

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

In the Matter of Allocation of Conserved Water Application CW-83,  
Deschutes and Jefferson Counties ) PRELIMINARY DETERMINATION  
) PROPOSING APPROVAL ON  
) COMPLETION AND FINALIZATION  
) OF ALLOCATION OF CONSERVED  
) WATER CW-83

**Hurtley Landowners:**

<b>Hurtley Lateral Landowners</b>		
Ralph Affatati PO Box 598 Sisters, OR 97759	Edward & Barbara Carollo PO Box 297 Sisters, OR 97759	Brian Conner 69278 Lake Drive Sisters, OR 97759
Susan Conner 17270 Plainview Road Bend, OR 97701	Doug & Laurie Duey 1101 W Marine Drive Astoria, OR 97103-5632	Kristine Falco 69320 Sisters View Drive Sisters, OR 97759
John & Chelsie Gloeckner 17280 Emerald Valley Road Sisters, OR 97759	Jerry W. & Sharon J. Hakes 69340 Hinkle Butte Drive Sisters, OR 97759	Donna Harris 69373 Sisters View Drive Sisters, OR 97759
David Hurtley PO Box 1511 Sisters, OR 97759	Carl & Shelly Johnson 12251 SE Winston Road Damascus, OR 97089	Mark & Sheila Kelley 17295 Emerald Valley Road Sisters, OR 97759
Sandra Kennedy 17235 Emerald Valley Road Sisters, OR 97759	Philip Krohn PO Box 698 Camp Sherman, OR 97730	Gary & Angie Larson PO Box 1624 Sisters, OR 97759
Kara Lin Mickaelson 69219 Lariat Sisters, OR 97759	Gregory Mohnen 64990 Collins Road Bend, OR 97701	David Nelson 2502 SW Arden Road Portland, OR 97201
Ebony Small 69270 Enewetak Lane Sisters, OR 97759-9724	Kenneth & Rae E. Swearingen 69374 Sisters View Drive Sisters, OR 97759	Barbara L. Temple 69240 Enewetak Lane Sisters, OR 97759
Melissa Ward PO Box 1998 Sisters, OR 97759		

**Agent:**

Deschutes River Conservancy  
Attn: Zach Tillman  
700 NW Hill  
Bend, OR 97701

Pursuant to OAR 690-018-0050, any person objecting to the proposed allocation may file protest this Preliminary Determination with the Water Resources Commission within 60 days of the mailing of this determination.

## **Applicable Law**

Any person or group of persons holding a water use subject to transfer as defined in ORS 540.505 may submit an application for an Allocation of Conserved Water to the Water Resources Commission for a conservation project that has not yet been implemented or was implemented within five years prior to the submission of the application. ORS 537.465. Under the Allocation of Conserved Water Program, a portion of the water proposed to be conserved by an applicant may be used on additional lands, put to a different use, or be leased or sold to another user. OAR 690-018-0010.

After determining any quantity of water needed to mitigate the effects on other water rights, 25-percent of the conserved water shall be allocated to the state and 75-percent to the applicant unless the applicant proposes a higher allocation to the state or more than 25-percent of the funds used to finance the conservation measures comes from federal or state sources. ORS 537.470(3).

An application for an allocation of conserved water shall include: (a) A description of the proposed measures; (b) A description of the existing diversion facilities and an estimate of the amount of water that can be diverted at the facilities; (c) The amount of water that will be needed for the original, authorized use after implementation of the conservation measures; (d) The amount of conserved water expected from implementation of the conservation measures; (e) The proposed allocation and use of the conserved water if different from the allocation specified in ORS 537.470; (f) The intended use of any water allocated to the applicant; (g) The applicant's choice of priority date for the conserved water; and (h) Any other information the commission considers necessary to evaluate the effectiveness of the proposal. ORS 537.465.

If a person proposes conservation measures within the boundaries of an irrigation district organized under ORS chapter 545 or a water control district organized under ORS chapter 553, at the time the person submits the application, the person also must submit evidence that the district has approved the conservation application. ORS 537.465.

If an application for the allocation of conserved water is approved, the Department shall issue orders covering the changes in the original water rights and once the conservation project is finalized new certificates preserving the previously established priority of rights shall be issued to cover the unaffected portion of the water rights and separate new certificates describing the rights created by the allocation of conserved water. ORS 537.470(6).

