

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

|                             |   |                                |
|-----------------------------|---|--------------------------------|
| IN THE MATTER OF ALLOCATION | ) | NOTICE OF DETERMINATION and    |
| OF CONSERVED WATER          | ) | PROPOSED FINAL ORDER           |
| APPLICATION CW-65,          | ) | APPROVING ALLOCATION OF        |
| UMATILLA COUNTY             | ) | CONSERVED WATER 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 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**

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**Findings of Fact**

1. On November 5, 2009 Greg Juul of Royale Columbia Farms filed an Application for Allocation of Conserved Water. The Department assigned the application number CW-65.
2. On September 28, 2010 the Applicant requested the Department to Amend Allocation of Conserved Water Application CW-65 by removing Water Right Certificate 66853 from the Application.
3. On January 26, 2011 the Applicant requested the Department to amend Allocation of Conserved Water Application CW-65 by assigning a place of use for a portion of the Applicant's conserved water.

Pursuant to OAR 690-180-0050, any person objecting to the proposed allocation may file protest this notice of determination and proposed final order to the Water Resources Commission within 60 days of the mailing of this determination.

4. On March 31, 2011 the Applicant submitted maps describing the proposed water delivery system as requested by the Watermaster; however, the maps failed to meet the requirements of OAR 690-018-0062.
5. On April 4, 2011 the Applicant submitted new maps which met the standards required by OAR 690-018-0062(2)(D).
6. On May 25, 2011 the Applicant requested the Department to amend Allocation of Conserved Water Application CW-65 by adding the additional points of diversion described in Finding of Fact #11.
7. The Applicant proposes an Allocation of Conserved Water project involving Water Right Certificates 50872, 81197 and 84967. The Applicant proposes to conserve approximately 3,185 acre-feet (AF) with a corresponding rate of 15.19 CFS. The proposed conservation measures consist of modifying the center pivot, circle irrigation machines to operate at lower pressures and with reduced flows. The Applicant will also install state-of-the-art low pressure, low flow spray nozzles. Along with improvements to the water application system, the Applicant has also upgraded the water delivery system. Existing pipelines have been lined with cement mortar to reduce transmission losses and a variable speed pump was installed at the river pumping station to assist in operating the distribution system in a manner that allows the pumps to more closely match the system flow requirements. Additionally, farm management practices have included implementing crop rotations and irrigation scheduling has been improved to reduce instantaneous flow requirements .
8. The first right to be modified is as follows:

**Certificate:** 50872 in the name of ROYALE COLUMBIA ASSOCIATES (perfected under Permit S-37538)  
**Use:** IRRIGATION OF 454.4 ACRES  
**Priority Date:** DECEMBER 5, 1974  
**Rate:** 8.9 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  | 8   | SW NW | 2860 FEET NORTH AND 70 FEET EAST FROM THE SW CORNER OF SECTION 8 |

**Authorized Place of Use:**

| IRRIGATION    |      |     |     |       |      |              |
|---------------|------|-----|-----|-------|------|--------------|
| Twp           | Rng  | Mer | Sec | Q-Q   | GLot | Acres        |
| 4 N           | 30 E | WM  | 6   | NE NW |      | 31.6         |
| 4 N           | 30 E | WM  | 6   | NW NW | 1    | 22.8         |
| 4 N           | 30 E | WM  | 6   | SW NW | 2    | 28.4         |
| 4 N           | 30 E | WM  | 6   | SE NW |      | 37.2         |
| 4 N           | 30 E | WM  | 6   | NE SW |      | 25.2         |
| 4 N           | 30 E | WM  | 6   | NW SW | 3    | 44.8         |
| 4 N           | 30 E | WM  | 6   | SW SW | 4    | 40.8         |
| 4 N           | 30 E | WM  | 6   | SE SW |      | 24.0         |
| 5 N           | 30 E | WM  | 18  | SW NE |      | 1.2          |
| 5 N           | 30 E | WM  | 18  | SE NE |      | 1.6          |
| 5 N           | 30 E | WM  | 18  | NE SE |      | 35.2         |
| 5 N           | 30 E | WM  | 18  | NW SE |      | 28.4         |
| 5 N           | 30 E | WM  | 18  | SW SE |      | 15.6         |
| 5 N           | 30 E | WM  | 18  | SE SE |      | 20.4         |
| 5 N           | 30 E | WM  | 31  | SE NE |      | 14.4         |
| 5 N           | 30 E | WM  | 31  | NE SE |      | 27.6         |
| 5 N           | 30 E | WM  | 31  | NW SE |      | 20.0         |
| 5 N           | 30 E | WM  | 31  | SE SE |      | 34.4         |
| 5 N           | 30 E | WM  | 32  | SW NW |      | 0.4          |
| 5 N           | 30 E | WM  | 32  | SE NW |      | 0.4          |
| <b>TOTAL:</b> |      |     |     |       |      | <b>454.4</b> |

