



State of Oregon
Water Resources Department
 725 Summer Street NE, Suite A
 Salem, Oregon 97301-1266
 (503) 986-0900

Application for Allocation and Use of Conserved Water

Please type or print in dark ink. If your application is found to be incomplete, inaccurate or does not include the required fees, we will return it to you. If any requested information does not apply to your application, insert "n/a." If you need additional space to answer any of the questions, attach a separate sheet of writing paper and reference the section number and question. A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/OWRD/PUBS/forms.shtml.

1. APPLICANT INFORMATION

Name: JB Land, LLC, Superior Farms
 Address: P. O. Box 130, Hermiston, Oregon 97838
 Phone(s): 541 571 1043
 *Fax: _____ *E-Mail address: _____

*Optional information

2. AGENT INFORMATION

The agent listed is authorized to represent the applicant in all matters relating to this allocation of conserved water application.

Name: Bill Porfily
 Address: P. O. Box 643, Stanfield, Oregon 97875
 Phone(s): 541 561 7259
 *Fax: 541 449 1327 *E-Mail address: bporfily@my180.net

*Optional information

3. IRRIGATION & WATER CONTROL DISTRICTS

Is the project within the boundaries of an irrigation district or water control district?

Yes No

If yes, include Exhibit E and list the name and mailing address of the district:

Did an irrigation district organized under ORS Chapter 545 or a water control district organized under ORS Chapter 553 file this allocation of conserved water?

Yes No

If yes, when was the District's OAR 690-018-0025 allocation of conserved water policy adopted? _____

4. CURRENT WATER RIGHT INFORMATION

A separate page providing the information in **Section 4** must be completed for **each** certificate, permit, decree, or other right involved in the proposed allocation of conserved water.

Water Right Subject to Transfer (check and complete **one** of the following):

<input checked="" type="checkbox"/> Certificated Right	<u>80773 & 85285</u> Certificate Number	<u>36169 for both certificates</u> Permit Number or Decree Name
<input type="checkbox"/> Adjudicated, Un-certificated Right	_____ Name of Decree	_____ Page Number
<input type="checkbox"/> Permit for which Proof has been Approved	_____ Permit Number	_____ Date Claim of Beneficial Use Submitted
<input type="checkbox"/> Transferred Right for which Proof has been Filed	_____ Previous Transfer Number	_____ Date Claim of Beneficial Use Submitted

Name on Permit, Certificate, or Decree:

Certificate 80773, Robert W. Bradshaw;
Certificate 85285, JB Land, LLC

County:

Certificate 80773, Umatilla County
Certificate 85285, Umatilla County

Provide the following information about the water right of record:

1. Priority Date:
Certificate 80773, March 13, 1972;
Certificate 85285, March 13, 1972

2. Source of Water:
Certificate 80773, Columbia River;
Certificate 85285, Columbia River

3. Type of Use:
Certificate 80773, Irrigation of 946.2 acres;
Certificate 85285, Irrigation of 97.3 acres

Does the application have a water right involving more than one water right holder?

Yes No

If yes, are all water right holders applying for this allocation of conserved water?

Yes No. If no, see Exhibit J.

A) What is the maximum rate and annual duty (volume) of water that may be diverted as stated on the water right of record? *(If the water right is only limited by rate, do not list a duty, and conversely, if the water is only limited by duty, do not list a rate.)*

1. Rate* (cfs):
Certificate 80773 19.34 cfs for 946.2 acres (0.0204 cfs/acre);
Certificate 85285 1.99 cfs for 97.3 acres (0.0205 cfs/acre);

Note: 1 miner's inch = 1/40 cfs; 1 cfs = 448.8 gpm

2. Duty* (acre feet):
Certificate 80773 4.5 ac ft per acre for 946.2 acres = 4257.90 ac ft per year;
Certificate 85285 4.5 ac ft per acre for 97.3 acres = 437.85 ac ft per year;
Total Duty for both certificates: 4.5 ac ft per acre for 1043.50 acres = 4695.75 ac ft per year

Note: 1 cfs = 1.983471 ac-ft/day

* If there are multiple **Priority Dates** on the water right, list the rate and duty by priority date.

