

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

In the Matter of Proposed Allocation of)	NOTICE OF DETERMINATION and
Conserved Water Application)	FINAL ORDER APPROVING
CW-55, Malheur County)	ALLOCATION OF CONSERVED
)	WATER, FINALIZING AN
)	ALLOCATION OF CONSERVED
)	WATER and APPROVING A CHANGE
)	IN POINT OF DIVERSION

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 18 implements the statutes and provides the Department's procedures and criteria for evaluating allocation of conserved water applications.

ORS 537.705 and 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

Larson Land Co., LLC,
dba Larson Skyline Farms Partnership,
Farrell Larson
4395 Heinz Blvd.
Ontario, OR 97914

Agent

Steven P. Applegate, Consulting
3395 Huckleberry Court
Salem, OR 97302

Findings of Fact

1. On December 24, 2007, Larson Land Co., LLC, dba Larson Skyline Farms Partnership, Farrell Larson filed an allocation of conserved water application. Supplemental information was received on several dates after the initial application submittal. The Department assigned the application number CW-55.
2. On several occasions the applicant amended the amount of water to be conserved and on May 30, 2008, the applicant requested to transfer the authorized point of diversion on the Malheur River under Certificate 74021 to a Snake River diversion, located at:

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, 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.

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
17 S	47 E	WM	21	NE NW	1	350 FEET SOUTH AND 1980 FEET EAST FROM NW CORNER OF SECTION 21

DESCRIPTION OF THE WATER RIGHTS PROPOSED TO BE MODIFIED

3. The entirety of the first right to be modified is as follows:

Certificate: 74024 in the name of SKYLINE FARMS, INCORPORATED (perfected under Permit S-30621)

Use: IRRIGATION of 159.0 ACRES

Priority Date: OCTOBER 8, 1965

Rate: 1.92 CUBIC FEET PER SECOND (cfs)

Limit/Duty: ONE-FORTIETH cfs per acre, not to exceed 3.0 acre-feet per acre during the irrigation season of each year

Source: MALHEUR RIVER, tributary to the SNAKE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
18 S	46 E	WM	10	NE NE	510 FEET SOUTH AND 600 FEET WEST FROM THE NE CORNER OF SECTION 10

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	34	SE NW	40.0
17 S	46 E	WM	34	NE SW	39.8
17 S	46 E	WM	34	NW SW	39.6
17 S	46 E	WM	34	SW SW	39.6

4. The portion of the second right to be conserved is as follows:

Certificate: 74021 in the name of SKYLINE FARMS, INCORPORATED (perfected under Permit S-33946)

Use: IRRIGATION of 25.2 ACRES

Priority Date: OCTOBER 25, 1968

Rate: 0.63 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-FORTIETH cfs per acre, not to exceed 3.0 acre-feet per acre during the irrigation season of each year

Source: MALHEUR RIVER, tributary to the SNAKE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
18 S	46 E	WM	10	NE NE	510 FEET SOUTH AND 600 FEET WEST FROM THE NE CORNER OF SECTION 10

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	26	NE SW	25.2

5. The portion of the third right to be conserved is as follows:

Certificate: 82742 in the name of SKYLINE FARMS, INC. (perfected under Permit S-31231)

Use: IRRIGATION of 2548.4 ACRES

Priority Date: JUNE 27, 1966

Rate: 52.086 CUBIC FEET PER SECOND (cfs)

Limit/Duty: ONE-FORTIETH cfs per acre, not to exceed 4.0 acre-feet per acre during the irrigation season of each year

