

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

In the Matter of Allocation of Conserved) FINAL ORDER APPROVING
Water Application CW-95,) ALLOCATION OF CONSERVED
Wallowa County) WATER CW-95; AND APPROVING A
) CHANGE IN POINT OF DIVERSION
) FOR CERTIFICATE 81644

Applicants

Woody and Megan Wolfe
81544 Hwy 82
Wallowa, OR 97885

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. A portion of the water conserved is allocated to the state to be converted to an instream water right or to revert to the public for appropriation by other water users. ORS 537.470(3).

An application for an allocation of conserved water shall include: (a) A description of the measure as implemented and the date on which the measure was implemented; (b) A description of the diversion facilities before the conservation measure was implemented and the amount of water that was diverted at the facilities before the conservation measure was implemented; (c) The amount of water needed to supply existing rights after implementation of the conservation measure; (d) The amount of water conserved by implementing the conservation measure; (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; (h) Evidence that the measure was implemented within five years prior to the date of filing the application; and (i) Any other information the commission considers necessary to evaluate the application. ORS 537.465.

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

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.

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). If an application for the allocation of conserved water is approved, the Department shall issue orders describing the changes in the original water rights. Once the conservation project is finalized, the Department shall issue new certificates preserving the previously established-priority date of the rights to reflect the unaffected portion of the water rights. ORS 537.470(6).

ORS 537.455 to 537.500 authorize and establish the process by 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.

Findings of Fact

1. On November 18, 2016, Woody and Megan Wolfe filed an allocation of conserved water application under Certificates 3012, 3182, 3192, 11899, 49087, 53407, 79891, 81644, 82198, 91010, 91011, and 91012. On December 15, 2016, the Applicants amended their application. On January 3, 2017, the Applicants submitted amended maps. The Department assigned the application number CW-95.
2. The conservation project involves converting approximately 872 acres from flood irrigation to high efficiency center pivots. The conservation measures apply to the period of use of May 1 through July 31 (92 days). The conversion from flood to sprinkler irrigation is a proven method for conserving water.
3. Application CW-95 proposes a rate reduction of approximately 7.31 cubic feet per second (cfs) and proposes to reduce the annual volume by approximately 1291 acre-feet (AF).

Conserved Water Description for Season of May 1 through July 31											
Certificate	Priority	Certificate				Amount Needed				Conserved Water	
		Duty		Rate		Duty		Rate		Duty	Rate
		Max. AF	AF/A C	Max. CFS	CFS/AC	Max. AF	AF/A C	Max. CFS	CFS/A C	Max. AF	Max. CFS
3012	1883	644.85	4.5	3.61	0.025	429.90	3.0	2.41	0.017	214.95	1.20
79891	May 1897	120.60	4.5	0.68	0.025	80.40	3.0	0.45	0.017	40.20	0.23
3182	1883	308.70	4.5	1.73	0.025	205.80	3.0	1.15	0.017	102.90	0.58
3192	1889	346.05	4.5	1.94	0.025	230.70	3.0	1.29	0.017	115.35	0.65
3192	1883	7.65	4.5	0.04	0.025	5.10	3.0	0.03	0.017	2.55	0.01
11899	7/12/1937	33.12	4.5	0.19	0.018	31.50	3.0	0.18	0.017	1.62	0.01
49087	1900	209.70	4.5	1.17	0.025	139.80	3.0	0.78	0.017	69.90	0.39
53407	1882	1336.95	4.5	7.49	0.025	891.30	3.0	4.99	0.017	455.65	2.50
53407	1896	44.55	4.5	0.25	0.025	29.70	3.0	0.16	0.016	14.85	0.09
82198	1889	4.05	4.5	0.02	0.025	2.70	3.0	0.01	0.016	1.35	0.01
91010	1879	42.30	4.5	0.24	0.025	28.20	3.0	0.15	0.016	14.10	0.08
91011	1881	117.90	4.5	0.66	0.025	78.60	3.0	0.43	0.016	39.30	0.23
91012	3/27/1901	151.20	4.5	0.85	0.025	100.80	3.0	0.55	0.016	50.40	0.29
81644	3/27/1901	534.60	4.5	2.99	0.025	356.40	3.0	1.95	0.016	178.20	1.04
Totals		3902.22		21.86		2610.90		14.55		1291.32	7.31

4. The portion of the first right to be modified by CW-95 is as follows:

Certificate: 3012 in the name of H.E. DRIVER, confirmed by the Wallowa River Decree
Use: IRRIGATION of 143.3 ACRES
Priority Date: 1883
Rate: Not listed in decree
Limit/Duty: The amount of water to which this right is entitled for irrigation shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1 acre foot per acre during the entire remainder of the irrigation season; and said right shall be subject to all other conditions and limitations contained in said decree.
Source: South Fork of Wallowa River (aka Lostine River), tributary to the Wallowa River

Authorized Point of Diversion: Not listed on Certificate

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
1 N	43 E	WM	30	NE SE	8001	36.5
1 N	43 E	WM	30	NW SE	7100	37.7
1 N	43 E	WM	30	SE SE	8001	31.6
1 N	43 E	WM	30	SW SE	8001	37.5
Total						143.3

5. Certificate 3012 does not list the point of diversion. Information from the decree, other water rights, and the Watermaster indicate the authorized point of diversion for Certificate 3012 is as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	33	SW SW	CLEARWATER DITCH: 1283 FEET NORTH AND 313 FEET EAST FROM THE SW CORNER OF SECTION 33

6. The portion of the second right to be modified by CW-95 is as follows:

Certificate: 79891 in the name of CLEARWATER DITCH COMPANY, confirmed by the Wallowa River Decree
Use: IRRIGATION of 26.8 ACRES
Priority Date: May 1897
Rate: Not listed in decree
Limit/Duty: The amount of water to which this right is entitled for irrigation shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1 acre foot per acre during the entire remainder of the irrigation season; and said right shall be subject to all other conditions and limitations contained in said decree.
Source: South Fork of Wallowa River (aka Lostine River), tributary to the Wallowa River

Authorized Point of Diversion: Not listed on Certificate

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
1 N	43 E	WM	31	NE NE	8000	13.6
1 N	43 E	WM	31	NW NE	8000	13.2

7. Certificate 79891 does not list the point of diversion. Information from the decree, other water rights, and the Watermaster indicate the authorized point of diversion for Certificate 79891 is as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	33	SW SW	CLEARWATER DITCH: 1283 FEET NORTH AND 313 FEET EAST FROM THE SW CORNER OF SECTION 33

8. The portion of the third right to be modified by CW-95 is as follows:

Certificate: 3182 in the name of J.T. WILLETT by C.N. WILLETT, confirmed by the Wallowa River Decree

Use: IRRIGATION of 68.6 ACRES

Priority Date: 1883

Rate: Not listed in decree

Limit/Duty: The amount of water to which this right is entitled for irrigation shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1 acre foot per acre during the entire remainder of the irrigation season; and said right shall be subject to all other conditions and limitations contained in said decree.

Source: South Fork of Wallowa River (aka Lostine River), tributary to the Wallowa River

Authorized Point of Diversion: Not listed on Certificate

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
1 N	43 E	WM	30	NW NE	7100	27.7
1 N	43 E	WM	30	SE NE	7100	15.1
1 N	43 E	WM	30	SW NE	7100	25.8
Total						68.6

9. Certificate 3182 does not list the point of diversion. Information from the decree, other water rights, and the Watermaster indicate the authorized point of diversion for Certificate 3182 is as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	33	SW SW	CLEARWATER DITCH: 1283 FEET NORTH AND 313 FEET EAST FROM THE SW CORNER OF SECTION 33

10. The portion of the fourth right to be modified by CW-95 is as follows:

Certificate: 3192 in the name of GIDEON WOLFE, confirmed by the Wallowa River Decree

Use: IRRIGATION of 78.6 ACRES

Priority Date: 1889 for 76.9 Acres and 1883 for 1.7 Acres

Rate: Not listed in decree
Limit/Duty: The amount of water to which this right is entitled for irrigation shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1 acre foot per acre during the entire remainder of the irrigation season; and said right shall be subject to all other conditions and limitations contained in said decree.
Source: South Fork of Wallowa River (aka Lostine River), tributary to the Wallowa River