B) What is the maximum amount of water that can be diverted using the pre-project facilities?
(If the water right is only limited by rate, do not list a duty, and conversely, if the water is only limited by duty, do not list a rate.)

1. Rate (cfs):

Certificate 80773 21.33 cfs*

Certificate 85285 21.33 cfs*

* This is the pre-project facilities flow at the diversion point (19.34 cfs + 1.99 cfs).

2. Duty (acre feet):

Certificate 80773 4.5 ac ft per acre for 946.2 acres = 4257.90 ac ft per year;

Certificate 85285 4.5 ac ft per acre for 97.3 acres = 437.85 ac ft per year;

Total Duty for both certificates:

4.5 ac ft per acre for 1043.5 acres = 4695.75 ac ft per year

C) Describe the pre-project water delivery system. Include information on the diversion structure, pumps, and conveyance facilities (including canals, pipelines and sprinklers used to divert, convey and apply the water at the authorized place of use). *Provide sufficient detail to confirm that the applicant is ready, willing, and able to exercise the right.*

The distribution system consists of a river pumping station located on the south bank of the Columbia River. There are three river pumps, 1 – 250 hp, 1- 500 hp, and 1- 900 hp. From the river pumping station water is pumped southerly approximately 6100 feet through a 24” penstock to the northwesterly boundary line of the farm. From this point the buried main pipe distribution system continues in a southwesterly direction approximately 14,000 feet. Mainline pipe sizes vary from 24” to 12”. There are 10”, 8”, 6”, and 4” buried lateral (branch) pipelines. The lateral pipelines are connected to the main distribution pipeline. They deliver water to circle irrigation machines and irregular shaped parcels between circles. The irregular shaped parcels are irrigated with hand lines.

5. CONSERVATION MEASURES

A) Describe the type of project, check all that apply:

On-Farm efficiency project

Distribution project, such as a ditch piping or lining project

Other, Installation of a variable speed drive pump.

B) Describe the proposed changes to the physical system, operations and application methods that will result in the conservation of water. If these proposed changes will change the point of diversion, see point of diversion requirement for Exhibit B. *Provide sufficient detail for public noticing the project.*

The conservation measures taken consist of modifying the center pivot circle irrigation machines to operate at lower pressures and reduced flows. This is accomplished by installation of state of the art new low pressure low flow spray nozzles. Along with modification of the spray nozzles a variable speed pump was installed at the river pumping station to assist in operating the distribution system in a manner that allows the pumps to more closely match the system flow requirements.

- C) Place of Use*: See Supplemental Attachment A for Certificate 80773 and Supplemental Attachment A for Certificate 85285. The acres of Certificate 80773 and Certificate 85285 involved in this Conserved Water Application are 868.3 acres and 97.3 acres respectively. The sum of the two is 965.6 acres.

Township	Range	Section	Quarter/Quarter	Total No. Acres
* Not required for a distribution project that does not propose to affect the on-farm rate or duty. If the entire water right is being affected, just state "entire right affected."				

6. CONSERVED WATER

- A) What amount of water will be needed for the existing, authorized use after implementing conservation measures? *(If the water right is only limited by rate, do not list a duty, and conversely, if the water is only limited by duty, do not list a rate.)*

1. Rate* (cfs):

Certificate 80773 14.51 cfs (0.0167 cfs/acre)*;

Certificate 85285 1.63 cfs (0.0167 cfs/acre);

Total Rate for both certificates 16.14 cfs

* accounts for 53.7 acres of Cert 80773 being forfeited as part of the conserved water application process and 24.2 acres of Cert 80773 not involved in this Conserved Water Application.

