

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

In the Matter of Allocation of Conserved ) PRELIMINARY DETERMINATION  
Water Application CW-115, ) PROPOSING TO APPROVE ON  
Deschutes and Jefferson Counties ) COMPLETION AND FINALIZATION OF  
) ALLOCATION OF CONSERVED WATER  
) CW-115

**Applicants**

Central Oregon Irrigation District  
1015 SW Lake Court  
Redmond, OR 97756

**Representative**

Deschutes River Conservancy  
700 NW Hill Street, Suite 1  
Bend, OR 97703

North Unit Irrigation District  
2024 NW Beech Street  
Madras, OR 97741

**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 and the proposed location of use; (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 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 not subject to repayment. 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 and new certificates reflecting the changes for the portions of the water rights involved in the conserved water application. 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**

### Background

1. On January 28, 2020, Central Oregon Irrigation District (COID) and North Unit Irrigation District (NUID), collectively called the "Districts," filed an Allocation of Conserved Water application. The Department designated the application number CW-115.
2. The Districts requested an Allocation of Conserved Water under Certificate 83571 issued to COID and under Certificate 90177 issued to NUID. Certificates 72281, 72282, 88877 and 80937 issued to NUID are mentioned in the application, but are not modified by this conserved water application.
3. On March 6, 2020, COID's Certificate 83571 was superseded by Certificate 94956.
4. On May 1, 2005, COID adopted an Allocation of Conserved Water Policy which conforms to the requirements of OAR 690-018-0025. COID's policy was revised and adopted on October 29, 2012, and affirmed and renewed on September 8, 2017.
5. On October 7, 2008, NUID adopted an Allocation of Conserved Water Policy which conforms to the requirements of OAR 690-018-0025. NUID's policy was revised and adopted on and November 12, 2013, and affirmed and renewed on May 14, 2019.
6. On April 10, 2015, the Department issued a Final Order of Approval on Completion and Finalization of Allocation of Conserved Water CW-81 (CW-81 Final Order), and mailed a copy to the Applicants on April 14, 2015. The CW-81 Final Order was recorded in Special Order Volume 95, Pages 520-534 and involved Certificates 83571 and 88876. Certificate 88876 was superseded by Certificate 90177 as a result of CW-81. The CW-81 Final Order contained a scrivener's error in Finding of Fact #13, on Page 6. The duty per acre identified in the column "After Project; AF/ac" should read 3.97.

7. Notice of the proposed conservation project was published in the Department's weekly notice on March 10, 2020, and in *The Bulletin* newspaper on March 5 and 12, 2020, as required under OAR 690-018-0050. No comments were filed in response to the notices.
8. On July 31, 2020, the Department issued a Draft Preliminary Determination proposing to deny Allocation of Conserved Water application CW-115. After further review, on September 10, 2020, the Department issued an Amended Draft Preliminary Determination proposing to approve Allocation of Conserved Water application CW-115.
9. On September 2, 2020, the Districts submitted a Request for Finalization requesting the allocation be finalized as of June 30, 2020.

Application

10. The first step in the conservation project involves piping approximately 2,210 feet of COID's open unlined F-Lateral under Certificate 94956 with High Density Polyethylene (HDPE) pipe. This piping project is expected to eliminate approximately 5 cubic feet per second (cfs) and 1,605.2 acre-feet (AF) of seepage losses of Deschutes River water.
11. The second step in the conservation project involves NUID's "drying-up" of approximately 642.1 acres of land that currently receive Crooked River water under Certificate 90177 at a rate of approximately 1/43 cfs per acre and duty of 3.97 acre-feet per acre. This would result in a reduction in demand from the Crooked River of 14.77 cfs and 2,542.72 AF under Certificate 90177. The 642.1 acres of NUID lands would receive the 1,605.2 AF of Deschutes River water conserved by COID's piping of the F-Lateral at 2.5 acre-feet per acre. This results in a reduction in the use of water for the Deschutes River system as a whole of approximately 9.77 cfs (14.77 – 4.999) and 937.52 AF (2542.72 – 1605.20).
12. Canal or lateral piping with HDPE pipe is a proven water conservation technique.
13. The first right to be modified is Certificate 94956, in the name of Central Oregon Irrigation District, with the source listed as the Deschutes River, a tributary of the Columbia River. Certificate 94956, has priority dates of October 31, 1900, for 918.340 cfs and December 2, 1907, for the balance of approximately 367.851 cfs allowed by the decree, if all lands were served by the main canal system.

At the time of the certificate issuance on March 6, 2020, the number of acres authorized under Certificate 94956 were as follows:

Type of Use	Inchoate	Allowed by Certificate 94956
Irrigation	122.15	41,993.17
Equivalent Acres for Dust Abatement	-	2.80
Equivalent Acres for Industrial	-	87.10
Equivalent Acres for Mining	-	16.00
Equivalent Acres for Municipal	-	125.96
Equivalent Acres for Pond Maintenance	-	218.66
Equivalent Acres for Quasi-Municipal	-	93.16
Domestic Use and Livestock	---	--
<b>TOTAL ACRES/EQUIVALENT</b>	<b>122.15</b>	<b>42,536.85</b>

Certificate 94956 limits the diversion rate for canal diversions by season of use. Consistent with the Decree for the Deschutes River (Volume 12, Page 282), the irrigation season and diversion rates are as follows:

QUANTITY FOR CANAL DIVERSIONS FROM SOURCE		
Season	Period of Use	Rate
Season 1	April 1 through April 30 and October 1 through October 31	1/80
Season 2	May 1 through May 14 and September 15 through September 30	1/60
Season 3	May 15 through September 14	1/32.4

14. Certificate 94956 lists 13 authorized points of diversion. Three of the authorized points of diversion are canal diversions, Central Oregon Canal (POD 1), Tumalo Irrigation District Feed Canal (POD 9), and COID North Canal (POD 11).