Authorized Point of Diversion: Not listed on Certificate

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
1 N	43 E	WM	31	NE NE	8000	14.6
1 N	43 E	WM	31	NW NE	8000	22.3
1 N	43 E	WM	31	SE NE	8000	40.0
1 N	43 E	WM	31	NE NE	8000	1.7
Total						78.6

11. Certificate 3192 does not list the point of diversion. Information from the decree, the Certified Water Right Examiner, and the Watermaster indicate the authorized point of diversion for Certificate 3192 is as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	4	NE SW	FOSTER DITCH (aka MIDDLE VALLEY DITCH): 320 FEET SOUTH AND 625 FEET WEST OF THE CENTER OF SECTION 4; Latitude: 45.50716; Longitude: -117.45096

12. The portion of the fifth right to be modified by CW-95 is as follows:

Certificate: 11899 in the name of ANNA BOND HENDERSON, perfected under Permit S-12727
Use: IRRIGATION of 10.5 ACRES
Priority Date: July 12, 1937
Rate: Not listed on Certificate
Limit/Duty: The amount of water to which this right is entitled for irrigation shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1 acre foot per acre during the entire remainder of the irrigation season; and said right shall be subject to all other conditions and limitations contained in said decree.

Source: Lostine River, tributary to the Wallowa River

Authorized Point of Diversion: Not listed on Certificate

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
1 N	43 E	WM	29	SW NW	4700	10.5

13. Certificate 11899 does not list the point of diversion. Information from the water right file and the Watermaster indicate the authorized point of diversion for Certificate 11899 is as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	29	NW SW	1815 FEET NORTH AND 875 FEET EAST FROM THE SW CORNER OF SECTION 29

14. The portion of the sixth right to be modified by CW-95 is as follows:

Certificate: 49087 in the name of ESTATE OF ADDISON L. TULLEY, Jesse E. Tulley, Administrator, confirmed by the Wallowa River decree.
Use: IRRIGATION of 46.6 ACRES
Priority Date: 1900
Rate: Not listed on Certificate
Limit/Duty: The amount of water to which this right is entitled for irrigation shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1 acre foot per acre during the entire remainder of the irrigation season; and said right shall be subject to all other conditions and limitations contained in said decree.
Source: South Fork of Wallowa River (aka Lostine River), tributary to the Wallowa River
Authorized Point of Diversion: Not listed on Certificate
Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
1 N	43 E	WM	19	SE NE	4300	2.0
1 N	43 E	WM	19	NE SE	4300	30.0
1 N	43 E	WM	19	NWSE	4300	4.7
1 N	43 E	WM	19	SE SE	4300	9.9
Total						46.6

15. Certificate 49087 does not list the point of diversion. Information from the water right file, other water rights with the same point of diversion, and the Watermaster indicates the authorized point of diversion for Certificate 49087 is as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	29	SE SW	TULLEY-HILL DITCH: 1080 FEET NORTH AND 2259 FEET EAST FROM THE SW CORNER OF SECTION 29 (Latitude: 45.533175; Longitude: -117.469878)

16. The portion of the seventh right to be modified by CW-95 is as follows:

Certificate: 53407 in the name of S.W. Miles, confirmed by the Wallowa River decree.
Use: IRRIGATION of 307.0 ACRES
Priority Date: 1882 for 297.1 Acres and 1896 for 9.9 Acres
Rate: Not listed on Certificate
Limit/Duty: The amount of water to which this right is entitled for irrigation shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1 acre foot per acre during the entire remainder of the irrigation season; and said right shall be subject to all other conditions and limitations contained in said decree.

Source: South Fork of Wallowa River (aka Lostine River), tributary to the Wallowa River

Authorized Points of Diversion:

Tract #	Twp	Rng	Mer	Sec	Q-Q	Ditch Name
1	1 S	43 E	WM	9	SE NE	MILES DITCH

Tract #	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3	1 N	43 E	WM	9	NE SE	MILES – MAGILL DITCH

Authorized Place of Use:

Priority	Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
1882	1 N	43 E	WM	32	SE SE	8900	35.0
1882	1 N	43 E	WM	33	SW SW	8900	9.0
1882	1 S	43 E	WN	4	NW NW	900	21.3
1882	1 S	43 E	WN	4	SW NW	900	32.8
1882	1 S	43 E	WN	4	SE NW	900	0.7
1882	1 S	43 E	WN	4	NE SW	900	10.7
1882	1 S	43 E	WN	4	NW SW	900, 1400	37.1
1882	1 S	43 E	WN	4	SW SW	900	6.6
1882	1 S	43 E	WN	4	SE SW	900	20.0
1882	1 S	43 E	WM	5	NE NE	900, 1400	37.7
1882	1 S	43 E	WM	5	SE NE	900, 1400	29.3
1882	1 S	43 E	WM	5	NE SE	1400	38.4
1882	1 S	43 E	WM	9	NW NE	3400	3.5
1882	1 S	43 E	WM	9	NE NW	3400	15.0
1896	1 S	43 E	WM	9	NE NW	3400	9.9
Total							307.0

17. Certificate 53407 does not provide measured distances of the location of the points of Diversion. Based upon additional information from the Department’s records and Watermaster, the points of diversion are described and located approximately as follows:

Tract #	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1	1 S	43 E	WM	9	SE NE	MILES DITCH: (Latitude: 45.494134; Longitude: -117438922)

Tract #	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3	1 S	43 E	WM	9	NE SE	MILES – MAGILL DITCH: (Latitude: 45.494134; Longitude: -117.4380355698)

18. The portion of the eighth right to be modified by CW-95 is as follows:

Certificate: 82198 in the name of C.J. ALLEN, confirmed by the Wallowa River decree.
Use: IRRIGATION of 0.9 ACRES
Priority Date: 1889
Rate: Not listed on Certificate
Limit/Duty: The amount of water to which this right is entitled for irrigation shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1 acre foot per acre during the

entire remainder of the irrigation season; and said right shall be subject to all other conditions and limitations contained in said decree.

Source: South Fork of Wallowa River (aka Lostine River), tributary to the Wallowa River

Authorized Point of Diversion: Not listed on Certificate

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
1 S	43 E	WM	5	NW NE	900	0.9

19. Certificate 82198 does not list the point of diversion. Information from the decree, other water rights with the same point of diversion, and the Watermaster indicates the authorized point of diversion for Certificate 11899 is as follows:

Tract #	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3	1 S	43 E	WM	4	NE SW	FOSTER DITCH (AKA MIDDLE VALLEY DITCH: Latitude: 45.50716; Longitude: -117.45096

20. The portion of the ninth right to be modified by CW-95 is as follows:

Certificate: 91010 in the name of WOLFE HEREFORD RANCH, WTK INC., confirmed by the Wallowa River decree.

Use: IRRIGATION of 9.4 ACRES

Priority Date: 1879

Rate: Not listed on Certificate

Limit/Duty: The amount of water to which this right is entitled for irrigation shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1 acre foot per acre during the entire remainder of the irrigation season; and said right shall be subject to all other conditions and limitations contained in said decree.

