

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

In the Matter of Allocation of Conserved     ) FINAL ORDER ON FINALIZATION OF  
Water Application CW-126,                     ) ALLOCATION OF CONSERVED WATER  
Umatilla County                             ) CW-126

**Applicant:**

Grimmway Enterprises, Inc.  
Attn: Matt Vickery  
PO Box 81498  
Bakersfield, CA 93380

**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.

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

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 November 30, 2021, Grimmway Enterprises, Inc., Attn: Matt Vickery filed an allocation of conserved water application under Certificate 53731. The Department assigned the application number CW-126.
2. The conservation project involved conversion to low pressure low flow spray nozzles on the center pivots.
3. On April 19, 2022, Grimmway Enterprises, Inc., Attn: Matt Vickery submitted a Notice of Completion.
4. On January 20, 2023, the Department issued a Final Order on Completion of Allocation of Conserved Water CW-126 (Completion Order), recorded at Special Order Volume 127, Pages 253-268: The Completion Order confirmed the following quantities of conserved water:

Originating Certificate	State’s Portion			Applicant’s Portion			Conserved Water		
	Percentage	Maximum Rate (CFS)	Maximum Duty (Volume) AF	Percentage	Maximum Rate (CFS)	Maximum Duty (Volume) AF	Percentage	Maximum Rate (CFS)	Maximum Duty (Volume) AF
53731	25%	3.04	593.62	75%	9.11	1,780.88	100%	12.15	2,374.5

- The Completion Order established the reduced rates and duties for the existing uses under Certificate 53731 as follows:

Originating Certificate	Priority	Rate		Duty		Acres
		Maximum CFS	CFS/AC	Maximum AF	AF/AC	
53731	April 2, 1973	38.04	0.0178	8,310.75	3.5	2,374.5

- The Approval Order established the priority dates for the conserved water to be one minute junior to the originating right.
- The Approval Order established the following areas the Applicant's portion of conserved water may be used for out-of-stream uses as follows:

Twp	Range	Twp	Range	Twp	Range	Twp	Range	Twp	Range	Twp	Range
1N*	23E*	2N*	23E*	3N*	23E*	4N*	23E*	5N	25E	6N	30E
1N	24E	2N	24E	3N	24E	4N	24E	5N	26E	6N	31E
1N	25E	2N	26E	3N	26E	4N	25E	5N	27E		
1N	26E	2N	27E	3N	27E	4N	26E	5N	28E		
1N	27E	2N	28E	3N	28E	4N	27E	5N	29E		
1N	28E	2N	29E	3N	29E	4N	28E	5N	30E		
1N	29E	2N	30E	3N	30E	4N	29E	5N	31E		
1N	30E	2N	31E	3N	31E	4N	30E				
1N	31E					4N	31E				

\*Only the portion located within the Columbia Umatilla Plateau sub-basin

- The Completion Order established a deadline of March 1, 2023, for the Request for Finalization form to be submitted.
- On February 28, 2023, the Applicant submitted a Request for Finalization.

### Conclusions of Law

The Findings of Fact and Conclusions of Law set forth in the Final Order on Completion of Allocation of Conserved Water CW-126, recorded at Special Order Volume 127, Pages 253 to 268, are incorporated as if set forth fully herein. The project described in Allocation of Conserved Water Application CW-126, is consistent with the criteria in ORS 537.455 to 537.500, and OAR Chapter 690, Divisions 018 and 077.

### Now, therefore, it is ORDERED:

- The project is complete, and no additional time is needed for finalization.
- The Applicant's portion of conserved water 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 in the Columbia River, at the authorized point of diversion located at approximately River Mile 287.4:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
5 N	27 E	WM	13	NW SW	4	AMSTAD PUMP STATION - 2270 FEET NORTH AND 940 FEET EAST FROM THE SW CORNER OF SECTION 13, T5N, R27E

The rate and period of the Applicant's portion of conserved water to be managed instream is being adjusted to be consistent with the Division 33 mitigation requirements:

Priority Date	Originating Certificate	Period	Rate (cfs)	Volume (acre-feet)
April 2, 1973, plus one minute	53731	April 15 through September 30	5.313	1780.88

2. Water Right Certificate 53731 is cancelled. A new certificate will be issued for that portion of Certificate 53731 not affected by CW-126. A superseding Certificate will be issued for the existing use and place of use at the reduced rate and duty as follows:

**Use:** IRRIGATION of 2374.5 ACRES  
**Priority Date:** APRIL 2, 1973  
**Rate:** 38.04 CUBIC FEET PER SECOND  
**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-SIXTY-SECOND (1/62) 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 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year, and is further limited to an annual volume limitation of 8310.75 acre-feet per year.  
**Source:** COLUMBIA RIVER, a tributary of PACIFIC OCEAN

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
5 N	27 E	WM	13	NW SW	4	AMSTAD PUMP STATION - 2270 FEET NORTH AND 940 FEET EAST FROM THE SW CORNER OF SECTION 13, T5N, R27E

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 N	27 E	WM	25	NE NE	30.0
5 N	27 E	WM	25	NW NE	34.0
5 N	27 E	WM	25	SW NE	39.2
5 N	27 E	WM	25	SE NE	32.4
5 N	27 E	WM	25	NE NW	30.7
5 N	27 E	WM	25	NW NW	32.4
5 N	27 E	WM	25	SW NW	33.6
5 N	27 E	WM	25	SE NW	38.4
5 N	27 E	WM	25	NE SW	38.2