2. Duty* (acre feet):

Certificate 80773 3.0 ac ft per acre for 868.3 acres = 2604.9 ac ft per year*;

Certificate 85285 3.0 ac ft per acre for 97.3 acres = 291.9 ac ft per year;

Total Duty for both certificates: 3.0 ac ft per acre for 965.6 acres = 2896.8 ac ft per year

* accounts for 53.7 acres of Cert 80773 being forfeited as part of the conserved water application process and 24.2 acres of Cert 80773 not involved in this Conserved Water Application.

** If there are multiple **Priority Dates** on the water right, list the rate and duty by priority date.*

- B) What amount of water will be conserved as a result of the implementation of the conservation measures? Subtract 6A from the smaller of 4A or 4B under "irrigation system" above.

1. Rate* (cfs):

Certificate 80773 3.24 cfs*;

Certificate 85285 0.37 cfs;

Total Rate for both certificates 3.61 cfs

* accounts for 53.7 acres of Cert 80773 being forfeited as part of the conserved water application process and 24.2 acres of Cert 80773 not involved in this Conserved Water Application.

2. Duty* (acre feet):

Certificate 80773 1.5 ac ft per acre for 868.3 acres = 1302.45 ac ft per year*;

Certificate 85285 1.5 ac ft per acre for 97.3 acres = 145.95 ac ft per year;

Total Duty for both certificates: 1.5 ac ft per acre for 967.1 acres = 1448.40 ac ft per year

* accounts for 53.7 acres of Cert 80773 being forfeited as part of the conserved water application process and 24.2 acres of Cert 80773 not involved in this Conserved Water Application.

** If there are multiple **Priority Dates** on the water right, list the rate and duty by priority date.*

- C) What portions of the conserved water will be allocated to the state and applicant?
1. Portion going to the state (list by percent, rate and duty):

<u>25</u> Percent	<u>0.90</u> Rate (cfs)	<u>362.10</u> Duty (AF)
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 2. Portion going to the applicant (list by percent, rate and duty):

<u>75</u> Percent	<u>2.71</u> Rate (cfs)	<u>1086.30</u> Duty (AF)
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- D) The priority for the conserved water is requested to be:
- The same as the original right, or
- One minute junior to the original right.
- E) If all or part of the applicants' portion of the conserved water is to be used for an out-of-stream use at an identified location:
1. Name and address of the person using the water: JB Land, LCC - Superior Farms, P. O. Box 130, Hermiston, Oregon 97838
 2. Description of the type of beneficial use of the water: Irrigation
 3. Legal description of the place of use: A portion of the applicant's share of the conserved water associated with Certificate 80773 will be used on portions of Sections 24, 25, & 26 T5N, R29E WM and a portion of Section 30 T5N, R30E WM. Refer to the Exhibit B - JB Land, LLC -Superior Farms Conserved Water Application Map. A listing of the acreage being proposed as a new place of use is included with the Supplemental Attachment A for Certificate 80773. The total acreage identified for allocation of a portion of the conserved water is 2.4 acres. This 2.4 acres will use 0.04 cfs (rate) and 7.2 acre feet (duty) of the applicant's portion of the conserved water. At this time none of the applicant's share of the conserved water associated with Certificate 85285 is planned to be used for and out-of-stream use.
- F) If all or part of the applicants' portion of the conserved water is to be leased*, dedicated or temporarily reserved instream, a statement identifying the quantity of water to be managed as an instream water right: A portion of the applicant's share of conserved water associated with Certificate 80773 and all of the applicant's share of the conserved water associated with Certificate 85285 is to be temporarily reserved instream . The proposed rate and duty of the conserved water to be temporarily reserved instream is 2.39 cfs and 969.64 acre feet for Certificate 80773 and 0.28 cfs and 109.46 acre feet for Certificate 85285. The total proposed rate and duty of the applicant's share of the conserved water to be temporarily reserved instream is 2.06 cfs and 1079.10 acre feet respectively.
- * Water can be temporarily protected instream without filing an OAR 690-077 Instream Lease application.*

