

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

In the Matter of Allocation of Conserved Water Application CW-64, Umatilla County ) ORDER ON SUBMISSION OF CLAIM OF BENEFICIAL USE AND APPROVING USE AND DISPOSITION OF THE APPLICANT'S PORTION OF CONSERVED WATER

**Applicant**  
J.B. Land, LLC  
Superior Farms  
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.

OAR 690-018-0062 establishes the criteria and procedures on completion and finalization of a conserved water project. OAR 690-018-0090 establishes the criteria and procedures for any change in the type of use, place of use, or point of diversion for the conserved water.

**Findings of Fact**

Background

1. On April 24, 2012, the Department issued a Final Order Approving and Partially Finalizing Allocation of Conserved Water Project CW-64, Partial Cancellation [sic] and Additional Points of Diversion (Final Order), recorded in Special Order Volume 87, Pages 480-494.

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. On February 4, 2013, upon the advice of the Department, the Applicants submitted a Request for Assignment assigning a portion of its interest in the conserved water application to Cold Springs Canyon, LLC. This was submitted so a portion of the conserved water could be utilized on Cold Springs Canyon, LLC's property.
3. On June 12, 2014, the Applicants identified the proposed locations for future out-of-stream uses. The proposed areas within which the conserved water may be used for out-of-stream uses are within:

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

(Superseding Final Order, Page 13, ¶149).

4. To correct scrivener's errors in the Final Order, 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 in Special Order Volume 93, Pages 1171-1192.
5. The Superseding Final Order described the conserved water as follows:

Certificate	Priority	Existing Acres	Before Project			After Project			Conserved Water	
			CFS	AF/AC	AF	CFS	AF/AC	AF	CFS	AF
80773	3/13/1972	868.50	17.75	4.5	3908.25	13.06	3.38	2935.53	4.69	972.72
85285	3/13/1972	97.30	1.99	4.5	437.85	1.63	3.73	362.93	0.36	74.92
<b>Total:</b>		<b>965.80</b>	<b>19.74</b>		<b>4346.10</b>	<b>14.69</b>		<b>3298.46</b>	<b>5.05</b>	<b>1047.64</b>

(Superseding Final Order, Page 3, ¶111).

6. The Superseding Final Order established the allocation of the conserved water as follows:

Certificate	Priority	Conserved Water					
		Applicants' Portion		State's Portion		Total	
		CFS	AF	CFS	AF	CFS	AF
80773	3/13/1972	3.52	729.54	1.17	243.18	4.69	972.72
85285	3/13/1972	0.27	56.19	0.09	18.73	0.36	74.92
<b>Total:</b>		<b>3.79</b>	<b>785.73</b>	<b>1.26</b>	<b>261.91</b>	<b>5.05</b>	<b>1047.64</b>

7. The Superseding Final Order stated a "portion of the Applicants' share of conserved water is allocated and appurtenant to" specific lands and required completion of use at the permanent place of use by October 1, 2016. The Superseding Final Order also required a Claim of Beneficial Use to be submitted on or before October 1, 2017, for the following lands. Upon receipt and review of the Claim of Beneficial Use, a certificate would be issued.

**Originating****Certificate:** 80773**Use:** IRRIGATION OF 107.83 ACRES**Priority Date:** March 13, 1972, *plus one-minute***Rate:** 1.647 CUBIC FOOT PER SECOND (cfs), being 0.67 cfs for Tract 1, 0.444 cfs for Tract 2, and 0.533 cfs for Tract 3**Limit:** Annual Volume Limitation of 323.49 ACRE FEET (AF), being 139.29 AF for Tract 1, 73.80 AF for Tract 2, and 110.40 AF for Tract 3**Source:** COLUMBIA RIVER, tributary to the PACIFIC OCEAN**Authorized 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: (ROYALE COLUMBIA FARMS) 2860 FEET NORTH AND 70 FEET EAST FROM THE SW CORNER OF SECTION 8
5 N	30 E	WM	7	SE SW	POD #3 (SUPERIOR FARMS PUMPING STATION) 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	Tax Lot	Acres	Tract
4 N	30 E	WM	2	SW SW	800	3.00	3
4 N	30 E	WM	2	SE SW	800	5.70	3
4 N	30 E	WM	2	SW SE	800	5.80	3
4 N	30 E	WM	11	NW NE	1300	4.30	3
4 N	30 E	WM	11	SW NE	1300	15.48	1
4 N	30 E	WM	11	SE NE	1300	30.95	1
4 N	30 E	WM	11	NE NW	800	2.20	3
4 N	30 E	WM	11	NW NW	800	5.60	3
4 N	30 E	WM	11	SW NW	800	5.10	3
4 N	30 E	WM	11	NW SW	1100	5.10	3
5 N	30 E	WM	35	SW NE	1315	4.50	2
5 N	30 E	WM	35	NE SW	1315	4.20	2
5 N	30 E	WM	35	NE SE	1315	5.60	2
5 N	30 E	WM	35	NW SE	1315	8.90	2
5 N	30 E	WM	35	SW SE	1315	1.30	2
5 N	30 E	WM	35	SE SE	1315	0.10	2
<b>TOTAL:</b>						107.83	