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

**Certificate:** 81197 in the name of ROYALE COLUMBIA FARMS INC (perfected under Permit S-36718)

**Use:** IRRIGATION of 2115.6 ACRES

**Priority Date:** DECEMBER 8, 1970

**Rate:** 41.46 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  | 8   | SW NW | 2860 FEET NORTH AND 70 FEET EAST FROM THE SW CORNER OF SECTION 8 |

**Authorized Place of Use:**

| IRRIGATION |      |     |     |       |       |
|------------|------|-----|-----|-------|-------|
| Twp        | Rng  | Mer | Sec | Q-Q   | Acres |
| 4 N        | 30 E | WM  | 6   | NE NE | 28.8  |
| 4 N        | 30 E | WM  | 6   | NW NE | 26.4  |
| 4 N        | 30 E | WM  | 6   | SW NE | 35.2  |
| 4 N        | 30 E | WM  | 6   | SE NE | 37.2  |
| 4 N        | 30 E | WM  | 6   | NE SE | 22.8  |
| 4 N        | 30 E | WM  | 6   | NW SE | 38.4  |
| 4 N        | 30 E | WM  | 6   | SW SE | 36.4  |
| 4 N        | 30 E | WM  | 6   | SE SE | 20.0  |
| 5 N        | 29 E | WM  | 25  | NE NE | 7.6   |
| 5 N        | 29 E | WM  | 25  | SW NE | 13.6  |
| 5 N        | 29 E | WM  | 25  | SE NE | 30.8  |
| 5 N        | 29 E | WM  | 25  | NE SW | 8.8   |
| 5 N        | 29 E | WM  | 25  | SW SW | 5.6   |
| 5 N        | 29 E | WM  | 25  | SE SW | 39.0  |
| 5 N        | 29 E | WM  | 25  | NE SE | 40.0  |
| 5 N        | 29 E | WM  | 25  | NW SE | 31.6  |
| 5 N        | 29 E | WM  | 25  | SW SE | 38.4  |
| 5 N        | 29 E | WM  | 25  | SE SE | 36.8  |
| 5 N        | 29 E | WM  | 36  | NE NE | 37.0  |
| 5 N        | 29 E | WM  | 36  | NW NE | 20.4  |
| 5 N        | 29 E | WM  | 36  | SE NE | 4.0   |
| 5 N        | 29 E | WM  | 36  | NE NW | 22.4  |
| 5 N        | 29 E | WM  | 36  | NW NW | 28.8  |
| 5 N        | 30 E | WM  | 19  | SW SW | 6.0   |
| 5 N        | 30 E | WM  | 19  | SE SW | 1.6   |
| 5 N        | 30 E | WM  | 19  | SE SE | 2.0   |
| 5 N        | 30 E | WM  | 20  | SW SW | 0.3   |
| 5 N        | 30 E | WM  | 20  | SE SW | 0.2   |
| 5 N        | 30 E | WM  | 29  | NE NE | 33.6  |
| 5 N        | 30 E | WM  | 29  | NW NE | 30.8  |
| 5 N        | 30 E | WM  | 29  | SW NE | 30.8  |
| 5 N        | 30 E | WM  | 29  | SE NE | 33.6  |
| 5 N        | 30 E | WM  | 29  | NE NW | 34.8  |
| 5 N        | 30 E | WM  | 29  | NW NW | 37.6  |
| 5 N        | 30 E | WM  | 29  | SW NW | 37.6  |
| 5 N        | 30 E | WM  | 29  | SE NW | 32.4  |
| 5 N        | 30 E | WM  | 29  | NE SW | 38.8  |
| 5 N        | 30 E | WM  | 29  | NW SW | 36.0  |
| 5 N        | 30 E | WM  | 29  | SW SW | 28.0  |
| 5 N        | 30 E | WM  | 29  | SE SW | 34.8  |
| 5 N        | 30 E | WM  | 29  | NE SE | 29.6  |
| 5 N        | 30 E | WM  | 29  | NW SE | 23.2  |
| 5 N        | 30 E | WM  | 29  | SW SE | 29.2  |
| 5 N        | 30 E | WM  | 29  | SE SE | 36.8  |
| 5 N        | 30 E | WM  | 30  | NE NE | 33.2  |
| 5 N        | 30 E | WM  | 30  | NW NE | 28.0  |
| 5 N        | 30 E | WM  | 30  | SW NE | 40.0  |
| 5 N        | 30 E | WM  | 30  | SE NE | 32.8  |
| 5 N        | 30 E | WM  | 30  | NE NW | 30.4  |