Source: South Fork of Wallowa River (aka Lostine River), tributary to the Wallowa River

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	29	SE SW	TULLEY-HILL DITCH: 1080 FEET NORTH AND 2259 FEET EAST FROM THE SW CORNER OF SECTION 29 (Latitude: 45.533175; Longitude: -117.469878)

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
1 N	43 E	WM	29	SE NW	6700	8.8
1 N	43 E	WM	29	NE SW	6700	0.3
1 N	43 E	WM	29	NW SW	6700	0.3
Total						9.4

21. The portion of the tenth water right to be modified by CW-95 is as follows:

Certificate: 91011 in the name of WOLFE HEREFORD RANCH, WTK INC., confirmed by the Wallowa River decree.
Use: IRRIGATION of 26.2 ACRES
Priority Date: 1881
Rate: Not listed on Certificate
Limit/Duty: The amount of water to which this right is entitled for irrigation shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1 acre foot per acre during the entire remainder of the irrigation season; and said right shall be subject to all other conditions and limitations contained in said decree.
Source: Lostine River (aka South Fork of Wallowa River), tributary to the Wallowa River

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	29	SE SW	TULLEY-HILL DITCH: 1080 FEET NORTH AND 2259 FEET EAST FROM THE SW CORNER OF SECTION 29 (Latitude: 45.533175; Longitude: -117.469878)

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
1 N	43 E	WM	29	NW NW	6700	23.2
1 N	43 E	WM	29	NW SW	6700	3.0
Total						26.2

22. The portion of the eleventh right to be modified by CW-95 is as follows:

Certificate: 91012 in the name of WOLFE HEREFORD RANCH, WTK INC., confirmed by the Wallowa River decree.
Use: IRRIGATION of 33.6 ACRES
Priority Date: MARCH 27, 1901
Rate: Not listed on Certificate
Limit/Duty: The amount of water to which this right is entitled for irrigation shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1 acre foot per acre during the entire remainder of the irrigation season; and said right shall be subject to all other conditions and limitations contained in said decree.
Source: Lostine River (aka South Fork of Wallowa River), tributary to the Wallowa River

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	29	SE SW	TULLEY-HILL DITCH: 1080 FEET NORTH AND 2259 FEET EAST FROM THE SW CORNER OF SECTION 29 (Latitude: 45.533175; Longitude: -117.469878)

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
1 N	43 E	WM	20	SW SW	6700	5.8
1 N	43 E	WM	29	SW NW	6700	27.3
1 N	43 E	WM	29	NW SW	6700	0.5
Total						33.6

23. The portion of the twelfth right to be modified by CW-95 is as follows:

Certificate: 81644 in the name of WESTSIDE IRRIGATION AND WATER DITCH CO., confirmed by the Wallowa River decree.

Use: IRRIGATION of 118.8 ACRES

Priority Date: MARCH 27, 1901

Rate: Not listed on Certificate

Limit/Duty: The amount of water to which this right is entitled for irrigation shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1 acre foot per acre during the entire remainder of the irrigation season; and said right shall be subject to all other conditions and limitations contained in said decree.

Source: Lostine River (aka South Fork of Wallowa River), tributary to the Wallowa River

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	27	NW SE	WESTSIDE DITCH: 152 FEET SOUTH AND 200 FEET EAST FROM THE CENTER OF SECTION 27

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
1 N	43 E	WM	31	SW NE	8000	40.0
1 N	43 E	WM	31	NE SE	8000	40.0
1 N	43 E	WM	31	NW SE	8000	38.8
Total						118.8

24. The Applicants also propose to change the point of diversion for the 118.8 acres described above for Certificate 81644 approximately 5 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	4	NE SW	FOSTER DITCH: 320 FEET SOUTH AND 625 FEET WEST OF THE CENTER OF SECTION 4

25. Certificates 3012, 3182, 3192, 11899, 49087, 53407, 79891, 81644, 82198, 91010, 91011, 91012, and 81644 do not list a period of use. Pursuant to Wallowa River Decree, the irrigation season of use is May 1 to October 1.

26. Water has been used within the five-year period prior to submission of the allocation of conserved water application, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.

27. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of the application.
28. The Applicants request that the conserved water for the season of May 1 through July 31 be allocated as follows:

Certificate	Priority	State's Portion			Applicant's Portion			Conserved Water		
		Percentage	Maximum Rate (CFS)	Maximum Duty (Volume) AF	Percentage	Maximum Rate (CFS)	Maximum Duty (Volume) AF	Percentage	Maximum Rate (CFS)	Maximum Duty (Volume) AF
3012	1883	100%	1.20	214.95	0%	0.00	0.00	100%	1.20	214.95
79891	May 1897	100%	0.23	40.20	0%	0.00	0.00	100%	0.23	40.20
3182	1883	100%	0.58	102.90	0%	0.00	0.00	100%	0.58	102.90
3192	1889	100%	0.65	115.35	0%	0.00	0.00	100%	0.65	115.35
3192	1883	100%	0.01	2.55	0%	0.00	0.00	100%	0.01	2.55
11899	7/12/1937	100%	0.01	1.62	0%	0.00	0.00	100%	0.01	1.62
49087	1900	100%	0.39	69.90	0%	0.00	0.00	100%	0.39	69.90
53407	1882	73%	1.82	325.32	27%	0.68	120.33	100%	2.50	445.65
53407	1896	73%	0.07	10.84	27%	0.02	4.01	100%	0.09	14.85
82198	1889	100%	0.01	1.35	0%	0.00	0.00	100%	0.01	1.35
91010	1879	100%	0.08	14.10	0%	0.00	0.00	100%	0.08	14.10
91011	1881	100%	0.23	39.30	0%	0.00	0.00	100%	0.23	39.30
91012	3/27/1901	100%	0.29	50.40	0%	0.00	0.00	100%	0.29	50.40
81644	3/27/1901	100%	1.04	178.20	0%	0.00	0.00	100%	1.04	178.20
Totals			6.61	1166.98		0.70	124.34		7.31	1291.32

29. The Applicants requested the conserved water under Certificate 53407 be allocated so the Applicants receive water only under the 1882 priority date and the State of Oregon receive water under a combination of 1882 and 1886 priority dates.
30. The Applicants propose its portion of the conserved water be allocated for an out-of-stream use within Sections 20 and 29, Township 1 North, Range 43 East, W.M.
31. The Applicants propose the priority dates for any conserved water to be the same as the originating rights.
32. The Applicants received non-reimbursable state and federal funds. The Applicants propose an allocation to the State of approximately 90% of the combined total of conserved water from all certificates involved in this conservation measure. The Applicants will retain approximately 10% of the combined total of conserved water for their use. ORS 537.470(3)
33. The Applicants submitted a completed Land Use Form from Wallowa County which indicated the proposed use was allowed outright or is not regulated by Wallowa County's comprehensive plan.
34. The construction of the conservation measures began December 1, 2016, and will be completed by December 31, 2017.

35. The Applicants propose that any instream water right created be for the purposes of conservation, maintenance, and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values.
36. The Applicants propose the Department protect the new instream water right created from the conserved water under the certificates from the authorized points of diversions to the mouth of the Lostine River and into the Wallowa River to the mouth of Wallowa River at the confluence of the Grande Ronde River.
37. The Applicants originally proposed the deadline for submitting the Notice of Completion of May 1, 2017 and a deadline for submission of a Request for Finalization on or before May 2, 2017. On January 18, 2017, the Applicants requested to change the deadlines for submission of the Notice of Completion and Request for Finalization to December 31, 2017.
38. The application meets the requirements of OAR 690-018-0040.
39. The Department has consulted with the Oregon Department of Fish and Wildlife (ODFW) to ascertain whether the proposed instream flows are necessary to support instream flow uses.
40. Notice of the proposed conservation project was published in the Department's weekly notice on January 3, 2017, and in the Wallowa Chieftain newspaper on January 4 and 11, 2017, as required under OAR 690-018-0050(1)(a) and (2). A comment in response to the notices was received from Perry M. Johnston. Mr. Johnston confirmed the conservation project would not effect to his water rights on the Foster and Clearwater ditches.
41. On February 7, 2017, the Department issued a Preliminary Determination proposing to approve CW-95. On February 8, 2017, the Department mailed copies of the Preliminary Determination to the Applicant, his agent, and any commenters. No protests were filed to the Preliminary Determination.

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

42. The proposed allocation of conserved water will result in a reduced diversion of the use allowed under the existing right pursuant to OAR 690-0018-0050(4)(a). (Finding of Fact #3).
43. On December 19, 2016, the District #7 Watermaster performed a review of the proposed conserved water project. The Watermaster determined the conservation project could harm other water rights through the loss of return flows. The return flows reappear downstream from the points of diversion in the Lostine River and also the Wallowa River, where they are relied upon by other users.

To mitigate for the loss of return flows, the Applicants are proposing to retain less than 10% of the total conserved water. ORS 537.470(3) specifies the Applicants will receive no less than 25% of the conserved water unless the Applicants propose a higher allocation to the State. The Applicants propose the 15% remainder of their conserved water allocation

to be allocated to the State for an instream water right. There are no formal studies on the total quantity of return flows for this area; however, based on the best available measurements and information, the instream water rights will be adjusted to mitigate for the loss of return flows in the appropriate reaches. Therefore, no additional quantity of conserved water is needed to mitigate for harm to other water rights. OAR 690-018-0050(4)(b) and (d).

