

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

In the Matter of Allocation of Conserved )  
Water Application CW-119, )  
Morrow County ) ORDER APPROVING USE AND DISPOSITION  
OF THE APPLICANT'S PORTION OF  
CONSERVED WATER

**Applicant**

Farmland Reserve, Inc.  
PO Box 2308  
Pasco, WA 99302

**Applicable Law**

ORS 537.455 to 537.500 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 18, implements the statutes and provides the Department's procedures and criteria for evaluating conserved water applications and for implementing the use of the conserved water.

Pursuant to ORS 537.470(3), the Department determined the allocation of conserved water under Conserved Water Application CW-64. Any person or agency allocated conserved water under ORS 537.470 may reserve the water instream for future out-of-stream use or otherwise use or dispose of the conserved water. Any person or agency to whom conserved water is allocated shall notify the Commission of any change in the type of use, place of use, or point of diversion. The notice must be submitted 60 days before the actual the change.

The Director shall approve a change in the type of use, place of use, or point of diversion for conserved water, if: 1) the proposed new use is within the area described under OAR 690-018-0050(4)(h); 2) the proposed change would not constitute an expansion of the right; and c) the approval is consistent with OAR 690-005-0045 (Standards for Goal Compliance and Compatibility with Acknowledged Comprehensive Plans).

**Findings of Fact**

1. On April 15, 2021, an Order of Approval on Completion and Finalization of Allocation of Conserved Water CW-119 (Approval Order) was issued. The Approval Order is recorded at Special Order Volume 120, Pages 166 - 185.

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, 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.

2. The Approval Order identified the proposed areas for the Applicant's portion of conserved water to be used for out-of-stream uses as follows:

| Twp | Range | Twp | Range | Twp | Range | Twp | Range | Twp | Range | Twp | Range |
|-----|-------|-----|-------|-----|-------|-----|-------|-----|-------|-----|-------|
| 1N  | 22E   | 2N  | 22E   | 3N  | 22E   | 4N  | 22E   | 5N  | 25E   | 6N  | 30E   |
| 1N  | 23E   | 2N  | 23E   | 3N  | 23E   | 4N  | 23E   | 5N  | 26E   | 6N  | 31E   |
| 1N  | 24E   | 2N  | 24E   | 3N  | 24E   | 4N  | 24E   | 5N  | 27E   |     |       |
| 1N  | 25E   | 2N  | 26E   | 3N  | 26E   | 4N  | 25E   | 5N  | 28E   |     |       |
| 1N  | 26E   | 2N  | 27E   | 3N  | 27E   | 4N  | 26E   | 5N  | 29E   |     |       |
| 1N  | 27E   | 2N  | 28E   | 3N  | 28E   | 4N  | 27E   | 5N  | 30E   |     |       |
| 1N  | 28E   | 2N  | 29E   | 3N  | 29E   | 4N  | 28E   | 5N  | 31E   |     |       |
| 1N  | 29E   | 2N  | 30E   | 3N  | 30E   | 4N  | 29E   |     |       |     |       |
| 1N  | 30E   | 2N  | 31E   | 3N  | 31E   | 4N  | 30E   |     |       |     |       |
| 1N  | 31E   |     |       |     |       | 4N  | 31E   |     |       |     |       |

3. The Approval Order allocated the Applicant's portion of conserved water as follows:

| Certificate | Priority Date                         | Maximum Rate (cfs) | Maximum Duty (Volume) (AF) |
|-------------|---------------------------------------|--------------------|----------------------------|
| 95154       | July 25, 1973, <i>plus one minute</i> | 19.06              | 4,598.84                   |
| 95155       | June 29, 1973, <i>plus one minute</i> | 44.94              | 5,604.41                   |
| Totals      |                                       | 64.00              | 10,203.25                  |

4. The Approval Order specified the Applicant's portion of conserved water would be managed instream for future out-of-stream use until a 60-Day Notice of Use or Disposition is received pursuant to ORS 537.490 and OAR 690-019-0090.
5. On December 30, 2021, the Applicant submitted a 60-Day Notice of Use and Disposition requesting the Applicants' Portion of Conserved Water under application CW-119 to be applied to its lands as follows:

| Applicant's Portion of Conserved Water |            |              |                  | Irrigation Use on 998.70 Acres |                 | Reserved Instream for Future Out-of-Stream Use |                 |
|--|------------|--------------|------------------|--------------------------------|-----------------|--|-----------------|
| Orig. Certificate                      | Priority   | Rate (cfs)   | Volume (AF)      | Rate (cfs)                     | Volume (AF)     | Rate (cfs)                                     | Volume (AF)     |
| 95154                                  | 7/25/1973* | 19.06        | 4,598.84         | 9.73                           | 1,471.99        | 9.33   | 3,126.85        |
| 95155                                  | 6/29/1973* | 44.94        | 5,604.41         | 33.57                          | 1,793.85        | 11.37  | 3,810.56        |
| <b>Totals</b>                          |            | <b>64.00</b> | <b>10,203.25</b> | <b>43.30</b>                   | <b>3,265.84</b> | <b>20.70</b>                                   | <b>6,937.41</b> |