| IRRIGATION    |      |     |     |       |               |
|---------------|------|-----|-----|-------|---------------|
| Twp           | Rng  | Mer | Sec | Q-Q   | Acres         |
| 5 N           | 30 E | WM  | 30  | NW NW | 39.6          |
| 5 N           | 30 E | WM  | 30  | SW NW | 37.6          |
| 5 N           | 30 E | WM  | 30  | SE NW | 36.0          |
| 5 N           | 30 E | WM  | 30  | NE SW | 40.0          |
| 5 N           | 30 E | WM  | 30  | NW SW | 38.0          |
| 5 N           | 30 E | WM  | 30  | SW SW | 36.4          |
| 5 N           | 30 E | WM  | 30  | SE SW | 38.0          |
| 5 N           | 30 E | WM  | 30  | NE SE | 38.8          |
| 5 N           | 30 E | WM  | 30  | NW SE | 36.4          |
| 5 N           | 30 E | WM  | 30  | SW SE | 36.8          |
| 5 N           | 30 E | WM  | 30  | SE SE | 39.6          |
| 5 N           | 30 E | WM  | 31  | NE NE | 36.8          |
| 5 N           | 30 E | WM  | 31  | NW NE | 38.8          |
| 5 N           | 30 E | WM  | 31  | SW NE | 15.6          |
| 5 N           | 30 E | WM  | 31  | NE NW | 40.0          |
| 5 N           | 30 E | WM  | 31  | NW NW | 37.7          |
| 5 N           | 30 E | WM  | 31  | SW NW | 4.4           |
| 5 N           | 30 E | WM  | 31  | SE NW | 20.8          |
| 5 N           | 30 E | WM  | 31  | SW SW | 33.3          |
| 5 N           | 30 E | WM  | 31  | SE SW | 31.0          |
| 5 N           | 30 E | WM  | 31  | SW SE | 26.8          |
| 5 N           | 30 E | WM  | 32  | NW NW | 1.2           |
| 5 N           | 30 E | WM  | 32  | NE SW | 34.8          |
| 5 N           | 30 E | WM  | 32  | NW SW | 33.6          |
| 5 N           | 30 E | WM  | 32  | SW SW | 31.2          |
| <b>TOTAL:</b> |      |     |     |       | <b>2115.3</b> |