- 44. The conservation project is consistent with the local comprehensive land use plan requirements established in OAR 690-005-0045. (Finding of Fact #33). OAR 690-018-0050(4)(c).
- 45. Pursuant to OAR 690-018-0050(4)(e), the new reduced rate and duty for the existing uses involved in Allocation of Conserved Water Application CW-95 are as follows:

Reduced Rate for Season of Use of May 1 through September 30			
Certificate	Priority	Rate	Duty
		Maximum CFS	Maximum AF
3012	1883	3.57	573.2
79891	May 1897	0.67	107.2
3182	1883	1.71	274.4
3192	1889	1.92	307.6
3192	1883	0.04	6.8
11899	7/12/1937	0.19	42.0
49087	1900	1.16	186.4
53407	1882	7.41	1188.4
53407	1896	0.24	39.6
82198	1889	0.02	3.6
91010	1879	0.23	37.6
91011	1881	0.64	104.8
91012	3/27/1901	0.83	134.4
81644	3/27/1901	2.92	475.2
		21.55	3481.2

The amount of water to which each of these rights are entitled for irrigation shall not exceed 1.0 acre-foot per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season.

(Finding of Fact #3).

- 46. Pursuant to OAR 690-018-0050(4)(e), the rate and volume allocated to the State for instream use is as follows:

STATE'S PORTION OF CONSERVED WATER			
Certificate	Priority	Maximum Rate (CFS)	Maximum Duty (Volume) AF
3012	1883	1.20	214.95
79891	May 1897	0.23	40.20
3182	1883	0.58	102.90
3192	1889	0.65	115.35
3192	1883	0.01	2.55

STATE'S PORTION OF CONSERVED WATER			
Certificate	Priority	Maximum Rate (CFS)	Maximum Duty (Volume) AF
11899	7/12/1937	0.01	1.62
49087	1900	0.39	69.90
53407	1882	1.82	325.32
53407	1896	0.07	10.84
82198	1889	0.01	1.35
91010	1879	0.08	14.10
91011	1881	0.23	39.30
91012	3/27/1901	0.29	50.40
81644	3/27/1901	1.04	178.20
Totals		6.61	1166.98

(Finding of Fact #28.)

47. As required by OAR 690-018-0050(4)(f), the Department has determined that the instream right created will support public benefits. The proposed instream water right will help to meet the flows necessary for spring Chinook and bull trout populations. In addition, the existing instream flows are often not met. (Finding of Fact #39).
48. Pursuant to ORS 537.470(3) and OAR 690-018-0050(4)(g), the amount of water allocated to the Applicants does not need to be adjusted because the Applicants are receiving less than the 25% minimum allocation and are proposing a higher allocation to the State. (Finding of Fact #28). The rate and volume allocated to the Applicant is as follows:

APPLICANT'S PORTION OF CONSERVED WATER			
Certificate	Priority	Maximum Rate (CFS)	Maximum Duty (Volume) AF
3012	1883	0.00	0.00
79891	May 1897	0.00	0.00
3182	1883	0.00	0.00
3192	1889	0.00	0.00
3192	1883	0.00	0.00
11899	7/12/1937	0.00	0.00
49087	1900	0.00	0.00
53407	1882	0.68	120.33
53407	1896	0.02	4.01
82198	1889	0.00	0.00
91010	1879	0.00	0.00
91011	1881	0.00	0.00
91012	3/27/1901	0.00	0.00
81644	3/27/1901	0.00	0.00
Totals		0.70	124.34

(Finding of Fact #28.)

49. The Applicants propose the Department protect the new instream water right created from the conserved water under the certificates from the authorized points of diversions to the mouth of the Lostine River and into the Wallowa River to the mouth of Wallowa River at the confluence of the Grande Ronde River. An instream reach is generally from the point

of diversion to the mouth of the source stream (Lostine River), but may be protected further if measurable in the receiving stream (Wallowa River). The quantity of water that may be protected from the Lostine River is measurable into the Wallowa River except for the quantities under the 1883 priority of Certificate 3192, and Certificates 82198 and 11899. OAR 690-077-0015(8).

50. A portion of the water diverted at the points of diversion returns to the Lostine and Wallowa Rivers and is available to downstream water right holders. To prevent injury to downstream water right holders and enlargement, the quantity of water that may be protected instream requires modification and return flows should be accounted for immediately below each point of diversion. The reduction in the instream water rights from the original quantities identified in Finding of Fact #46 is as follows:

Reach	Percent
From immediately below the points of diversion to the Clearwater Ditch Point of Diversion located in the SWSW Section 33, T1N, R43E, W.M.	2%
From the Clearwater Ditch Point of Diversion to the Mouth of the Lostine River at the confluence with the Wallowa River	10%
From the mouth of the Lostine River to the Wallowa River at the coordinates: Latitude: 45.55639, Longitude: -117.49803	40%
From the Wallowa River at Latitude: 45.55639, Longitude: -117.49803 to Latitude: 45.57406, Longitude: -117.52571 near the town of Wallowa	60%
From the Wallowa River at Latitude: 45.57406, Longitude: -117.52571 near the town of Wallowa to the mouth of the Wallowa River at the confluence with the Grande Ronde River	70%

OAR 690-018-0050(4)(h); OAR 690-077-0015(8).

51. The instream right shall allow the use and protection of flows as follows:

LOSTINE RIVER, tributary to the Wallowa River

Instream Reach No. 1:

At the Westside Ditch Point of Diversion (POD), described in Finding of Fact #23

Certificate	Priority	Instream Rate (CFS)	Instream Volume (AF)	Period Protected
81644	3/27/1901	1.04	178.2	May 1 through July 31

Instream Reach No. 2:

From immediately below the Westside Ditch POD to Miles-Magill Ditch POD, described in Finding of Fact #16

Certificate	Priority	Instream Rate (CFS)	Instream Volume (AF)	Period Protected
81644	3/27/1901	1.02	174.64	May 1 through July 31

Instream Reach No. 3:
At the Miles-Magill Ditch POD

Certificate	Priority	Instream Rate (CFS)	Instream Volume (AF)	Period Protected
81644	3/27/1901	1.02	174.64	May 1 through July 31
53407	1896	0.07	10.84	
Total		1.09	185.48	

Instream Reach No. 4:
From immediately below the Miles-Magill Ditch POD to the Miles Ditch POD, described in Finding of Fact #16

Certificate	Priority	Instream Rate (CFS)	Instream Volume (AF)	Period Protected
81644	3/27/1901	1.02	174.64	May 1 through July 31
53407	1896	0.07	10.62	
Total		1.09	185.26	

Instream Reach No. 5:
At the Miles Ditch POD

Certificate	Priority	Instream Rate (CFS)	Instream Volume (AF)	Period Protected
81644	3/27/1901	1.02	174.64	May 1 through July 31
53407	1896	0.07	10.62	
53407	1882	1.82	325.32	
Total		2.91	510.58	

Instream Reach No. 6:
From immediately below the Miles Ditch POD to the Foster/ Mid-Valley POD, described in Findings of Fact #10 and #18

Certificate	Priority	Instream Rate (CFS)	Instream Volume (AF)	Period Protected
81644	3/27/1901	1.02	174.64	May 1 through July 31
53407	1896	0.07	10.62	
53407	1882	1.78	318.81	
Total		2.87	504.07	

Instream Reach No. 7:
At Foster/Mid-Valley Ditch POD

Certificate	Priority	Instream Rate (CFS)	Instream Volume (AF)	Period Protected
81644	3/27/1901	1.02	174.64	May 1 through July 31
53407	1896	0.07	10.62	
53407	1882	1.78	318.81	
3192	1889	0.65	115.35	
3192	1883	0.01	2.55	
82198	1889	0.01	1.35	
Total		3.54	623.32	

Instream Reach No. 8:

From immediately below the Foster/Mid-Valley Ditch POD to the Clearwater Ditch, described in Findings of Fact #4, #6, and #8

Certificate	Priority	Instream Rate (CFS)	Instream Volume (AF)	Period Protected
81644	3/27/1901	1.02	174.64	May 1 through July 31
53407	1896	0.07	10.62	
53407	1882	1.78	318.81	
3192	1889	0.64	113.04	
3192	1883	0.01	2.50	
82198	1889	0.01	1.32	
	Total	3.53	620.93	

