

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

In the Matter of Allocation of Conserved) FINAL ORDER ON COMPLETION OF
Water Application CW-76,) ALLOCATION OF CONSERVED WATER
Hood River County) CW-76

Applicant
Dee Irrigation District
4835 O’Leary Road
Hood River, OR 97031

Agent
Confederated Tribes of Warm Springs
6030 Dee Highway
Parkdale, OR 97041

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, sold, or gifted 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 proposed conservation measures; (b) A description of the existing diversion facilities and an estimate of the amount of water that can be diverted at the facilities; (c) The amount of water that will be needed for the original, authorized use after implementation of the conservation measures; (d) The amount of conserved water expected from implementation of the conservation measures; (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; (g) The applicant’s choice of priority date for the conserved water; and (h) Any other information the commission considers necessary to evaluate the effectiveness of the proposal. 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. ORS 537.470(3).

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.

If an application for the allocation of conserved water is approved, the Department shall issue orders covering the changes in the original water rights and once the conservation project is finalized new certificates preserving the previously established priority of rights shall be issued to cover the unaffected portion of the water rights and separate new certificates describing the instream right created by the allocation of conserved water will be issued. ORS 537.470(6).

Any irrigation district organized under ORS Chapter 545 or a water control district organized under ORS chapter 553 shall, after providing public notice and holding a public meeting, adopt an allocation of conserved water policy in accordance with OAR 690-018-0025.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

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 018, 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. ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

Findings of Fact

1. On August 1, 2013, the Department issued a Final Order Approving Allocation of Conserved Water CW-76; and Partial Cancellation Upon Finalization of Certificate 39049, recorded at Special Order Volume 91, Pages 16 - 27.
2. On September 9, 2013, Dee Irrigation District filed a Notice of Completion for CW-76 notifying the Department that the conservation measures have been completed.
3. The conservation measures in CW-76 propose the conservation of the following amounts of water:

Conserved Water Description												
		Certificate				Needed				Conserved Water		
		Rate		Duty		Rate		Duty		Rate	Duty	
Certificate	Acres	Maximum CFS	CFS/AC	Maximum AF	AF/AC	Maximum CFS	CFS/AC	Maximum AF	AF/AC	Maximum CFS	Maximum AF	AF/AC
39048	737.3	9.22	1/80	2211.90	3.0	7.72	1/80	1658.90	2.25	1.50	553.0	0.75
39049	737.3	15.22	1/40	2211.90	3.0	13.72	1/40	1658.90	2.25	1.50	553.0	0.75
Total		24.44		2211.90	3.0	21.44		1658.90	2.25	3.00	553.0	0.75

4. The entirety of the first right to be modified by CW-76 is as follows:
 - Certificate:** 39048 in the name of DEE IRRIGATION DISTRICT (perfected under Permit S-165)
 - Use:** IRRIGATION of 737.3 ACRES
 - Priority Date:** SEPTEMBER 13, 1909

Rate: 9.22 CUBIC FEET PER SECOND (cfs)
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-EIGHTIETH 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: WEST FORK OF HOOD RIVER, tributary to HOOD RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	9 E	WM	29	SE NE	2100 FEET SOUTH AND 5190 FEET WEST FROM NE CORNER OF SECTION 28

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
1 N	9 E	WM	1	SE NE		4.2
1 N	9 E	WM	1	NE SE		10.8
1 N	9 E	WM	1	NW SE		3.6
1 N	9 E	WM	1	SW SE		11.8
1 N	9 E	WM	1	SE SE		20.8
1 N	9 E	WM	12	NE NE		32.0
1 N	9 E	WM	12	NW NE		28.8
1 N	9 E	WM	12	SW NE		34.0
1 N	9 E	WM	12	SE NE		29.4
1 N	9 E	WM	12	SE NW		11.0
1 N	9 E	WM	12	NE SW		29.4
1 N	9 E	WM	12	SW SW		5.4
1 N	9 E	WM	12	SE SW		34.0
1 N	9 E	WM	12	NE SE		28.4
1 N	9 E	WM	12	NW SE		33.4
1 N	9 E	WM	12	SW SE		35.2
1 N	9 E	WM	12	SE SE		38.8
1 N	9 E	WM	13	NE NE		24.6
1 N	9 E	WM	13	NW NE		32.2
1 N	9 E	WM	13	SW NE		35.7
1 N	9 E	WM	13	SE NE		18.5
1 N	9 E	WM	13	NE NW		36.4
1 N	9 E	WM	13	NW NW		14.8
1 N	9 E	WM	13	SW NW		25.0
1 N	9 E	WM	13	SE NW		38.2
1 N	9 E	WM	13	NE SW		35.5
1 N	9 E	WM	13	NW SW		27.0
1 N	9 E	WM	13	SW SW		0.7
1 N	9 E	WM	13	SE SW		0.9
1 N	9 E	WM	13	NE SE		9.4
1 N	9 E	WM	13	NW SE		16.6
1 N	9 E	WM	14	NE SE		3.8
1 N	9 E	WM	14	SW SE		0.6
1 N	10 E	WM	7	NW NW	1	0.8
1 N	10 E	WM	7	SW NW	2	8.8

