

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

In the Matter of Proposed Allocation of	)	FINAL ORDER APPROVING AND
Conserved Water Application CW-64,	)	PARTIALLY FINALIZING
Umatilla County	)	ALLOCATION OF CONSERVED
	)	WATER PROJECT CW-64, PARTIAL
	)	CANCELOTION AND ADDITIONAL
	)	POINTS 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 establish the process in which a the holder of conserved water 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.

ORS 540.621 establishes the process for the owner of land to which a water right certificate is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled. OAR Chapter 690, Division 17 implements the statutes and provides the Department's procedures and criteria for evaluating a voluntarily request that a portion of a water right be cancelled.

**Applicant**

Superior Farms  
JB Land LLC,  
P.O. Box 130  
Hermiston, OR 97838

**Agent**

Bill Porfily  
PO Box 643  
Stanfield OR 97875  
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**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.

**Findings of Fact**

1. On November 5, 2009 JB Land LLC, dba Superior Farms, filed an Application for Allocation of Conserved Water. The Department assigned the application number CW-64.
2. On December 2, 2011 the Applicant filed an amended application which more accurately depicted the proposed conservation project.
3. On January 25, 2012 the Applicant amended existing place of use table for Water Right Certificate 80773 to specify the 53.7 acres to be voluntarily cancelled due to non-use and to specify the 24.0 acres which were not included in the conservation project.
4. On January 26, 2012 the Applicant requested the Department to amend the Allocation of Conserved Water project to allow the Applicant to divert the conserved water from the authorized point of diversion or either of the following points of diversion:

**Additional Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	8	NE NW	POD #1 (HAWMAN PUMPING STATION) 9360 FEET NORTH AND 3530 FEET WEST FROM THE SE CORNER OF SECTION 17
5 N	30 E	WM	8	SW NW	POD #2 (ROYAL COLUMBIA FARMS PUMPING STATION) 2860 FEET NORTH AND 70 FEET EAST FROM THE SW CORNER OF SECTION 8

5. On February 10, 2012 the Applicant requested the Department to finalize CW-64 as soon as the 60-day comment period had run.
6. The Applicant proposes an Allocation of Conserved Water project involving Certificates 80773 and 85285. The Applicant proposes to conserve 1,047.64 acre-feet (AF) and 5.05 cfs of water by modifying their existing center pivot irrigation systems, on 965.8 acres of farmland, with state-of-the-art low pressure, low flow sprinklers. Additionally, variable speed pumps have been installed to assist the distribution system and more accurately meet instantaneous irrigation needs.
7. The first right to be modified is as follows:

**Certificate:** 80773 in the name of ROBERT W. BRADSHAW (perfected under Permit S-36169)

**Use:** IRRIGATION of 946.2 ACRES

**Priority Date:** MARCH 13, 1972

**Rate:** 19.340 CUBIC FEET PER SECOND

**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 4.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** COLUMBIA RIVER, tributary to the PACIFIC OCEAN

**Authorized 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

**Authorized Place of Use:**

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Abandoned	Lands Not Included	Acres Included
5 N	29 E	WM	24	NE NE			1.9
5 N	29 E	WM	24	SW NE	2.5		7.0
5 N	29 E	WM	24	SE NE			35.8
5 N	29 E	WM	24	NE SW	0.4		11.7
5 N	29 E	WM	24	SW SW	1.0	2.0	12.7
5 N	29 E	WM	24	SE SW	4.2		34.5
5 N	29 E	WM	24	NE SE	0.4		20.4
5 N	29 E	WM	24	NW SE	7.7		32.3
5 N	29 E	WM	24	SW SE	4.2		21.6
5 N	29 E	WM	24	SE SE			39.5
5 N	29 E	WM	25	NE NE	4.5		10
5 N	29 E	WM	25	NW NE			40
5 N	29 E	WM	25	SW NE			14.9
5 N	29 E	WM	25	SE NE			0.5
5 N	29 E	WM	25	NE NW	3.7		28.5
5 N	29 E	WM	25	NW NW	1.2	3.5	26.1
5 N	29 E	WM	25	SW NW		2.2	29.6
5 N	29 E	WM	25	SE NW	0.3		37.7
5 N	29 E	WM	25	NE SW			21
5 N	29 E	WM	25	NW SW	2.6		32.2
5 N	29 E	WM	25	SW SW			21.9
5 N	29 E	WM	26	NE NE			17.2
5 N	29 E	WM	26	SW NE	7.4		11.4
5 N	29 E	WM	26	SE NE		2.4	26.4
5 N	29 E	WM	26	SE NW			0.2
5 N	29 E	WM	26	NE SW			8.9
5 N	29 E	WM	26	SE SW	3.0	2.7	3
5 N	29 E	WM	26	NE SE		1.4	28.7
5 N	29 E	WM	26	NW SE		3.3	34.7
5 N	29 E	WM	26	SW SE	1.9	1.0	10.5
5 N	29 E	WM	26	SE SE	8.7		24.5
5 N	29 E	WM	35	NE NE			28.5
5 N	29 E	WM	35	NW NE			30.2
5 N	29 E	WM	35	SW NE			34.5
5 N	29 E	WM	35	SE NE			0.8
5 N	29 E	WM	35	NE NW		1.0	28.3
5 N	29 E	WM	35	NW NW		4.5	26.6
5 N	29 E	WM	35	SW NW			25.9
5 N	29 E	WM	35	SE NW			30.5
5 N	30 E	WM	19	SW NW			1.8
5 N	30 E	WM	19	NW SW			2
5 N	30 E	WM	19	SW SW			14
5 N	30 E	WM	30	NW NW			0.1
<b>TOTAL:</b>					<b>53.7*</b>	<b>24.0**</b>	<b>868.5</b>

