

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

In the Matter of Allocation of Conserved) PRELIMINARY DETERMINATION
Water Application CW-134,) PROPOSING APPROVAL OF ALLOCATION OF
Jackson County) CONSERVED WATER CW-134

Applicants

James Sartorio
Marion Hadden
4035 Little Applegate Road
Jacksonville, OR 97530

Erin Volheim
4873 Little Applegate Road
Jacksonville, OR 97530

David Willard
4055 Little Applegate Road
Jacksonville, OR 97530

Samuel Baldoni
4025 Little Applegate Road
Jacksonville, OR 97530

Peter Salant
5288 Little Applegate Road
Jacksonville, OR 97530

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

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

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

1. On January 25, 2023, James Sartorio, Marion Hadden, Erin Volheim, David Willard, Samuel Baldoni, and Peter Salant filed an allocation of conserved water application under Certificate 86646. The Department assigned the application number CW-134.
2. The conservation project involves replacing a section of the Upper Phillips Ditch with an enclosed pipeline. Replacing an open earthen ditch with enclosed pipeline is a proven technology for conserving water.
3. Application CW-134 proposes a rate reduction of approximately 0.48 cubic foot per second (cfs) and proposes to reduce the annual volume by 204.7 acre-feet (AF).

Conserved Water Description										
Certificate	Certificate				Needed				Conserved Water	
	Rate		Duty		Rate		Duty		Rate	Duty
	Maximum CFS	CFS/AC	Maximum AF	AF/AC	Maximum CFS	CFS/AC	Maximum AF	AF/AC	Maximum CFS	Maximum AF
86646	0.96	0.025	407.5	10.6	0.48	0.0125	203.75	5.3	0.48	203.75

4. The portion of the right to be modified by CW-134 is as follows:

Certificate: 86646 in the name of A. S. KLEINHAMMER (confirmed by ROGUE RIVER (F) STATE WATER BOARD Decree)
Use: IRRIGATION of 38.4 ACRES
Priority Date: SEPTEMBER 1, 1857, for 0.96 cfs for irrigation of 38.4 acres
Rate: 0.96 CUBIC FOOT PER SECOND
Source: LITTLE APPLGATE RIVER, a tributary to the APPLGATE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
39 S	2 W	WM	29	NE NW

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
39 S	2 W	WM	19	SW NW	209	1.5
39 S	2 W	WM	19	SE NW	207	3.1
39 S	2 W	WM	19	SE NW	209	2.8
39 S	2 W	WM	19	SE NW	210	1.5
39 S	2 W	WM	19	NE SW	207	0.2
39 S	2 W	WM	19	NE SW	210	4.0
39 S	2 W	WM	19	NE SW	1000	1.5
39 S	2 W	WM	19	NE SE	900	1.0
39 S	2 W	WM	19	NW SE	1000	1.5
39 S	2 W	WM	19	SE SE	900	12.7
39 S	2 W	WM	20	SW SW	201	7.9
39 S	2 W	WM	29	NW NW	300	0.7
Total						38.4

5. The Department has received information from the applicant that better describes the authorized point of diversion under Certificate 86646, as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
39 S	2 W	WM	29	NE NW	UPPER PHILLIPS DITCH: Latitude: 42.1540 Longitude: -122.9636

6. Certificate 86646 does not list a period of use; therefore, pursuant to Rogue River (F) State Water Board Decree, the irrigation season of use is April 1 through October 31.
7. 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 right is subject to forfeiture under ORS 540.610.
8. A diversion structure and ditch 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.

9. The Applicant requests that the conserved water be allocated as follows:

Certificate	State's Portion			Applicant's Portion			Conserved Water		
	Percentage	Maximum Rate (CFS)	Max. Duty (Volume) AF	Percentage	Maximum Rate (CFS)	Max. Duty (Volume) AF	Percentage	Maximum Rate (CFS)	Max. Duty (Volume) AF
86646	75%	0.36	152.81	25%	0.12	50.94	100%	0.48	203.75

10. The Applicant proposes that its portion of the conserved water be allocated for an out-of-stream use within Township 39 South, Range 2 West and Range 3 West, W.M.
11. The Applicant requests that the priority date for any conserved water be the one minute junior to the originating right.
12. The applicant received state and federal funds for approximately 95% of the projected cost of this conservation project.
13. The Applicant submitted a completed Land Use Form from Jackson County that indicated the proposed use was allowed outright or is not regulated by Jackson County's comprehensive plan.
14. The Applicant anticipates implementation of the conservation measures to occur on or before March 1, 2024.
15. The Applicant proposes 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.
16. The Applicant requested the Department protect the new instream water right created from the conserved water under Certificate 86646 from the authorized point of diversion to the mouth of the Little Applegate River.
17. The Applicant requested the deadline for submitting the Notice of Completion of March 1, 2024. The Applicant will submit a Request for Finalization of the allocation on or before March 1, 2025.
18. The application meets the requirements of OAR 690-018-0040.
19. 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. ESA listed fish, sensitive species, and other game fish may be present in the Little Applegate River during the period of impact when instream flows are not being met. The Department has determined the proposed instream flows are necessary to support instream flow uses. Instream Water Right Certificate 75996 exists in the stream reach where the proposed instream water right is to be protected and may not always be met. The public benefit or use for the proposed instream water right is for the same instream flow purposes.