15. The authorized canal diversion under Certificate 94956 associated with this conserved water project (POD 11) is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Source/Measured Distances
17 S	12 E	WM	29	SE NE	COID NORTH CANAL: 850 FEET NORTH AND 630 FEET WEST FROM THE EAST ¼ CORNER OF SECTION 29

16. Certificate 94956 lists the following quantities of water associated with authorized POD 11:

POD 11	Priority Date	Season 1	Season 2	Season 3	ANNUAL VOLUME
COID North Canal	1900	196.637 cfs	268.254 cfs	365.762 cfs	162,595.0 AF
	1907			146.510 cfs	

17. Any previously approved or pending transfers, cancellations, allocations of conserved water, or other modifications to Certificate 94956, which are not confirmed in Certificate 94956, will cause a corresponding change to the rate, duty, and total number of acres served by Certificate 94956.

18. Certificate 94956 does not list a period of use; therefore, pursuant to the Deschutes River Decree, the irrigation season of use is April 1 to November 1.

19. The portion of the second right to be modified by CW-115 is as follows:

**Certificate:** 90177 in the name of NORTH UNIT IRRIGATION DISTRICT (perfected under Permit S-33954)

**Use:** IRRIGATION of 642.10 ACRES

**Priority Date:** SEPTEMBER 18, 1968

**Rate:** 14.77 CUBIC FEET PER SECOND, together with all other rights perfected under Permit S-33954 shall not exceed 130.39 cfs.

**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.97 acre-feet per acre for each acre irrigated during the irrigation season of each year, and is further subject to

the terms and conditions of: 1) a stipulation between North Unit Irrigation District and the Oregon State Game Commission, recorded in the Miscellaneous Records of the Water Resources Department at Vol. 4, Page 2028; 2) the Interoffice Memo regarding North Unit Irrigation District Water Accounting dated July 12, 1996, recorded in Miscellaneous Records of the Water Resources Department at Vol. 9, Pages 225-226, as modified by the Crooked River Minimum Flow Agreement, recorded in the Miscellaneous Records of the Water Resources Department at Vol. 9, Pages 218-224.

**Source:** CROOKED RIVER, tributary of the DESCHUTES RIVER

**Authorized Point of Diversion (POD):**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	13 E	WM	13	SW NE	590 FEET NORTH AND 2790 FEET EAST FROM THE WEST ¼ CORNER OF SECTION 13

**Authorized Place of Use:**

							Supplemental Information	
Twp	Rng	Sec	Qtr/Qtr		Tax Lot	Acres	Tax Map Name	
9 S	13 E	21	NE	NW	200	20.6	0913210000200	
9 S	13 E	21	SE	SW	200	0.4	0913210000200	
9 S	13 E	23	NE	NE	203	0.4	0913230000203	
9 S	13 E	24	SW	NW	200	13.6	0913240000200	
9 S	13 E	24	NW	SW	200	17.8	0913240000200	
9 S	13 E	29	NE	SE	100	21.5	0913290000100	
9 S	14 E	19	NW	NW	3900	31.2	0914000003900	
9 S	14 E	29	SE	SW	400	8.9	0914290000400	
9 S	14 E	29	SW	SE	400	8.3	0914290000400	
9 S	14 E	31	NE	NW	200	5.3	0914310000200	
10 S	13 E	1	SW	NW	500	1.6	1013010000500	
10 S	13 E	1	SE	NW	500	1.6	1013010000500	
10 S	13 E	28	SW	NE	300	37.4	1013280000300	
10 S	13 E	28	SE	NE	300	37.3	1013280000300	
10 S	13 E	28	NE	NW	200	1.8	1013280000200	
10 S	13 E	28	NW	NW	200	2.3	1013280000200	
10 S	13 E	29	NE	SE	100	8.0	1013290000100	
10 S	13 E	29	NW	SE	100	7.4	1013290000100	
10 S	14 E	8	SE	NE	500	2.2	1014080000500	
10 S	14 E	20	NW	NW	300	4.8	1014200000300	
10 S	14 E	20	SW	NW	300	4.9	1014200000300	
10 S	14 E	20	NE	SE	600	17.9	1014200000600	
10 S	14 E	20	SE	SE	600	13.5	1014200000600	
10 S	14 E	28	SW	SW	500	10.8	1014280000500	
10 S	14 E	28	SE	SW	500	22.6	1014280000500	
10 S	14 E	31	SW	NW	901	0.7	101431BC00901	
10 S	14 E	31	SE	NW	700	0.8	101431BD00700	
10 S	14 E	31	NE	SW	1800	2.2	101431C001800	
10 S	14 E	31	NE	SW	2201	2.6	101431C002201	
11 S	13 E	14	SW	NW	1900	0.3	111314BC01900	
11 S	13 E	14	SE	NW	402	0.5	111314BD00402	
11 S	13 E	15	NE	SE	1100	1.9	1113150001100	
11 S	13 E	15	NW	SE	1100	21.4	1113150001100	
11 S	13 E	24	SE	SE	502	2.7	1113240000502	