Instream Reach No. 9:

At the Clearwater Ditch POD

Certificate	Priority	Instream Rate (CFS)	Instream Volume (AF)	Period Protected
81644	3/27/1901	1.02	174.64	May 1 through July 31
53407	1896	0.07	10.62	
53407	1882	1.78	318.81	
3192	1889	0.64	113.04	
3192	1883	0.01	2.50	
82198	1889	0.01	1.32	
3012	1883	1.2	214.95	
79891	May 1897	0.23	40.2	
3182	1883	0.58	102.9	
	Total	5.54	978.98	

Instream Reach No. 10:

From immediately below the Clearwater Ditch POD to the Tulley-Hill Ditch POD, described in Findings of Fact #14, #20, #21, and #22

Certificate	Priority	Instream Rate (CFS)	Instream Volume (AF)	Period Protected
81644	3/27/1901	0.94	160.38	May 1 through July 31
53407	1896	0.06	9.76	
53407	1882	1.64	292.79	
3192	1889	0.59	103.82	
3192	1883	0.01	2.30	
82198	1889	0.01	1.22	
3012	1883	1.08	193.46	
79891	May 1897	0.21	36.18	
3182	1883	0.52	92.61	
	Total	5.06	892.52	

Instream Reach No. 11:
At the Tulley-Hill POD

Certificate	Priority	Instream Rate (CFS)	Instream Volume (AF)	Period Protected
81644	3/27/1901	0.94	160.38	May 1 through July 31
53407	1896	0.06	9.76	
53407	1882	1.64	292.79	
3192	1889	0.59	103.82	
3192	1883	0.01	2.30	
82198	1889	0.01	1.22	
3012	1883	1.08	193.46	
79891	May 1897	0.21	36.18	
3182	1883	0.52	92.61	
49087	1900	0.39	69.90	
91010	1879	0.08	14.10	
91011	1881	0.23	39.30	
91012	3/27/1901	0.29	50.40	
	Total	6.05	1066.22	

Instream Reach No. 12:

From the Tulley-Hill POD to the authorized POD for Certificate 11899, described in Finding of Fact #12

Certificate	Priority	Instream Rate (CFS)	Instream Volume (AF)	Period Protected
81644	3/27/1901	0.94	160.38	May 1 through July 31
53407	1896	0.06	9.76	
53407	1882	1.64	292.79	
3192	1889	0.59	103.82	
3192	1883	0.01	2.30	
82198	1889	0.01	1.22	
3012	1883	1.08	193.46	
79891	May 1897	0.21	36.18	
3182	1883	0.52	92.61	
49087	1900	0.35	62.91	
91010	1879	0.07	12.69	
91011	1881	0.21	35.37	
91012	3/27/1901	0.26	45.36	
	Total	5.95	1048.85	

Instream Reach No. 13:

From the authorized POD for Certificate 11899 to the mouth of the Lostine River

Certificate	Priority	Instream Rate (CFS)	Instream Volume (AF)	Period Protected
81644	3/27/1901	0.94	160.38	May 1 through July 31
53407	1896	0.06	9.76	
53407	1882	1.64	292.79	
3192	1889	0.59	103.82	
3192*	1883	0.01	2.30	
82198*	1889	0.01	1.22	
3012	1883	1.08	193.46	
79891	May 1897	0.21	36.18	
3182	1883	0.52	92.61	
49087	1900	0.35	62.91	
91010	1879	0.07	12.69	
91011	1881	0.21	35.37	
91012	3/27/1901	0.26	45.36	
11899*	7/12/1937	0.01	1.46	
	Total	5.96	1050.31	

WALLOWA RIVER, tributary to Grande Ronde River**Instream Reach No. 14:**

From the mouth of the Lostine River into the Wallowa River in the NWNW of Sec. 19 T1N, R43E, W.M. at Latitude 45.55639, Longitude -117.48803

Certificate	Priority	Instream Rate (CFS)	Instream Volume (AF)	Period Protected
81644	3/27/1901	0.62	106.92	May 1 through July 31
53407	1896	0.04	6.50	
53407	1882	1.09	195.19	
3192	1889	0.39	69.21	
3012	1883	0.72	128.97	
79891	May 1897	0.14	24.12	
3182	1883	0.35	61.74	
49087	1900	0.23	41.94	
91010	1879	0.05	8.46	
91011	1881	0.14	23.58	
91012	3/27/1901	0.17	30.24	
	Total	3.94	696.87	

*- The quantities under the 1883 priority of Certificate 3192, and Certificates 82198 and 11899 are not measureable quantities into the Wallowa River.

Instream Reach No. 15:

From immediately below the location in the Wallowa River in the NWNW of Sec. 19, T1N, R43E, W.M. at Latitude 45.55639, Longitude -117.48803 to an approximate location in the SESE of Sec. 11, T1N, R42E, WM at Latitude 45.57406, Longitude -117.52571

Certificate	Priority	Instream Rate (CFS)	Instream Volume (AF)	Period Protected
81644	3/27/1901	0.42	71.28	May 1 through July 31
53407	1896	0.03	4.34	
53407	1882	0.73	130.13	
3192	1889	0.26	46.14	
3012	1883	0.48	85.98	
79891	May 1897	0.09	16.08	
3182	1883	0.23	41.16	
49087	1900	0.16	27.96	
91010	1879	0.03	5.64	
91011	1881	0.09	15.72	
91012	3/27/1901	0.12	20.16	
Total		2.64	464.59	

*- The quantities under the 1883 priority of Certificate 3192, and Certificates 82198 and 11899 are not measureable quantities into the Wallowa River.

Instream Reach No. 16:

From immediately below the location in the SESE of Sec. 11, T1N, R42E, WM at Latitude 45.57406, Longitude -117.52571 to the mouth of the Wallowa River at the confluence of the Grande Ronde River

Certificate	Priority	Instream Rate (CFS)	Instream Volume (AF)	Period Protected
81644	3/27/1901	0.31	53.46	May 1 through July 31
53407	1896	0.02	3.25	
53407	1882	0.55	97.60	
3192	1889	0.20	34.61	
3012	1883	0.36	64.49	
79891	May 1897	0.07	12.06	
3182	1883	0.17	30.87	
49087	1900	0.12	20.97	
91010	1879	0.02	4.23	
91011	1881	0.07	11.79	
91012	3/27/1901	0.09	15.12	
Total		1.98	348.45	

*- The quantities under the 1883 priority of Certificate 3192, and Certificates 82198 and 11899 are not measureable quantities into the Wallowa River.

52. The amount and timing of the proposed instream flows are allowable within the limits and use of the original water right. OAR 690-077-0015(10).
53. The protection of flows at the authorized point of diversion/within the proposed reach is appropriate, considering:
 - a. The instream water use begins at the recorded point of diversion;
 - b. The location of confluences with other streams downstream of the point of diversion.

- c. There are no known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
 - d. Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach/point of the instream water right.
- OAR 690-077-0015(8).

54. The combination of instream rights for the proposed reaches on the Lostine and Wallowa Rivers does not exceed the amount needed to provide increased public benefits, and do not exceed the estimated average natural flow or level occurring from the drainage system. OAR 690-077-0015(4) and (11).

55. There are existing instream water rights on the Lostine River and the Wallowa River established pursuant to ORS 537.341 (minimum flow conversion) or ORS 537.336 (state agency process). By adding to other instream water rights established pursuant to ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process) located within the proposed reaches, any new instream water rights 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).

56. The areas within which the conserved water is proposed to be used for out-of-stream uses are within Sections 20 and 29, Township 1 North, Range 43 East, W.M. as follows:

Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	20	SW SW	13.3
1 N	43 E	WM	20	SE SW	39.1
1 N	43 E	WM	29	NW NW	1.4
1 N	43 E	WM	29	NE NW	8.3
					62.1

(Finding of Fact #29). OAR 690-018-0050(4)(h).

57. The deadline for submitting a Notice of Completion is December 31, 2017. The deadline for submitting a Request for Finalization is December 31, 2017. (Finding of Fact #37). OAR 690-018-0050(4)(i).

