing date: MAR 26 2015