							Supplemental Information		
Twp	Rng	Sec	Qtr/Qtr		Tax Lot	Acres	Tax Map Name		
11	S	13	E	25	NW	NE	200	28.3	1113250000200
11	S	13	E	28	NE	NW	200	0.6	1113280000200
11	S	13	E	31	NW	NE	201	0.8	1113310000201
11	S	13	E	31	NW	NE	300	19.2	1113310000300
11	S	13	E	31	NW	SW	600	7.3	1113310000600
11	S	13	E	31	SW	SW	600	28.3	1113310000600
11	S	13	E	34	SW	NW	1100	0.4	1113340001100
11	S	13	E	35	SW	SW	300	23.8	1113350000300
11	S	14	E	29	NW	NW	1900	16.9	1114000001900
11	S	14	E	32	SW	NE	1800	4.8	1114000001800
11	S	14	E	32	SE	NE	1800	30.5	1114000001800
12	S	12	E	12	SW	NE	1301	0.5	1212120001301
12	S	12	E	12	SE	NE	900	10.5	1212120000900
12	S	12	E	12	NW	SE	1301	2.1	1212120001301
12	S	12	E	12	SE	SE	1500	1.8	1212120001500
12	S	12	E	34	NE	NE	100	36.0	1212340000100
12	S	12	E	36	NE	NW	200	15.5	1212360000200
12	S	12	E	36	NW	NW	200	34.3	1212360000200
12	S	13	E	6	NE	NW	200	1.6	1213060000200
12	S	13	E	6	NW	NW	200	0.3	1213060000200
12	S	13	E	9	SW	NE	302	0.1	1213090000302
12	S	13	E	14	SW	SW	800	18.6	1213140000800
12	S	13	E	16	SW	NE	500	5.4	1213160000500
12	S	13	E	16	NE	SW	500	3.8	1213160000500
12	S	13	E	16	SE	SW	700	6.3	1213160000700
12	S	13	E	16	NW	SE	500	1.6	1213160000500
12	S	13	E	16	SW	SE	700	7.6	1213160000700
Total							642.1		

20. Certificate 90177 does not list a period of use; therefore, pursuant to the Crooked River Decree, the irrigation season of use is February 1 to December 1.
21. The canal piping portion of the project will eliminate the following quantities of seepage loss of Deschutes River water from the West F lateral under COID's Certificate 94956:

Cert.	Season	Certificate				Needed				Conserved Water	
		Rate (CFS)		Volume (AF)		Rate (CFS)		Volume (AF)		Rate (CFS)	Volume/Max. Duty (AF)
		Max. Rate	cfs/ac	AF/ac	Max. Duty	Max. Rate	cfs/ac	AF/ac	Max. Duty		
94956	1	196.637	1/80	9.43*	162,595.0	194.612	1/80	9.34*	160,989.8	2.025	1,605.2
	2	268.254	1/60			265.554	1/60			2.700	
	3 (1900)	365.762	1/32.4			362.193	1/32.4			3.569	
	3 (1907)	146.510				145.080				1.430	
94956 Combined totals		512.272				507.273				4.999	

\* - Includes conveyance losses authorized by the Deschutes River Decree

22. As described in Finding of Fact #11, the application of the Deschutes River water to lands currently served by Crooked River water would reduce demand on the Crooked River. The Districts propose the following:

Certificate	Certificate				Needed				Demand Reduction	
	Rate (CFS)		Volume (AF)		Rate (CFS)		Volume (AF)		Rate (CFS)	Volume/Max. Duty (AF)
	Max. Rate	cfs/ac	AF/ac	Max. Duty	Max. Rate	cfs/ac	AF/ac	Max. Duty		
90177	117.44**		3.97	20,032.25	102.67**		3.97	17,489.53	14.77	2,542.72

\* - Pre-project, the maximum combined diversion rate for all water rights perfected under Permit S-33954 is 118.31 cfs.

\*\* - Post-project, the maximum combined diversion rate for all water rights perfected under Permit S-33954 is 103.54 cfs.

23. The Districts propose the quantities of conserved and demand reduction water be allocated as follows:

Certificate	State's Portion			Applicant's Portion			Conserved Water		
	Percentage	Max. Rate (CFS)	Max. Duty (Volume) AF	Percentage	Max. Rate (CFS)	Max. Duty (Volume) AF	Percentage	Max. Rate (CFS)	Max. Duty (Volume) AF
94956	0	0	0	100	4.999	1,605.20	100	4.999	1,605.20

Certificate	State's Portion			Applicant's Portion			Reduced Demand Water		
	Percentage	Max. Rate (CFS)	Max. Duty (Volume) AF	Percentage	Max. Rate (CFS)	Max. Duty (Volume) AF	Percentage	Max. Rate (CFS)	Max. Duty (Volume) AF
90177	100	14.77	2,542.72	0	0	0	100	14.770	2,542.72

24. Diversion structures, canals and ditches sufficient to deliver the full quantity of water allowed under the existing rights were present within the five-year period prior to submission of Allocation of Conserved Water application CW-115.
25. The Districts have the capacity to divert the full quantity of water available under the subject rights. Department staff has also determined the subject rights could be applied to the authorized beneficial uses at the maximum rates and volumes allowed without return flows.
26. Pursuant to ORS 537.485, the Districts request the priority date for any Deschutes River water resulting from the canal piping or lining and the water from the reduction in demand from the Crooked River be the same as the respective originating rights.
27. The Districts request 100% of the Deschutes River (COID) water conserved by canal piping be applied to 642.1 acres of land, which currently receive Crooked River (NUID) water. The rate and quantity of water may be as follows:

Originating Certificate	Priority	Season	Rate (CFS)	AF/AC	New Acres	Volume (AF)
94956	10/31/1900	1	2.025	2.5	642.1	1,605.20
	10/31/1900	2	2.700			
	10/31/1900	3	3.569			
	12/2/1907	3	1.430			
94956 Combined Totals			4.999			

28. The Districts propose an additional point of diversion at NUID's Main Canal for application of the conserved water from the Deschutes River at the place of use described below as follows:

**Authorized and Proposed Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Source/Measured Distances
17 S	12 E	WM	29	SE NE	POD 11 - COID NORTH CANAL: 850 FEET NORTH AND 630 FEET WEST FROM THE EAST ¼ CORNER OF SECTION 29
17 S	12 E	WM	29	SE NE	NUID MAIN CANAL: 1700 FEET SOUTH AND 730 FEET WEST FROM THE NE CORNER OF SECTION 29