(Superseding Final Order, Page 19, ¶8 and Page 21, ¶10).

8. The Superseding Final Order also identified an additional 94.90 acres where the applicants' portion of conserved water could be utilized until further notice was provided as set forth in ORS 537.430(1) and OAR 690-018-0090:

**Orig. Certificates:** 80773 and 85285  
**Priority:** March 13, 1972, *plus one minute*  
**Use:** Irrigation of 94.90 Acres, being 81.40 Acres under Certificate 80773, and 13.50 Acres under Certificate 85285  
**Rate:** 1.587 cfs, being 1.361 cfs under Certificate 80773, and 0.226 cfs under Certificate 85285  
**Maximum Volume:** 320.89 AF, being 275.13 AF under Certificate 80773, and 45.76 AF under Certificate 85285  
**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 N	30 E	WM	7	SE SW	POD #3 (SUPERIOR FARMS PUMPING STATION) 460 FEET NORTH AND 1680 FEET EAST FROM THE SW CORNER OF SECTION 7

**Place of Use:**

IRRIGATION							
Certificate	Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
85285	4 N	30 E	WM	6	SW NE	600	4.5
85285	4 N	30 E	WM	6	SE NW	700	2.3
85285	4 N	30 E	WM	6	NE SW	700	6.4
85285	4 N	30 E	WM	6	NW SE	600	0.3
80773	4 N	30 E	WM	19	SW SW	1101	6.8
80773	4 N	30 E	WM	19	SW SW	1102	5.9
80773	4 N	30 E	WM	19	SE SW	1102	0.9
80773	5 N	29 E	WM	24	SE SW	102	0.1
80773	5 N	29 E	WM	24	SE SE	102	0.1
80773	5 N	29 E	WM	25	NE NE	2800	6.1
80773	5 N	29 E	WM	25	NE NE	2900	4.2
80773	5 N	29 E	WM	25	SW NE	2800	6.1
80773	5 N	29 E	WM	25	SE NE	2900	4.2
80773	5 N	29 E	WM	25	SW NW	2800	0.1
80773	5 N	29 E	WM	25	NE SW	2800	2.9
80773	5 N	29 E	WM	25	NW SW	2800	2.2
80773	5 N	29 E	WM	25	NW SW	2800	0.1
80773	5 N	29 E	WM	25	SW SW	2800	1.1
80773	5 N	29 E	WM	25	SW SW	2900	4.2
80773	5 N	29 E	WM	25	SE SW	2900	0.1
80773	5 N	29 E	WM	26	SW NE	2701	1.3
80773	5 N	29 E	WM	26	SE NW	2701	0.4

IRRIGATION							
Certificate	Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
80773	5 N	29 E	WM	26	NE SE	2701	0.2
80773	5 N	30 E	WM	29	SW NW	1100	0.5
80773	5 N	30 E	WM	30	NE NE	1100	2.3
80773	5 N	30 E	WM	30	SE NE	1100	5.2
80773	5 N	30 E	WM	30	NW NW	1100	0.1
80773	5 N	30 E	WM	31	SE SE	1100	2.9
80773	5 N	30 E	WM	32	SW SW	1100	5.5
80773	5 N	29 E	WM	35	NE NW	3200	7.0
80773	5 N	29 E	WM	35	SW NW	3200	10.9
<b>TOTAL</b>							<b>94.9</b>

(Superseding Final Order, Pages 20-21, ¶9).