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 N	27 E	WM	25	NW SW	32.8
5 N	27 E	WM	25	SW SW	32.4
5 N	27 E	WM	25	SE SW	30.8
5 N	27 E	WM	25	NE SE	22.8
5 N	27 E	WM	25	NW SE	39.5
5 N	27 E	WM	25	SW SE	27.2
5 N	27 E	WM	25	SE SE	17.6
5 N	27 E	WM	27	NE NE	14.0
5 N	27 E	WM	27	NW NE	11.5
5 N	27 E	WM	27	SW NE	37.6
5 N	27 E	WM	27	SE NE	39.8
5 N	27 E	WM	27	SW NW	28.3
5 N	27 E	WM	27	SE NW	33.2
5 N	27 E	WM	27	NE SW	37.4
5 N	27 E	WM	27	NW SW	33.6
5 N	27 E	WM	27	SW SW	1.8
5 N	27 E	WM	27	SE SW	6.7
5 N	27 E	WM	27	NE SE	16.7
5 N	27 E	WM	27	NW SE	34.2
5 N	27 E	WM	27	SW SE	38.0
5 N	27 E	WM	27	SE SE	8.9
5 N	27 E	WM	35	NE NE	32.8
5 N	27 E	WM	35	NW NE	32.5
5 N	27 E	WM	35	SW NE	32.0
5 N	27 E	WM	35	SE NE	32.8
5 N	27 E	WM	35	NE NW	31.7
5 N	27 E	WM	35	NW NW	32.0
5 N	27 E	WM	35	SW NW	32.0
5 N	27 E	WM	35	SE NW	32.0
5 N	27 E	WM	36	NE NW	16.4
5 N	27 E	WM	36	NW NW	35.6
5 N	27 E	WM	36	SW NW	20.0
5 N	27 E	WM	36	SE NW	9.1
5 N	28 E	WM	19	NW NE	30.0
5 N	28 E	WM	19	SW NE	25.5
5 N	28 E	WM	19	SE NE	19.6
5 N	28 E	WM	19	NE NW	32.0
5 N	28 E	WM	19	NW NW	32.4
5 N	28 E	WM	19	SW NW	21.4
5 N	28 E	WM	19	SE NW	17.3
5 N	28 E	WM	19	NE SW	38.4
5 N	28 E	WM	19	NW SW	33.2
5 N	28 E	WM	19	SW SW	24.8
5 N	28 E	WM	19	SE SW	28.8
5 N	28 E	WM	19	NE SE	37.3
5 N	28 E	WM	19	NW SE	38.9
5 N	28 E	WM	19	SW SE	8.5
5 N	28 E	WM	19	SE SE	7.9

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 N	28 E	WM	29	NW SW	32.0
5 N	28 E	WM	29	SW SW	32.0
5 N	28 E	WM	30	NE NE	16.5
5 N	28 E	WM	30	NW NE	31.6
5 N	28 E	WM	30	SW NE	14.4
5 N	28 E	WM	30	SE NE	4.2
5 N	28 E	WM	30	NE NW	38.0
5 N	28 E	WM	30	NW NW	36.4
5 N	28 E	WM	30	SW NW	39.5
5 N	28 E	WM	30	SE NW	39.9
5 N	28 E	WM	30	NE SW	31.6
5 N	28 E	WM	30	NW SW	9.0
5 N	28 E	WM	30	SW SW	36.0
5 N	28 E	WM	30	SE SW	34.8
5 N	28 E	WM	30	NE SE	32.4
5 N	28 E	WM	30	NW SE	35.6
5 N	28 E	WM	30	SW SE	37.6
5 N	28 E	WM	30	SE SE	32.4
5 N	28 E	WM	31	NE NE	26.8
5 N	28 E	WM	31	NW NE	37.8
5 N	28 E	WM	31	SW NE	38.4
5 N	28 E	WM	31	SE NE	31.6
5 N	28 E	WM	31	NE NW	28.5
5 N	28 E	WM	31	SE NW	30.9
5 N	28 E	WM	32	NW NW	26.4
5 N	28 E	WM	32	SW NW	31.6
Total					2374.5

3. Water use measurement conditions:

- a. Before the use of the Applicant's portion of conserved water, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion.
- b. The water user shall maintain the meters or measuring devices in good working order.
- c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

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


Priority Date	Originating Certificate	Period	Rate (cfs)	Volume (acre-feet)
April 2, 1973, <i>plus one minute</i>	53731	March 1 through October 31	1.217	593.62

Columbia River: At the authorized point of diversion under Certificate 53731, located at approximately River Mile 287.4:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
5 N	27 E	WM	13	NW SW	4	AMSTAD PUMP STATION - 2270 FEET NORTH AND 940 FEET EAST FROM THE SW CORNER OF SECTION 13, T5N, R27E

The instream right established by this allocation of conserved water shall replace a portion of instream water rights established pursuant to ORS 537.341 or 537.346 and shall be in addition to instream water rights established pursuant to ORS 537.348 or 537.470 unless otherwise specified by a subsequent order establishing a new instream water right.

Dated at Salem, Oregon: APR 12 2023

  
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Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
DOUGLAS E. WOODCOCK, ACTING DIRECTOR  
OREGON WATER RESOURCES DEPARTMENT

Mailing date: APR 13 2023