10. The third right to be modified is as follows:

**Certificate:** 84967 in the name of ROYALE COLUMBIA FARMS INC (perfected under Permit S-36718)  
**Use:** IRRIGATION of 236.8 ACRES  
**Priority Date:** DECEMBER 8, 1970  
**Rate:** 4.64 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  | 8   | SW NW | 2860 FEET NORTH AND 70 FEET EAST FROM THE CORNER OF SECTION 8 |

**Authorized Place of Use:**

| IRRIGATION    |      |     |     |       |              |
|---------------|------|-----|-----|-------|--------------|
| Twp           | Rng  | Mer | Sec | Q-Q   | Acres        |
| 4 N           | 29 E | WM  | 1   | NE NE | 29.70        |
| 4 N           | 29 E | WM  | 1   | SW NE | 37.80        |
| 4 N           | 29 E | WM  | 1   | SE NE | 32.80        |
| 4 N           | 29 E | WM  | 1   | SE NW | 33.60        |
| 4 N           | 29 E | WM  | 1   | NE SE | 33.60        |
| 4 N           | 29 E | WM  | 1   | NW SE | 35.20        |
| 4 N           | 29 E | WM  | 1   | SE SE | 34.10        |
| <b>TOTAL:</b> |      |     |     |       | <b>236.8</b> |

**ADDITIONAL POINTS OF DIVERSION**

11. 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   | Tax Lot | Measured Distances   |
|-----|------|-----|-----|-------|---------|--|
| 5 N | 30 E | WM  | 8   | NE NW | 200     | 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  | 7   | SE SW | 200     | POD #3: (JB LAND PUMPING STATION) 460 FEET NORTH AND 1680 FEET EAST FROM THE SW CORNER OF SECTION 7            |

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

12. Water has been used within the last five years according to the terms and conditions of the rights.
13. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
14. A pump, pipeline, and sprinkler system 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-65.
15. The proposed changes would not result in enlargement of the rights.
16. The proposed changes would not result in injury to other water rights.

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

17. The proposed Allocation of Conserved Water project will result in the following amount of conserved water under Certificates 50872, 81197 and 84967:

| Certificate   | Priority  | Existing AC    | Before Project |                  |              | After Project |                 |              | Conserved Water |                 |              |
|---------------|-----------|----------------|----------------|------------------|--------------|---------------|-----------------|--------------|-----------------|-----------------|--------------|
|               |           |                | AF/AC          | AF               | CFS          | AF/AC         | AF              | CFS          | AF/AC           | AF              | CFS          |
| 50872         | 12/5/1974 | 454.4          | 4.5            | 2044.80          | 8.90         | 3.84          | 1,744.90        | 7.59         | 0.66            | 299.90          | 1.31         |
| 81197         | 12/8/1970 | 2115.3         | 4.5            | 9518.85          | 41.46        | 3.21          | 6,790.11        | 28.27        | 1.29            | 2,728.74        | 13.19        |
| 84967         | 12/8/1970 | 236.8          | 4.5            | 1065.60          | 4.64         | 3.84          | 909.31          | 3.95         | 0.66            | 156.29          | 0.69         |
| <b>TOTAL:</b> |           | <b>2,806.5</b> |                | <b>12,629.25</b> | <b>55.00</b> |               | <b>9,444.32</b> | <b>39.81</b> |                 | <b>3,184.93</b> | <b>15.19</b> |

18. 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          |
| 50872         | 12/5/1974     | <b>224.93</b>                        | <b>0.98</b>  | <b>74.97</b>                     | <b>0.33</b> | 299.90                          | 1.31         |
| 81197         | 12/8/1970     | <b>2,046.55</b>                      | <b>9.89</b>  | <b>682.19</b>                    | <b>3.30</b> | 2,728.74                        | 13.19        |
| 84967         | 12/8/1970     | <b>117.22</b>                        | <b>0.52</b>  | <b>39.07</b>                     | <b>0.17</b> | 156.29                          | 0.69         |
| <b>Total:</b> |               | <b>2,388.70</b>                      | <b>11.39</b> | <b>796.23</b>                    | <b>3.80</b> | <b>3,184.93</b>                 | <b>15.19</b> |

19. 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.