- The Superseding Final Order stated the remaining portion of the Applicants' share of conserved water (identified in the table for Finding of Fact #10 below in the column "Remaining") would be managed instream until a Notice provided under ORS 537.490(1) and OAR 690-018-0090 was submitted and approved. (Superseding Final Order, Page 21, ¶12).
- The Superseding Final Order established the Applicant's portion of conserved water as follows:

Applicants' Portion Conserved Water				Applied ( Proof Required) 107.83 Acres		Use on Other Lands 94.9 Acres		Remaining	
Orig. 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	3/31/1972*	0.27	56.19			0.226	45.76	0.044	10.43
<b>Totals</b>		<b>3.79</b>	<b>785.73</b>	<b>1.647</b>	<b>323.49</b>	<b>1.587</b>	<b>320.89</b>	<b>0.556</b>	<b>141.35</b>

\* - plus one minute

(Superseding Final Order at Page 21, ¶12).

- The Superseding Final Order also approved two new additional points of diversion for delivery of the conserved water to serve the new lands as follows:

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.

(Superseding Final Order, Page 18, ¶16).

- 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.

13. On March 24, 2015, the Department issued an Order Approving Use and Disposition of a Portion [of the] Applicant's Portion of Conserved Water (Use Order), recorded at Special Order Volume 95, Pages 292-294.
14. The March 26, 2015 Use Order authorized the use of an additional portion of conserved water 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
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
<b>Total</b>						<b>22.8</b>

15. Upon issuance of the Use Order, the Applicants' portion of conserved was then allocated as follows:

Applicant's Portion Conserved Water				Applied ( Proof Required) 107.83 Acres		Use on Other Lands 117.7 Acres		Reserved Instream for Future Out-Of-Stream Use	
Orig. 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	1.742	352.19	0.131	53.86
85285	3/31/1972*	0.27	56.19	--	--	0.226	45.76	0.044	10.43
<b>Totals</b>		<b>3.79</b>	<b>785.73</b>	<b>1.647</b>	<b>323.49</b>	<b>1.968</b>	<b>397.95</b>	<b>0.175</b>	<b>64.29</b>

\* - plus one minute

(Use Order, Pages 2-3, ¶¶5 and 6).

16. On January 21, 2020, the Applicants submitted a letter to the Department indicating it was not its intent to permanently give or sell its conserved water to Cold Spring Canyon, LLC. Rather, the intent was to use the conserved water on Cold Spring Canyon, LLC's land.

Claim of Beneficial Use

17. On January 21, 2020, the Applicants submitted a Claim of Beneficial Use satisfying the requirement under the Superseding Final Order.
18. The Claim of Beneficial Use confirmed the following uses from the Superseding Final Order:

**Originating**

**Certificate:** 80773

**Use:** IRRIGATION OF 107.83 ACRES

**Priority Date:** March 13, 1972, *plus one-minute*

**Rate:** 1.647 CUBIC FOOT PER SECOND (cfs), being 0.67 cfs for Tract 1, 0.444 cfs for Tract 2, and 0.533 cfs for Tract 3

**Limit:** Annual Volume Limitation of 323.49 ACRE FEET (AF), being 139.29 AF for Tract 1, 73.80 AF for Tract 2, and 110.40 AF for Tract 3

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

**Authorized 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: (ROYALE COLUMBIA FARMS) 2860 FEET NORTH AND 70 FEET EAST FROM THE SW CORNER OF SECTION 8
5 N	30 E	WM	7	SE SW	POD #3 (SUPERIOR FARMS PUMPING STATION) 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	Tax Lot	Acres	Tract
4 N	30 E	WM	2	SW SW	800	3.00	3
4 N	30 E	WM	2	SE SW	800	5.70	3
4 N	30 E	WM	2	SW SE	800	5.80	3
4 N	30 E	WM	11	NW NE	1300	4.30	3
4 N	30 E	WM	11	SW NE	1300	15.48	1
4 N	30 E	WM	11	SE NE	1300	30.95	1
4 N	30 E	WM	11	NE NW	800	2.20	3
4 N	30 E	WM	11	NW NW	800	5.60	3
4 N	30 E	WM	11	SW NW	800	5.10	3
4 N	30 E	WM	11	NW SW	1100	5.10	3
5 N	30 E	WM	35	SW NE	1315	4.50	2
5 N	30 E	WM	35	NE SW	1315	4.20	2
5 N	30 E	WM	35	NE SE	1315	5.60	2