\*plus one minute

**Originating Certificate:** 95154  
**Person/Entity Using the Water:** Farmland Reserve, Inc.  
**Use:** IRRIGATION of 483.45 ACRES  
**Priority Date:** JULY 25, 1973, *plus one minute*  
**Rate:** 9.73 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, is limited to a

diversion of ONE SIXTIETH (1/60) of one cubic foot per second per acre, 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 with an annual volume limitation of 1471.99 acre feet.

**Source:** COLUMBIA RIVER, tributary to the PACIFIC OCEAN.

**Authorized Point of Diversion:**

| Twp | Rng  | Mer | Sec | Q-Q   | GLot | Measured Distances  |
|-----|------|-----|-----|-------|------|---|
| 4 N | 25 E | WM  | 2   | NE NW | 7    | COLUMBIA RIVER PUMP STATION: SOUTH 86 DEGREES 22 MINUTES 46 SECONDS WEST, 2829 FEET FROM THE NE CORNER OF SECTION 2 |

**Place of Use:**

| Twp | Rng  | Sec | Qtr | Qtr | GLot | Tax Lot | Acres | Type of Use |
|-----|------|-----|-----|-----|------|---------|-------|-------------|
| 2 N | 27 E | 1   | NE  | NE  |      | 500     | 1.02  | Irrigation  |
| 2 N | 27 E | 1   | SE  | NE  |      | 500     | 0.57  | Irrigation  |
| 2 N | 28 E | 6   | NE  | NW  | 3    | 1000    | 34.32 | Irrigation  |
| 2 N | 28 E | 6   | NW  | NW  | 4    | 300     | 11.93 | Irrigation  |
| 2 N | 28 E | 6   | SW  | NW  | 5    | 1000    | 21.36 | Irrigation  |
| 2 N | 28 E | 6   | SE  | NW  |      | 1000    | 16.83 | Irrigation  |
| 2 N | 28 E | 7   | SE  | NE  |      | 1400    | 3.38  | Irrigation  |
| 3 N | 28 E | 31  | SW  | SW  |      | 300     | 0.84  | Irrigation  |
| 3 N | 28 E | 31  | SE  | SW  |      | 300     | 4.99  | Irrigation  |
| 3 N | 29 E | 1   | SW  | NE  |      | 100     | 4.90  | Irrigation  |
| 3 N | 29 E | 1   | SE  | NE  |      | 100     | 0.81  | Irrigation  |
| 3 N | 29 E | 1   | NE  | SE  |      | 100     | 9.43  | Irrigation  |
| 3 N | 29 E | 1   | NW  | SE  |      | 100     | 3.08  | Irrigation  |
| 3 N | 29 E | 1   | SW  | SE  |      | 100     | 3.59  | Irrigation  |
| 3 N | 29 E | 13  | NE  | NE  |      | 3700    | 25.85 | Irrigation  |
| 3 N | 29 E | 13  | NW  | NE  |      | 3700    | 26.52 | Irrigation  |
| 3 N | 29 E | 13  | SW  | NE  |      | 3700    | 33.29 | Irrigation  |
| 3 N | 29 E | 13  | SE  | NE  |      | 3700    | 32.87 | Irrigation  |
| 3 N | 29 E | 13  | NE  | SE  |      | 3700    | 27.55 | Irrigation  |
| 3 N | 29 E | 13  | NW  | SE  |      | 3700    | 28.91 | Irrigation  |
| 3 N | 29 E | 14  | NE  | NE  |      | 3900    | 29.93 | Irrigation  |
| 3 N | 29 E | 14  | NW  | NE  |      | 3900    | 29.67 | Irrigation  |
| 3 N | 29 E | 14  | SW  | NE  |      | 3900    | 32.41 | Irrigation  |
| 3 N | 29 E | 14  | SE  | NE  |      | 3900    | 32.71 | Irrigation  |
| 3 N | 29 E | 14  | NE  | SE  |      | 3900    | 0.23  | Irrigation  |
| 3 N | 29 E | 14  | NW  | SE  |      | 3900    | 0.22  | Irrigation  |
| 3 N | 29 E | 24  | NE  | NW  |      | 4000    | 3.45  | Irrigation  |
| 3 N | 29 E | 24  | NW  | NW  |      | 4000    | 3.00  | Irrigation  |
| 3 N | 29 E | 24  | SW  | NW  |      | 4000    | 0.21  | Irrigation  |