\*Acres to be abandoned.

\*\* Acres not included in project.

8. The second right to be modified is as follows:

**Certificate:** 85285 in the name of J B LAND, LLC (perfected under Permit S-36169)

**Use:** IRRIGATION of 97.3 ACRES

**Priority Date:** MARCH 13, 1972

**Rate:** 1.99 CUBIC FEET PER SECOND

**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands is limited to an amount actually beneficially used and is further limited to a diversion of ONE-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 4.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** COLUMBIA RIVER, tributary to the PACIFIC OCEAN

**Authorized 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

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 N	29 E	WM	24	SW NE	2.8
5 N	29 E	WM	24	NE SW	5.5
5 N	29 E	WM	24	SW SW	1.1
5 N	29 E	WM	24	SE SW	0.9
5 N	29 E	WM	24	NE SE	9.0
5 N	29 E	WM	24	SW SE	12.6
5 N	29 E	WM	24	SE SE	0.4
5 N	29 E	WM	25	NE NE	3.6
5 N	29 E	WM	25	NE NW	6.0
5 N	29 E	WM	25	NW NW	8.9
5 N	29 E	WM	25	SW NW	4.7
5 N	29 E	WM	26	NE NE	2.4
5 N	29 E	WM	26	SW NE	0.4
5 N	29 E	WM	26	SE NE	9.4
5 N	29 E	WM	26	NE SW	8.5
5 N	29 E	WM	26	SE SW	0.8
5 N	29 E	WM	26	NW SE	1.3
5 N	29 E	WM	26	SW SE	9.2
5 N	29 E	WM	26	SE SE	0.7
5 N	29 E	WM	35	NW NW	6.1
5 N	29 E	WM	35	SE NW	3.0
TOTAL:					97.3

**ADDITIONAL POINTS OF DIVERSION**

9. The Applicant also requested the option of delivering his portion of the Conserved Water to the new lands via two additional points of diversion. The additional points of diversion are as follows:

**Additional Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	8	NE NW	POD #1 (MIKE HAWMAN FARMS PUMPING STATION) 9360 FEET NORTH AND 3530 FEET west FROM THE SE CORNER OF SECTION 17
5 N	30 E	WM	8	SW NW	POD #2 (ROYAL COLUMBIA FARMS PUMPING STATION) 2860 FEET NORTH AND 70 FEET EAST FROM THE SW CORNER OF SECTION 8

***Transfer Review Criteria [OAR 690-380-4010(2)]***

- 10. Water has been used within the last five years according to the terms and conditions of the rights.
- 11. Except as noted in Finding of Fact #7, the record does not contain evidence that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
- 12. Pumps, pipelines, and sprinkler systems sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to the approval of CW-64.
- 13. The proposed changes would not result in enlargement of the rights.
- 14. The proposed changes would not result in injury to other water rights.

***Allocation Of Conserved Water [OAR 690-018-0050]***

- 15. Water has been used within the last five years according to the terms and conditions of the certificates. Except as noted in Finding of Fact #7, the record does not contain evidence that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
- 16. 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 submission of Application CW-64.