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Tract
5 N	30 E	WM	35	NW SE	1315	8.90	2
5 N	30 E	WM	35	SW SE	1315	1.30	2
5 N	30 E	WM	35	SE SE	1315	0.10	2
<b>TOTAL:</b>						107.83	

Notice of Use

19. On January 30, 2020, the Applicants submitted 60-Day Notice of Use or Disposition of the Applicant's Portion of Conserved Water (Notice of Use). The Notice of Use included the additional information required under 537.490(1) and OAR 690-018-0062(3)(A), along with a map. The Notice of Use specified a portion of the conserved water is to continue to be used at the same place of use as the Claim of Beneficial Use (Finding of Fact #18), a portion of the conserved water was to be used on lands, as described in Finding of Fact #20 below, and a portion was to be managed instream.
20. The January 30, 2020 Notice of Use identified the following lands to receive water:

**Orig. Certificates:** 80773  
**Priority:** March 13, 1972, *plus one minute*  
**Use:** Irrigation of 20.3 Acres  
**Rate:** 0.34 CUBIC FOOT PER SECOND (cfs)  
**Maximum Volume:** 68.61 ACRE-FEET (AF)  
**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 N	30 E	WM	7	SE SW	POD #3 (SUPERIOR FARMS PUMPING STATION) 460 FEET NORTH AND 1680 FEET EAST FROM THE SW CORNER OF SECTION 7

**Place of Use:**

Certificate	Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
80773	5 N	29 E	WM	24	SE SW	102	0.1
80773	5 N	29 E	WM	24	SE SE	102	0.1
80773	5 N	29 E	WM	25	SW NW	2800	0.1
80773	5 N	29 E	WM	25	NW SW	2800	0.1
80773	5 N	29 E	WM	26	SW NE	2701	1.3
80773	5 N	29 E	WM	26	SE NW	2701	0.4
80773	5 N	29 E	WM	26	NE SE	2701	0.2
80773	5 N	30 E	WM	30	NW NW	1100	0.1
80773	5 N	29 E	WM	35	NE NW	3200	7.0
80773	5 N	29 E	WM	35	SW NW	3200	10.9
<b>TOTAL</b>							20.3



21. Based on the January 30, 2020 Notice of Use, the Applicants' portion of conserved water is now allocated as follows:

Applicants' Portion Conserved Water				Applied ( Proof Submitted) 107.83 Acres		Use on Other Lands 20.3 Acres		Reserved Instream for Future Out-Of-Stream Use	
Orig. 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	0.340	68.61	1.533	337.44
85285	3/31/1972*	0.27	56.19	--	--	--	--	0.270	56.19
<b>Totals</b>		<b>3.79</b>	<b>785.73</b>	<b>1.647</b>	<b>323.49</b>	<b>0.340</b>	<b>68.61</b>	<b>1.803</b>	<b>393.63</b>

\* - plus one minute

### **Review Criteria**

22. Under ORS 537.490(1), the Department may only require a Notice of Use of the right to the use of conserved water. The Notice of Use shall include the name and address of the person buying or leasing the right to the use of conserved water; the use to which the conserved water is to be put; and the terms of any agreement between the appropriator and the person using the conserved water.
23. Under OAR 690-018-0062(4)(c), upon receipt of a request that an allocation of conserved water be finalized, the Director shall issue an order allowing: a) the use of any portion of the conserved water allocated to the applicants at the location for the type of use identified pursuant to subsection (3)(a) of the rule; and the use and management as an instream water right for that water that is being leased or temporarily reserved instream for future out-of-stream use.
24. OAR 690-18-0090 allows any person or agency entitled to the use of conserved water to notify the Director of any change in the type of use, place of use, or point of diversion.
25. ORS 537.500(1) states a water right for conserved water shall have the same legal status as any other water right for which a certificate has been issued.
26. Under ORS 537.490(3), any right to the use of conserved water sold under ORS 537.490(1) shall: a) become appurtenant to the premises upon which the purchaser uses the water, and b) shall be subject to the provisions of ORS 540.505 to 540.565 [transfer statutes] and 540.610 to 540.650 [forfeiture statutes].
27. None of the conserved water statutes or rules requires an applicant to specify a permanent place of use of the conserved water, thereby making the water right appurtenant to the lands specified. Only upon gift or sale of the conserved water shall the water right become appurtenant to the premises upon which use is made by the purchaser and a certificate of water right shall be issued upon satisfactory proof.