| Twp   | Rng | Sec | Qtr | Qtr | GLot  | Tax Lot | Acres  | Type of Use |
|-------|-----|-----|-----|-----|-------|---------|--------|-------------|
| 3     | N   | 29  | E   | 24  | SE NW | 4000    | 0.24   | Irrigation  |
| 3     | N   | 30  | E   | 10  | SW SE | 1400    | 0.51   | Irrigation  |
| 3     | N   | 30  | E   | 10  | SE SE | 1400    | 0.36   | Irrigation  |
| 3     | N   | 30  | E   | 14  | NE NW | 1700    | 29.11  | Irrigation  |
| 3     | N   | 30  | E   | 14  | NW NW | 1700    | 29.36  | Irrigation  |
| Total |     |     |     |     |       |         | 483.45 |             |

**Originating Certificate:** 95155

**Person/Entity Using the Water:** Farmland Reserve, Inc.

**Use:** IRRIGATION of 515.25 ACRES

**Priority Date:** JUNE 29, 1973, *plus one minute*

**Rate:** 33.57 CUBIC FEET PER SECOND, if available at the original point of diversion: Lot 7 (NE NW, Section 2, T 4 N, R 25 E. W.M.; South 86 Degrees 22 Minutes 46 Seconds West, 2811 Feet from the NE Corner of Section 2)

**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-SIXTIETH (1/60) of one cubic foot per second per acre, 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 with an annual volume limitation of 1793.85 acre feet.

**Source:** COLUMBIA River, tributary to the PACIFIC OCEAN

**Authorized Point of Diversion:**

| Twp | Rng  | Mer | Sec | Q-Q   | GLot | Measured Distances  |
|-----|------|-----|-----|-------|------|---|
| 4 N | 25 E | WM  | 2   | NE NW | 7    | COLUMBIA RIVER PUMP STATION: SOUTH 86 DEGREES 22 MINUTES 46 SECONDS WEST, 2829 FEET FROM THE NE CORNER OF SECTION 2 |

**Authorized Place of Use:**

| Twp | Rng | Sec | Qtr | Qtr | TaxLot | G Lot | Acres | Type of Use |
|-----|-----|-----|-----|-----|--------|-------|-------|-------------|
| 3   | N   | 30  | E   | 14  | SW NW  | 1700  | 30.23 | Irrigation  |
| 3   | N   | 30  | E   | 14  | SE NW  | 1700  | 31.17 | Irrigation  |
| 3   | N   | 30  | E   | 14  | NE SW  | 1601  | 10.78 | Irrigation  |
| 3   | N   | 30  | E   | 14  | NW SW  | 1600  | 13.62 | Irrigation  |
| 3   | N   | 30  | E   | 14  | SW SW  | 1601  | 39.68 | Irrigation  |
| 3   | N   | 30  | E   | 14  | SE SW  | 1601  | 36.35 | Irrigation  |
| 3   | N   | 30  | E   | 15  | NE NE  | 1601  | 32.28 | Irrigation  |
| 3   | N   | 30  | E   | 15  | NW NE  | 1500  | 34.16 | Irrigation  |
| 3   | N   | 30  | E   | 15  | SW NE  | 1500  | 32.08 | Irrigation  |
| 3   | N   | 30  | E   | 15  | SE NE  | 1601  | 30.89 | Irrigation  |
| 3   | N   | 30  | E   | 15  | NE NW  | 1500  | 27.19 | Irrigation  |
| 3   | N   | 30  | E   | 15  | NW NW  | 1500  | 28.19 | Irrigation  |

| Twp   | Rng | Sec | Qtr | Qtr | TaxLot | G Lot | Acres  | Type of Use |
|-------|-----|-----|-----|-----|--------|-------|--------|-------------|
| 3     | N   | 30  | E   | 15  | SW NW  | 1500  | 29.24  | Irrigation  |
| 3     | N   | 30  | E   | 15  | SE NW  | 1500  | 28.66  | Irrigation  |
| 3     | N   | 30  | E   | 15  | NE SE  | 1601  | 27.67  | Irrigation  |
| 3     | N   | 30  | E   | 15  | NW SE  | 1601  | 10.65  | Irrigation  |
| 3     | N   | 30  | E   | 15  | NW SE  | 1604  | 9.79   | Irrigation  |
| 3     | N   | 30  | E   | 15  | SW SE  | 1601  | 5.81   | Irrigation  |
| 3     | N   | 30  | E   | 15  | SE SE  | 1601  | 29.74  | Irrigation  |
| 3     | N   | 30  | E   | 23  | NE NW  | 1601  | 12.50  | Irrigation  |
| 3     | N   | 30  | E   | 23  | NW NW  | 1601  | 14.57  | Irrigation  |
| Total |     |     |     |     |        |       | 515.25 |             |