Source: SNAKE RIVER, tributary to the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
17 S	47 E	WM	21	NE NW	1	350 FEET SOUTH AND 1980 FEET EAST FROM THE NW CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	2	NE SW	20.9
17 S	46 E	WM	2	SE SW	18.5
17 S	46 E	WM	2	NW SE	20.0
17 S	46 E	WM	2	SW SE	40.0
17 S	46 E	WM	2	SE SE	20.1
17 S	46 E	WM	10	SE SE	39.2
17 S	46 E	WM	11	NE NE	40.0
17 S	46 E	WM	11	NW NE	30.4
17 S	46 E	WM	11	SW NE	38.2
17 S	46 E	WM	11	SE NE	30.4
17 S	46 E	WM	11	NE NW	23.0
17 S	46 E	WM	11	SE NW	40.0
17 S	46 E	WM	11	NE SW	40.0
17 S	46 E	WM	11	SW SW	40.0
17 S	46 E	WM	11	SE SW	40.0
17 S	46 E	WM	11	NE SE	35.4
17 S	46 E	WM	11	NW SE	40.0
17 S	46 E	WM	11	SW SE	41.0
17 S	46 E	WM	11	SE SE	18.6
17 S	46 E	WM	12	SW NE	39.2
17 S	46 E	WM	12	NW NW	19.9
17 S	46 E	WM	12	SW NW	39.2
17 S	46 E	WM	12	SE NW	39.2
17 S	46 E	WM	12	NW SW	7.7
17 S	46 E	WM	12	SW SW	0.2
17 S	46 E	WM	13	NW SW	38.6
17 S	46 E	WM	14	NW NE	40.4

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	14	SW NE	7.2
17 S	46 E	WM	14	NE NW	40.0
17 S	46 E	WM	14	NW NW	40.0
17 S	46 E	WM	14	SE NW	3.4
17 S	46 E	WM	14	NE SW	39.7
17 S	46 E	WM	14	NW SW	38.0
17 S	46 E	WM	14	SW SW	38.6
17 S	46 E	WM	14	SE SW	38.6
17 S	46 E	WM	14	NE SE	40.0
17 S	46 E	WM	14	NW SE	40.4
17 S	46 E	WM	14	SW SE	38.8
17 S	46 E	WM	15	NE NE	39.4
17 S	46 E	WM	15	NW NE	39.6
17 S	46 E	WM	15	SW NE	10.0
17 S	46 E	WM	15	SE NE	7.4
17 S	46 E	WM	15	SW NW	1.2
17 S	46 E	WM	15	SE NW	7.9
17 S	46 E	WM	15	NE SW	38.8
17 S	46 E	WM	15	NW SW	38.5
17 S	46 E	WM	15	SW SW	37.9
17 S	46 E	WM	15	SE SW	38.8
17 S	46 E	WM	15	NE SE	39.1
17 S	46 E	WM	15	NW SE	37.0
17 S	46 E	WM	15	SW SE	38.8
17 S	46 E	WM	15	SE SE	38.8
17 S	46 E	WM	16	NE SW	38.6
17 S	46 E	WM	16	NW SW	38.4
17 S	46 E	WM	16	SW SW	42.0
17 S	46 E	WM	16	SE SW	40.6
17 S	46 E	WM	16	NE SE	39.1
17 S	46 E	WM	16	NW SE	39.4
17 S	46 E	WM	16	SW SE	40.2
17 S	46 E	WM	16	SE SE	40.0
17 S	46 E	WM	17	SE SE	40.2
17 S	46 E	WM	20	NE NE	21.1
17 S	46 E	WM	21	NE NE	40.0
17 S	46 E	WM	21	NW NE	40.0
17 S	46 E	WM	21	SW NE	40.0
17 S	46 E	WM	21	SE NE	39.7
17 S	46 E	WM	21	NE NW	40.0
17 S	46 E	WM	21	NW NW	40.0
17 S	46 E	WM	21	SE NW	1.2
17 S	46 E	WM	21	NE SW	1.4
17 S	46 E	WM	21	NE SE	39.4
17 S	46 E	WM	21	NW SE	39.6
17 S	46 E	WM	22	NE NW	39.0
17 S	46 E	WM	22	NW NW	37.2
17 S	46 E	WM	22	SW NW	38.6
17 S	46 E	WM	22	SE NW	40.0
17 S	46 E	WM	22	NE SW	39.8