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 allocation of conserved water applications. OAR Chapter 690, Division 077 provides additional criteria for evaluating proposed instream water rights. The statutes and rules outlined above require the Department to review the application and any comments received to make its findings and determinations.

## **Findings of Fact**

1. On December 18, 2013, the 22 individuals listed above as Applicants, collectively referred to as the "Hurtley Landowners," filed an Allocation of Conserved Water Application. The Department designated the application number CW-83.

2. The Hurlley Landowners request an allocation of conserved water under Certificate 74135 issued in the name of Squaw Creek Irrigation District. On June 1, 2004, Squaw Creek Irrigation District changed its name to Three Sisters Irrigation District (TSID). TSID maintains the water delivery system for the benefit of the landowners in the area. TSID authorizes and supports Allocation of Conserved Water Application CW-83.
3. The Hurlley Landowners propose to conserve water by replacing approximately 6,450 feet of the TSID Hurlley Lateral water conveyance system, with high density polyethylene (HDPE) pipe. Replacement of the existing, damaged, and leaky portions of the delivery system will eliminate water losses through the irrigation delivery system.
4. Canal or lateral piping with HDPE pipe is a proven water conservation technique.
5. The portion of the right to be modified, as amended on January 13, 2015, and February 10, 2015, is:

**Certificate:** 74135, in the name of TSID. This right was confirmed by the Whychus [Squaw] Creek Decree.

**Priority Date and Quantity:**

Priority Date	Maximum Rate (cfs)	Acres (Equivalent)
1869	0.96	48.00
1885	1.58	79.05
1887	3.00	150.00
1889	4.03	201.50
1893	0.79	39.50
1895	114.33	5716.75
1899	2.18	108.80
1900	1.08	54.00
1901	0.45	22.30
1903	7.21	360.60
1904	17.41	870.60
Totals	153.02	7,651.10

**Authorized Point of Diversion involved in CW-83:**

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

**Source:** Whychus [Squaw] Creek, a tributary of the Deschutes River.

**Authorized Place of Use:**

Twp	Range	Sec	Q-Q	Acres	Tax Lot	Land Owner
14 S	10 E	36	SW NE	2.50	2400	Krohn
14 S	10 E	36	NE SE	1.00	200	Johnson
14 S	10 E	36	NE SE	1.50	800	Hakes
14 S	10 E	36	NW SE	2.00	500	Ward
14 S	10 E	36	NW SE	4.00	600	Mickaelson
14 S	10 E	36	NW SE	1.50	2400	Krohn
14 S	10 E	36	SW SE	2.00	1900	Conner, Brian
14 S	10 E	36	SW SE	2.00	1700	Larson

Twp	Range	Sec	Q-Q	Acres	Tax Lot	Land Owner
14 S	10 E	36	SW SE	2.00	1800	Hurtley
14 S	10 E	36	SE SE	6.00	2500	Affatati
14 S	10 E	36	SE SE	4.00	2501	Small
14 S	10 E	36	SE SE	5.00	2502	Conner, Susan
14 S	10 E	36	SE SE	2.47	2503	Temple
14 S	10 E	36	SE SE	4.00	2504	Mohnen
14 S	10 E	36	SE SE	4.03	2500/205	Kennedy
14 S	11 E	31	NW SW	4.00	300	Falco
14 S	11 E	31	NW SW	3.00	500	Duey
14 S	11 E	31	NW SW	2.00	600	Swearingen
14 S	11 E	31	NW SW	4.00	700	Harris
14 S	11 E	31	NW SW	2.50	800	Hakes
14 S	11 E	31	SW SW	7.30	200	Gloeckner
14 S	11 E	31	SW SW	6.00	201	Nelson
14 S	11 E	31	SW SW	6.00	204/200	Kelley
14 S	11 E	31	SW SW	1.80	2500/200	Affatati
14 S	11 E	31	SW SW	4.00	200/205	Kennedy
15 S	11 E	6	NE NW	5.00	1000	Carollo
Total				89.60		

6. The acreage under Certificate 74135 has been modified by cancellations completed pursuant to ORS 540 as listed below:

Priority Date	Acres (equivalent)	Acres Abandoned T-6854	Remaining Acres (equivalent)
1869	48.00		48.00
1885	79.05		79.05
1887	150.00		150.00
1889	201.50		201.50
1893	39.50		39.50
1895	5716.75		5716.75
1899	108.80		108.80
1900	54.00		54.00
1901	22.30		22.30
1903	360.60	-16.60	344.00
1904	870.60	-167.40	703.20
Totals	7,651.10	-184.00	7467.10