7. LOCATION OF PROPOSED USE

- A) For new out-of-stream uses, describe the boundaries of the expected area within which the diversion structures and places of use of the applicants' conserved water right would be located. This is land other than that to which this water right is appurtenant. See Exhibit B. A portion of the conserved water will be used for irrigating 2.4 acres of farmland in portions of Sections 24, 25 & 26 T5N, R29E WM and a portion of Section 30 T5N, R30E, WM. The existing Point of Diversion will be used for the new land. Refer to the Exhibit B - JB Land, LLC -Superior Farms Conserved Water Application Map. A listing of the acreage being proposed as the new place of use is included with the Supplemental Attachment A for

Certificate 80773. The proposed rate and duty for the new acreage is 0.04 cfs and 7.2 acre feet respectively.

- B) For instream uses, to the extent possible, identify the stream reach(es) for which the state's portion of the conserved water should be managed under an instream water right. Be as explicit as possible, by giving river miles, or other identifying information that might be included in the instream certificate.

This is the same for both certificates. Both certificates have the same point of diversion. From the Point of Diversion , located in the SE1/4 SW1/4 of Section 7, T5N, R30E, WM, 460 feet North and 1680 feet East from the SW Corner of Section 7, to the confluence of the Columbia River with the Pacific Ocean.

- C) Describe the proposed benefit to instream uses.
 for instream use for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values.
 other, please describe:

8. MITIGATION

- A) Describe any expected effects on other water rights from the proposed allocation of conserved water. Identify what currently happens to the water that is proposed to be conserved.

Prior to the applicant installing the conservation measures the conserved water was withdrawn from the Columbia River and used to irrigate the farmland. Since installation of the conservation measures the owner has determined that the crops he is growing can be successfully grown with less irrigation water than the water right allows. The conservation measures have reduced the quantity and rate of withdrawal from the Columbia River. The conserved water is presently left instream.

- B) Describe any mitigation or other measures that are planned to avoid harm to other water rights.

The project is not expected to result in any harm to other water rights. Mitigation will include 25% of the conserved water being allocated to instream uses.

9. FUNDING

If more than 25% of the conserved water is proposed to be allocated to the applicant then provide Exhibit C and identify what portion of project funds (expressed as a percentage) come from federal or state public sources that are not subject to repayment. All of the cost of the conservation measures will paid for by the landowner. No funding will come from the state or federal sources.

Does the Oregon Watershed Enhancement Board (OWEB) have a contractual interest in this project?

Yes No

If yes, what is the OWEB project number? NA

10. PROJECT SCHEDULE

If project is not yet complete:

Proposed date construction has/will begin: _____

Proposed date construction will be completed and notice of project completion will be filed: _____

Proposed date the project will be finalized: _____

If project is already complete:

Date it was implemented: _____

JB Land, LLC - Superior Farms as been field testing various water conservation strategies since late in 2003. Promising strategies have continually been modified to improve them . The conserved water strategies that allow the water conservation identified in this application were fully implemented and operational at the end of the 2009 irrigation season.

_____ (Provide Exhibit K)

The applicant requests:

That the allocation be finalized, or

Additional time be granted to prove that the project worked to the applicant's satisfaction before finalizing the allocation of conserved water. Indicate the amount of time desired _____ (up to five years after completion of the project may be allocated).

11. ACKNOWLEDGMENT OF FORFEITURE

Complete this if the Certified Water Right Examiner's map shows less acreage has been irrigated over the past five years than allowed under the right.

I am aware that of Certificate 80773 53.7 acre(s) have not been irrigated for the last five years and I am abandoning that portion of the water right and make no further claim for the water. I ask that this 53.7 acre(s) portion of the right be permanently canceled.

12. EXHIBITS

Check each of the following attachments included with this application. All attachments are required unless otherwise noted. The application will be returned if all required attachments are not included.

