

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

In the Matter of the Allocation of Conserved) ORDER FINALIZING THE
Water Application CW-47 for Certificate) ALLOCATION OF CONSERVED
74145, Deschutes County) WATER

Authority

ORS 537.455 to 537.500 as amended by 2003 HB 2456, 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 018 implements the statutes and provides the Department's procedures and criteria for evaluating allocation of conserved water applications.

Findings of Fact

1. On November 16, 2006, Swalley Irrigation District filed an allocation of conserved water application. The Department assigned the application number CW-47.
2. On March 21, 2007, the Department issued Special Order Volume 71, Page 221 approving the allocation of conserved water.
3. On October 1, 2007, the applicant indicated that the conservation project has been completed and requested that the project be finalized.

Now, therefore, it is ORDERED:

Consistent with Special Order Volume 71, Page 221, the Department takes the following actions:

1. Certificate 74145 shall be modified. A new superseding certificate shall be issued to Swalley Irrigation District for the remaining portion of Certificate 74145 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 74145 by the following amounts:

NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW OR RECONSIDERATION

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 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.

Certificate	Priority Date	Season	Conserved Water
74145	September 1, 1899	Season 1 Rate: April 1 through April 30 & October 1 through October 31	4.67 cfs
		Season 2 Rate: May 1 through 14 & September 15 through 30	6.67 cfs
		Season 3 Rate: May 15 through September 14	9.00 cfs
		Duty	3,157.62 AF

The associated priority date and rate of the remaining right shall be approximately:

Season	After Project Maximum	Maximum per acre
Season 1 Rate: April 1 through April 30 & October 1 through October 31	43.324 cfs	1 cfs to 83.0 acres
Season 2 Rate: May 1 through 14 & September 15 through 30	59.567 cfs	1 cfs to 62.0 acres
Season 3 Rate: May 15 through September 14	108.964 cfs	1 cfs to 33.45 acres
Duty	37,018.18 AF	9.58 AF

The above rates include a 43% transmission loss allowed by the Deschutes County Circuit Court to compensate for seepage from the canal. The transmission loss is not allowed on direct diversion rates.

The per acre duty associated with acreage served by the canal shall not exceed 9.58 acre feet for each acre irrigated during the irrigation season as measured at the diversion from the source. For acreage served by direct diversions, the per acre duty is limited to 5.46 acre feet.

The place of use shall be those lands described under Certificate 74145, as modified by any transfers completed pursuant to ORS 540.580 or other prior modifications.

All other conditions and limitations of the existing water right shall be included in the superseding certificate.

2. A new instream certificate shall be issued for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values in the Deschutes River from the authorized point of diversion (RM 165) for Certificate 74145 at:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
17 S	12 E	WM	29	SE NE	POD #3, SWALLEY MAIN CANAL: 985 FEET NORTH AND 617 FEET WEST FROM THE E1/4 CORNER OF SECTION 29


to Lake Billy Chinook (RM 120).

The instream water right shall be as described below:

Certificate	Priority Date	Season	Instream Water Right from Conserved Water Project
74145	September 1, 1899	Season 1 Rate: April 1 through April 30 & October 1 through October 31	4.67 cfs
		Season 2 Rate: May 1 through 14 & September 15 through 30	6.67 cfs
		Season 3 Rate: May 15 through September 14	9.00 cfs

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.

Dated at Salem, Oregon this 3rd day of October, 2007.


fm Phillip C. Ward
Director

Date of Mailing: OCT 08 2007