

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

In the Matter of the Proposed Allocation of)
Conserved Water by Three Sisters Irrigation)
District, for certificate 74135, Deschutes County,)
Oregon)
FINAL ORDER APPROVING
ALLOCATION OF CONSERVED
WATER

ORS 537.455 to 537.500 as amended by 2003 HB 2456, and OAR Chapter 690, Division 018, authorize and establish the process and criteria for allocations of conserved water.

Findings of Fact

1. On September 30, 2003, the Deschutes Resources Conservancy filed an application for an allocation of conserved water on behalf of, and with the approval of, Squaw Creek Irrigation District. The Department assigned the application number C-34.
2. Squaw Creek Irrigation District is the named holder of the certificated water right. Squaw Creek Irrigation District operates and maintains the water delivery system for the benefit of the landowners in the area.
3. Since this application was filed both the Deschutes Resources Conservancy and the Squaw Creek Irrigation District have changed their names. Their new names are the Deschutes River Conservancy (DRC) and Three Sisters Irrigation District (TSID), respectively.
4. On April 12, 2005, the DRC and TSID amended the application by eliminating references to duty, changing and clarifying the priority date of the conserved water, eliminating some attachments, and clarifying that the maximum on-farm rate will be unchanged.
5. The application, as amended, requests an allocation of conserved water under certificate 74135 in the name of Squaw Creek Irrigation District.
6. The right allows the use of the waters of Squaw Creek, tributary to the Deschutes River, for irrigation, pond maintenance, industrial use, and stock water as follows:

Priority Date	Acres (equivalent)	Maximum Rate (cfs)
1869	48.00	0.96
1885	79.05	1.58
1887	150.00	3.00
1889	201.50	4.03
1893	39.50	0.79
1895	5,716.75	114.33*
1899	108.80	2.18
1900	54.00	1.08
1901	22.30	0.45
1903	360.60	7.21
1904	870.60	17.41
Totals	7,651.10	153.02

The maximum per acre rate associated with this right is 1/50 cfs/ac. There is no duty limitation.

*Certificate 74135 allows 114.34 cfs under a priority date of 1895. However, a discrepancy between the total rate allowed under the certificate and the total of the rates assigned to each priority date was introduced as a result of rounding errors in the calculations during issuance of the certificate. The quantity listed is adjusted so that the total of the rates allowed under each priority date equal the total rate allowed under the certificate.

7. The conservation project described involved replacement of approximately 7,700 feet of open ditch with 24-inch diameter pipe, and 11,700 feet of open ditch with 18-inch diameter pipe. The replacement of open, unlined ditches with pipelines is a proven technology for conserving water.
8. The water conserved by this pipelining project is seepage losses from the ditches operated by TSID. To the extent that the seepage losses eliminated by pipelines are in excess of the quantities of conserved water to be allocated, the project also will provide for more reliable delivery of water for the beneficial purposes under the water right.
9. On April 26, 2005, the Department provided public notice as required under OAR 690-018-0050. On April 29, May 2, and May 9, 2005, the Bend Bulletin published a public notice inviting public comments on the application. No comments were received.
10. On July 25, 2005, a Notice of Determination and Proposed Final Order was issued by the Department proposing to approve this allocation of conserved water application. No protests were received.
11. The application includes land use information forms completed and signed by Deschutes County demonstrating that the required land use approvals have been obtained by the applicant.

12. Pursuant to OAR 690-018-0020(4), the quantity of water conserved under the project is 1.50 cfs with a priority date of 1895.
13. Pursuant to OAR 690-018-0012(1), the applicant's propose that 100 percent of the conserved water be allocated to the state for an instream water right.
14. Pursuant ORS 537.485, the applicant's request that the priority dates of the conserved water be the same as the originating rights.
15. After the allocation of conserved water, the water right held by the district and the state's instream water right will allow use of the following quantities of water:

Priority Date	Acres (equivalent)	Before Project Maximum District Rate (cfs)	Conserved Water (cfs)	After Project District Maximum Rate (cfs)	Instream Water Right (cfs)
1869	48.00	0.96		0.96	
1885	79.05	1.58		1.58	
1887	150.00	3.00		3.00	
1889	201.50	4.03		4.03	
1893	39.50	0.79		0.79	
1895	5,716.75	114.33	1.50	112.83	1.50
1899	108.80	2.18		2.18	
1900	54.00	1.08		1.08	
1901	22.30	0.45		0.45	
1903	360.60	7.21		7.21	
1904	870.60	17.41		17.41	
Totals	7,651.10	153.02	1.50	151.52	1.50

16. The project conservation measures were implemented on April 1, 2003.
17. The TSID is located in an area that is underlain by highly permeable, fractured basalts. The canal seepage that is conserved by the project likely would have entered the regional ground water system that discharges near or into Lake Billy Chinook. The ground water flows in the area are generally parallel to Squaw Creek. As a result, the canal seepage did not return to Squaw Creek and did not become available to other water users in Squaw Creek.
18. Instream water rights have been established in Squaw Creek through the application process established pursuant to OAR 537.341 and through water right transfers. The instream rights established through the application process are confirmed under certificates 73223 and 73224 with priority dates of October 11, 1990.
19. The Oregon Department of Fish and Wildlife has indicated that additional streamflows are needed in Squaw Creek to provide for the conservation, maintenance and enhancement of aquatic and fish life and fish habitat. The Department of Environmental

Quality has indicated that additional instream water in Squaw Creek is needed to help decrease instream temperatures for the benefit of instream aquatic life. The Oregon Parks and Recreation Department has also indicated that additional instream water in Squaw Creek is needed.