**Authorized Place of Use:**

Twp	Range	Mer.	Sec.	Qtr-Qtr	Tax Lot	Acres	Supplemental Information
							Tax Lot Map
9 S	13 E	WM	21	NE NW	200	20.60	0913210000200
9 S	13 E	WM	21	SE SW	200	0.40	0913210000200
9 S	13 E	WM	23	NE NE	203	0.40	0913230000203
9 S	13 E	WM	24	SW NW	200	13.40	0913240000200
9 S	13 E	WM	24	NW SW	200	18.00	0913240000200
9 S	13 E	WM	29	NE SE	100	21.50	0913290000100
9 S	14 E	WM	19	NW NW	3900	31.20	0914000003900
9 S	14 E	WM	29	SE SW	400	8.90	0914290000400
9 S	14 E	WM	29	SW SE	400	8.30	0914290000400
9 S	14 E	WM	31	NE NW	200	5.30	0914310000200
10 S	13 E	WM	1	SW NW	500	1.60	1013010000500
10 S	13 E	WM	1	SE NW	500	1.60	1013010000500
10 S	13 E	WM	28	SW NE	300	37.40	1013280000300
10 S	13 E	WM	28	SE NE	300	37.30	1013280000300
10 S	13 E	WM	28	NE NW	200	1.20	1013280000200
10 S	13 E	WM	28	NW NW	200	2.90	1013280000200
10 S	13 E	WM	29	NE NE	100	1.40	1013290000100
10 S	13 E	WM	29	SE NE	100	0.20	1013290000100
10 S	13 E	WM	29	NE SE	100	6.40	1013290000100
10 S	13 E	WM	29	NW SE	100	7.40	1013290000100
10 S	14 E	WM	8	SW NE	500	0.70	1014080000500
10 S	14 E	WM	8	SE NE	500	1.50	1014080000500
10 S	14 E	WM	20	NW NW	300	4.80	1014200000300
10 S	14 E	WM	20	SW NW	300	4.90	1014200000300
10 S	14 E	WM	20	NE SE	600	17.60	1014200000600
10 S	14 E	WM	20	SE SE	600	13.80	1014200000600
10 S	14 E	WM	28	SW SW	500	10.80	1014280000500
10 S	14 E	WM	28	SE SW	500	22.60	1014280000500
10 S	14 E	WM	31	SW NW	901	0.70	101431BC00901



							Supplemental Information
Twp	Range	Mer	Sec.	Qtr-Qtr	Tax Lot	Acres	Tax Lot Map
10 S	14 E	WM	31	SE NW	700	0.80	101431BD00700
10 S	14 E	WM	31	NE SW	1800	2.20	101431C001800
10 S	14 E	WM	31	NE SW	2201	2.60	101431C002201
11 S	13 E	WM	14	SW NW	1900	0.30	111314BC01900
11 S	13 E	WM	14	SE NW	402	0.50	111314BD00402
11 S	13 E	WM	15	NE SE	1100	1.90	1113150001100
11 S	13 E	WM	15	NW SE	1100	21.40	1113150001100
11 S	13 E	WM	24	SE SE	502	2.70	1113240000502
11 S	13 E	WM	25	NW NE	200	26.80	1113250000200
11 S	13 E	WM	25	NW SE	200	1.50	1113250000200
11 S	13 E	WM	28	NE NW	200	0.60	1113280000200
11 S	13 E	WM	31	NW NE	201	0.80	1113310000201
11 S	13 E	WM	31	NW NE	300	19.20	1113310000300
11 S	13 E	WM	31	NW SW	600	7.60	1113310000600
11 S	13 E	WM	31	SW SW	600	28.00	1113310000600
11 S	13 E	WM	34	SW NW	1100	0.40	1113340001100
11 S	13 E	WM	35	SW SW	300	23.80	1113350000300
11 S	14 E	WM	29	NW NW	1900	16.90	1114000001900
11 S	14 E	WM	32	SW NE	1800	4.80	1114000001800
11 S	14 E	WM	32	SE NE	1800	30.50	1114000001800
12 S	12 E	WM	12	SW NE	1301	0.30	1212120001301
12 S	12 E	WM	12	SE NE	900	10.50	1212120000900
12 S	12 E	WM	12	NW SE	1301	2.30	1212120001301
12 S	12 E	WM	12	SE SE	1500	1.80	1212120001500
12 S	12 E	WM	34	NE NE	100	36.00	1212340000100
12 S	12 E	WM	36	NE NW	200	13.80	1212360000200
12 S	12 E	WM	36	NW NW	200	36.00	1212360000200
12 S	13 E	WM	6	NE NW	200	1.60	1213060000200
12 S	13 E	WM	6	NW NW	200	0.30	1213060000200
12 S	13 E	WM	9	SW NE	302	0.10	1213090000302
12 S	13 E	WM	14	SW SW	800	18.60	1213140000800
12 S	13 E	WM	16	SW NE	500	5.00	1213160000500
12 S	13 E	WM	16	NE SW	500	3.80	1213160000500
12 S	13 E	WM	16	SE SW	700	6.30	1213160000700
12 S	13 E	WM	16	NW SE	500	2.00	1213160000500
12 S	13 E	WM	16	SW SE	700	7.60	1213160000700
						Total	642.10