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	22	NW SW	34.9

6. The entirety of the fourth right to be conserved is as follows:

Certificate: 76944 in the name of FARRELL LARSON; LARSON SKYLINE FARMS (perfected under Permit S-31231)

Use: IRRIGATION of 623.7 ACRES

Priority Date: JUNE 27, 1966

Rate: 12.77 CUBIC FEET PER SECOND (cfs)

Limit/Duty: ONE-FORTIETH cfs per acre, not to exceed 4.0 acre-feet per acre during the irrigation season of each year

Source: SNAKE RIVER, tributary to the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
17 S	47 E	WM	21	NE NW	1	350 FEET SOUTH AND 1980 FEET EAST FROM THE NW CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	22	SW SW	37.0
17 S	46 E	WM	22	SE SW	39.7
17 S	46 E	WM	22	SW SE	39.7
17 S	46 E	WM	22	SE SE	39.7
17 S	46 E	WM	23	SW SW	39.6
17 S	46 E	WM	23	SE SW	30.3
17 S	46 E	WM	23	SW SE	0.8
17 S	46 E	WM	26	NW NE	19.3
17 S	46 E	WM	26	SW NE	30.8
17 S	46 E	WM	26	NE NW	39.1
17 S	46 E	WM	26	NW NW	39.1
17 S	46 E	WM	26	SW NW	39.2
17 S	46 E	WM	26	SE NW	39.2
17 S	46 E	WM	27	NE NE	39.2
17 S	46 E	WM	27	NW NE	39.5
17 S	46 E	WM	27	SW NE	39.5
17 S	46 E	WM	27	SE NE	39.3
17 S	46 E	WM	27	NE NW	32.7

7. The portion of the fifth right to be conserved is as follows:

Certificate: 74022 in the name of SKYLINE FARMS, INCORPORATED (perfected under Permit S-33945)

Use: SUPPLEMENTAL IRRIGATION of 184.2 ACRES

Priority Date: OCTOBER 25, 1968

Rate: 3.129 CUBIC FEET PER SECOND (cfs)

Limit/Duty: ONE-FORTIETH cfs per acre, not to exceed 4.0 acre-feet per acre during the irrigation season of each year

Source: SNAKE RIVER, tributary to the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
17 S	47 E	WM	21	NE NW	1	350 FEET SOUTH AND 1980 FEET EAST FROM NW CORNER OF SECTION 21

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	26	NE SW	25.2
17 S	46 E	WM	34	SE NW	40.0
17 S	46 E	WM	34	NE SW	39.8
17 S	46 E	WM	34	NW SW	39.6
17 S	46 E	WM	34	SW SW	39.6

8. The portion of the sixth right to be conserved is as follows:

Certificate: 74023 in the name of SKYLINE FARMS, INCORPORATED (perfected under Permit S-33944)

Use: IRRIGATION of 152.4 ACRES

Priority Date: OCTOBER 25, 1968

Rate: 3.81 CUBIC FEET PER SECOND (cfs)

Limit/Duty: ONE-FORTIETH cfs per acre, not to exceed 4.0 acre-feet per acre during the irrigation season of each year

Source: SNAKE RIVER, tributary to the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
17 S	47 E	WM	21	NE NW	1	350 FEET SOUTH AND 1980 FEET EAST FROM NW CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	10	NE SW	5.7
17 S	46 E	WM	10	SW SW	5.8
17 S	46 E	WM	10	NE SE	14.7
17 S	46 E	WM	10	NW SE	14.2
17 S	46 E	WM	10	SW SE	5.1
17 S	46 E	WM	11	NW NW	4.9
17 S	46 E	WM	11	SW NW	9.6
17 S	46 E	WM	11	NW SW	20.8
17 S	46 E	WM	14	SE SE	15.8
17 S	46 E	WM	15	NE NW	17.0
17 S	46 E	WM	21	SW NW	9.2
17 S	46 E	WM	21	NW SW	29.6