The priority date of Certificate 75996 is December 7, 1990. Replacing a portion of Certificate 75996 with an earlier priority date supports the public benefits.

20. Notice of the proposed conservation project was published in the Department’s weekly notice on March 7, 2023, and in the Grants Pass Daily Courier newspaper on March 2 and 9, 2023, as required under OAR 690-018-0050(1)(a) and (2). No comments were filed in response to the notices.

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

21. 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).
22. On February 22, 2023, the District #13 Watermaster performed a review of the proposed Allocation of Conserved Water Project. The Watermaster determined that 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. OAR 690-018-0050(4)(b) and (d).
23. The conservation project is consistent with the local comprehensive land use plan requirements established in OAR 690-005-0045. OAR 690-018-0050(4)(c). (Finding of Fact #13).
24. 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-134 under Certificate 86646 are as follows:

Certificate	Rate		Duty	
	Maximum CFS	CFS/AC	Maximum AF	AF/AC
52029	0.48	0.0125	203.75	5.3

(Finding of Fact #3).

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

Priority Date	Maximum Rate (cfs)	Maximum Duty (Volume) (AF)
September 1, 1857, <i>plus one minute</i>	0.36	152.81

(Finding of Fact #9).

26. As required by OAR 690-018-0050(4)(f), the Department has determined that the instream right created will support public benefits. (Finding of Fact #19).

27. Pursuant to ORS 537.470(3) and OAR 690-018-0050(4)(g), the amount of water allocated to the Applicant does need to be adjusted because the Applicant received funding for approximately 95% of the project. (Finding of Fact #12). The rate and volume allocated to the Applicant is as follows:

Priority Date	Maximum Rate	Maximum Duty (Volume)
September 1, 1857, <i>plus one minute</i>	0.12 cfs	50.94 AF

(Findings of Fact #9 and #12).

28. The new instream water right created will be protected in the Little Applegate River from the authorized point of diversion as described in Finding of Fact #5, at approximately River Mile (RM) 6.0 to the mouth located at RM 0. OAR 690-018-0050(4)(h); OAR 690-077-0015(8).
29. The instream right shall allow the use and protection of flows as follows:

Source: Little Applegate River, a tributary to the Applegate River

Priority Date	Period	Rate (cfs)	Volume (AF)
September 1, 1857, <i>plus one minute</i>	April 1 through October 31	0.36	152.81

From the authorized point of diversion at approximately River Mile (RM) 6.0:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	2 W	WM	29	NE NW	UPPER PHILLIPS DITCH: Latitude: 42.1540 Longitude: -122.9636

To: the mouth at RM 0.0, at the confluence with the Applegate River

30. 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).
31. The protection of flows within the proposed reach is appropriate, considering:
- The instream water use begins at the recorded point of diversion;
 - The location of confluences with other streams downstream of the point of diversion.
 - There are no known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
 - Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.
- OAR 690-077-0015(8).
32. There is an existing instream water right Certificate 75996, with a priority date of December 7, 1990, within the same reach as that proposed for the new instream water right under this transfer application. This instream water right was established by an application for instream water right (IS-70982) filed by the ODFW to provide instream flows for various life stages of Coho, fall chinook salmon, summer and winter steelhead, and cutthroat trout.

The quantities that may be protected instream under this right are less than the quantities requested in the instream water right application filed by the ODFW. In addition, the instream rates approved for Certificate 75996 are not always met.

Instream Rate in CFS	April	May*	June	July	Aug.	Sept.*	Oct.*
Rate Requested	85.0	85.0/50.0	50.0	33.0	33.0	33.0/50.0	50.0/85.0
Rate Approved	75.9	73.2/50.0	50.0	14.6	2.01	1.51	11.5

*The rate requested and/or approved for instream use is broken down by half month with the first rate listed being for the first half of the month and the second rate for the second half of the month.