20. The Department published notice of CW-65 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.

21. 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 the Allocation of Conserved Water Program and did not specifically address Allocation of Conserved Water Application CW-65 or any other specific conservation project.

22. Pursuant to ORS 537.485, the Applicant requests that the priority dates of the conserved water be one-minute junior to the originating right.

23. The proposed allocation of conserved water will not harm existing rights.

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. 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.

26. 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         | AF       | CFS   |
| 50872       | 12/5/1974 | 454.4    | 3.84          | 1,744.90 | 7.59  |
| 81197       | 12/8/1970 | 2115.3   | 3.21          | 6,790.11 | 28.27 |
| 84967       | 12/8/1970 | 236.8    | 3.84          | 909.31   | 3.95  |

27. 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:

| Originating Certificate | Priority* | After Project Maximum New Irrigation |              |      |               |
|-------------------------|-----------|--------------------------------------|--------------|------|---------------|
|                         |           | AF/AC                                | AF           | CFS  | Max New Acres |
| 50872                   | 12/5/1974 | 3.84                                 | 224.93       | 0.98 | <b>58.58</b>  |
| 81197                   | 12/8/1970 | 3.00                                 | 2,046.55     | 9.89 | <b>682.18</b> |
| 84967                   | 12/8/1970 | 3.77                                 | 117.22       | 0.52 | <b>31.09</b>  |
| <b>TOTAL:</b>           |           | <b>2,388.70</b>                      | <b>11.39</b> |      | <b>771.85</b> |

\*Plus one minute.



28. A portion of the Applicant's share of conserved water from Certificate 50872 with a December 5, 1974, *plus one minute*, priority may be used for irrigation of 56.0 acres of new lands located within:

| NEW LANDS TO RECEIVE CONSERVED WATER FOR IRRIGATION* |           |     |      |     |     |       |         |             |
|--|-----------|-----|------|-----|-----|-------|---------|-------------|
| Originating Certificate                              | Priority  | Twp | Rng  | Mer | Sec | Q-Q   | Tax Lot | Acres       |
| 50872  | 12/5/1974 | 5 N | 29 E | WM  | 36  | NE NE | 2900    | 0.7         |
| 50872  | 12/5/1974 | 5 N | 29 E | WM  | 36  | SE NE | 2900    | 30.4        |
| 50872  | 12/5/1974 | 5 N | 30 E | WM  | 18  | SE SE | 903     | 11.1        |
| 50872  | 12/5/1974 | 5 N | 30 E | WM  | 31  | SW NW | 1100    | 13.8        |
| <b>TOTAL:</b>  |           |     |      |     |     |       |         | <b>56.0</b> |

*\*The Applicant has not yet surveyed of the above designated lands; therefore, the legal description of the designated place of use as set forth above may have a slight variance from the legal description that will be set forth when the Claim of Beneficial Use is submitted. However, the total number of acres, along with rates and duties established herein, shall be the maximum number of acres, rates and duties allowed under Increment 1 of CW-65.*

The rate, duty and priority dates for the above listed acres is shown below:

| Priority                | Total Acres | New Irrigation |               |              |
|-------------------------|-------------|----------------|---------------|--------------|
|                         |             | AF/AC          | Total Duty AF | Max Rate CFS |
| 12/5/1974               | 56.0        | 3.84           | 215.04        | 0.94         |
| <i>*Plus One Minute</i> |             |                |               |              |

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 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 3.84 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).