9. The entirety of the seventh right to be conserved is as follows:
Certificate: 76948 in the name of FARRELL LARSON/LARSON SKYLINE FARMS (perfected under Permit S-33944)
Use: IRRIGATION of 632.7 ACRES
Priority Date: OCTOBER 25, 1968
Rate: 15.82 CUBIC FEET PER SECOND
Limit/Duty: ONE-FORTIETH cfs per acre, not to exceed 4.0 acre-feet per acre during the irrigation season of each year
Source: SNAKE RIVER, tributary to COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
17 S	47 E	WM	21	NE NW	1	350 FEET SOUTH AND 1980 FEET EAST FROM NW CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	20	SE SE	8.3
17 S	46 E	WM	21	SW SW	18.4
17 S	46 E	WM	21	SE SW	36.5
17 S	46 E	WM	21	SW SE	39.7
17 S	46 E	WM	21	SE SE	39.3
17 S	46 E	WM	27	NE NW	6.5
17 S	46 E	WM	27	NW NW	37.2
17 S	46 E	WM	27	SW NW	38.8
17 S	46 E	WM	27	SE NW	39.6
17 S	46 E	WM	28	NE NE	24.8
17 S	46 E	WM	28	NW NE	29.8
17 S	46 E	WM	28	SW NE	29.4
17 S	46 E	WM	28	SE NE	36.4
17 S	46 E	WM	28	NE NW	18.4
17 S	46 E	WM	28	NW NW	32.2
17 S	46 E	WM	28	SW NW	39.6
17 S	46 E	WM	28	SE NW	34.6
17 S	46 E	WM	28	NE SW	23.7
17 S	46 E	WM	28	NW SW	17.1
17 S	46 E	WM	28	NE SE	19.0
17 S	46 E	WM	28	NW SE	20.2
17 S	46 E	WM	29	NE NE	18.5
17 S	46 E	WM	29	SE NE	18.4
17 S	46 E	WM	29	NE SE	6.5

10. Certificate 76948 is more accurately described as allowing irrigation of 632.9 acres. The water right summary lists 632.7 acres, but the place of use description describes 632.9 acres. The claim of beneficial use map associated with Transfer T-7625 describes the same acres as listed on Certificate 76948, and indicates that the total acreage is 632.9 acres.

POINT OF DIVERSION TRANSFER

11. The applicant proposes to change the authorized point of diversion (POD) for the entirety of Certificate 74024 and a portion of 74021 from the Malheur River POD as described in Findings of Fact #3 and #4 to a Snake River POD located at:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
17 S	47 E	WM	21	NE NW	1	350 FEET SOUTH AND 1980 FEET EAST FROM THE NW CORNER OF SECTION 21

ALLOCATION OF CONSERVED WATER

12. The application, as modified, proposes an allocation of conserved water involving Certificates 74021, 74022, 82742, 76944, 74023 and 76948. There are two elements to the allocation of conserved water. The first element only involves Certificate 74021 from the Malheur River, and is related to the point of diversion change with 100% of the conserved water proposed to go instream. The second element involves Certificates 74021, 74022, 82742, 76944, 74023 and 76948. Seventy-five percent of the conserved water is proposed to go to the applicant and 25 percent to the state for instream purposes.
13. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
14. A diversion structure and delivery system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Application CW-55.
15. The application, as amended on May 30, 2008, requests that the duty for all rights be reduced from 3.0 or 4.0 AF/ac (depending upon the right) to 2.5 AF/ac and that the per acre rate for all rights be reduced from 1/40 cfs/ac to 1/75.61 cfs/ac.