7. The rate associated with Certificate 74135 has been affected by transfers, cancellations, and allocations of conserved water. The approximate starting point for Certificate 74135 is as follows:

Priority Date	Max. Rate (cfs)	T-6854	CW-30	CW-34	CW-44	CW-49	CW-50	CW-51	CW-33	CW-56	CW-66	CW-77	CW-71	New Starting Point
1869	0.96													0.96
1885	1.58		-0.28											1.30
1887	3.00													3.00
1889	4.03												-0.09	3.94
1893	0.79													0.79
1895	114.33			-1.50	-1.20	-1.20	-1.20	-1.20	-2.00	-1.20	-8.00	-1.33	-0.36	95.14
1899	2.18				-0.03	-0.03	-0.03	-0.03		-0.03				2.03

Priority Date	Max. Rate (cfs)	T-6854	CW-30	CW-34	CW-44	CW-49	CW-50	CW-51	CW-33	CW-56	CW-66	CW-77	CW-71	New Starting Point
1900	1.08		-0.33											0.75
1901	0.45													0.45
1903	7.21	-0.33											-0.51	6.37
1904	17.41	-3.35			-0.28	-0.28	-0.28	-0.28		-0.28				12.66
Totals	153.02	-3.68	-0.61	-1.50	-1.51	-1.51	-1.51	-1.51	-2.00	-1.51	-8.00	-1.33	-0.96	127.39

The starting point for Certificate 74135 is based on all previously approved Allocation of Conserved Water projects being completed and finalized. If projects are completed and finalized in a different order, or if there are other intervening transfers, cancellations, allocations of conserved water, or other modifications to the right, then the actual quantity of water available under Certificate 74135 may change.

8. Any previously approved or pending transfers, cancellations, allocations of conserved water, or other modifications to Certificate 74135, which are not listed in Finding of Fact #7 will cause a corresponding change to the rate, duty, and total number of acres served by Certificate 74135.
9. Based on the above adjusted starting point for Certificate 74135, conserved water application CW-83 proposes to conserve the following quantity of water under the 1895 priority date:

Before Project		After Project		Conserved Water	
Rate		Rate (CFS)		Rate (CFS)	Duty
Maximum CFS	CFS/AC	Maximum CFS	CFS/AC	Maximum CFS	Maximum AF
127.39	0.02	126.96	0.02	0.43	183.89

10. Certificate 74135 and the Whychus [Squaw] Creek Decree do not list a season of use. However, the Deschutes River Decree lists the irrigation season as April 1 to November 1. Whychus Creek is a tributary to the Deschutes River, therefore, it is appropriate to utilize the season of use from the Deschutes River Decree of April 1 to November 1.
11. Diversion structures, canals, and ditches sufficient to deliver the full quantity of water allowed under the existing right were present within the five-year period prior to submission of Allocation of Conserved Water application CW-83.
12. On March 24, 2011, the Hurtley Landowners' representative provided notice of the proposed conservation project to the Land Use and Planning Departments of Jefferson and Deschutes Counties as required by OAR 690-018-0040(22).
13. The Hurtley Landowners submitted a land use form completed and signed by Deschutes County demonstrating the proposed use is consistent with local comprehensive land use requirements.
14. Allocation of Conserved Water Project CW-83 is complete and resulted in 183.89 acre-feet of conserved water under Certificate 74135. Pursuant to OAR 690-018-0012(1), the Hurtley Landowners request that 100% of the conserved water under Certificate 74135 be dedicated to the state as a new instream water right.

