

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

In the Matter of the Allocation of Conserved        )    ORDER FINALIZING ALLOCATION  
Water Application CW-53 for Certificate            )    OF CONSERVED WATER CW-53  
81340, Hood River County                         )

**Authority**

ORS 537.455 to 537.500 as amended by 2003 HB 2456, authorize and establish the process in which a water right holder may submit a request for an allocation of conserved water. OAR Chapter 690, Division 018 implements the statutes and provides the Department’s procedures and criteria for evaluating allocation of conserved water applications.

**Applicant**

East Fork Irrigation District  
P.O. Box 162  
Odell, Oregon 97044

**Agent**

Attn: Jeffrey Key  
The Fresh Water Trust  
65 SW Yamhill Street, Suite 200  
Portland, Oregon 97204

**Findings of Fact**

1. On August 23, 2007 East Fork Irrigation District (EFID) filed an application for allocation of conserved water. The Department assigned the application number CW-53.
2. On April 10, 2008 the Department issued Special Order Volume 74, Page 489 (Pages 489 through 495 inclusive), approving Allocation of Conserved Water Application CW-53.
3. On December 18, 2009 John R. Buckley, the District Manager for East Fork Irrigation District, notified the Department that the conservation project was complete and had performed as expected. Mr. Buckley requested the Department to finalize Allocation of Conserved Water Application CW-53 and reserve the District’s portion of the conserved water instream until a permanent place of use is determined.

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

**Now, therefore, it is ORDERED:**

Consistent with Special Order Volume 74, Page 489 (pages 489 through 495 inclusive), the Department takes the following actions:

1. Certificate 81340 shall be modified. A new superseding certificate shall be issued to East Fork Irrigation District for the remaining portion of Certificate 81340 upon a determination that it is necessary to produce a certificate to confirm that remaining portion of the water right. Approval of this allocation of conserved water reduces the amount of water lawfully available under the remaining portion of Certificate 81340 as described below:

Priority Date	Rate (cfs)	Maximum Duty (AF)
11/25/1895	2.10	703.93

The acreage, rate, duty and priority dates are subject to modification by any previously approved transfers, cancellations, corrections, allocation of conserved water or other prior modification to Certificate 81340. The associated priority date and rate of the remaining right shall be approximately:

Priority Date	Rate (cfs)	Maximum Duty (AF)
11/25/1895	104.45	24,875.63

The maximum per acre rate of the acres affected by this allocation of conserved water, described below, remains 1/80 cfs per acre.

2. The applicant's conserved water may be used to irrigate a maximum of 81.34 acres of new land located either within the EFID boundaries or within Sections 13, 24, 25, and 36 of Township 2 North, Range 10 East, W.M., and Sections 18, 19, 30 and 31 of Township 2 North, Range 11 East, W.M., that are served by the point of diversion for Certificate 81340, being:

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	10 E	WM	4	NW SW	3750 FEET SOUTH AND 430 FEET EAST FROM THE NW CORNER OF SECTION 4

The associated priority date and rate and duty shall be:

Priority Date	Rate (cfs)	Maximum Duty (AF)
11/25/1895	1.02	341.91

3. The conserved water held by EFID shall be reserved instream until a permanent place of use is determined. This water will be protected in Hood River from the authorized point of diversion for Certificate 81340 at:

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	10 E	WM	4	NW SW	3750 FEET SOUTH AND 430 FEET EAST FROM THE NW CORNER OF SECTION 4

to the mouth of the Hood River, at River Mile 0.0.

The rights shall allow for the use and protection of flows from April 15 through September 30, and at other times when East Fork Irrigation District, or its successor(s), is diverting water.

4. Once a permanent place of use is determined for the applicant's share of the conserved water, East Fork Irrigation District shall submit a statement consistent with OAR 690-018-0062 (3)(a) that identifies:
  - 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.

Prior to water being used at the new location, approval must be obtained from the Department. Once water has been used at the new location and the applicant notifies the Department that the respective right has become appurtenant to the specified lands and provides satisfactory proof, the Department shall issue a certificate for the use of water at the identified location.

When required by the Department, the water user shall install and maintain a head gate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the head gate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

All other conditions and limitations of the existing water right, Certificate 81340, and any related decree shall be included in the new certificate.

If the permanent place of use is to be the same location as to where the water is being temporarily reserved instream, then the East Fork Irrigation District need only submit a statement requesting that the instream place of use be made permanent.

5. Instream Water Right Certificate 86005 shall be issued for the State's portion of the conserved water for the purposes of conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values in the Hood River from the authorized point of diversion for Certificate 81340 at:

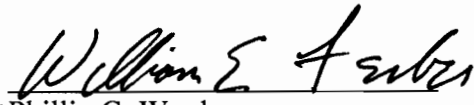
**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	10 E	WM	4	NW SW	3750 FEET SOUTH AND 430 FEET EAST FROM THE NW CORNER OF SECTION 4

to the mouth of the Hood River, at River Mile 0.0.

The instream water right shall be for a total of 1.08 cfs, with a November 25, 1895 priority date, and shall replace a portion of 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, unless otherwise specified by a subsequent order establishing a new instream water right. The rights shall allow for the use and protection of flows from April 15 through September 30, and at other times when East Fork Irrigation District, or its successor(s), is diverting water.

Dated at Salem, Oregon this 30<sup>th</sup> day of December, 2009.

  
Phillip C. Ward  
Director

Date of Mailing: JAN 0 4 2010