28. The Applicants' portion of conserved water identified as Reserved Instream for Future Out-of-Stream Use in Finding of Fact #21, shall be managed instream until such time as a Notice of Use and Disposition is submitted and approved.
29. The quantities of water protected instream are not measurable in the Columbia River, therefore, the quantities will only be protected at the authorized point of diversion and not a reach. At the full instream rate and volume requested, water may only be protected instream over a 110-day period.
30. The instream right shall allow the use and protection of flows as follows:

**COLUMBIA RIVER, tributary to the Pacific Ocean**

**Instream Point:**

At the authorized point of diversion for Certificates 80773 and 85285:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	7	SE SW	POD #3 (SUPERIOR FARMS PUMPING STATION) 460 FEET NORTH AND 1680 FEET EAST FROM THE SW CORNER OF SECTION 7

Orig. Cert	Priority	Period of Use	Rate (CFS)	Volume (AF)
80773	3/13/1972, <i>plus one minute</i>	June 14 through October 1	1.533	337.4
85285	3/13/1972, <i>plus one minute</i>	June 14 through October 1	0.270	56.19
Total			1.803	393.59

**Conclusions of Law**

1. The Department did not have the authority to require the Applicants to submit Claims of Beneficial Use making the conserved water appurtenant to specific lands.
2. The Applicants have complied with the terms of the Superseding Final Order.
3. The proposed use is within the area described by the applicant under OAR 690-018-0050(4)(h).
4. The proposed use would not constitute an expansion of the right.
5. 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 Findings of Fact #18, #20, and #30 is approved.
2. Upon issuance of this Order, the Applicants' portion of conserved water is allocated as follows until a subsequent 60-Day Notice of Use and Disposition is submitted and approved:

Conserved Water				Applied ( Proof Submitted)		Use on Other Lands		Reserved Instream for Future Out-Of-Stream Use	
Orig. 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	0.340	68.61	1.533	337.44
85285	3/31/1972	0.27	56.19	--	--	--	--	0.270	56.19
<b>Totals</b>		<b>3.79</b>	<b>785.73</b>	1.647	323.49	0.340	68.61	1.803	393.63

\* - plus one minute

3. Before water may be applied to the new lands, the Applicants shall install totalizing flow meters to the Department's satisfaction at the authorized points of diversion from the Columbia River (*if not already present*), and at the field diversion used to apply water to the lands described in Findings of Fact #19 and #21, and any other lands under the Allocation of Conserved Water Project.
  - a. The meters must be maintained in good working order according to manufacturer's specification. A different plan for measurement of diverted water at each point of diversion or appropriation that is acceptable to and approved by the Direct may be allowed.
  - b. The applicant shall provide the Watermaster access to the meters or measuring devices at all times. However, if the meter is located within a private structure, the Watermaster shall provide reasonable notice of intent to inspect the meter, prior to entering the private structure.
  - c. 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.
  
4. The use of water as specified below, may be made until such time as subsequent Notices of Use are received pursuant to ORS 537.490 and OAR 690-018-0090.

**Originating**

**Certificate:** 80773

**Use:** IRRIGATION OF 107.83 ACRES

**Priority Date:** March 13, 1972, *plus one-minute*

**Rate:** 1.647 CUBIC FOOT PER SECOND (cfs), being 0.67 cfs for Tract 1, 0.444 cfs for Tract 2, and 0.533 cfs for Tract 3

**Limit:** Annual Volume Limitation of 323.49 ACRE FEET (AF), being 139.29 AF for Tract 1, 73.80 AF for Tract 2, and 110.40 AF for Tract 3