16. The rate and duty and conserved water amounts for each certificate are shown below:

Certificate #	Existing Acres	Before Project			After Project			Conserved Water		
		AF/ac	AF	CFS	AF/ac	AF	CFS	AF/ac	AF	CFS
74021*	25.2	3.0	75.60	0.631	2.5	63.00	0.333	0.5	12.60	0.298
74022** (Supplemental)	184.2†	4.0 / 1.0 (add.)	184.20		0.0			1.0	184.20	
82742	2548.4	4.0	10,193.60	52.087	2.5	6,371.00	33.707	1.5	3,822.60	18.38
76944	623.7	4.0	2,494.80	12.77	2.5	1,559.25	8.249	1.5	935.55	4.521
74023	152.4	4.0	609.60	3.81	2.5	381.00	2.016	1.5	228.60	1.794
76948	632.9	4.0	2,531.60	15.82	2.5	1,582.25	8.371	1.5	949.35	7.449
Total Primary acres	3,982.6		15,905.20	85.118	2.5	9,956.50	52.676		5,948.70	32.442
Total Supplemental acres	184.2		184.20	0.0	0.00	0.00	0.00		184.2	0.00
Total	4,141.6†		16,089.40	85.118		9,956.50	52.676		6,132.9	32.442

* Certificate 74022 is supplemental to Certificate 74021 and adds 1.0 AF/ac of duty and 0.0 cfs
** Certificate 74022 is supplemental to Certificate 74024 and adds 1.0 AF/ac of duty and 2.055 cfs.
† Certificate 74022 is supplemental to a total of 199.6 acres, however only 184.2 acres are involved in the allocation of conserved water, of which 25.2 acres are covered by primary water right Certificate 74021 and 159.0 acres are covered by primary water right Certificate 74024.

17. The applicant funded 100 percent of the project. Therefore, pursuant to OAR 690-018-0012(1) 75 percent of the conserved water may go to the applicant and 25 percent to the state. However, for the first element of the conserved water the applicant proposes that 100 percent of the conserved water will go to the state. The first element involves Certificate 74021 from the Malheur River. The proposed instream reach is from the existing point of diversion to the new point of diversion on the Snake River, in the amounts described below:

Certificate #	Priority Date	Applicant's Share of Conserved Water		State's Share of Conserved Water		Total Amount of Conserved Water	
		AF	CFS	AF	CFS	AF	CFS
74021	October 25, 1968	0.00	0.000	75.6	0.156	75.6	0.156

18. The second element of the conserved water involves Certificates 74021, 74022, 82742, 76944, 74023 and 76948. Pursuant to OAR 690-018-0012(1), 75 percent of the conserved water is proposed to go to the applicant, and 25 percent to the state for instream purposes, in the amounts described below:

Certificate #	Priority Date	Applicant's Share of Conserved Water		State's Share of Conserved Water		Total Amount of Conserved Water	
		AF	CFS	AF	CFS	AF	CFS
74021	October 25, 1968	9.450	0.2235	3.150	0.0745	12.60	0.298
74022 (Supplemental)	October 25, 1968	138.150	0	46.050	0	184.20	0.000
82742	June 27, 1966	2866.95	13.785	955.650	4.595	3,822.60	18.380
76944	June 27, 1966	701.663	3.391	233.887	1.130	935.55	4.521
74023	October 25, 1968	171.450	1.3455	57.150	0.4485	228.60	1.794
76948	October 25, 1968	712.013	5.587	237.338	1.862	949.35	7.449
Total Primary acres		4461.526	24.332	1487.175	8.110	5,948.70	32.442
Total Supplemental acres		138.150	0	46.050	0	184.20	0.000