58. No other conditions or limitations are needed to prevent or mitigate for harm to existing water rights. (Finding of Fact #43). OAR 690-018-0050(4)(j).

Conclusions of Law

The project described in Allocation of Conserved Water Application CW-95, is consistent with the criteria in ORS 537.455 to 537.500, and OAR Chapter 690, Divisions 018 and 077. The change in point of diversion for Certificate 81644 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

- 1. The proposed change will result in a reduced diversion for the uses allowed under the original water right. (Findings of Fact #3 and #45.)

2. The proposed allocation of conserved water will not harm existing water rights. (Finding of Fact #43.)
3. The application is consistent with the requirements established in OAR 690-005-0045. (Finding of Fact #38).

Now, therefore, it is ORDERED:

1. The changes proposed in CW-95 are approved.
2. The change in point of diversion proposed for Certificate 81644 is approved.
3. The quantities of water conserved and allocated are as follows:

Originating Certificate	Priority	State's Portion			Applicant's Portion			Conserved Water		
		Percentage	Maximum Rate (CFS)	Maximum Duty (Volume) AF	Percentage	Maximum Rate (CFS)	Maximum Duty (Volume) AF	Percentage	Maximum Rate (CFS)	Maximum Duty (Volume) AF
3012	1883	100%	1.20	214.95	0%	0.00	0.00	100%	1.20	214.95
79891	May 1897	100%	0.23	40.20	0%	0.00	0.00	100%	0.23	40.20
3182	1883	100%	0.58	102.90	0%	0.00	0.00	100%	0.58	102.90
3192	1889	100%	0.65	115.35	0%	0.00	0.00	100%	0.65	115.35
3192	1883	100%	0.01	2.55	0%	0.00	0.00	100%	0.01	2.55
11899	7/12/1937	100%	0.01	1.62	0%	0.00	0.00	100%	0.01	1.62
49087	1900	100%	0.39	69.90	0%	0.00	0.00	100%	0.39	69.90
53407	1882	73%	1.82	325.32	27%	0.68	120.33	100%	2.50	445.65
53407	1896	73%	0.07	10.84	27%	0.02	4.01	100%	0.09	14.85
82198	1889	100%	0.01	1.35	0%	0.00	0.00	100%	0.01	1.35
91010	1879	100%	0.08	14.10	0%	0.00	0.00	100%	0.08	14.10
91011	1881	100%	0.23	39.30	0%	0.00	0.00	100%	0.23	39.30
91012	3/27/1901	100%	0.29	50.40	0%	0.00	0.00	100%	0.29	50.40
81644	3/27/1901	100%	1.04	178.20	0%	0.00	0.00	100%	1.04	178.20
Totals			6.61	1166.98		0.70	124.34		7.31	1291.32

4. 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 Certificates 3012, 3182, 3192, 11899, 49087, 53407, 79891, 81644, 82198, 91010, 91011, 91012, and any related decree.
5. The deadline for submitting the Notice of Completion and Request for Finalization is December 31, 2017.

Upon Filing of the Notice of Completion and Request for Finalization:

6. *The project is complete and no additional time is needed for finalization.*
7. *Water Right Certificate 3012 is cancelled. A new certificate will be issued for that portion of the water right not affected by this Allocation of Conserved Water application, and a superseding Certificate will be issued for the existing use and place of use (described in Finding of Fact #4) at the reduced rate and duty as follows:*

Use: IRRIGATION of 143.3 ACRES, DOMESTIC and LIVESTOCK
Priority Date: 1883
Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually used beneficially and shall not exceed 1.0 acre-foot per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season.
Source: LOSTINE RIVER (aka SO. FORK WALLOWA RIVER), tributary to the Wallowa River

8. Water Right Certificate 79891 is cancelled. A new certificate will be issued for that portion of the water right not affected by this Allocation of Conserved Water application, and a superseding Certificate will be issued for the existing use and place of use (described in Finding of Fact #6) at the reduced rate and duty as follows:

Use: IRRIGATION of 26.8 ACRES, DOMESTIC and LIVESTOCK
Priority Date: May 1897
Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually used beneficially and shall not exceed 1.0 acre-foot per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season.
Source: LOSTINE RIVER (aka SO. FORK WALLOWA RIVER), tributary to the Wallowa River

9. Water Right Certificate 3182 is cancelled. A new certificate will be issued for that portion of the water right not affected by this Allocation of Conserved Water application, and a superseding Certificate will be issued for the existing use and place of use (described in Finding of Fact #8) at the reduced rate and duty as follows:

Use: IRRIGATION of 68.6 ACRES, DOMESTIC and LIVESTOCK
Priority Date: 1883
Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually used beneficially and shall not exceed 1.0 acre-foot per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season.
Source: LOSTINE RIVER (aka SO. FORK WALLOWA RIVER), tributary to the Wallowa River

10. Water Right Certificate 3192 is cancelled. A new certificate will be issued for that portion of the water right not affected by this Allocation of Conserved Water application, and a superseding Certificate will be issued for the existing use and place of use (described in Finding of Fact #10) at the reduced rate and duty as follows:

Use: IRRIGATION of 78.6 ACRES, DOMESTIC and LIVESTOCK
Priority Date: 1883
Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually used beneficially and shall not exceed 1.0 acre-foot per acre during any period of 30 days prior to July 31 of each year, and thereafter

not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season.

Source: *LOSTINE RIVER (aka SO. FORK WALLOWA RIVER), tributary to the Wallowa River*

11. *Water Right Certificate 11899 is cancelled. A new certificate will be issued for that portion of the water right not affected by this Allocation of Conserved Water application, and a superseding Certificate will be issued for the existing use and place of use (described in Finding of Fact #12) at the reduced rate and duty as follows:*

Use: *IRRIGATION of 10.5 ACRES, DOMESTIC and LIVESTOCK*

Priority Date: *JUNE 12, 1937*

Limit/Duty: *The amount of water to which this right is entitled is limited to an amount actually used beneficially and shall not exceed 1.0 acre-foot per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season.*

Source: *LOSTINE RIVER (aka SO. FORK WALLOWA RIVER), tributary to the Wallowa River*

12. *Water Right Certificate 49087 is cancelled. A new certificate will be issued for that portion of the water right not affected by this Allocation of Conserved Water application, and a superseding Certificate will be issued for the existing use and place of use (described in Finding of Fact #14) at the reduced rate and duty as follows:*

Use: *IRRIGATION of 46.6 ACRES, DOMESTIC and LIVESTOCK*

Priority Date: *1900*

Limit/Duty: *The amount of water to which this right is entitled is limited to an amount actually used beneficially and shall not exceed 1.0 acre-foot per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season.*

Source: *LOSTINE RIVER (aka SO. FORK WALLOWA RIVER), tributary to the Wallowa River*

13. *Water Right Certificate 53407 is cancelled. A new certificate will be issued for that portion of the water right not affected by this Allocation of Conserved Water application, and a superseding Certificate will be issued for the existing use and place of use (described in Finding of Fact #16) at the reduced rate and duty as follows:*

Use: *IRRIGATION of 307.0 ACRES, DOMESTIC and LIVESTOCK*

Priority Date: *1882 for 297.1 Acres and 1896 for 9.9 Acres*

Limit/Duty: *The amount of water to which this right is entitled is limited to an amount actually used beneficially and shall not exceed 1.0 acre-foot per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season.*

Source: *LOSTINE RIVER (aka SO. FORK WALLOWA RIVER), tributary to the Wallowa River*

14. *Water Right Certificate 82198 is cancelled. A new certificate will be issued for that portion of the water right not affected by this Allocation of Conserved Water application, and a superseding Certificate will be issued for the existing use and place of use (described in Finding of Fact #18) at the reduced rate and duty as follows:*

Use: *IRRIGATION of 0.9 ACRE, DOMESTIC and LIVESTOCK*

Priority Date: *1889*

Limit/Duty: *The amount of water to which this right is entitled is limited to an amount actually used beneficially and shall not exceed 1.0 acre-foot per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season.*

Source: *LOSTINE RIVER (aka SO. FORK WALLOWA RIVER), tributary to the Wallowa River*

15. *Water Right Certificate 91010 is cancelled. A new certificate will be issued for that portion of the water right not affected by this Allocation of Conserved Water application, and a superseding Certificate will be issued for the existing use and place of use (described in Finding of Fact #20) at the reduced rate and duty as follows:*