29. Pursuant to OAR 690-018-0012(1), the Districts propose 100% of the water resulting from the reduction in demand from the Crooked River under Certificate 90177 be dedicated to the state as a new instream water right.
30. The Districts received funding for approximately 75% of the conservation project from non-government sources. The balance of the funding came from in-kind contributions.
31. The Districts submitted completed Land Use Forms as required by OAR 690-018-0040(22) from Deschutes and Jefferson Counties which indicated the proposed use was allowed outright or is not regulated by Deschutes and Jefferson Counties' comprehensive plans.
32. The Districts proposed 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, recreation, and pollution abatement.
33. The Districts requested the Department protect the new instream water right created from the proposed demand reduction water under Certificate 90177 (Crooked River) from the authorized point of diversion at approximately River Mile (RM) 27.5 to the mouth where the Crooked River enters Lake Billy Chinook.
34. The Districts proposed the following conditions and limitations to mitigate for potential harm to existing water rights:
  - a. The North Unit Irrigation District (NUID) Water Accounting agreement dated July 12, 1996, recorded in Miscellaneous Records in Volume 9, Pages 225-226, as amended by CW-75 and CW-81, requires NUID to pump 9.61% of the total irrigation demand from the Crooked River. The Agreement shall be amended and pro-rated according to the quantities of water used after completion of this project. Upon approval and finalization of this project, NUID shall be required to pump 8.48% of the total irrigation demand from the Crooked River.
  - b. North Unit Irrigation District and the Deschutes River Conservancy have agreed that the new instream right created by this Allocation of Conserved Water project will be in addition to historic minimum stream flows in the Crooked River as defined in the "Dry Year" "Non-Dry Year" agreement recorded in the Department's Miscellaneous Records in Volume 9, Pages 218-224, as amended by CW-75 and CW-81. The quantity of water that must be by-passed will be determined by the Department's District 11 Watermaster office. Prior to March 31 of each year, the District 11 Watermaster shall determine the quantity of water that must be by-passed in accordance with the "Dry Year" "Non-Dry Year" agreement described above.
35. The implementation of the conservation measures occurred July 1, 2015. The application was filed on January 20, 2020. Pursuant to ORS 537.470(2), the Department may allocate conserved water under this application as it was filed less than five years after the conservation measures were implemented.

36. The project is complete. Pursuant to OAR 690-018-0040(19), the Districts provided evidence they attempted to identify and resolve the concerns of water right holders in the area, governmental entities, and other organizations.
37. The Department has consulted with the Oregon Department of Fish and Wildlife (ODFW), Oregon Parks and Recreation (PARKS), and Oregon Department of Environmental Quality (DEQ) to ascertain whether the proposed instream flows are necessary to support instream flow uses. Responses to the Department's request were only received from ODFW. However, the Districts submitted letters in support of the conservation project from DEQ and PARKS with the application.
38. The application meets the requirements of OAR 690-018-0040.

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

39. The proposed allocation of conserved water project will result in reduced diversions of the allowed uses under Certificates 94956 and 90177 pursuant to OAR 690-0018-0050(4)(a). (Findings of Fact #21 and #22).
40. On February 3, 2020, the District #11 Watermaster performed a review of the proposed Allocation of Conserved Water Project. The Watermaster determined the conservation project would not harm other water rights; therefore, no quantity of conserved water is needed to mitigate for harm to other water rights provided the conditions and limitations listed in Finding of Fact #34 are included. OAR 690-018-0050(4)(b) and (d).
41. Consumptive use of the seepage water conserved in the Deschutes River could result in a potential reduction to wintertime flows in the Lower Deschutes River.
  - a. The proposed allocation of conserved water will not harm existing out-of-stream or instream water rights in the Upper Deschutes (above Bend) or Middle Deschutes River (above Lake Billy Chinook) because the downstream return flows do not re-enter the Deschutes River above Lake Billy Chinook.
  - b. Out-of-stream rights in the Lower Deschutes (below Lake Billy Chinook) are not harmed since there is always sufficient flow for these rights. Instream flows in the Lower Deschutes are not harmed because the project will not result in any increase to consumptive use of water and because the new instream right created on the Crooked River by this project will result in greater instream flows from the authorized point of diversion to the mouth of the Deschutes River.
  - c. Some of the water which was previously diverted, and which will no longer be diverted, could have returned to the Lower Deschutes River outside of the irrigation season and could have slightly increased wintertime flows in the Lower Deschutes River. However, the diversion of water is not required and, therefore, the return flows are not required. Moreover, any potential reduction to wintertime return flows is more than offset by the new instream water right created by CW-115.

42. The Oregon Department of Environmental Quality has determined that the water quality in the lower Crooked River during the mid- to late summer months is severely degraded due to low flows and corresponding high temperatures. The Crooked River is 303(d) listed for temperature and other parameters. The new instream right created by this project will enhance streamflows in the lower Crooked River contributing to lower temperatures. Increasing mid- to late summer flows in the Crooked River will increase water quality in the lower Crooked River and in the Lower Deschutes River system. The increased water quality in the Deschutes River system as a whole will more than offset any potential reduction in attenuated return flows in the Lower Deschutes River.
43. The conservation project is consistent with the local comprehensive land use plan requirements established in OAR 690-005-0045. (Finding of Fact #31). OAR 690-018-0050(4)(c).
44. 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-115 under Certificate 94956 at POD 11 are as follows:

Certificate	Priority	Season	Rate (CFS)		Volume (AF)	
			Max. Rate	cfs/ac	AF/ac	Max. Duty
94956	10/31/1900	1	194.612	1/80	9.34*	160,989.8
	10/31/1900	2	265.554	1/60		
	10/31/1900	3	362.193	1/32.4		
	12/2/1907	3	145.080			
94956 Combined totals			507.273			

\* - Includes conveyance losses authorized by the Deschutes River Decree (Finding of Fact #21).

45. The new rate and duty of conserved Deschutes River water for out-of-stream use to be applied to 642.1 acres of land is as follows:

Originating Certificate	Priority	Season	Rate (CFS)	AF/AC	New Acres	Volume (AF)
94956	10/31/1900	1	2.025	2.5	642.1	1,605.20
	10/31/1900	2	2.700			
	10/31/1900	3	3.569			
	12/2/1907	3	1.430			
Combined Totals			4.999			

(Finding of Fact #27).

46. In consultation with ODFW and DEQ, the Department has determined that the water from the Crooked River is needed to support instream uses. (Findings of Fact #37 and #42), OAR 690-018-0050(4)(f).
47. Consistent with ORS 537.470(3), the Districts requests that 100% of water from the reduction in demand water from the Crooked River be converted to 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 #26 and #29), OAR 690-018-0050(4)(g).

