

STATE OF OREGON
COUNTY OF KLAMATH
PROPOSED ORDER FOR
ALLOCATION OF CONSERVED WATER

Pursuant to ORS 537.470 and OAR Chapter 690, Division 18, after notice was given and no comments filed, this order denies an application for allocation of conserved water submitted by:

Steven W. Casebeer
30750 Casebeer Road
Bonanza, OR 97623

Background

The application for allocation of conserved water proposes a reduction in the maximum rate of diversion allowed under Certificates 67629, 67630, 73644, and 73645 in the name of Steven W. Casebeer and a **portion** of Certificates 51342 and 51343 in the name of Francis J. Bowne . The priority date of all rights is 1902.

These rights allow for the use of the Lost River and Springs, tributary to Tule Lake, for irrigation of 415.5 acres. The amount of water these rights are entitled to is limited to an amount beneficially used and shall not exceed 5.19 cubic feet per second, if available at the legal points of diversion: POD #1: SE 1/4, NE 1/4; South 31 degrees, 2 minutes East, 2,754 feet from the N 1/4 corner for Tract 1; SW 1/4, SW 1/4 T. 39 S. , R. 11 E. , W. M., North 38 degrees, 1 minute, 30 seconds East, 1100 feet from SW corner; W. M.; POD #2: SE 1/4, NW 1/4, Section 16, T. 39 North, R. 11 East, W. M. ; 2960 feet North and 1340 feet East from the SW corner of section 16; POD # 3: NW 1/4, NE 1/4, Section 16, T. 39 South, R. 11 East, W. M., 630 feet South and 1430 feet West from the NE corner of Section 17.

The amount of water used for irrigation, together with the amount secured under any other right for the same lands, is limited to one eightieth of one cubic foot per second per acre or its equivalent during the irrigation season. There is no duty limitation on any of the water rights involved in the proposed allocation of conserved water.

The authorized place of use and associated point of diversion for the lands proposed to be affected by this allocation are:

POD # 1 C-52342	13.0 acres, SW 1/4, NE 1/4
	31.0 acres, SE 1/4 NE 1/4
	31.0 acres, NE 1/4, SE 1/4
	1.0 acres, NW 1/4, SE 1/4
	Section 8, T. 39 S., R. 11 E., W .M.

39.0, NE 1/4, SW 1/4
39.0, NW 1/4, SW 1/4
36.0, NW 1/4, SE 1/4
2.0, SE 1/4, SW 1/4
Section 9, T. 39 S., R. 11 E., W. M.

C- 51343 3.3 acres, SE 1/4, SW 1/4
Section 9, T. 39 S., R. 11 E., W. M.

POD # 2 C-73644 39.0 acres, SW 1/4, SW 1/4
33.7 acres, SE 1/4, SW 1/4
7.2 acres, SW 1/4, SE 1/4
Section 9, T. 39 S., R. 11 E., W. M.

14.6 acres, NW 1/4, NE 1/4
40.0 acres, NE 1/4, NW 1/4
40.0 acres, NW 1/4, NW 1/4
Section 16, T. 39 S., R. 11 E., W. M.

C-73645 34.0 acres, SW 1/4, NW 1/4
Section 16, T. 39 S., R. 11 E., W. M.

POD # 3 C-67630 7.5 acres, SW 1/4, SE 1/4
Section 9, T. 39 S., R. 11 E., W. M.

5.0 acres, NW 1/4, NE 1/4
Section 16, T. 39 S., R. 11 E., W. M.

C-67629 12.8 acres, SW 1/4, SE 1/4
Section 9, T. 39 S., R. 11 E., W. M.

5.4 acres, NW 1/4, NE 1/4
Section 16, T. 39 S., R. 11 E., W. M.

The total number of irrigated acres affected by the proposed allocation of conserved water is 415.5

The water right holder currently irrigates from the Lost River utilizing pumps at three points of diversion. None of the authorized POD's is proposed to be moved. To achieve conservation, the applicant is proposing to relocate two 60 HP booster pumps a distance of 1350 feet from the present location. This proposed relocation of the pumps will result in the abandonment of approximately 2700 feet of earthen delivery and return ditches. The applicant states that this measure will result in reduction of seepage losses totaling 1.41 cfs.

The applicant proposes to reduce the amount of water needed per acre to 1/96 of a cfs per acre on the original 415.5 acres covered under the existing right and the 64.4 acres of proposed new irrigated lands allowed under the conserved water statute. The proposed rate of 1/96/cfs/acre is needed to meet the beneficial use of irrigation on all acres involved. When the proposed project is complete, the amount of water allowed to be diverted from the Lost River and springs would be reduced from 5.19 cfs to 4.97 cfs.

The applicant proposes to allocate the 0.89 cfs of conserved water in the following manner:

0.67 cfs (75%) to irrigation of new lands
0.22 cfs (25 %) to an In-stream Water Right, Lost River RM 24. To RM 22.6

The applicant states that no public funds will be used to complete the project.

The applicant intends to complete construction of the project and file notice of completion within one year of beginning construction. The applicant intends to request that the allocation be finalized within five years of filing completion notice as allowed under OAR 690-18-050 (3) (i).

The applicant states that no other water rights will be significantly affected by the allocation of conserved water and that none of the conserved water needs to be allocated to mitigate injury to other water rights. Horsefly Irrigation District (District) has submitted comments claiming that the proposed allocation will result in injury to the District's water right by diminishing the amount of return flow entering the Lost River under the existing irrigation system.

Findings

As required by OAR 690-18-050 (3) (b), the Department has reviewed the allocation proposal and finds that the proposal is likely to result in harm to existing water rights held by Horsefly Irrigation District. This finding is based on the Department's assumption that all of the present seepage of 0.89 cfs returns to the Lost River as return flow and is available to subsequent appropriators.

Order

The application for the allocation of conserved water is not approved due to the likelihood that the allocation will result in harm to existing water rights.

Witness the signature of the Water Resources Director, affixed 2-17-98



Martha O. Pagel, Director

Pursuant to ORS 690-18-050 (4), any person may protest this determination. Protests must be submitted to the Water Resources Department, 158 12th Street NE, Salem Or 97310 no later than sixty (60) days from the date of this order. Protests may also be faxed to (503) 378-8455. The Department may work with the applicant and any protestant to determine whether the issues can be resolved through mutually agreeable conditions or modification of the application. If issues raised in a protest cannot be resolved or the Water Resources Commission determines that the allocation of conserved water is likely to injure other water rights or is inconsistent with Administrative Rules, the Commission may direct the Department to hold a contested case hearing pursuant to ORS 183.413 and OAR 690, Divisions 1 and 2.

If no protest is filed within sixty (60) days of this order, the order becomes final.