17. The proposed Allocation of Conserved Water project will result in the following amount of conserved water under Certificates 80773 and 84285:

Certificate	Priority	Existing Acres	Before Project			After Project			Conserved Water		
			AF/AC	AF	CFS	AF/AC	AF	CFS	AF/AC	AF	CFS
80773	3/13/1972	868.50*	4.5	3908.25	17.75	3.38	2,935.53	13.06	1.12	972.72	4.69
84285	3/13/1972	97.30	4.5	437.85	1.99	3.73	362.93	1.63	0.77	74.92	0.36
<b>TOTAL:</b>		<b>965.80</b>	<b>4.5</b>	<b>4346.10</b>	<b>19.74</b>		<b>3298.46</b>	<b>14.69</b>		<b>1,047.64</b>	<b>5.05</b>

\*Accounts for 77.7 acres excluded in Finding of Fact #7.

18. The existing lands, previously irrigated under Water Right Certificate 80773 shall be allowed a maximum rate of 1/60 cfs per acre by rotation. However, water diverted to all lands previously served under Water Right Certificate 80773 shall not exceed a total diversion of 13.06 cfs at any time.

19. 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 in the quantities 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
80773	3/13/1972	729.54	3.52	243.18	1.17	972.72	4.69
85285	3/13/1972	56.19	0.27	18.73	0.09	74.92	0.36
<b>Total:</b>		<b>785.73</b>	<b>3.79</b>	<b>261.91</b>	<b>1.26</b>	<b>1,047.67</b>	<b>5.05</b>

20. In consultation with the Oregon Department of Fish and Wildlife, the Department has determined that conserved water is needed to support instream uses in the Columbia River to provide for the conservation, maintenance and enhancement of aquatic and fish life and fish habitat. Neither the Department of Environmental Quality, nor the Oregon Parks and Recreation Department provided comments on this conservation project.

21. The Department published notice of CW-64 in the Department's weekly bulletin on December 22, 2009 and the Applicant published notice of the proposed project in the *East Oregonian* on December 1, 8 and 15, 2009 as required under OAR 690-018-0050.

22. On December 23, 2009 Todd Crosby submitted comments in response to the notice published in the *East Oregonian* on December 15, 2009. However, the comments submitted by Mr. Crosby were generally aimed at the Allocation of Conserved Water Program and did not specifically address Allocation of Conserved Water Application CW-64 or any other specific conservation project.

23. Pursuant to ORS 537.485 (See also OAR 690-018-0012), the Applicant requests that the priority dates of the conserved water be one-minute junior to the originating right.

24. The proposed allocation of conserved water will not harm existing rights.
25. 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.
26. The application includes land use information forms completed and signed by a representative of the Umatilla County planning department, demonstrating that the application is compatible with the local comprehensive land use plan. Additionally, the Department notified the following downstream local and tribal governments:

Cities: Arlington, Astoria, Boardman, Clatskanie, Columbia City, The Dalles, Fairview, Hermiston, Mosier, Portland, Prescott, Rufus, Scappoose, St. Helens, and Troutdale;

Counties: Clatsop, Columbia, Gilliam, Morrow, Multnomah, Sherman, Wasco, and Washington;

Tribal governments: Confederated Tribes of the Umatilla Indian Reservation, and Confederated Tribes of Warm Springs.

27. After completion of the conservation project, the water rights held by the applicant will allow use of the following quantities of water on the existing acres:

Certificate	Priority	Existing	After Project		
			AF/AC	CFS	AF
80773	3/13/1972	868.5	3.38	13.06	2,935.53
85285	3/13/1972	97.3	3.73	1.63	362.93

28. After the allocation of conserved water, the water rights held by the applicant will allow use of the following quantities of water on new lands:

Certificate	Priority	CFS	AF
80773	3/13/1972*	3.52	729.54
85285	3/13/1972*	0.27	56.19
<b>TOTAL:</b>		3.79	785.73

\*Plus one minute.