48. Consistent with OAR 690-077-0015(8) and (10), the water allocated from the reduced demand in the Crooked River shall have a priority date of September 18, 1968, and shall be converted to an instream water right for maintenance and enhancement of aquatic habitat, fish, wildlife, wildlife habitat and other ecological values, and pollution abatement. The instream water right shall provide for the protection of flows in the Crooked River from the authorized point of diversion at:

**Source:** Crooked River, a tributary of the Deschutes River

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	13 E	WM	13	SW NE	590 FEET NORTH AND 2790 FEET EAST FROM THE WEST ¼ CORNER OF SECTION 13

to the mouth of Crooked River at River Mile 0.0, and shall be measured at OWRD Gauging Station #14087300. (Findings of Fact #29, #32, and #33). OAR 690-018-0050(4)(h).

49. To prevent enlargement, the rate to be protected instream will be reduced so the annual volume is not exceeded and to provide for protection during the season of April 1 through October 31. The rate for the instream water right shall be as follows:

Originating Certificate	Priority Date	Rate (CFS)	Volume (AF)
90177	9/18/1968	5.99	2,542.72

50. The instream right created shall replace a portion of any instream water rights established pursuant to ORS 537.341 or 537.346, and shall be in addition to any instream water rights established pursuant to ORS 537.348 or 537.470.
51. The instream right to be created by Allocation of Conserved Water Project CW-115 is consistent with the criteria for establishment of an instream right as outlined in OAR 690-077-0015. (Findings of Fact #32, #33, #37, and #46 through #50).
52. The proposed additional point of diversion (NUID'S Main Canal) for the use of the conserved water from the Deschutes River is consistent with ORS 537.470(5).
53. Pursuant to OAR 690-018-0050(4)(h), the area within which the Deschutes River conserved water may be use for out-of-stream purposes is designated in Finding of Fact #28.
54. The Deschutes River conserved water is being gifted or sold from COID to NUID. Therefore, the water shall become appurtenant to the land as designated in Finding of Fact #28. ORS 537.490(3).
55. Pursuant to OAR 690-018-0062, the Applicant notified the Department that the Allocation of Conserved Water Project is complete and requested finalization of the allocation as of June 30, 2020. (Finding of Fact #9 and #36). OAR 690-018-0050(4)(i).
56. The following conditions and limitations affecting Certificates 72281, 72282, 90177, 80937, and 88877 proposed by NUID mitigate for potential harm to existing rights and are acceptable to the Department:

- a. The North Unit Irrigation District (NUID) Water Accounting agreement dated July 12, 1996, recorded in Miscellaneous Records in Volume 9, Pages 225-226, as amended by CW-75 and CW-81, requires NUID to pump 9.61% of the total irrigation demand from the Crooked River. The Agreement shall be amended and pro-rated according to the quantities of water used after completion of this project. Upon approval and finalization of this project, NUID shall be required to pump 8.48% of the total irrigation demand from the Crooked River.
- b. North Unit Irrigation District and the Deschutes River Conservancy have agreed that the new instream right created by this Allocation of Conserved Water project will be in addition to historic minimum stream flows in the Crooked River as defined in the "Dry Year" "Non-Dry Year" agreement recorded in the Department's Miscellaneous Records in Volume 9, Pages 218-224, as amended by CW-75 and CW-81. The quantity of water that must be by-passed will be determined by the Department's District 11 Watermaster office. Prior to March 31 of each year, the District 11 Watermaster shall determine the quantity of water that must be by-passed in accordance with the "Dry Year" "Non-Dry Year" agreement described above.  
(Findings of Fact #34, #40, and #41), OAR 690-018-0050(4)(j).

#### **Determination and Proposed Action**

*The project described in Allocation of Conserved Water Application CW-115; is consistent with the criteria in ORS 537.455 to 537.500, and OAR Chapter 690, Divisions 018, 077, and 380. If protests are not filed pursuant to OAR 690-018-0050(b), the conserved water application will be approved.*

*If Allocation of Conserved Water Application CW-115 is approved, the Order will include the following:*

1. *The proposed changes will result in reduced diversions for the uses allowed under the original water rights. Findings of Fact #21, #22, #39, and #44.*
2. *The proposed allocation of conserved water, as conditioned by Finding of Fact #56, will not harm existing water rights. Findings of Fact #34 and #40.*
3. *The application is consistent with the requirements established in OAR 690-005-0045. Findings of Fact #31 and #43.*
4. *Consistent with ORS 537.470(3), the State's portion of the reduced demand water is necessary to support instream flow purposes in accordance with ORS 537.332 to 537.360. Findings of Fact #32, #33, #37, #42, and #46 through #54.*
5. *The conservation measures proposed in CW-115 are approved.*
6. *The proposed additional point of diversion, as described in FOF #28, for the use of Deschutes River conserved water is consistent with ORS 537.470(5) and OAR Chapter 690, Division 380, and is approved.*

7. The quantities of conserved and reduced demand water are allocated as follows:

Certificate	State's Portion			Applicant's Portion			Conserved Water		
	Percentage	Max. Rate (CFS)	Max. Duty (Volume) AF	Percentage	Max. Rate (CFS)	Max. Duty (Volume) AF	Percentage	Max. Rate (CFS)	Max. Duty (Volume) AF
94956	0	0	0	100	4.999	1,605.20	100	4.999	1,605.20

Certificate	State's Portion			Applicant's Portion			Reduced Demand Water		
	Percentage	Max. Rate (CFS)	Max. Duty (Volume) AF	Percentage	Max. Rate (CFS)	Max. Duty (Volume) AF	Percentage	Max. Rate (CFS)	Max. Duty (Volume) AF
90177	100	14.77	2,542.72	0	0	0	100	14.770	2,542.72

8. The right to the use of water is restricted to beneficial use at the unmodified places of use described in Certificates 94956 and 90177, and is subject to all other conditions and limitations contained in Certificates 94956 and 90177, and any related decree.

