

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

In the Matter of the Allocation of Conserved)
Water Application CW-66, Certificate 74135,)
Deschutes and Jefferson Counties)
) ORDER FINALIZING THE FINAL
) PORTION OF INCREMENT III OF
) ALLOCATION OF CONSERVED
) WATER PROJECT CW-66

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.

Applicant

THREE SISTERS IRRIGATION DISTRICT
PO BOX 2230
SISTERS, OR 97759

Agent

DESCHUTES RIVER CONSERVANCY
700 NW HILL
BEND, OR 97701

Findings of Fact

1. On December 22, 2009 the Deschutes River Conservancy (DRC), acting as the agent for Three Sisters Irrigation District (TSID) filed an allocation of conserved water application. The Department assigned the application number CW-66.
2. On August 11, 2010 the Department issued Special Order Volume 81, Page 693, approving Allocation of Conserved Water Application CW-66. The Order also determined the approximate starting point for CW-66 was as follows:

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.

Priority	Maximum CFS
1869	0.96
1885	1.30
1887	3.00
1889	4.03
1893	0.79
1895	104.83
1899	2.03
1900	0.75
1901	0.45
1903	6.88
1904	12.66
Total:	137.68

3. The order approving Allocation of Conserved Water Application CW-66 indicated the Applicants anticipated the project would conserve a total of 6.00 CFS of water. However, the order provided that the total quantity of water to be conserved would be adjusted by the actual results achieved by each increment of the project.
4. On October 20, 2010 the Department issued Special Order Volume 82, Page 1154, which approved the Increment I of Allocation of Conserved Water Project CW-66. The order determined that completion of Increment I of CW-66 had resulted in the conservation of 2.00 CFS of water. The order also determined that 100% of the conserved water would be protected instream and that the quantity of water lawfully available under the remaining portion of Certificate 74135 would be reduced as follows:

Priority Date	Rate (cfs)
1895	2.00

The acreage, rate, duty, and priority dates are subject to modification by any previously approved transfers, cancellations, corrections, allocations of conserved water, or other prior modification to Certificate 74135. The associated priority date and rate of the remaining right shall be approximately:

Priority	Maximum CFS
1869	0.96
1885	1.30
1887	3.00
1889	4.03
1893	0.79
1895	102.83
1899	2.03
1900	0.75
1901	0.45
1903	6.88
1904	12.66
Total:	135.68

5. On May 25, 2011 the Department issued Special Order Volume 84, Page 321, which approved Increment II of Allocation of Conserved Water Project CW-66. The order determined that completion of Increment II of Allocation of Conserved Water Application CW-66 resulted in the conservation of 2.00 CFS of water. The order also determined that 100% of the conserved water would be protected instream and that the quantity of water lawfully available under the remaining portion of Certificate 74135 would be reduced as follows:

Priority Date	Rate (cfs)
1895	2.00

The acreage, rate, duty, and priority dates are subject to modification by any previously approved transfers, cancellations, corrections, allocations of conserved water, or other prior modification to Certificate 74135. The associated priority date and rate of the remaining right shall be approximately:

Priority	Maximum CFS
1869	0.96
1885	1.30
1887	3.00
1889	4.03
1893	0.79
1895	100.83
1899	2.03
1900	0.75
1901	0.45
1903	6.88
1904	12.66
Total:	133.68*

6. On October 21, 2011 the Department issued Special Order Volume 85, Page 579, which approved the first portion of Increment III of Allocation of Conserved Water Project CW-66. The order determined that completion of the first portion of Increment III of CW-66 resulted in the conservation of 2.00 CFS of water. The order also determined that 100% of the conserved water would be protected instream and that the quantity of water lawfully available under the remaining portion of Certificate 74135 would be reduced as follows:

Priority Date	Rate (cfs)
1895	2.00

The acreage, rate, duty, and priority dates are subject to modification by any previously approved transfers, cancellations, corrections, allocations of conserved water, or other prior

* 133.68 CFS represents the quantity of water remaining under Certificate 74135 and corrects a scrivener's error recorded in Special Order Volume 84 at Page 322, which incorrectly indicated total remaining rate was 135.68 CFS. The quantities of water listed under each priority were correctly shown and total 133.68 CFS.

modification to Certificate 74135. The associated priority date and rate of the remaining right shall be approximately:

Priority	Maximum CFS
1869	0.96
1885	1.30
1887	3.00
1889	4.03
1893	0.79
1895	98.83
1899	2.03
1900	0.75
1901	0.45
1903	6.88
1904	12.66
Total:	131.68

7. Also on October 21, 2011 the Department issued Special Order Volume 85, Page 582, which approved the second portion of Increment III of Allocation of Conserved Water Project CW-66. The order determined that completion of the second portion of Increment III of CW-66 resulted in the conservation of 1.00 CFS of water. The order also determined that 100% of the conserved water would be protected instream and that the quantity of water lawfully available under the remaining portion of Certificate 74135 would be reduced as follows:

Priority Date	Rate (cfs)
1895	1.00

The acreage, rate, duty, and priority dates are subject to modification by any previously approved transfers, cancellations, corrections, allocations of conserved water, or other prior modification to Certificate 74135. The associated priority date and rate of the remaining right shall be approximately:

Priority	Maximum CFS
1869	0.96
1885	1.30
1887	3.00
1889	4.03
1893	0.79
1895	97.83
1899	2.03
1900	0.75
1901	0.45
1903	6.88
1904	12.66
Total:	130.68

8. On August 28, 2012 Three Sisters Irrigation District (TSID) notified the Department that the final portion of Increment III of Allocation of Conserved Water Project CW-66 had been completed and resulted in the conservation of 1.0 CFS of water. The notification also

requested the Department to finalize the final portion of Increment III of Allocation of Conserved Water Project CW-66 and issue a new instream certificate for 1.0 CFS.

Now, therefore, it is ORDERED:

1. Certificate 74135 shall be modified. A new superseding certificate shall be issued to Three Sisters Irrigation District 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 as described below:

Priority Date	Rate (cfs)
1895	1.00

The acreage, rate, duty, and priority dates are subject to modification by any previously approved transfers, cancellations, corrections, allocations of conserved water, or other prior modification to Certificate 74135. The associated priority date and rate of the remaining right shall be approximately:

Priority	Maximum CFS
1869	0.96
1885	1.30
1887	3.00
1889	4.03
1893	0.79
1895	96.83
1899	2.03
1900	0.75
1901	0.45
1903	6.88
1904	12.66
Total:	129.68

The maximum per acre rate for lands served under this right will not be affected by this allocation of conserved water.

2. Department shall issue a new Instream Water Right Certificate, which shall be for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values in Whychus Creek from the authorized point of diversion (approximately River Mile 23.5) for Certificate 74135 at:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
15 S	10 E	WM	21	SW SW	998 FEET NORTH AND 1211 FEET EAST FROM THE SW CORNER OF SECTION 21

to the mouth of the Whychus Creek, at River Mile 0.0.

The instream water right shall be for a total of 1.0 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 Three Sisters Irrigation District, or its successor, is diverting water.

Dated at Salem, Oregon this 12 day of September 2012.



Dwight Branch, Water Rights Services Administrator for
Phillip C Ward, Director

Mailing date: SEP 13 2012

Kody Thurgood prepared the order approving this instream lease. If you have any questions about the information in this order, you may reach Mr. Thurgood at 503-986-0892 or thurgokj@wrdd.state.or.us.