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
1 N	10 E	WM	7	NW SW	3	8.0
1 N	10 E	WM	7	SW SW	4	7.0
1 N	10 E	WM	18	NW NW	1	1.8
Total						737.3

5. The entirety of the second right to be modified by CW-76 is as follows:

Certificate: 39049 in the name of DEE IRRIGATION DISTRICT (perfected under Permit S-18546)

Use: SUPPLEMENTAL IRRIGATION of 737.3 ACRES

Priority Date: MARCH 7, 1931

Rate: 15.22 CUBIC FEET PER SECOND, being 5.40 cfs from Unnamed Creek (aka No Name Creek), 2.90 cfs from springs (0.5 cfs from south channel, 0.5 cfs from middle channel, and 1.9 cfs from north channel of Camp Creek), and 6.92 cfs from Deer Creek)

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-FORTIETH 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year; provided further that the amount of water allowed herein, together with the amount secured under any other right existing for the same lands shall not exceed the acre-foot limitation allowed herein.

Source: UNNAMED CREEK, SPRINGS (CAMP CREEK), and DEER CREEK, tributaries to the WEST FORK OF HOOD RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Source/Description
1 N	9 E	WM	22	SE NE	DEER CREEK: 2150 FEET SOUTH AND 750 FEET WEST FROM THE NE CORNER OF SECTION 22
1 N	9 E	WM	28	NW NE	CAMP CREEK: 500 FEET SOUTH AND 2470 FEET WEST FROM THE NE CORNER OF SECTION 28
1 N	9 E	WM	28	NW NE	CAMP CREEK: 390 FEET SOUTH AND 2440 FEET WEST FROM THE NE CORNER OF SECTION 28
1 N	9 E	WM	28	NW NE	CAMP CREEK: 160 FEET SOUTH AND 2180 FEET WEST FROM THE NE CORNER OF SECTION 28
1 N	9 E	WM	28	SW NW	NO NAME CREEK: 2050 FEET SOUTH AND 4280 FEET WEST FROM THE NE CORNER OF SECTION 28

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
1 N	9 E	WM	1	SE NE		4.2
1 N	9 E	WM	1	NE SE		10.8
1 N	9 E	WM	1	NW SE		3.6
1 N	9 E	WM	1	SW SE		11.8
1 N	9 E	WM	1	SE SE		20.8

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
1 N	9 E	WM	12	NE NE		32.0
1 N	9 E	WM	12	NW NE		28.8
1 N	9 E	WM	12	SW NE		34.0
1 N	9 E	WM	12	SE NE		29.4
1 N	9 E	WM	12	SE NW		11.0
1 N	9 E	WM	12	NE SW		29.4
1 N	9 E	WM	12	SW SW		5.4
1 N	9 E	WM	12	SE SW		34.0
1 N	9 E	WM	12	NE SE		28.4
1 N	9 E	WM	12	NW SE		33.4
1 N	9 E	WM	12	SW SE		35.2
1 N	9 E	WM	12	SE SE		38.8
1 N	9 E	WM	13	NE NE		24.6
1 N	9 E	WM	13	NW NE		32.2
1 N	9 E	WM	13	SW NE		35.7
1 N	9 E	WM	13	SE NE		18.5
1 N	9 E	WM	13	NE NW		36.4
1 N	9 E	WM	13	NW NW		14.8
1 N	9 E	WM	13	SW NW		25.0
1 N	9 E	WM	13	SE NW		38.2
1 N	9 E	WM	13	NE SW		35.5
1 N	9 E	WM	13	NW SW		27.0
1 N	9 E	WM	13	SW SW		0.7
1 N	9 E	WM	13	SE SW		0.9
1 N	9 E	WM	13	NE SE		9.4
1 N	9 E	WM	13	NW SE		16.6
1 N	9 E	WM	14	NE SE		3.8
1 N	9 E	WM	14	SW SE		0.6
1 N	10 E	WM	7	NW NW	1	0.8
1 N	10 E	WM	7	SW NW	2	8.8
1 N	10 E	WM	7	NW SW	3	8.0
1 N	10 E	WM	7	SW SW	4	7.0
1 N	10 E	WM	18	NW NW	1	1.8
Total						737.3

6. The water to be conserved is as follows:

Conserved Water Description				
Certificate	Maximum CFS	Maximum AF	AF/AC	Source
39048	1.50	276.50	0.75	West Fork of Hood River
39049	1.50	276.50	0.75	No Name Creek
Total	3.00	553.00		

7. The Applicant requested 100 percent of the conserved water be allocated to the State for instream use for the conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values.