33. Instream water rights established by instream transfers or allocation of conserved water may be additive to other instream water rights and/or replace a portion of existing instream water rights with an earlier priority date. The combination of instream water rights for the same reach may not exceed the quantity needed to provide increased public benefit (OAR 690-077-0015(11)).
34. ODFW has indicated that providing for additional instream flows and protecting water instream up to the amounts requested by ODFW in Instream Water Right Application IS-70982 (see Finding of Fact No. 33), will provide a beneficial purpose for various life stages of Coho and Fall Chinook salmon, summer and winter steelhead and cutthroat trout. Additionally, Coho are listed as threatened under the Endangered Species Act.
35. The quantity of water protected instream under the existing instream water rights currently exceeds the estimated average natural flows in August and September. By rule, the quantity of water that may be protected instream cannot exceed the estimated average natural flows unless certain criteria are met. OAR 690-077-0015(4) and (5).
36. The Department has determined that the estimated average natural flows may be exceeded under OAR 690-077-0015(4) and (5) due to the following:
 - a. The quantity to be protected instream in August and September, together with other instream water rights within the same reach, will not exceed the amounts requested in the original instream water right application (IS-70982) filed by the ODFW (see Finding of Fact Nos. 33 and 35) and;
 - b. The water right proposed to be protected to instream use is within an ODFW flow restoration priority watershed.
 - c. ODFW has indicated that exceeding the estimated average natural flows within the proposed reach, up to the amounts requested by ODFW in application IS-70982, are significant for the applied for public use, specifically for Coho and Fall Chinook salmon, summer and winter steelhead and cutthroat trout for migration, spawning, egg incubation, fry emergence and juvenile rearing.

37. The existing instream water rights established pursuant to ORS 537.341 (minimum flow conversion) or ORS 537.336 (state agency process), within the proposed reach on the Little Applegate River are sufficient to protect the monthly quantities of water necessary for supporting aquatic life and anadromous and resident fish habitat, but are not always met. By replacing a portion of these instream water rights, any instream water right created as a result of this allocation will provide protection of stream flows identified as necessary for supporting aquatic life and anadromous and resident fish habitat under an earlier priority date.
38. 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 reach, 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).
39. The areas within which the conserved water is proposed to be used for out-of-stream uses are within Township 39 South, Range 2 West and Range 3 West, W.M. (Finding of Fact #10). OAR 690-018-0050(4)(h).
40. The deadline for submitting a Notice of Completion is March 1, 2024. The deadline for submitting a Request for Finalization is March 1, 2025. (Finding of Fact #17). OAR 690-018-0050(4)(i).
41. No other conditions or limitations are needed to prevent or mitigate for harm to existing water rights. (Finding of Fact #22). OAR 690-018-0050(4)(j).

Determination and Proposed Action

The project described in Allocation of Conserved Water Application CW-134, is consistent with the criteria in ORS 537.455 to 537.500, and OAR Chapter 690, Divisions 018 and 077. If protests are not filed pursuant to OAR 690-018-0050(6), the conserved water application will be approved.

If Allocation of Conserved Water Application CW-134 is approved, the Order Approving will include the following:

1. *The proposed change will result in a reduced diversion for the uses allowed under the original water right. Findings of Fact #3 and #21.*
2. *The proposed allocation of conserved water will not harm existing water rights. Finding of Fact #22 and #41.*
3. *The application is consistent with the requirements established in OAR 690-005-0045. Finding of Fact #13 and 23.*
4. *The changes proposed in CW-134 are approved.*

5. The quantities of water conserved and allocated are as follows:

Certificate	State's Portion			Applicant's Portion			Conserved Water		
	Percentage	Maximum Rate (CFS)	Max. Duty (Volume) AF	Percentage	Maximum Rate (CFS)	Max. Duty (Volume) AF	Percentage	Maximum Rate (CFS)	Max. Duty (Volume) AF
86646	75%	0.36	152.81	25%	0.12	50.94	100%	0.48	203.75

6. The right to the use of the water is restricted to beneficial use at the places of use described and is subject to all other conditions and limitations contained in Certificate 86646 and any related decree.

Upon filing the Notice of Completion:

7. Water Right Certificate 86646 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 38.4 ACRES

Priority Date: SEPTEMBER 1, 1857

Rate: 0.48 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water used for irrigation shall be limited to ONE-EIGHTIETH (1/80) 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 5.3 acre-feet per acre and an annual volume limitation of 203.75 acre-feet per year.

Source: LITTLE APPLGATE RIVER, a tributary to the APPLGATE RIVER

8. Water use measurement conditions:

- a. The water user shall maintain the meters or measuring devices in good working order.
- b. 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.