6. The Applicant also proposes an additional point of diversion as follows:

| Twp | Rng  | Mer | Sec | Q-Q   | Measured Distances   |
|-----|------|-----|-----|-------|--|
| 5 N | 30 E | WM  | 8   | SW NW | EAST IMPROVEMENT DISTRICT PUMPTING STATION – 2910 FEET NORTH AND 120 FEET EAST FROM THE SW CORNER OF SECTION 8 |

7. The balance of the Applicants' Portion of Conserved Water (20.70 cfs, 6,937.41 AF) shall be managed instream until such time as a superseding Notice of Use or Disposition is submitted and approved under ORS 537.490(1) and OAR 690-018-0090.

To prevent enlargement, the period of use for water to be protected instream is adjusted so the annual volume limitation is not exceeded. By reducing the period of use, the conserved water may be protected without enlarging the right as follows:

Source: COLUMBIA RIVER, tributary to the PACIFIC OCEAN

| Certificate | Priority Date                  | Period            | Maximum Rate (cfs) | Maximum Duty (Volume) (AF) |
|-------------|--------------------------------|-------------------|--------------------|----------------------------|
| 95154       | July 25, 1973, plus one minute | 4/15 through 9/30 | 9.33               | 3,126.85                   |
| 95155       | June 29, 1973, plus one minute | 4/15 through 9/30 | 11.37              | 3,810.56                   |
| Totals      |                                |                   | 20.70              | 6,937.41                   |

At the authorized point of diversion at approximately River Mile 271.5:

| Twp | Rng  | Mer | Sec | Q-Q   | GLot | Measured Distances  |
|-----|------|-----|-----|-------|------|---|
| 4 N | 25 E | WM  | 2   | NE NW | 8700 | COLUMBIA RIVER PUMP STATION: SOUTH 86 DEGREES 22 MINUTES 46 SECONDS WEST, 2829 FEET FROM THE NE CORNER OF SECTION 2 |

8. To prevent enlargement of the water rights and until such time as a new Notice of Use and Disposition is submitted, the following water use measurement conditions shall apply:
- a. Before the use of the Applicant's portion of conserved water, the water user shall install a totalizing flow meter with telemetry at each point of diversion from the Columbia River. The totalizing flow meter may measure the flow associated with this

and other permits using the point of diversion, provided the other water rights from the same point of diversion are identified and reported to the Watermaster. In addition, each user of conserved water under these rights is required to install a totalizing flow meter at each re-diversion point from the common delivery system or other locations as may be required by the Watermaster. The measuring devices need to be approved by the Watermaster prior to installation. The water user shall maintain the required devices in good working order.

- b. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where any device is located within a private structure, the Watermaster shall request access upon reasonable notice.
  - c. The Applicant shall also make raw data/information (the rate of flow and total volume of water diverted) from the telemetered measuring devices at the PODs available to the Department in near-real time.
9. State agency requested instream rights and minimum flow conversion rights under ORS 537.341 and 537.346 do not exist in the Columbia River. The additional upstream proposed point of diversion does not result in harm to other water rights. There are numerous intervening points of diversion between the authorized point of diversion and the proposed point of diversion. However, the quantity of water proposed to be moved (43.30 cfs / 3,265.84 AF) is not a measurable quantity in this reach of Columbia River.

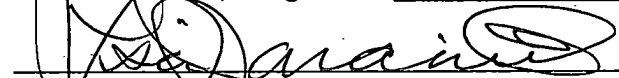
**Conclusions of Law**

- 1. The proposed use is within the area described under OAR 690-018-0050(4)(h).
- 2. The proposed use would not constitute an expansion of the right.
- 3. The proposed use is consistent with OAR 690-005-0045 (Standards for Goal Compliance and Compatibility with Acknowledged Comprehensive Plans).

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

- 1. The use of water as described in Finding of Fact #5 and #6 is approved.
- 2. The right is subject to the provisions of ORS 540.510 to 540.539, 540.572 to 540.578, and 540.610 to 540.670.

DATED at Salem, Oregon this     **JAN 19 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:     **JAN 20 2023**