29. A portion of the Applicant's share of conserved water with a March 13, 1972, *plus one minute*, priority may be used for irrigation of 46.43 acres of new lands located within:

NEW LANDS RECEIVING CONSERVED WATER FOR IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
4 N	30 E	WM	11	SW NE	1300	15.48
4 N	30 E	WM	11	SE NE	1300	30.95
<b>TOTAL:</b>						46.43

The rate, duty and priority dates for the above listed acres, is as follows:

Priority	Acres	New Irrigation		
		AF/AC	CFS	AF
3/13/1972*	46.43	3.0	0.67	139.29
<i>*Plus One Minute</i>				

The amount of water used for irrigation, together with the amount secured under any other right for the same lands, is limited to a maximum of 1/69 of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.00 acre-feet per acre for each acre irrigated. The irrigation season is March 1 through October 31, as determined by OAR 690-250-0070(1).

30. A portion of the Applicant's share of conserved water with a March 13, 1972, *plus one minute*, priority shall be used for irrigation of 20.3 acres of new lands located within:

NEW LANDS RECEIVING CONSERVED WATER FOR IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
5 N	29 E	WM	24	SE SW	102	0.1
5 N	29 E	WM	24	SE SE	102	0.1
5 N	29 E	WM	25	SW NW	2800	0.1
5 N	29 E	WM	25	NW SW	2800	0.1
5 N	29 E	WM	26	SW NE	2701	1.3
5 N	29 E	WM	26	SE NW	2701	0.4
5 N	29 E	WM	26	NE SE	2701	0.2
5 N	29 E	WM	35	NE NW	3200	7.0
5 N	29 E	WM	35	SW NW	3200	10.9
5 N	30 E	WM	30	NW NW	1100	0.1
<b>TOTAL:</b>						20.3

The rate, duty and priority dates for the above listed acres, is as follows:

Priority	Acres	New Irrigation		
		AF/AC	CFS	AF
3/13/1972*	20.3	3.38	0.34	68.61
<i>*Plus One Minute</i>				

The amount of water used for irrigation, together with the amount secured under any other right for the same lands, is limited to a diversion of 1/60 of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.38 acre-feet per acre for each acre irrigated. The irrigation season is March 1 through October 31, as determined by OAR 690-250-0070(1).



31. The remaining portion of the Applicant's share of the conserved water will be reserved instream until a permanent place of use is determined.

Originating Right	Priority Date	Rate (CFS)	Duty (AF)
80773	3/13/1972	2.51	521.64
84285	3/13/1972	0.27	56.19
<b>Total:</b>		<b>2.78</b>	<b>577.83</b>

*\*Plus One Minute.*

32. The State's share of the conserved water is:

Originating Right	Priority Date	Rate (CFS)	Duty (AF)
80773	3/13/1972	1.17	243.18
84285	3/13/1972	0.09	18.73
<b>Total:</b>		<b>1.26</b>	<b>261.91</b>

*\*Plus One Minute.*

33. The instream water right created from the conserved water project is from the point of diversion on the Columbia River, being:

**Authorized 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

To the Pacific Ocean (Columbia River Mile 0.0).

To avoid enlargement, the instream rate has been modified and will be protected instream from March 1 through October 31 at the rate and priority date shown below:

Priority Date	Rate (CFS)	Duty (AF)
3/13/1972*	1.26	261.91

*\*Plus One Minute.*

34. The Applicants have completed the project and request that the portions of the project be finalized pursuant to OAR 690-018-0062.

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

36. The Applicant requested the Department to assign the conserved water a priority date one minute junior to the originating rights.

**Review Criteria**

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

- A. Allocation of Conserved Water Application CW-64 contains all the information required by OAR 690-018-0040.
- B. The proposed conservation project will result in a 5.05 CFS reduction in the quantity of water diverted for the uses allowed under the original rights as established in Findings of Fact #17 and 19.
- C. Consistent with Findings of Fact #24 and #25, the proposed Allocation of Conserved Water will not harm other water rights. Therefore, no reduction in the quantity of conserved water to be allocated is required to mitigate for the affects on other water rights.
- D. As established by Finding of Fact #26, the conservation project is consistent with the local comprehensive land use plan requirements established in OAR 690-005-0045.
- E. The new rates and duties for the Applicant’s water rights are described in Findings of Fact #17, #19 and #27-30.
- F. The Applicant requests that the conserved water, including the new instream right, have a priority one-minute junior the originating rights. (*See Finding of Fact #36*)
- G. Consistent with Finding of Fact #20, the State’s portion of the conserved water is needed for enhancement, conservation and maintenance of aquatic habitat and to improve water quality in the Columbia River between the authorized POD and the Pacific Ocean.
- H. The State’s portion of the conserved water shall be allocated to instream water rights for enhancement, conservation and maintenance of aquatic habitat and to improve water quality and shall provide for the protection of flows in the Columbia River from the authorized point of diversion at:

**Authorized 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

to the mouth of the Columbia River. The rates, duties and priorities for instream water right are described in Finding of Fact #19. The new instream right shall replace a portion of any 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 March 1 through October 31.