Exhibit (Form) A – Evidence of Use Affidavits

- Provide if 1) it is an on-farm efficiency project, or 2) specific acreage is being affected by the project. Consult with Department staff regarding the evidence needed for distribution projects. At least one Evidence of Use Affidavit documenting that the right has been used during the last five years or that the right is not subject to forfeiture under ORS 540.610 is attached. The affidavit provided must be the original, not a copy. The form is available at http://www1.wrd.state.or.us/pdfs/Supplemental_Form_B.pdf.

Exhibit B – Map

- Provide if the entire water right is not part of the conservation project and/or new lands shall receive water. Consult with Department staff if there is any question regarding the need for submittal. See OAR 690-018-0040(17) and 690-018-0062(3)(a).

Exhibit C - Project Funding Description

- Provide if more than 25% of water goes to applicant. See OAR 690-018-0040(18).

Exhibit D – Identification and Resolution of Water Right Conflicts

- Provide if construction has begun or been completed and if more than 25% of the project costs have been expended prior to filing this application. See OAR 690-018-0040(19).

Exhibit E – Letter of Approval from the Irrigation District

- Provide if project is located within boundaries of an irrigation district and the district is not the applicant. See OAR 690-018-0040(20).

Exhibit F – District Conserved Water Policy

- Provide if applicant is an Irrigation District or Water Control District. See OAR 690-018-0040(21) & 690-018-0025.

Exhibit G - Land Use Information Form

- See OAR 690-018-0040(22). The land use form is available at: <http://www1.wrd.state.or.us/pdfs/landuseform.pdf>

Exhibit H - Ownership & Lien Information

- Provide if application involves:
- on-farm efficiency project, and/or
 - distribution project affecting specified lands. Provide a report of ownership and lien information or a current recorded deed to the subject lands.

Exhibit I – Support Letters from ODFW, DEQ and OPRD

- Letters from ODFW, DEQ, and OPRD indicating that they have been consulted and indicating that at least one of the agencies attests that conserved water is needed to support instream uses. See OAR 690-018-0050(4)(f).

Exhibit J –Water Right Clarification & Notification of Affected Persons

- Provide if the application involves water rights for
- lands under multiple ownerships and not all of the water right holders are applicants, and the project is not being submitted by a District as a distribution project and/or
 - which the current final proof survey maps for lands involved in the application do not adequately describe the location of the place of use or the associated priority dates of the associated water rights

Consult with Department staff if there is any question regarding the need for submittal.

Exhibit K –Evidence that the Project was Implemented Within 5 Years.

- Provide if project was completed before application submittal. See OAR 690-018-0040(12)(a).

Fees:

- Amount enclosed: \$ 1450.00
See OAR 690-018-0040(25) and the Department's Fee Schedule at www.wrd.state.or.us/OWRD/PUBS/forms.shtml#fees or call (503) 986-0900.

Additional Information

The complete OAR Chapter 690, Division 018 Allocation of Conserved Water rules are available at: http://arcweb.sos.state.or.us/rules/OARS_600/OAR_690/690_018.html

690-018-0040

Application Requirements (Excerpt)

Applicants for allocation of conserved water shall provide to the Department the information described in this rule in substantially the same order as listed. The information shall include:

(12) For a project that has already been completed:

(a) Evidence that the measure was implemented within five years prior to the date of filing the application; and

(b) The date on which the applicant intends to request that the allocation be finalized pursuant to OAR 690-018-0062(3).

(17) A map with sufficient detail to locate and describe the facilities and areas affected by the conservation measures;

(18) Identification of any federal or state public sources of project funds and, if federal or state public funds that are not subject to repayment will be used in the project, information showing the estimated project costs and anticipated sources of funds for the project including:

(a) The total cost for project engineering and construction;

(b) The present value of any incremental changes in the costs of operations and maintenance that are directly attributable to the project that would not be incurred or realized in the absence of the project;

(c) The amount of funding and the value of any in-kind contributions for project engineering and construction and for any incremental changes in the costs of operations and maintenance to be provided from federal or state public funds that are not subject to repayment; and

(d) The amount of funding and the value of any in-kind contributions for project engineering and construction and for any incremental change since costs of operations and maintenance to be provided from other funds.