9. Water Right certificate 94956 is modified. The new rate and duty for POD #11 is as follows:

Certificate	Priority	Season	Rate (CFS)		Volume (AF)	
			Max. Rate	cfs/ac	AF/ac	Max. Duty
94956	10/31/1900	1	194.612	1/80	9.34	160,989.8
	10/31/1900	2	265.554	1/60		
	10/31/1900	3	362.193	1/32.4		
	12/2/1907	3	145.080			
94956 Combined totals			507.273			

10. Water Right Certificate 90177 is cancelled. A new superseding certificate will be issued for that portion of the right not affected by Allocation of Conserved Water CW-115 at the following rate and duty:

**Certificate:** 90177 in the name of NORTH UNIT IRRIGATION DISTRICT (perfected under Permit S-33954)

**Use:** IRRIGATION of 4368.5 ACRES, including inchoate irrigation acres, 5.0 ACRES EQUIVALENT for INDUSTRIAL USE, and SUPPLEMENTAL IRRIGATION of 37.3 ACRES.

**Priority Date:** SEPTEMBER 18, 1968

**Rate:** 102.67 CUBIC FEET PER SECOND, together with all other rights perfected under Permit S-33954 shall not exceed 103.54 cfs.

**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.97 acre-feet per acre for each acre irrigated during the irrigation season of each year, and is limited to a maximum annual volume of 17,489.53 acre feet. This right is subject to the terms and conditions of: 1) a stipulation between North Unit Irrigation District and the Oregon State Game Commission, recorded in the Miscellaneous Records of the Water Resources Department at Vol. 4, Page 2028; 2) the Interoffice Memo regarding North Unit Irrigation District Water Accounting dated July 12, 1996, recorded in Miscellaneous

Records of the Water Resources Department at Vol. 9, Pages 225-226, as modified by the Crooked River Minimum Flow Agreement, recorded in the Miscellaneous Records of the Water Resources Department at Vol. 9, Pages 218-224.

**Source:** CROOKED RIVER, tributary of the DESCHUTES RIVER

11. The acreage, rate, duty, and priority dates are subject to modification by any previously approved transfers, cancellations, corrections, allocations of conserved water, or other prior modification to the certificates. All other conditions and limitations of the existing water right shall be included in the superseding certificate.
12. Water right Certificates 72281, 72282, 90177, 80937, and 88877 shall be subject to the following conditions and limitations:
  - a. The North Unit Irrigation District (NUID) Water Accounting agreement dated July 12, 1996, recorded in Miscellaneous Records in Volume 9, Pages 225-226, as amended by CW-75 and CW-81, requires NUID to pump 9.61% of the total irrigation demand from the Crooked River. The Agreement shall be amended and pro-rated according to the quantities of water used after completion of this project. Upon approval and finalization of this project, NUID shall be required to pump 8.48% of the total irrigation demand from the Crooked River.
  - b. North Unit Irrigation District and the Deschutes River Conservancy have agreed that the new instream right created by this Allocation of Conserved Water project will be in addition to historic minimum stream flows in the Crooked River as defined in the "Dry Year" "Non-Dry Year" agreement recorded in the Department's Miscellaneous Records in Volume 9, Pages 218-224, as amended by CW-75 and CW-81. The quantity of water that must be by-passed will be determined by the Department's District 11 Watermaster office. Prior to March 31 of each year, the District 11 Watermaster shall determine the quantity of water that must be by-passed in accordance with the "Dry Year" "Non-Dry Year" agreement described above.
13. Approval and finalization of this Allocation of Conserved Water will result in conserved water from Certificate 94956 for use on lands previously served by Certificate 90177 as follows:

**Rate/Limit:**

Originating Certificate	Priority	Season	Rate (CFS)	AF/AC	New Acres	Volume (AF)
94956	10/31/1900	1	2.025	2.5	642.1	1,605.20
	10/31/1900	2	2.700			
	10/31/1900	3	3.569			
	12/2/1907	3	1.430			
Combined Totals			4.999			

**Source:** Deschutes River, tributary of the Columbia River



**Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Source/Measured Distances
17 S	12 E	WM	29	SE NE	COID NORTH CANAL: 850 FEET NORTH AND 630 FEET WEST FROM THE EAST ¼ CORNER OF SECTION 29
17 S	12 E	WM	29	SE NE	NUID MAIN CANAL: 1700 FEET SOUTH AND 730 FEET WEST FROM THE NE CORNER OF SECTION 29

**Place of Use:**

Twp	Range	Mer	Sec.	Qtr-Qtr	Tax Lot	Acres	Supplemental Information
							Tax Lot Map
9 S	13 E	WM	21	NE NW	200	20.60	0913210000200
9 S	13 E	WM	21	SE SW	200	0.40	0913210000200
9 S	13 E	WM	23	NE NE	203	0.40	0913230000203
9 S	13 E	WM	24	SW NW	200	13.40	0913240000200
9 S	13 E	WM	24	NW SW	200	18.00	0913240000200
9 S	13 E	WM	29	NE SE	100	21.50	0913290000100
9 S	14 E	WM	19	NW NW	3900	31.20	0914000003900
9 S	14 E	WM	29	SE SW	400	8.90	0914290000400
9 S	14 E	WM	29	SW SE	400	8.30	0914290000400
9 S	14 E	WM	31	NE NW	200	5.30	0914310000200
10 S	13 E	WM	1	SW NW	500	1.60	1013010000500
10 S	13 E	WM	1	SE NW	500	1.60	1013010000500
10 S	13 E	WM	28	SW NE	300	37.40	1013280000300
10 S	13 E	WM	28	SE NE	300	37.30	1013280000300
10 S	13 E	WM	28	NE NW	200	1.20	1013280000200
10 S	13 E	WM	28	NW NW	200	2.90	1013280000200
10 S	13 E	WM	29	NE NE	100	1.40	1013290000100
10 S	13 E	WM	29	SE NE	100	0.20	1013290000100
10 S	13 E	WM	29	NE SE	100	6.40	1013290000100
10 S	13 E	WM	29	NW SE	100	7.40	1013290000100
10 S	14 E	WM	8	SW NE	500	0.70	1014080000500
10 S	14 E	WM	8	SE NE	500	1.50	1014080000500
10 S	14 E	WM	20	NW NW	300	4.80	1014200000300
10 S	14 E	WM	20	SW NW	300	4.90	1014200000300
10 S	14 E	WM	20	NE SE	600	17.60	1014200000600
10 S	14 E	WM	20	SE SE	600	13.80	1014200000600
10 S	14 E	WM	28	SW SW	500	10.80	1014280000500
10 S	14 E	WM	28	SE SW	500	22.60	1014280000500
10 S	14 E	WM	31	SW NW	901	0.70	101431BC00901
10 S	14 E	WM	31	SE NW	700	0.80	101431BD00700
10 S	14 E	WM	31	NE SW	1800	2.20	101431C001800
10 S	14 E	WM	31	NE SW	2201	2.60	101431C002201
11 S	13 E	WM	14	SW NW	1900	0.30	111314BC01900