Ultimate Findings of Fact

Pursuant to OAR 690-018-0050, in reviewing the application for allocation of conserved water the Department has determined the following:

- A. The proposed allocation of conserved water will result in a reduced diversion for the uses allowed under the original rights of 1.50 cfs as established in Finding of Fact 14.
- B. Consistent with in Finding of Fact 9, 10 and 17, the proposed allocation will not harm other water rights.
- C. The application is compatible with the local comprehensive land use plan as established in Finding of Fact 11.
- D. As no harm will occur to other water rights, no reduction in the quantity of conserved water to be allocated is required to mitigate for affects on other water rights.
- E. Consistent with Finding of Fact 6, the original water right does not have a duty. The allocation of conserved water does not change this. Consistent with Finding of Fact 14, the new rate for the portions of the water rights affected by the allocation of conserved water shall be:

Priority Date	Acres (equivalent)	Rate (cfs)
1869	48.00	0.96
1885	79.05	1.58
1887	150.00	3.00
1889	201.50	4.03
1893	39.50	0.79
1895	5,716.75	112.83
1899	108.80	2.18
1900	54.00	1.08
1901	22.30	0.45
1903	360.60	7.21
1904	870.60	17.41
Totals	7,651.10	151.52

- F. The state's portion of the conserved water is needed to improve aquatic resources and their habitat in Squaw Creek between the TSID diversion at approximately river-mile 23.5 to the mouth of Squaw Creek.

- G. The applicant is requesting that 100 percent of the conserved water be allocated to an instream water right to be held in trust by the Water Resources Department for the people of Oregon and that the priority dates of the conserved water rights are the same as the originating rights.
- H. The state's portion of the conserved water shall be allocated to instream water rights for the support of aquatic life and shall provide for the protection of flows in Squaw Creek from the authorized point of diversion for TSID at

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
15 S	10 E	WM	21	SW SW	998 FEET NORTH & 1211 FEET EAST FROM SW CORNER, SECT. 21

(approximately river mile 23.5) to the mouth of Squaw Creek. The instream water right shall be for 1.5 cfs, with an 1895 priority date, and shall replace a portion of instream water rights established pursuant to ORS 537.341 or 537.346 and shall be in addition to any instream water rights established pursuant to ORS 537.348 or 537.470, unless otherwise specified by a subsequent order establishing a new instream water right. The rights shall allow for the use and protection of flows from April 1 through October 31, and at other times when TSID is diverting water.

- I. Consistent with in Finding of Fact 16, the applicant has completed the conservation project, which was completed within five years prior to the date of filing the application, and has requested finalization of the allocation of the conserved water.
- J. No other conditions or limitations are needed to prevent or mitigate for harm to existing water rights.

Conclusion of Law

The project described in the application C-34 for allocation of conserved water is consistent with the criteria in ORS 537.455 to 537.500, as amended by 2003 HB 2456, and OAR Chapter 690, Division 018. Water will be conserved that can be allocated without harming other water rights.

Now, therefore, it is ORDERED:

- 1. Certificate 74135 is modified. A new superseding certificate shall be issued to TSID for the remaining portion of Certificate 74135 upon a determination that it is necessary to produce a certificate to confirm that remaining portion of the water right. Approval of this allocation of conserved water reduces the amount of water lawfully available under the remaining portion of certificate 74135 by 1.5 cfs under the 1895 priority date. The associated priority date and rate of the remaining right shall be approximately:

Priority Date	Acres (equivalent)	Rate (cfs)
1869	48.00	0.96
1885	79.05	1.58
1887	150.00	3.00
1889	201.50	4.03
1893	39.50	0.79
1895	5,716.75	112.83
1899	108.80	2.18
1900	54.00	1.08
1901	22.30	0.45
1903	360.60	7.21
1904	870.60	17.41
Totals	7,651.10	151.52


The maximum per acre rate associated with these rights is 1/50 cfs/ac. There is no duty limitation. The place of use shall be those lands described under certificate 74135, as modified by any transfers completed pursuant to ORS 540.580. The acreage, rate, duty, authorized uses, and priority dates are subject to modification by any approved transfers, cancellations, corrections, allocation of conserved water, or other prior modification to Certificate 74135. All other conditions and limitations of the existing water right shall be included in the superseding certificate.

2. A new instream water right certificate, Certificate 81607, shall be issued for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values in Squaw Creek from the authorized point of diversion for TSID at

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(approximately river mile 23.5) to the mouth of Squaw Creek. The instream water right shall be for 1.5 cfs, with an 1895 priority, and shall replace a portion of instream water rights established pursuant to ORS 537.341 or 537.346 and shall be in addition to any instream water rights established pursuant to ORS 537.348 or 537.470, unless otherwise specified by a subsequent order establishing a new instream water right. The rights shall allow for the use and protection of flows from April 1 to October 31, and at other times when TSID is diverting water.

Dated at Salem, Oregon this 13th day of October 2005.

Vol 
Phillip C. Ward
Director

Mailing Date: OCT 19 2005