- J. No other conditions or limitations are needed to prevent or mitigate for harm to existing water rights. (Finding of Fact #35).

## Conclusions of Law

The conservation project described in Allocation of Conserved Water Application CW-64 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 has been conserved and can be allocated without harming other water rights.

Pursuant to the requirements of ORS 540.621 and OAR 690-017-0100, the portions of Certificates 80773 and 85285 as described in Finding of Fact #7, have been abandoned and are cancelled. The project described in the application CW-64 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.

### Approval of the changes proposed in Allocation of Conserved Water Application CW-64 and subsequent use of water shall be subject to the following conditions:

1. The changes in Conserved Water Application CW-64 are approved and the partial cancellations of Certificates 80773 and 84285 are approved.
2. Water Right Certificates 80773 and 84285 will be cancelled.
3. Approval of this Allocation of Conserved Water reduces the amount of water lawfully available to the lands previously described under Certificates 80773 and 84285 by the following amounts:

CERTIFICATE	RATE (CFS)	DUTY (AF)
80773	4.69	972.72
85285	0.36	74.92
<b>TOTAL:</b>	<b>5.05</b>	<b>1,047.64</b>

New Allocation of Conserved Water Remaining Right Certificates will be issued describing the lands involved in the conservation project. The new rates and duties for the lands shall be as follow:

Certificate #	Priority Date	Total Conserved, Remaining Water	
		Rate (CFS)	Duty (AF)
80773	3/13/1972	13.06	2,935.53
85285	3/13/1972	1.63	362.93
<b>Total:</b>		<b>14.69</b>	<b>3,298.46</b>

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

4. A portion of the Applicant's share of conserved water with a March 13, 1972, plus one minute, priority may be used for irrigation of 46.43 acres of new lands located within:

NEW LANDS RECEIVING CONSERVED WATER FOR IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
4 N	30 E	WM	11	SW NE	1300	15.48
4 N	30 E	WM	11	SE NE	1300	30.95
<b>TOTAL:</b>						46.43

The rate, duty and priority for the above listed acres, shall be as follows:

Priority	Acres	New Irrigation		
		AF/AC	CFS	AF
3/13/1972*	46.43	3.0	0.67	139.29
<b>*Plus One Minute</b>				

The amount of water used for irrigation, together with the amount secured under any other right for the same lands, is limited to a diversion of 1/69 of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.00 acre-feet per acre for each acre irrigated. The irrigation season is March 1 through October 31, as determined by OAR 690-250-0070(1).

5. A permanent place of use has been determined for a second portion of the Applicant's share of conserved water with a March 13, 1972, plus one minute, priority shall be used for irrigation of 20.3 acres of new lands located within:

NEW LANDS RECEIVING CONSERVED WATER FOR IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
5 N	29 E	WM	24	SE SW	102	0.1
5 N	29 E	WM	24	SE SE	102	0.1
5 N	29 E	WM	25	SW NW	2800	0.1
5 N	29 E	WM	25	NW SW	2800	0.1
5 N	29 E	WM	26	SW NE	2701	1.3
5 N	29 E	WM	26	SE NW	2701	0.4
5 N	29 E	WM	26	NE SE	2701	0.2
5 N	29 E	WM	35	NE NW	3200	7.0
5 N	29 E	WM	35	SW NW	3200	10.9
5 N	30 E	WM	30	NW NW	1100	0.1
<b>TOTAL:</b>						20.3

The rate, duty and priority for the above listed acres, shall be as follows:

Priority	Acres	New Irrigation		
		Duty (AF)	CFS	AF
3/13/1972*	20.3	3.38	0.34	68.61
<b>*Plus One Minute</b>				

The amount of water used for irrigation, together with the amount secured under any other right for the same lands, is limited to a diversion of 1/60 of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.00 acre-feet per acre for each acre irrigated. The irrigation season is March 1 through October 31, as determined by OAR 690-250-0070(1).