The rate, duty and priority dates for the above listed acres is shown below:

| Priority                | Total Acres | New Irrigation |               |              |
|-------------------------|-------------|----------------|---------------|--------------|
|                         |             | AF/AC          | Total Duty AF | Max Rate CFS |
| 12/8/1970               | 483.90      | 3.00           | 1,451.7       | 7.01         |
| <i>*Plus One Minute</i> |             |                |               |              |

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 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 from Certificate 84967 with a December 8, 1970, plus one minute, priority may be used for irrigation of 28.4 acres of new lands located within:

| NEW LANDS TO RECEIVE CONSERVED WATER FOR IRRIGATION* |            |     |      |     |     |       |         |             |
|--|------------|-----|------|-----|-----|-------|---------|-------------|
| Originating Certificate                              | Priority   | Twp | Rng  | Mer | Sec | Q-Q   | Tax Lot | Acres       |
| 84967  | 12/08/1970 | 4 N | 30 E | WM  | 6   | SW NW | 700     | 21.0        |
| 84967  | 12/08/1970 | 4 N | 30 E | WM  | 6   | NW SW | 700     | 7.4         |
| <b>TOTAL:</b>  |            |     |      |     |     |       |         | <b>28.4</b> |

*\*The Applicant has not yet surveyed of the above designated lands; therefore, the legal description of the designated place of use as set forth above may have a slight variance from the legal description that will be set forth when the Claim of Beneficial Use is submitted. However, the total number of acres, along with rates and duties established herein, shall be the maximum number of acres, rates and duties allowed under Increment 1 of CW-65.*

The rate, duty and priority dates for the above listed acres is shown below:

| Priority                | Acres Available | New Irrigation |        |      |
|-------------------------|-----------------|----------------|--------|------|
|                         |                 | AF/AC          | AF     | CFS  |
| 12/08/1970              | 28.4            | 3.77           | 107.07 | 0.47 |
| <i>*Plus One Minute</i> |                 |                |        |      |

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 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 3.77 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).

1. 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.

| Originating Certificate | Priority  | AF     | CFS  |
|-------------------------|-----------|--------|------|
| 50872                   | 12/5/1974 | 9.89   | 0.04 |
| 81197                   | 12/8/1970 | 594.85 | 2.88 |
| 84967                   | 12/8/1970 | 10.15  | 0.04 |
| TOTAL:                  |           | 614.89 | 2.96 |

\*Plus one minute.

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

| Originating Right | Priority Date | Rate (CFS) | Duty (AF) |
|-------------------|---------------|------------|-----------|
| 50872             | 12/5/1974     | 0.33       | 74.98     |
| 81197             | 12/8/1970     | 3.30       | 682.19    |
| 84967             | 12/8/1970     | 0.17       | 39.07     |
| Total:            |               | 3.80       | 796.23    |

\*Plus One Minute.

32. The instream water right created from the conserved water under Certificates, 50872, 81197 and 84967 will be from the original 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  | 8   | SW NW | 2860 FEET NORTH AND 70 FEET EAST FROM THE SW CORNER OF SECTION 8 |

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 t the rates and priority dates shown below:

| Originating Right | Priority Date | Rate (CFS) | Duty (AF) | Period Protected Instream     |
|-------------------|---------------|------------|-----------|-------------------------------|
| 50872             | 12/5/1974     | 0.224      | 74.98     | April 15 through September 30 |
| 81197             | 12/8/1970     | 0.678      | 682.19    |                               |
| 84967             | 12/8/1970     | 0.117      | 39.07     |                               |
| Total:            |               | 1.019      | 796.24    |                               |

\*Plus One Minute.

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

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

## Allocation of Conserved Water 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-65 contains all the information required by OAR 690-018-0040.
- B. The proposed conservation project will result in a 15.19 CFS reduction in the quantity of water diverted for the uses allowed under the original rights as established in Findings of Fact #17 and #18.
- C. Consistent with Findings of Fact #23 and #24, 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 #25, 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 #26 - #31.
- F. The Applicant requests that 25% of the conserved water be allocated to an instream water right to be held in trust by the Water Resources Department for the people of Oregon and that the priority date of the conserved water right is the same as the originating rights, plus one minute. (Findings of Fact #18 and #33).
- G. Consistent with Finding of Fact #19, 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 original authorized point of diversion at:

**Authorized Point of Diversion:**

| Twp | Rng  | Mer | Sec | Q-Q   | Measured Distances   |
|-----|------|-----|-----|-------|--|
| 5 N | 30 E | WM  | 8   | SW NW | 2860 FEET NORTH AND 70 FEET EAST FROM THE SW CORNER OF SECTION 8 |

to the mouth of the Columbia River. The rates, duties and priorities for instream water right are described in Finding of Fact #33. 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.