19. The conservation project began during the 2003 irrigation season. It involved:
 - a. Installing screening at the Snake River point of diversion to prevent clogging of pumping system with debris and to screen out fish.
 - b. Reducing irrigation nozzle sizes on all lines to 1/8 inch and 9/64 inch (3-5 gallons per minute per head).
 - c. Installing soil moisture probes so that water application rates can be designed to match soil infiltration rates and to limit water application to the root zones.
 - d. Installing Variable Frequency Drives that are connected to pressure sensors enabling the slowing down of individual pumps thereby reducing over pressuring and over-watering.
 - e. Installing and testing drip irrigation systems on over 2,000 acres. These drip systems can be used in place for up to three years, after which period the tape must be replaced. The systems further ensure that water stays in the root zone until utilized by the crop.
20. Public notice was published in the Department's weekly notice on February 12, 2008, and in the Argus Observer on February 11, 18, and 25, 2008, as required under OAR 690-018-0050. No comments were received in response to these notices.
21. Pursuant to ORS 537.485, the applicant requests that the priority dates of the conserved water be the same as the originating right.
22. The proposed allocation of conserved water will not harm existing rights because all Snake River water rights that are not subordinate to irrigation rights are met.
23. The application includes land use information forms completed and signed by a representative of the Malheur County planning department. Additionally, the Department has provided notification of the proposed action to Baker County and Wallowa County.
24. Since no harm will occur to other water rights, no reduction in the quantity of conserved water to be allocated is required to mitigate for effects on other water rights.
25. After the allocation of conserved water, the water rights held by the applicant will allow use of the following quantities of water on the existing acres:

Primary Water Rights Certificate #	Existing Acres	After Project		
		AF/ac	AF	CFS
74021	25.2	2.5	63.00	0.333
82742	2548.4	2.5	6,371.00	33.707
76944	623.7	2.5	1,559.25	8.249
74023	152.4	2.5	381.00	2.016
76948	632.9	2.5	1,582.25	8.371
Total Primary	3,982.6	2.5	9,956.5	52.676

After the allocation of conserved water, the supplemental water right, Certificate 74022, shall not be appurtenant to the lands covered by Certificate 74021. Certificate 74022 shall allow a maximum additional rate of 0.219 cfs to the 159.0 acres of lands covered by Certificate 74024.

26. In consultation with the Oregon Department of Fish and Wildlife, Department of Environmental Quality, and Oregon Parks and Recreation Department, the Department has determined that conserved water is needed to support instream uses in the Malheur and Snake Rivers to provide for the conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values.
27. The applicant's portion of the conserved water may be used for irrigation on a maximum of 1839.9 acres of new lands located within:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	4	SWSE	2.5
17 S	46 E	WM	4	SW SW	0.8
17 S	46 E	WM	4	SE SW	0.6
17 S	46 E	WM	9	NENE	40.0
17 S	46 E	WM	9	NWNE	40.0
17 S	46 E	WM	9	NENW	40.0
17 S	46 E	WM	9	NW NW	17.0
17 S	46 E	WM	10	NENW	15.0
17 S	46 E	WM	10	NWNW	40.0
17 S	46 E	WM	10	SWNW	40.0
17 S	46 E	WM	10	SESW	30.4
17 S	46 E	WM	10	SESW	31.6
17 S	46 E	WM	10	NWSW	34.5
17 S	46 E	WM	10	SESW	34.0
17 S	46 E	WM	10	SWSE	20.0
17 S	46 E	WM	15	NWNW	3.1
17 S	46 E	WM	15	SWNW	4.1
17 S	46 E	WM	16	NENE	2.8
17 S	46 E	WM	16	NWNE	1.4
17 S	46 E	WM	16	SWNE	29.2
17 S	46 E	WM	16	SENE	26.0
17 S	46 E	WM	16	NENW	7.4
17 S	46 E	WM	16	NWNW	13.0
17 S	46 E	WM	16	SWNW	24.0