6. The Applicant may divert water from the original POD or from the additional PODs which are as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	8	NE NW	POD #1 (MIKE HAWMAN FARMS PUMPING STATION) 9360 FEET NORTH AND 3530 FEET west FROM THE SE CORNER OF SECTION 17
5 N	30 E	WM	8	SW NW	POD #2 (ROYAL COLUMBIA FARMS PUMPING STATION) 2860 FEET NORTH AND 70 FEET EAST FROM THE SW CORNER OF SECTION 8

7. The approved changes shall be completed and full beneficial use of the water shall be made on or before October 1, 2013. A claim of Beneficial Use prepared by a certified Water Rights Examiner shall be submitted by the Applicant, on or before October 1, 2014.
8. The applicant has completed the conservation project and will not be requesting additional time to complete the project.
9. The remaining portion of the Applicant's share of the Conserved Water (described below) will be reserved instream until a permanent place of use is determined by the Applicant and approved by the Department.

Originating Right	Priority Date	Rate (CFS)	Duty (AF)
80773	3/13/1972	2.51	521.64
84285	3/13/1972	0.27	56.19
<b>Total:</b>		<b>2.78</b>	<b>577.83</b>

\*Plus One Minute.

10. Before water use may be applied to the new lands the applicant shall install totalizing flow meters to the Department's satisfaction at:
  - a) The point of diversion from the Columbia River; and
  - b) The field diversion used to apply water to the lands described in Findings of Fact #7-8 and #27, and any other new lands under this Allocation of Conserved Water Project.
  - c) Additionally, the meters must be maintained in good working order according to manufacturer's specifications. A different plan for measurement of diverted water at each point of diversion or appropriation that is acceptable to and approved by the Director may be allowed.
11. The applicant shall allow the Watermaster access to the meters or measuring devices. Where a meter is located within a private structure, the Watermaster shall be granted access upon request.
12. 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.
13. The remaining portion of the Applicants' conserved water shall be reserved instream until the Department approves a new place of use.
14. When satisfactory proof of the completed changes is received, new certificates confirming the use of the conserved water on the new lands will be issued.
15. 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 Columbia River.
16. The instream water rights 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.

**CANCELLATION**

17. The following portions of Water Right Certificate 80773 will be abandoned or not included because they are not located on lands owned by the Applicant:

Abandoned and Excluded Lands						
Twp	Rng	Mer	Sec	Q-Q	Abandoned	Acres Not Included
5 N	29 E	WM	24	NE NE		
5 N	29 E	WM	24	SW NE	2.5	
5 N	29 E	WM	24	NE SW	0.4	
5 N	29 E	WM	24	SW SW	1.0	2.0
5 N	29 E	WM	24	SE SW	4.2	
5 N	29 E	WM	24	NE SE	0.4	
5 N	29 E	WM	24	NW SE	7.7	

Abandoned and Excluded Lands						
Twp	Rng	Mer	Sec	Q-Q	Abandoned	Acres Not Included
5 N	29 E	WM	24	SW SE	4.2	
5 N	29 E	WM	25	NE NE	4.5	
5 N	29 E	WM	25	NE NW	3.7	
5 N	29 E	WM	25	NW NW	1.2	3.5
5 N	29 E	WM	25	SW NW		2.2
5 N	29 E	WM	25	SE NW	0.3	
5 N	29 E	WM	25	NW SW	2.6	
5 N	29 E	WM	26	SW NE	7.4	
5 N	29 E	WM	26	SE NE		2.4
5 N	29 E	WM	26	SE SW	3.0	2.7
5 N	29 E	WM	26	NE SE		1.4
5 N	29 E	WM	26	NW SE		3.3
5 N	29 E	WM	26	SW SE	1.9	1.0
5 N	29 E	WM	26	SE SE	8.7	
5 N	29 E	WM	35	NE NW		1.0
5 N	29 E	WM	35	NW NW		4.5
<b>TOTAL:</b>					<b>53.7*</b>	<b>24.0**</b>
					<b>77.7 AC</b>	


\* Acres to be abandoned.

\*\* Acres not included in project.

18. The rate and duty associated with the portions of the water right being cancelled and excluded shall be as follows:

CERTIFICATE	RATE (CFS)	DUTY (AF)
80773	1.59 cfs	349.65 AF

Dated at Salem, Oregon this 24 day of April, 2012.

  
 Dwight French, Water Rights Services Administrator for  
 Phillip C. Ward, Director

**APR 25 2012**

Mailing date: \_\_\_\_\_