15. Pursuant ORS 537.485, the Hurtley Landowners request the priority date of the conserved water be the same as the originating right.
16. On December 20, 2013, the Department's District 11 Watermaster reviewed Allocation of Conserved Water Application CW-83 and determined that the conservation project would result in conserved water which could be allocated without harm to other rights provided the following conditions are placed on the exiting right and the proposed the instream water right:
  - a. The existing or another suitable measuring device must be maintained and monitored on TSID's main canal in such a manner to render a reliable measurement.
  - b. To prevent enlargement of the right, the instream right created from the conserved water shall be protected only during the irrigation season, or such other times as water is diverted by TSID for a beneficial use.
17. The proposed allocation of conserved water project, as conditioned above, will not harm existing water rights; therefore, no reduction in the quantity of conserved water to be allocated is required to mitigate effects on other water rights.
18. In consultation with the Oregon Department of Fish and Wildlife (ODFW) and Oregon Parks and Recreation Department (OPRD), the Department has determined the water allocated to the state is necessary to support instream flows for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values. The proposed instream right is located in an ODFW flow restoration priority watershed and is also in a reintroduction area for spring Chinook and summer steelhead. OAR 690-018-0050(4)(f).
19. The project is complete and no additional time is required. On May 29, 2014, the representative of the Hurtley Landowners submitted a Request for Finalization.
20. Notice of the proposed conservation project was published in the Department's weekly notice on June 3, 2014, and in *The Bulletin* newspaper on March 22 and 29, 2014, as required under OAR 690-018-0050.

***Allocation of Conserved Water Review Criteria [OAR 690-018-0050]***

21. Allocation of Conserved Water Application CW-83 contains all the information required by OAR 690-018-0040.
22. As established in Findings of Fact #9, the proposed Allocation of Conserved Water project will result in a reduced diversion for the uses allowed under the original rights. OAR 690-018-0050(4)(a)
23. Consistent with Findings of Fact #16 and #17, the proposed Allocation of Conserved Water will not harm existing water rights. Therefore, no reduction in the quantity of conserved water to be allocated is required to mitigate for the effects on other water rights. OAR 690-018-0050(4)(b) and (d).

24. As established in Finding of Fact #13, CW-83 is consistent with the requirements established in OAR 690-005-0045 (Standards for Goal Compliance and Compatibility with Acknowledged Comprehensive Plans). OAR 690-018-0050(4)(c).
25. Pursuant to OAR 690-018-0050(4)(e), the new reduced rate for the existing use involved in this conserved water project under Certificate 74135 is as follows:

Priority Date	Maximum Rate (cfs)	Acres (Equivalent)
1869	0.96	48.00
1885	1.30	79.05
1887	3.00	150.00
1889	3.94	201.50
1893	0.79	39.50
1895	94.71	5716.75
1899	2.03	108.80
1900	0.75	54.00
1901	0.45	22.30
1903	6.37	344.00
1904	12.66	703.20
Totals	126.96	7467.10

(Findings of Fact #6 and #9).

26. In consultation with ODFW and OPRD, the Department has determined that the conserved water is needed to support instream uses. (Finding of Fact #18), OAR 690-018-0050(4)(f).
27. Consistent with ORS 537.470(3), the Hurlley Landowners request that 100% of the conserved water be allocated for an instream water right to be held in trust by the Water Resources Department for the people of Oregon and the priority date of the instream right will be the same as the originating right. (Findings of Fact #14 and #15), OAR 690-018-0050(4)(g).
28. The Hurlley Landowners requested the Department protect the new instream water right created from the conserved water under Certificate 74135 from the authorized point of diversion on Whychus Creek at approximately river mile 23.5 to the mouth at river mile 0.0. OAR 690-018-0050(4)(h); OAR 690-077-0015(8).
29. Consistent with OAR 690-077-0015(8) and (10), the State's portion of the conserved water shall have a priority date of 1895, and shall be allocated as an instream water right for conservation, maintenance and enhancement of aquatic habitat, fish, wildlife, wildlife habitat and other ecological values. The instream water right shall provide for the protection of flows in Whychus Creek from the authorized point of diversion located at approximately river mile 23.5:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
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 Whychus Creek at the confluence with the Deschutes River at River Mile 0.0. (Finding of Fact #28).

30. The instream right shall allow the use and protection of flows from April 1 through October 31, and such other times as Three Sisters Irrigation District is diverting water for a beneficial use under Certificate 74135. The amount and timing of the proposed instream flows are allowable within the limits and use of the original water right. (Findings of Fact #10 and #27), OAR 690-077-0015(10).