(19) If construction of the project has begun or been completed and if more than 25 percent of the project costs have been expended before applying for allocation of conserved water, evidence that the applicant has attempted to identify and resolve the concerns of water right holders in the area, governmental entities, or other organizations who have asked to be consulted regarding the allocation of conserved water;

(20) A letter showing irrigation district or water control district approval if the conservation project is within the boundaries of the district;

(21) For applications submitted by irrigation districts or water controls districts, evidence of an adopted policy consistent with the requirements of OAR 690-018-0025.

(22) Land use information outlined in the Department's Land Use Planning Procedures Guide; and

(23) Other information the Department or Commission deems necessary and appropriate to aid in the evaluation of the application.

(24) The appropriate fee as required under ORS 536.050.

(25) The Director shall waive the application fee based on the percent of conserved water allocated to the state for instream use, not to exceed 50 percent of the application fee, if the instream allocation is:

(a) To establish an instream water right pursuant to ORS 537.348;

(b) Necessary to complete a project funded by the Oregon Watershed Enhancement Board under ORS 541.375; or

(c) Determined and endorsed in writing by Oregon Department of Fish and Wildlife as a change that will result in a net benefit to fish and wildlife habitat.

690-018-0050

Processing a Conservation Application (Excerpt)

(4) The Department shall review the application and consider any comments received under section (3) of this rule to determine:

(f) In consultation with the Departments of Fish and Wildlife, Environmental Quality and Parks and Recreation, if conserved water is needed to support instream uses;

690-018-0062

Completion of Conservation Project (Excerpt)

(3) Prior to the expiration of the time allowed under OAR 690-018-0050(4)(i), the applicant may request that an allocation of conserved water be finalized. The request shall include:

(a) If all or part of the applicants' portion of the conserved water is to be used for an out-of-stream use at an identified location, the following information:

- (A) The name and address of the person using the water;
- (B) A description of the type of beneficial use of the water;
- (C) A legal description of the place of use; and
- (D) A map that meets the standards in OAR 690-310-0050 and

(b) If all or part of the applicants' portion of the conserved water is to be leased, dedicated or temporarily reserved instream, a statement identifying the quantity of water to be managed as an instream water right.

Exhibit B – Application Map

The application map shall include:

- a. Township, range, section, $\frac{1}{4}$ $\frac{1}{4}$, a north arrow, and a standard scale such as 1 inch = 400 feet or 1 inch = 1,320.
- b. Location of existing and new point of diversion, if applicable, with coordinates referenced to a recognized survey corner.
- c. For on-farm conservation involving only a portion of the place of use, the location of the lands to be affected by the project with acres described by $\frac{1}{4}$ $\frac{1}{4}$.
- d. Location of lands on which applicant's portion of conserved water is to be used if other than those currently authorized with acres described by $\frac{1}{4}$ $\frac{1}{4}$.

If the applicant is requesting that the project be finalized upon approval of this application, then the applicant must complete a map consistent with OAR 690-310-0050 as identified in OAR 690-018-0062.

Exhibit J – Water Right Clarification and Evidence of Notification of Effected Persons

If the application:

- 1) Involves rights for lands under more than one ownership and not all of the owners are applicants; and/or
- 2) The final proof survey maps on file with the Department for any quarter-quarter section in which lands involved in the application are located do not adequately describe the location of the place of use or the associated priority dates of the associated water rights, the Department may require the following additional information:

- A list of the name and address of each landowner whose lands the Department concludes may be included in the portion of the water right proposed for allocation of conserved water and written proof of service of a copy of the application on those landowners and a map delineating the location, acreage, priority dates, and ownership of the subject water right; and
- Other information sufficient to establish that no portion of the right to be conserved is held by persons other than those proposing the conservation project and, for rights with multiple priority dates, the priority dates for the right to be transferred are consistent with the decree or other document establishing the right.

(The applicant should consult with Department staff if there is any question regarding the need for submittal of Exhibit J.)