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

**Authorized 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: (ROYALE COLUMBIA FARMS) 2860 FEET NORTH AND 70 FEET EAST FROM THE SW CORNER OF SECTION 8
5 N	30 E	WM	7	SE SW	POD #3 (SUPERIOR FARMS PUMPING STATION) 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	Tax Lot	Acres	Tract
4 N	30 E	WM	2	SW SW	800	3.00	3
4 N	30 E	WM	2	SE SW	800	5.70	3
4 N	30 E	WM	2	SW SE	800	5.80	3
4 N	30 E	WM	11	NW NE	1300	4.30	3
4 N	30 E	WM	11	SW NE	1300	15.48	1
4 N	30 E	WM	11	SE NE	1300	30.95	1
4 N	30 E	WM	11	NE NW	800	2.20	3
4 N	30 E	WM	11	NW NW	800	5.60	3
4 N	30 E	WM	11	SW NW	800	5.10	3
4 N	30 E	WM	11	NW SW	1100	5.10	3
5 N	30 E	WM	35	SW NE	1315	4.50	2
5 N	30 E	WM	35	NE SW	1315	4.20	2
5 N	30 E	WM	35	NE SE	1315	5.60	2
5 N	30 E	WM	35	NW SE	1315	8.90	2
5 N	30 E	WM	35	SW SE	1315	1.30	2
5 N	30 E	WM	35	SE SE	1315	0.10	2
<b>TOTAL:</b>						107.83	

**Orig. Certificate:** 80773  
**Priority:** March 13, 1972, plus one minute  
**Use:** Irrigation of 20.3 Acres  
**Rate:** 0.34 CUBIC FOOT PER SECOND (cfs)  
**Maximum Volume:** 68.61 ACRE-FEET (AF)  
**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 N	30 E	WM	7	SE SW	POD #3 (SUPERIOR FARMS PUMPING STATION) 460 FEET NORTH AND 1680 FEET EAST FROM THE SW CORNER OF SECTION 7

**Place of Use:**

Certificate	Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
80773	5 N	29 E	WM	24	SE SW	102	0.1
80773	5 N	29 E	WM	24	SE SE	102	0.1
80773	5 N	29 E	WM	25	SW NW	2800	0.1
80773	5 N	29 E	WM	25	NW SW	2800	0.1
80773	5 N	29 E	WM	26	SW NE	2701	1.3
80773	5 N	29 E	WM	26	SE NW	2701	0.4
80773	5 N	29 E	WM	26	NE SE	2701	0.2
80773	5 N	30 E	WM	30	NW NW	1100	0.1
80773	5 N	29 E	WM	35	NE NW	3200	7.0
80773	5 N	29 E	WM	35	SW NW	3200	10.9
<b>TOTAL</b>							<b>20.3</b>

5. The use of water as identified in #4 above is subject to the provisions of OAR 690-0018-0090(6) and ORS 540.610 to 540.660.
6. The Applicant's portion of conserved water identified as "Reserved Instream for Future Out-of-Stream Use" in Paragraph 2 above, shall be managed instream until such time as a subsequent Notice of Use and Disposition is submitted and approved.

**COLUMBIA RIVER, tributary to the Pacific Ocean**

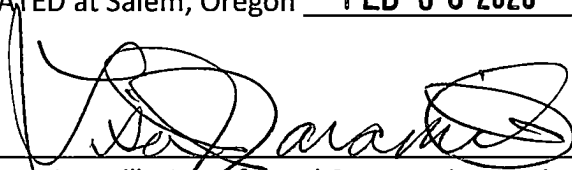
**Instream Point:**

At the authorized point of diversion for Certificates 80773 and 85285:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	7	SE SW	POD #3 (SUPERIOR FARMS PUMPING STATION) 460 FEET NORTH AND 1680 FEET EAST FROM THE SW CORNER OF SECTION 7

Orig. Cert	Priority	Period of Use	Rate (CFS)	Volume (AF)
80773	3/13/1972, plus one minute	June 14 through October 1	1.533	337.4
85285	3/13/1972, plus one minute	June 14 through October 1	0.270	56.19
Total			1.803	393.59

DATED at Salem, Oregon FEB 06 2020.

  
 Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
 THOMAS M. BYLER, DIRECTOR  
 Oregon Water Resources Department

Mailing date: FEB 07 2020