9. All conserved water, both the Applicant's portion and the State's portion shall be managed instream until a Request for Finalization is submitted as follows:

Priority Date	Period	Rate (cfs)	Volume (acre-feet)
September 1, 1857, plus one minute	April 1 through October 31	0.48	203.75

Little Applegate River, a tributary to the Applegate River

From the authorized point of diversion at approximately River Mile (RM) 6.0:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	2 W	WM	29	NE NW	UPPER PHILLIPS DITCH: Latitude: 42.1540 Longitude: -122.9636

To: the mouth of the Little Applegate River at RM 0.0, at the confluence with Applegate River

Upon Filing the Request for Finalization:

10. The project is complete, and no additional time is needed for finalization.
11. A portion of the Applicant's portion of conserved water (0.019 cfs, 8.1 AF) shall be used and managed instream until a Notice of Use or Disposition is received pursuant to ORS 537.490 and OAR 690-019-0090. The water shall be managed instream as follows:

Source: Little Applegate River, a tributary to the Applegate River

Priority Date	Period	Rate (cfs)	Volume (acre-feet)
September 1, 1857, plus one minute	April 1 through October 31	0.019	8.1

From: The authorized point of diversion at approximately River Mile (RM) 6.0:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	2 W	WM	29	NE NW	UPPER PHILLIPS DITCH: Latitude: 42.1540 Longitude: -122.9636

To: The mouth of the Little Applegate River at RM 0.0, at the confluence with Applegate River

12. The remainder of the Applicant's portion of conserved water shall be used as described below, until a subsequent Notice of Use or Disposition is received pursuant to ORS 537.490 and OAR 690-019-0090.

Use: IRRIGATION of 8.025 ACRES

Priority Date: SEPTEMBER 1, 1857, plus one minute

Rate: 0.1 CUBIC FOOT PER SECOND (CFS)

Limit: The amount of water used for irrigation shall be limited to ONE-EIGHTIETH (1/80) 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 5.3 acre-feet per acre and an annual volume limitation of 42.84 acre-feet per year.

Source: LITTLE APPLGATE RIVER, a tributary to the APPLGATE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	2 W	WM	29	NE NW	UPPER PHILLIPS DITCH: Latitude: 42.1540 Longitude: -122.9636

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Tax Lot	Acres
39 S	2 W	WM	19		3.425
39 S	2 W	WM	19	210	1.375
39 S	2 W	WM	19	209	1.050
39 S	2 W	WM	20		2.000
39 S	2 W	WM	29		0.175
Total					8.025

13. The areas within which the Applicant's portion of conserved water may be used for out-of-stream uses are within Township 39 South, Range 2 West, and Range 3 West, W.M.
14. 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 as follows:

Priority Date	Period	Rate (cfs)	Volume (acre-feet)
September 1, 1857, plus one minute	April 1 through October 31	0.36	152.81

Little Applegate River: From the authorized point of diversion under Certificate 86646 located at approximately RM 6.0:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	2 W	WM	29	NE NW	UPPER PHILLIPS DITCH: Latitude: 42.1540 Longitude: -122.9636

To the mouth at River Mile 0.0.

Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original points of diversion. Stream channel losses and gains calculated based on available data and the use of water by senior appropriators will determine the amount of water to which this right is entitled downstream from the original point of diversion within the specified stream reach.

The instream right established by this allocation shall replace a portion of instream water rights established pursuant to ORS 537.341 OR 537.346 and be in addition to instream water rights established pursuant to ORS 537.348 or 537.470 unless otherwise specified in an order approving a new instream water right under these statutes.

Dated at Salem, Oregon JUN 08 2023

 Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
 DOUGLAS E. WOODCOCK, ACTING DIRECTOR
 Oregon Water Resources Department

Mailing Date: JUN 09 2023

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).

If a protest is withdrawn, or any party to a hearing notifies the Department or the administrative law judge that the party will not appear, or if the party fails to appear at a scheduled hearing, the Director may issue a final order by default. If the Director issues a Final Order by default, the Department designates the relevant portions of its files on this matter, including all materials that parties have submitted relating to this matter, as the record for purpose of proving a *prima facie* case upon default.

Any party may be represented by an attorney at the hearing. Legal aid organizations may be able to assist a party with limited financial resources. Generally, partnerships, corporations, associations, governmental subdivisions, or public or private organizations are represented by an attorney. However, consistent with OAR 690-002-0020 and OAR 690-137-0555, an agency representative may represent partnerships, corporations, associations, governmental subdivisions or public or private organization if the Department determines that appearance of a person by an

authorized representative will not hinder the orderly and timely development of the record in this case.

Notice Regarding Service Members: Active-duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number for the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>.

Protests should be addressed to the attention of Allocation of Conserved Water Program, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.