Use: *IRRIGATION of 9.4 ACRES, DOMESTIC and LIVESTOCK*

Priority Date: *1879*

Limit/Duty: *The amount of water to which this right is entitled is limited to an amount actually used beneficially and shall not exceed 1.0 acre-foot per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season.*

Source: *LOSTINE RIVER (aka SO. FORK WALLOWA RIVER), tributary to the Wallowa River*

16. *Water Right Certificate 91011 is cancelled. A new certificate will be issued for that portion of the water right not affected by this Allocation of Conserved Water application, and a superseding Certificate will be issued for the existing use and place of use (described in Finding of Fact #21) at the reduced rate and duty as follows:*

Use: *IRRIGATION of 26.2 ACRES, DOMESTIC and LIVESTOCK*

Priority Date: *1881*

Limit/Duty: *The amount of water to which this right is entitled is limited to an amount actually used beneficially and shall not exceed 1.0 acre-foot per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season.*

Source: *LOSTINE RIVER (aka SO. FORK WALLOWA RIVER), tributary to the Wallowa River*

17. *Water Right Certificate 91012 is cancelled. A new certificate will be issued for that portion of the water right not affected by this Allocation of Conserved Water application, and a superseding Certificate will be issued for the existing use and place of use (described in Finding of Fact #22) at the reduced rate and duty as follows:*

Use: IRRIGATION of 33.6 ACRES, DOMESTIC and LIVESTOCK
Priority Date: MARCH 27, 1901
Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually used beneficially and shall not exceed 1.0 acre-foot per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season.
Source: LOSTINE RIVER (aka SO. FORK WALLOWA RIVER), tributary to the Wallowa River

18. Water Right Certificate 81644 is cancelled. A new certificate will be issued for that portion of the water right not affected by this Allocation of Conserved Water application.
19. Full beneficial use of water for the portion of Certificate 81644 from the new point of diversion shall be made, consistent with the terms of this order, on or before October 1, 2018. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the Applicants to the Department within one year after the deadline for completion of the change and full beneficial use of water. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred at the reduced rate and duty will be issued as follows:

Use: IRRIGATION of 118.8, DOMESTIC and LIVESTOCK
Priority Date: MARCH 27, 1901
Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually used beneficially and shall not exceed 1.0 acre-foot per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season.
Source: LOSTINE RIVER (aka SO. FORK WALLOWA RIVER), tributary to the Wallowa River

Proposed Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	4	NE SW	FOSTER DITCH: 320 FEET SOUTH AND 625 FEET WEST OF THE CENTER OF SECTION 4

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
1 N	43 E	WM	31	SW NE	8000	40.0
1 N	43 E	WM	31	NE SE	8000	40.0
1 N	43 E	WM	31	NW SE	8000	38.8
Total						118.8

The quantity of water diverted at the new point of diversion, together with that diverted at the original point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
(Finding of Fact #23).

20. *Water use measurement conditions:*
- a. *Before the use of the Applicants' portion of conserved water, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion.*
 - b. *The water user shall maintain the meters or measuring devices in good working order.*
 - c. *The water user 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.*
21. *The project is complete and no additional time is needed for finalization.*
22. *The Applicants' portion of conserved water (0.70 cfs, 124.34 AF) shall be used on the following lands until a Notice of Use or Disposition is received pursuant to ORS 537.490 and OAR 690-019-0090, as follows:*

Use: *IRRIGATION of 62.1 ACRES*
Priority Date: *1882 and 1896*
Rate: *0.70 CFS, being 0.68 CFS under 1882 priority, and 1896 for 0.02 CFS under 1896 priority*
Limit/Duty: *The amount of water to which this right is entitled is limited to an amount actually used beneficially and shall not exceed 1.0 acre-foot per acre during any period of 30 days from May 1 through July 31 of each year*
Source: *LOSTINE RIVER (aka SO. FORK WALLOWA RIVER), tributary to the Wallowa River*

Proposed Point of Diversion:

<i>Twp</i>	<i>Rng</i>	<i>Mer</i>	<i>Sec</i>	<i>Q-Q</i>	<i>Measured Distances</i>
<i>1 N</i>	<i>43 E</i>	<i>WM</i>	<i>29</i>	<i>SE SW</i>	<i>TULLEY-HILL DITCH: 1080 FEET NORTH AND 2259 FEET EAST FROM THE SW CORNER OF SECTION 29 (Latitude: 45.533175; Longitude: -117.469878)</i>

Proposed Place of Use:

<i>Twp</i>	<i>Rng</i>	<i>Mer</i>	<i>Sec</i>	<i>Q-Q</i>	<i>Acres</i>
<i>1 N</i>	<i>43 E</i>	<i>WM</i>	<i>20</i>	<i>SW SW</i>	<i>13.3</i>
<i>1 N</i>	<i>43 E</i>	<i>WM</i>	<i>20</i>	<i>SE SW</i>	<i>39.1</i>
<i>1 N</i>	<i>43 E</i>	<i>WM</i>	<i>29</i>	<i>NW NW</i>	<i>1.4</i>
<i>1 N</i>	<i>43 E</i>	<i>WM</i>	<i>29</i>	<i>NE NW</i>	<i>8.3</i>
					<i>62.1</i>

23. The Department shall issue a new instream water right certificate for the conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values in the Columbia River as follows:

LOSTINE RIVER, tributary to the Wallowa River

Instream Reach No. 1:

At the Westside Ditch Point of Diversion (POD), described in Finding of Fact #23

<i>Certificate</i>	<i>Priority</i>	<i>Instream Rate (CFS)</i>	<i>Instream Volume (AF)</i>	<i>Period Protected</i>
81644	3/27/1901	1.04	178.2	May 1 through July 31

Instream Reach No. 2:

From immediately below the Westside Ditch POD to Miles-Magill Ditch POD, described in Finding of Fact #16

<i>Certificate</i>	<i>Priority</i>	<i>Instream Rate (CFS)</i>	<i>Instream Volume (AF)</i>	<i>Period Protected</i>
81644	3/27/1901	1.02	174.64	May 1 through July 31

Instream Reach No. 3:

At the Miles-Magill Ditch POD

<i>Certificate</i>	<i>Priority</i>	<i>Instream Rate (CFS)</i>	<i>Instream Volume (AF)</i>	<i>Period Protected</i>
81644	3/27/1901	1.02	174.64	May 1 through July 31
53407	1896	0.07	10.84	
<i>Total</i>		1.09	185.48	

Instream Reach No. 4:

From immediately below the Miles-Magill Ditch POD to the Miles Ditch POD, described in Finding of Fact #16

<i>Certificate</i>	<i>Priority</i>	<i>Instream Rate (CFS)</i>	<i>Instream Volume (AF)</i>	<i>Period Protected</i>
81644	3/27/1901	1.02	174.64	May 1 through July 31
53407	1896	0.07	10.62	
<i>Total</i>		1.09	185.26	

Instream Reach No. 5:

At the Miles Ditch POD

<i>Certificate</i>	<i>Priority</i>	<i>Instream Rate (CFS)</i>	<i>Instream Volume (AF)</i>	<i>Period Protected</i>
81644	3/27/1901	1.02	174.64	May 1 through July 31
53407	1896	0.07	10.62	
53407	1882	1.82	325.32	
<i>Total</i>		2.91	510.58	

Instream Reach No. 6:

From immediately below the Miles Ditch POD to the Foster/ Mid-Valley POD, described in Findings of Fact #10 and #18

<i>Certificate</i>	<i>Priority</i>	<i>Instream Rate (CFS)</i>	<i>Instream Volume (AF)</i>	<i>Period Protected</i>
81644	3/27/1901	1.02	174.64	May 1 through July 31
53407	1896	0.07	10.62	
53407	1882	1.78	318.81	
	<i>Total</i>	2.87	504.07	

Instream Reach No. 7:

At Foster/Mid-Valley Ditch POD

<i>Certificate</i>	<i>Priority</i>	<i>Instream Rate (CFS)</i>	<i>Instream Volume (AF)</i>	<i>Period Protected</i>
81644	3/27/1901	1.02	174.64	May 1 through July 31
53407	1896	0.07	10.62	
53407	1882	1.78	318.81	
3192	1889	0.65	115.35	
3192	1883	0.01	2.55	
82198	1889	0.01	1.35	
	<i>Total</i>	3.54	623.32	