							Supplemental Information		
Twp	Range	Mer	Sec.	Qtr-Qtr	Tax Lot	Acres	Tax Lot Map		
11	S	13	E	WM	14	SE NW	402	0.50	111314BD00402
11	S	13	E	WM	15	NE SE	1100	1.90	1113150001100
11	S	13	E	WM	15	NW SE	1100	21.40	1113150001100
11	S	13	E	WM	24	SE SE	502	2.70	1113240000502
11	S	13	E	WM	25	NW NE	200	26.80	1113250000200
11	S	13	E	WM	25	NW SE	200	1.50	1113250000200
11	S	13	E	WM	28	NE NW	200	0.60	1113280000200
11	S	13	E	WM	31	NW NE	201	0.80	1113310000201
11	S	13	E	WM	31	NW NE	300	19.20	1113310000300
11	S	13	E	WM	31	NW SW	600	7.60	1113310000600
11	S	13	E	WM	31	SW SW	600	28.00	1113310000600
11	S	13	E	WM	34	SW NW	1100	0.40	1113340001100
11	S	13	E	WM	35	SW SW	300	23.80	1113350000300
11	S	14	E	WM	29	NW NW	1900	16.90	1114000001900
11	S	14	E	WM	32	SW NE	1800	4.80	1114000001800
11	S	14	E	WM	32	SE NE	1800	30.50	1114000001800
12	S	12	E	WM	12	SW NE	1301	0.30	1212120001301
12	S	12	E	WM	12	SE NE	900	10.50	1212120000900
12	S	12	E	WM	12	NW SE	1301	2.30	1212120001301
12	S	12	E	WM	12	SE SE	1500	1.80	1212120001500
12	S	12	E	WM	34	NE NE	100	36.00	1212340000100
12	S	12	E	WM	36	NE NW	200	13.80	1212360000200
12	S	12	E	WM	36	NW NW	200	36.00	1212360000200
12	S	13	E	WM	6	NE NW	200	1.60	1213060000200
12	S	13	E	WM	6	NW NW	200	0.30	1213060000200
12	S	13	E	WM	9	SW NE	302	0.10	1213090000302
12	S	13	E	WM	14	SW SW	800	18.60	1213140000800
12	S	13	E	WM	16	SW NE	500	5.00	1213160000500
12	S	13	E	WM	16	NE SW	500	3.80	1213160000500
12	S	13	E	WM	16	SE SW	700	6.30	1213160000700
12	S	13	E	WM	16	NW SE	500	2.00	1213160000500
12	S	13	E	WM	16	SW SE	700	7.60	1213160000700
						Total	642.10		

14. *The right for the use of conserved water shall be subject to all other conditions and limitations of the originating water right Certificate 94956, and any related decree.*
15. *The Districts shall maintain and operate the existing measurement device at the points of diversion on the Deschutes River and shall make such improvements as may be required by the Department.*

16. The Districts shall allow the Watermaster access to the meters or measuring devices. Where a meter is located within a private structure, the Watermaster shall be granted access upon reasonable notice.
17. Full beneficial use of the conserved water shall be made, consistent with the terms of this order, on or before **October 1, 2021**. A Claim of Beneficial Use shall be prepared and submitted by the Districts to the Department within one year after the deadline listed above.
18. Upon receipt of satisfactory proof of use, a new certificate will be issued in the name of North Unit Irrigation District, confirming the use of the conserved water on the new lands (642.1 acres) with the additional point of diversion (NUID Main Canal).
19. An instream water right certificate shall be issued for the Crooked River to provide for the conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values, and pollution abatement from the authorized point of diversion at approximately River Mile 27.5:

**Source:** Crooked River, tributary of the Deschutes River

**Authorized Point of Diversion:**

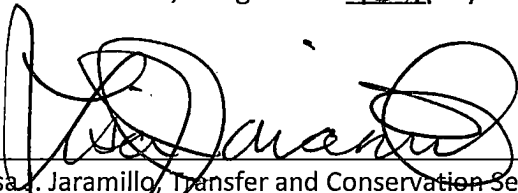
Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	13 E	WM	13	SW NE	590 FEET NORTH AND 2790 FEET EAST FROM THE WEST ¼ CORNER OF SECTION 13

to the mouth of Crooked River at River Mile 0.0 and shall be measured at OWRD Gauging Station #14087300.

Priority Date	Instream Period	Rate Instream	Volume Instream
9/18/1968	April 1 through October 31	5.99	2,542.72

The instream right created shall replace a portion of any instream water rights established pursuant to ORS 537.341 or 537.346 and shall be in addition to any instream water rights established pursuant to ORS 537.348 or 537.470.

Dated at Salem, Oregon this 15<sup>th</sup> day of October, 2020.



Lisa Jaramillo, Transfer and Conservation Section Manager, for  
THOMAS M. BYLER, DIRECTOR

Mailing Date: OCT 16 2020

This Preliminary Determination was prepared by Teri Hranac. If you have any questions regarding this document, you may reach me at 503-986-0881, or [teri.k.hranac@oregon.gov](mailto:teri.k.hranac@oregon.gov).

## 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).