Originating Certificate	Priority Date	Period of Use	Rate (CFS)	Volume (AF)
74135	1895	April 1 through October 31	0.43	183.89

31. The protection of flows within the proposed reaches are appropriate, considering:
- i. The instream water use begins at the recorded point of diversion;
  - ii. The location of confluences with other streams downstream of the point of diversion;
  - iii. There are no known areas of natural loss of stream flow to the river beds downstream from the point of diversion; and
  - iv. Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.
- OAR 690-077-0015(8).
32. The combination of instream rights for the proposed reach does not exceed the amount needed to provide increased public benefits, and does not exceed the estimated average natural flow or level occurring from the drainage system. OAR 690-077-0015(4) and (11).
33. Instream Water Right Certificates 73223 and 73224 established pursuant to ORS 537.336 (state agency process), with priority dates of October 11, 1990, exist for portions of the stream reach where the new instream water rights are proposed. Certificate 73223 provides for a stream reach from Indian Ford Creek at river mile 19.5 to the mouth of Whychus [Squaw] Creek, to provide the required stream flow for migration, spawning, egg incubation, fry emergency, and juvenile rearing. Certificate 73224 provides for a stream reach from South Fork Whychus [Squaw] Creek at river mile 35.0 to Indian Ford Creek at river mile 19.5, to provide the required stream flow for migration, spawning, egg incubation, fry emergency, and juvenile rearing.
34. The flow targets at the time of establishing the instream water rights were based on the needs of resident redband trout and did not account for the flows necessary to support reintroduced Mid-Columbia summer steelhead trout and spring Chinook salmon. The current instream flows under Certificates 73223 and 73224 are insufficient for the reintroduction of anadromous runs of Mid-Columbia summer steelhead trout and spring Chinook salmon. Summer steelhead trout are listed as threatened under the federal Endangered Species Act. The additional flows beyond the established state agency instream water rights are necessary and will provide a public benefit as follows:
- a. Adult upstream migration. For steelhead (September-January) and for Chinook (May-August) flows need to be higher than the instream water rights for: 1) physical passage of large fish upstream over riffles and shallow bars, and 2) migration cues – relatively high flows to stimulate upstream movement to spawning grounds.



- b. Spawning. Habitat Suitability Criteria for steelhead trout and Chinook salmon spawning indicate that the anadromous fish prefer water about 0.5 ft. deeper and 0.8 ft./sec. faster than resident rainbow trout. This equates to a much higher recommended flow for anadromous vs. resident spawning.
- c. Outmigration. Outmigrating juvenile steelhead trout (March-June) and Chinook salmon (February-March) will benefit greatly from higher flows to facilitate emigration of juveniles downstream to the mainstem Deschutes.
- d. The proposed instream right is located in an ODFW flow restoration priority watershed.

OAR 690-077-0015(10) and (11).

- 35. By adding to other instream water rights established pursuant to ORS 537.335 (state agency process), ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process) located within the proposed reach, any new instream water right established by this conserved water project would provide protection for additional flows identified as necessary for conservation, maintenance, and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values. OAR 690-077-0015(11).
- 36. There are no areas for which the conserved water is proposed to be used for out-of-stream uses. (Findings of Fact #14), OAR 690-018-0050(4)(h).
- 37. The project is complete. A Request for Finalization of the project has been submitted. No additional time is requested. (Finding of Fact #19), OAR 690-018-0050(4)(i).
- 38. No other conditions or limitations are needed to prevent or mitigate for harm to existing water rights. (Finding of Fact #17), OAR 690-018-0050(4)(j).

### **Determination and Proposed Action**

The project described in Allocation of Conserved Water Application CW-83, is consistent with the criteria in ORS 537.455 to 537.500, and OAR Chapter 690, Divisions 018 and 077. If protests are not filed pursuant to OAR 690-018-0050(6), the conserved water application will be approved.

- 1. The proposed change will result in a reduced diversion for the uses allowed under the original water right. Finding of Fact #25.
- 2. The proposed allocation of conserved water will not harm existing water rights. Finding of Fact #23.
- 3. The application is consistent with the requirements established in OAR 690-005-0045. Finding of Fact #24.