Instream Reach No. 8:

From immediately below the Foster/Mid-Valley Ditch POD to the Clearwater Ditch, described in Findings of Fact #4, #6, and #8

<i>Certificate</i>	<i>Priority</i>	<i>Instream Rate (CFS)</i>	<i>Instream Volume (AF)</i>	<i>Period Protected</i>
81644	3/27/1901	1.02	174.64	May 1 through July 31
53407	1896	0.07	10.62	
53407	1882	1.78	318.81	
3192	1889	0.64	113.04	
3192	1883	0.01	2.50	
82198	1889	0.01	1.32	
	<i>Total</i>	3.53	620.93	

Instream Reach No. 9:

At the Clearwater Ditch POD

<i>Certificate</i>	<i>Priority</i>	<i>Instream Rate (CFS)</i>	<i>Instream Volume (AF)</i>	<i>Period Protected</i>
81644	3/27/1901	1.02	174.64	May 1 through July 31
53407	1896	0.07	10.62	
53407	1882	1.78	318.81	
3192	1889	0.64	113.04	
3192	1883	0.01	2.50	
82198	1889	0.01	1.32	
3012	1883	1.2	214.95	
79891	May 1897	0.23	40.2	
3182	1883	0.58	102.9	
	<i>Total</i>	5.54	978.98	

Instream Reach No. 10:

From immediately below the Clearwater Ditch POD to the Tulley-Hill Ditch POD, described in Findings of Fact #14, #20, #21, and #22

<i>Certificate</i>	<i>Priority</i>	<i>Instream Rate (CFS)</i>	<i>Instream Volume (AF)</i>	<i>Period Protected</i>
81644	3/27/1901	0.94	160.38	<i>May 1 through July 31</i>
53407	1896	0.06	9.76	
53407	1882	1.64	292.79	
3192	1889	0.59	103.82	
3192	1883	0.01	2.30	
82198	1889	0.01	1.22	
3012	1883	1.08	193.46	
79891	May 1897	0.21	36.18	
3182	1883	0.52	92.61	
	<i>Total</i>	5.06	892.52	

Instream Reach No. 11:

At the Tulley-Hill POD

<i>Certificate</i>	<i>Priority</i>	<i>Instream Rate (CFS)</i>	<i>Instream Volume (AF)</i>	<i>Period Protected</i>
81644	3/27/1901	0.94	160.38	<i>May 1 through July 31</i>
53407	1896	0.06	9.76	
53407	1882	1.64	292.79	
3192	1889	0.59	103.82	
3192	1883	0.01	2.30	
82198	1889	0.01	1.22	
3012	1883	1.08	193.46	
79891	May 1897	0.21	36.18	
3182	1883	0.52	92.61	
49087	1900	0.39	69.90	
91010	1879	0.08	14.10	
91011	1881	0.23	39.30	
91012	3/27/1901	0.29	50.40	
	<i>Total</i>	6.05	1066.22	

Instream Reach No. 12:

From immediately below the Tulley-Hill POD to authorized POD for Certificate 11899, described in Finding of Fact #12

<i>Certificate</i>	<i>Priority</i>	<i>Instream Rate (CFS)</i>	<i>Instream Volume (AF)</i>	<i>Period Protected</i>
81644	3/27/1901	0.94	160.38	<i>May 1 through July 31</i>
53407	1896	0.06	9.76	
53407	1882	1.64	292.79	
3192	1889	0.59	103.82	
3192	1883	0.01	2.30	
82198	1889	0.01	1.22	
3012	1883	1.08	193.46	
79891	May 1897	0.21	36.18	
3182	1883	0.52	92.61	
49087	1900	0.35	62.91	
91010	1879	0.07	12.69	
91011	1881	0.21	35.37	
91012	3/27/1901	0.26	45.36	
	<i>Total</i>	5.95	1048.85	

Instream Reach No. 13:

From the authorized POD for Certificate 11899 to the mouth of the Lostine River

<i>Certificate</i>	<i>Priority</i>	<i>Instream Rate (CFS)</i>	<i>Instream Volume (AF)</i>	<i>Period Protected</i>
81644	3/27/1901	0.94	160.38	<i>May 1 through July 31</i>
53407	1896	0.06	9.76	
53407	1882	1.64	292.79	
3192	1889	0.59	103.82	
3192*	1883	0.01	2.30	
82198*	1889	0.01	1.22	
3012	1883	1.08	193.46	
79891	May 1897	0.21	36.18	
3182	1883	0.52	92.61	
49087	1900	0.35	62.91	
91010	1879	0.07	12.69	
91011	1881	0.21	35.37	
91012	3/27/1901	0.26	45.36	
11899*	7/12/1937	0.01	1.46	
	<i>Total</i>	5.96	1050.31	

WALLOWA RIVER, tributary to Grande Ronde River

Instream Reach No. 14:

From the mouth of the Lostine River into the Wallowa River in the NWNW of Sec. 19 T1N, R43E, W.M. at Latitude 45.55639, Longitude -117.48803

<i>Certificate</i>	<i>Priority</i>	<i>Instream Rate (CFS)</i>	<i>Instream Volume (AF)</i>	<i>Period Protected</i>
81644	3/27/1901	0.62	106.92	<i>May 1 through July 31</i>
53407	1896	0.04	6.50	
53407	1882	1.09	195.19	
3192	1889	0.39	69.21	
3012	1883	0.72	128.97	
79891	May 1897	0.14	24.12	
3182	1883	0.35	61.74	
49087	1900	0.23	41.94	
91010	1879	0.05	8.46	
91011	1881	0.14	23.58	
91012	3/27/1901	0.17	30.24	
<i>Total</i>		<i>3.94</i>	<i>696.87</i>	

**- The quantities under the 1883 priority of Certificate 3192, and Certificates 82198 and 11899 are not measureable quantities into the Wallowa River.*

Instream Reach No. 15:

From the location in the Wallowa River in the NWNW of Sec. 19, T1N, R43E, W.M. at Latitude 45.55639, Longitude -117.48803 to an approximate location in the SESE of Sec. 11, T1N, R42E, WM at Latitude 45.57406, Longitude -117.52571

<i>Certificate</i>	<i>Priority</i>	<i>Instream Rate (CFS)</i>	<i>Instream Volume (AF)</i>	<i>Period Protected</i>
81644	3/27/1901	0.42	71.28	<i>May 1 through July 31</i>
53407	1896	0.03	4.34	
53407	1882	0.73	130.13	
3192	1889	0.26	46.14	
3012	1883	0.48	85.98	
79891	May 1897	0.09	16.08	
3182	1883	0.23	41.16	
49087	1900	0.16	27.96	
91010	1879	0.03	5.64	
91011	1881	0.09	15.72	
91012	3/27/1901	0.12	20.16	
<i>Total</i>		<i>2.64</i>	<i>464.59</i>	

**- The quantities under the 1883 priority of Certificate 3192, and Certificates 82198 and 11899 are not measureable quantities into the Wallowa River.*

Instream Reach No. 16:

From a location in the SESE of Sec. 11, T1N, R42E, WM at Latitude 45.57406,
Longitude -117.52571 to the mouth of the Wallowa River at the confluence of the Grande
Ronde River

Certificate	Priority	Instream Rate (CFS)	Instream Volume (AF)	Period Protected
81644	3/27/1901	0.31	53.46	May 1 through July 31
53407	1896	0.02	3.25	
53407	1882	0.55	97.60	
3192	1889	0.20	34.61	
3012	1883	0.36	64.49	
79891	May 1897	0.07	12.06	
3182	1883	0.17	30.87	
49087	1900	0.12	20.97	
91010	1879	0.02	4.23	
91011	1881	0.07	11.79	
91012	3/27/1901	0.09	15.12	
	Total	1.98	348.45	

*- The quantities under the 1883 priority of Certificate 3192, and Certificates 82198 and 11899 are not measureable quantities into the Wallowa River.

Dated at Salem, Oregon this 11 day of April, 2017.



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

Mailing Date: APR 13 2017