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	16	SENW	26.4
17 S	46 E	WM	17	NENE	20.0
17 S	46 E	WM	17	NWNE	7.1
17 S	46 E	WM	17	SWNE	0.5
17 S	46 E	WM	17	SENE	13.0
17 S	46 E	WM	26	SWSW	1.0
17 S	46 E	WM	27	SWSW	39.2
17 S	46 E	WM	27	SESW	39.6
17 S	46 E	WM	27	SWSE	39.6
17 S	46 E	WM	27	SESE	28.8
17 S	46 E	WM	28	NESW	6.6
17 S	46 E	WM	28	NWSW	11.6
17 S	46 E	WM	28	SWSW	40.0
17 S	46 E	WM	28	SESW	40.0
17 S	46 E	WM	28	NESE	8.0
17 S	46 E	WM	28	NWSE	12.0
17 S	46 E	WM	28	SWSE	40.0
17 S	46 E	WM	28	SESE	40.0
17 S	46 E	WM	29	NESE	9.8
17 S	46 E	WM	29	SESE	38.0
17 S	46 E	WM	32	SESE	4.1
17 S	46 E	WM	33	SWSW	40.0
17 S	46 E	WM	33	SESW	40.0
17 S	46 E	WM	33	SWSE	40.0
17 S	46 E	WM	33	SESE	40.0
17 S	46 E	WM	34	NENE	39.6
17 S	46 E	WM	34	NWNE	39.6
17 S	46 E	WM	34	SWNE	39.6
17 S	46 E	WM	34	SENE	39.6
17 S	46 E	WM	34	NENW	35.0
17 S	46 E	WM	34	SESW	14.9
17 S	46 E	WM	34	NESE	21.0
17 S	46 E	WM	34	SWSE	34.4
17 S	46 E	WM	34	SESE	26.7
17 S	46 E	WM	35	NWNW	23.4
17 S	46 E	WM	35	SWNW	23.0
17 S	46 E	WM	35	NWSW	13.0
18 S	46 E	WM	3	NENE	28.5
18 S	46 E	WM	3	NWNE	39.4
18 S	46 E	WM	3	SWNE	14.2
18 S	46 E	WM	3	NENW	40.0
18 S	46 E	WM	3	NWNW	40.0
18 S	46 E	WM	3	SWNW	40.0
18 S	46 E	WM	3	SENW	26.3
18 S	46 E	WM	3	NESW	6.2
18 S	46 E	WM	3	NWSW	14.0
18 S	46 E	WM	4	NENE	39.6
18 S	46 E	WM	4	NWNE	39.6
18 S	46 E	WM	4	NENW	39.6
TOTAL ACRES					1839.9

28. For the first element of the conserved water, involving Certificates 74021 the instream reach will be from the existing POD at:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
18 S	46 E	WM	10	NE NE	510 FEET SOUTH AND 600 FEET WEST FROM NE CORNER OF SECTION 10

To immediately before the new point of diversion, being:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
17 S	47 E	WM	21	NE NW	1	350 FEET SOUTH AND 1980 FEET EAST FROM NW CORNER OF SECTION 21

The right will be protected instream from March 1 through October 31 at the rate and priority date shown below:

Certificate #	Priority Date	Instream Water Right (CFS)
74021	October 25, 1968	0.156

29. For the second element of the conserved water (involving Certificates 74021, 74022, 82742, 76944, 74023 and 76948) the instream water right created from the conserved water under the other certificates begins at the point of diversion, being:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
17 S	47 E	WM	21	NE NW	350 FEET SOUTH AND 1980 FEET EAST FROM THE NW CORNER OF SECTION 21

to the Oregon/Washington state line.

The rights will be protected instream from March 1 through October 31 at the rates and priority dates shown below:

Certificate #	Priority Date	Instream Water Right (CFS)
74021	October 25, 1968	0.156 (1 st reach)
74021	October 25, 1968	0.075 (2 nd reach)
82742	June 27, 1966	4.595
76944	May 27, 1966	1.130
74023	October 25, 1968	0.448
76948	October 25, 1968	1.862

30. The applicants have completed the project and request that the project be finalized pursuant to OAR 690-018-0062.

31. No other conditions or limitations are needed to prevent or mitigate for harm to existing water rights.

Determination and Proposed Action

The project described in the application CW-55 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 18. Water will be conserved that can be allocated without harming other water rights.