*If Allocation of Conserved Water Application CW-83 is approved, the Order will include the following:*

- 1. *The modification proposed in CW-83 is approved.*

2. *The quantity of water conserved and allocated 100% to the State is as follows:*

<b>Conserved Water Description</b>		
<i>Certificate</i>	<i>Priority</i>	<i>Maximum CFS</i>
74135	1895	0.43

*Findings of Fact #14 and #30.*

3. *The right to the use of the water is restricted to beneficial use at the places of use described, and is subject to all other conditions and limitations contained in Certificate 74135, and any related decree.*

4. *Water Right Certificate 74135 is modified. The reduced rate for the existing uses under Certificate 74135 is as follows:*

**Use:** *IRRIGATION, POND MAINTENANCE, INDUSTRIAL USE, AND STOCK WATER*

**Limit/Duty:** *1/50 Cubic Foot per Second per Acre*

**Source:** *WHYCHUS [SQUAW] CREEK, tributary to the DESCHUTES RIVER*

**Priority, Rate, Acreage:**

<i>Priority Date</i>	<i>Maximum Rate (cfs)</i>	<i>Acres (Equivalent)</i>
1869	0.96	48.00
1885	1.30	79.05
1887	3.00	150.00
1889	3.94	201.50
1893	0.79	39.50
1895	94.71	5716.75
1899	2.03	108.80
1900	0.75	54.00
1901	0.45	22.30
1903	6.37	344.00
1904	12.66	703.20
<b>Totals</b>	<b>126.96</b>	<b>7467.10</b>

*Finding of Fact #25.*

5. *Water Use Measurement Conditions:*

a. *TSID shall maintain, monitor, and operate the existing measurement devices, or such other suitable measurement devices approved by the Director, on TSID's main canal in such a manner to render reliable measurements.*

a. *The water users shall maintain and operate the existing measurement devices on the Hurtley lateral and shall make such improvements as may be required by the Department.*

c. *The water users shall maintain the meters or measuring devices in good working order.*

d. *The water users shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*

4. An instream water right certificate shall be issued for the Whychus Creek to provide for the conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values from the authorized point of diversion at approximately River Mile 23.5:

**Authorized Point of Diversion:**

<i>Twp</i>	<i>Rng</i>	<i>Mer</i>	<i>Sec</i>	<i>Q-Q</i>	<i>Measured Distances</i>
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. Finding of Fact #28.

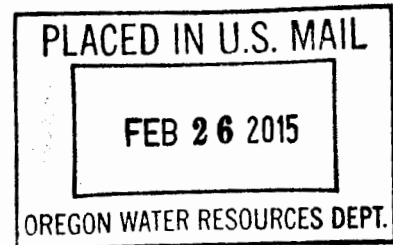
<i>Priority Date</i>	<i>Instream Period</i>	<i>Rate Instream</i>	<i>Volume Instream</i>
1895	April 1 through October 31	0.43 cfs	183.89 AF

The instream right created shall be additive to any instream water rights established pursuant to ORS 537.341, 537.346, 537.348 or 537.470. Findings of Fact #28 through #35.

Dated at Salem, Oregon this 24 day of February, 2015.

*Dwight French*

Dwight French, Water Rights Services Administrator for  
THOMAS M. BYLER, DIRECTOR



## **NOTICE OF RIGHTS**

The Legislative Assembly finds that persons affected by actions taken by state agencies have a right to be informed of their rights and remedies with respect to those actions. ORS 183.415.

The commission shall notify the applicant and any other person requesting notice, of the action the commission intends to take under ORS 537.470(3). Any person objecting to the proposed allocation may file a protest requesting a contested case hearing before the commission. ORS 537.470(4).

If a protest to the proposed allocation of conserved water is received by the Department within 60 days of the mailing of the preliminary determination pursuant to ORS 537.470(4) and OAR 690-018-0050(4), the Director may work with the applicant and any protestant to determine whether the issues can be resolved through mutually agreeable conditions, or by modifying the application. OAR 690-018-0050(6).

If protests are received raising issues that cannot be resolved pursuant to OAR 690-018-0050(6), the Director shall present the application, all protests and a recommendation for action to the Commission for review and action. OAR 690-018-0050(8).

The Commission shall examine the application, the protests and the Director's recommendation. If the Commission finds the allocation of conserved water is likely to injure existing water rights or is otherwise inconsistent with these rules, the Commission may direct the Department to hold a contested case hearing on the application pursuant to ORS 183.413 and OAR 690, Divisions 1 and 2 or to resume attempts to resolve the disputed issues. If the Commission finds the allocation of conserved water is not likely to injure existing rights and is otherwise consistent with OAR 690-018-0050, the Commission may authorize the Director to issue an order approving the application. OAR 690-018-0050(9).

In the event of a land use dispute, as defined in OAR 690-005-0015, the Director shall follow resolution procedures provided in 690-005-0040 (Resolution of Land Use Disputes). OAR 690-018-0050(10).