- I. The Applicant has completed the conservation project and requests that the project be finalized pursuant to OAR 690-018-0062. (Finding of Fact #34).
- 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**

- 1) The conservation project described in Allocation of Conserved Water Application CW-65 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 which can be allocated without harming other water rights.
- 2) The additional points of diversion proposed in CW-65 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-018-0010.

**Now, therefore, it is ORDERED:**

- 2. The changes proposed in Allocation of Conserved Water Application CW-65 are approved.
- 3. Water Right Certificates 50872, 81197 and 84967 are cancelled.
- 4. Approval of this Allocation of Conserved Water reduces the amount of water lawfully available to the lands previously described under Certificates 50872, 81197 and 84967 by the following amounts:

| CERTIFICATE   | RATE (CFS)   | DUTY (AF)       |
|---------------|--------------|-----------------|
| 50872         | 1.31         | 299.90          |
| 81197         | 13.19        | 2,728.74        |
| 84967         | 0.69         | 156.29          |
| <b>TOTAL:</b> | <b>15.19</b> | <b>3,184.93</b> |

- 5. New Allocation of Conserved Water Remaining Right Certificates will be issued describing the lands involved in the conservation project, being the entirety of Certificates 50872, 81197 and 84967. The new rates and duties for the lands previously described under Certificates 50872, 81197 and 84967 are described in Finding of Fact #26. 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 the certificates. All other conditions and limitations of the existing water right shall be included in the superseding certificates.
- 6. A permanent place of use has been determined for a portion of the Applicant’s share of the conserved water and are described in Findings of Fact #28, #29 and #30.

7. The authorized points of diversion for the new lands described above are described as follows:

**Authorized Points of Diversion:**

| Twp | Rng  | Mer | Sec | Q-Q   | Tax Lot | Measured Distances   |
|-----|------|-----|-----|-------|---------|--|
| 5 N | 30 E | WM  | 8   | NE NW | 200     | 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 | 200     | 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 | 200     | POD #3: (JB LAND PUMPING STATION) 460 FEET NORTH AND 1680 FEET EAST FROM THE SW CORNER OF SECTION 7            |

8. All other conditions and limitations of the existing water rights and any related decree shall be required under the new certificates
9. Additionally, the remaining portion of the Applicant's portion of the conserved water is currently reserved instream and is as follows:

| Originating Certificate | Priority  | AF     | CFS  |
|-------------------------|-----------|--------|------|
| 50872                   | 12/5/1974 | 9.89   | 0.04 |
| 81197                   | 12/8/1970 | 594.85 | 2.88 |
| 84967                   | 12/8/1970 | 10.15  | 0.04 |
| TOTAL:                  |           | 614.89 | 2.96 |

\*Plus one minute.

10. The portion of the Applicant's share of the conserved water described above shall be reserved instream until the Applicant provides the information required under OAR 690-018-0062(3) and the Department approves the new use
11. The applicant has completed the conservation project and will not be requesting additional time to finalize the project.
12. Before water use may be applied to the new lands the applicant shall install totalizing flow meters to the Department's satisfaction at the authorized point of diversion from the Columbia River. 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.
13. 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 reasonable notice.

14. 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.
15. The approved changes shall be completed and full beneficial use of the water shall be made on or before October 1, 2012. A claim of Beneficial Use prepared by a certified Water Rights Examiner shall be submitted by the Applicant, on or before October 1, 2013.
16. 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.
17. 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 as described in Finding of Fact #33.
18. 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.

*Dated at Salem, Oregon this* 17 *day of November 2011.*

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

*Date of Mailing:* **NOV 21 2011**