If approved, the change and subsequent use of water shall be subject to the following conditions:

1. New superseding certificates shall be issued for the remaining portions of the certificates. Approval of this allocation of conserved water reduces the amount of water lawfully available under the remaining portion of the certificates.
2. The acreage, rate, duty, and priority dates are subject to modification by any previously approved transfers, cancellations, corrections, allocation of conserved water, or other prior modification to the certificates. The associated priority dates and rates of the remaining rights (RR) and conserved water certificates (CW) shall be:

Originating Certificate	Priority Date	RR CFS	RR Acres	CW CFS	CW Acres
82742	June 27, 1966	8.900	435.6	33.707	2548.4
74022	October 25, 1968	1.091	64.2	0.219	159.0
74023	October 25, 1968	0.860	34.4	2.016	152.4
74021	October 25, 1968	1.610	64.2	na	na
76944	June 27, 1966	na	na	8.249	623.7
76948	October 25, 1968	na	na	8.371	632.9

3. The maximum per acre rate and duty for the acres affected by this allocation of conserved water shall be 1/75.61 cfs and 2.5 acre-feet per acre per year.

All other conditions and limitations of the existing water rights shall be included in the superseding certificates.

4. The conserved water held by Larson Skyline Farms Partnership may be used to irrigate a maximum of 1,839.9 acres of new land, from the authorized point of diversion, being:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
17 S	47 E	WM	21	NE NW	350 FEET SOUTH AND 1980 FEET EAST FROM THE NW CORNER OF SECTION 21

The maximum rate for the new lands shall be 1/75.61 cfs per acre-equivalent, or a total of 24.332 cfs.

5. A permanent place of use has been determined for the applicant's share of the conserved water.

6. The applicant has completed the conservation project and will not be requesting additional time to finalize the project.
7. Before water use may begin on the new lands, the applicant shall install a totalizing flow meter at the point of diversion, and maintain the meter(s) in good working order according to manufacturer's specifications. A different plan for measurement of diverted water at each point of diversion that is acceptable to and approved by the Director may be allowed.
8. The applicant shall keep a complete record of the amount of water used each month, and shall submit annually a report which includes the recorded monthly water-use measurements and date of measurement to the Department, unless the Director determines a different reporting frequency is appropriate. The reports may be e-mailed, faxed or mailed.
9. The applicant shall allow the watermaster access to the meter(s). Where a meter is located within a private structure, the watermaster shall request access upon reasonable notice.
10. Additional measurement and reporting conditions, including, but not limited to, additional measuring sites, general water-use information, the place and nature of use of water, and telemetry may be required at the discretion of the Department.
11. All other conditions and limitations of the existing water rights and any related decree shall be included in the new certificates.
12. New instream certificates shall be issued for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values in the Snake River from the authorized point of diversion for the certificates at:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
17 S	47 E	WM	21	NE NW	350 FEET SOUTH AND 1980 FEET EAST FROM THE NW CORNER OF SECTION 21

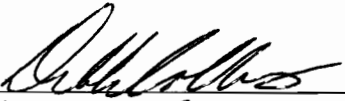
to the mouth of the Snake River at River Mile 0.0

13. The instream water rights shall be for a total of 8.26 cfs, further described in the table under Findings of Fact #29, 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 March 1 through October 31.
14. The requested change in location of the authorized point of diversion under Certificates 74021 and 74024 from the Malheur River diversion to the Snake River diversion shall be approved. The location of the point of diversion is:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
17 S	47 E	WM	21	NE NW	350 FEET SOUTH AND 1980 FEET EAST FROM THE NW CORNER OF SECTION 21

15. The use of water from the Snake River under these certificates shall be limited at all times to the quantities of water available at the original point of diversion on the Malheur River.
16. The approved change in point of diversion affecting Certificates 74021 and 74024 shall be completed and full beneficial use of the water shall be made on or before October 1, 2010. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
17. When satisfactory proof of the completed change in point of diversion is received, new certificates confirming the right transferred will be issued.

Dated at Salem, Oregon this 13th day of October, 2008.



Phillip C. Ward
Director

Date of Mailing: OCT 15 2008