8. The Applicant requested the priority date for any conserved water be the same as the priority dates for the original rights, being September 13, 1909, for Certificate 39048 and March 7, 1931, for Certificate 39049.

Allocation of Conserved Water Completion Criteria [OAR 690-018-0062(1)]

9. Water right Certificates 39048 and 39049 are cancelled. OAR 690-018-0062(1)(a).
10. The Applicant may continue to use water for the uses at the locations as identified in Certificates 39048 and 39049 at the following reduced rates and duties:

Certificate	Acres	Rate		Duty	
		Maximum CFS	CFS/AC	Maximum AF	AF/AC
39048	737.3	7.72	1/80	1658.90	2.25
39049*	737.3	13.72	1/40	1658.90	2.25

* Being 3.90 cfs from No Name Creek, 2.90 cfs from Springs/Camp Creek, and 6.92 cfs from Deer Creek.

OAR 690-018-0062(1)(b).

11. The conserved water shall be used and managed instream as follows:

Conserved Water Description				
Originating Certificate	Maximum CFS	Maximum AF	AF/AC	Source
39048	1.50	276.50	0.75	West Fork of Hood River
39049	1.50	276.50	0.75	No Name Creek
Total	3.00	553.00		

Instream Reach for Certificate 39048 (West Fork of Hood River): from the authorized point of diversion as described in Finding of Fact #4, to the mouth of the West Fork of Hood River at river mile 0.0.

Instream Reach for Certificate 39049 (No Name Creek): from the authorized point of diversion described in Finding of Fact #5 to the mouth and into the West Fork of Hood River at approximately river mile 6.0, to the mouth of West Fork of Hood River at river mile 0.0.

OAR 690-018-0062(1)(c).

12. To prevent enlargement, the period of use for water to be managed instream must be adjusted so the annual volume limitation of 553.0 acre-feet is not exceeded. By adjusting the season of use, the full rates of conserved water may be protected for a period of 93 days beginning June 30 and ending September 30, without enlarging the rights.
13. The instream right shall allow the protection of flows from June 30 through September 30 of each year.

Partial Cancellation of a Water Right Certificate Upon Finalization of Conservation Project

14. On April 9, 2013, an affidavit was received from Dee Irrigation District certifying that the portion of Certificate 39049 appropriated from Deer Creek will be abandoned. The cancellation affects only one source and its associated rate under Certificate 39049. The portion of the right to be cancelled upon finalization of the conservation project is as follows:

Certificate: 39049 in the name of DEE IRRIGATION DISTRICT (perfected under Permit S-18546)
Use: SUPPLEMENTAL IRRIGATION of 737.3 ACRES
Priority Date: MARCH 7, 1931
Rate: 6.92 CUBIC FEET PER SECOND
Source: DEER CREEK, tributary to the WEST FORK OF HOOD RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Source/Description
1 N	9 E	WM	22	SE NE	DEER CREEK: 2150 FEET SOUTH AND 750 FEET WEST FROM NE CORNER OF SECTION 22

Now, therefore, it is ORDERED:

1. Water Right Certificate 39048 is cancelled. Upon finalization of the project, a superseding Certificate will be issued for the existing use and place of use (described in Finding of Fact #4) under Certificate 39048 at the reduced rate and duty as follows:

Use: IRRIGATION of 737.3 ACRES
Priority Date: SEPTEMBER 13, 1909
Rate: 7.72 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-EIGHTIETH (1/80) 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 2.25 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: WEST FORK OF HOOD RIVER, tributary to HOOD RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	9 E	WM	29	SE NE	2100 FEET SOUTH AND 5190 FEET WEST FROM NE CORNER OF SECTION 28

2. Water Right Certificate 39049 is cancelled. Upon finalization of the project, a superseding Certificate will be issued for the existing use and place of use (described in Finding of Fact #5), incorporating the partial cancellation, at the reduced rate and duty, as follows:

Use: SUPPLEMENTAL IRRIGATION of 737.3 ACRES
Priority Date: MARCH 7, 1931

Rate: 6.80 CUBIC FEET PER SECOND, being 3.90 cfs from No Name Creek, and 2.90 cfs from springs (0.50 cfs from south channel, 0.50 cfs from middle channel, and 1.90 cfs from north channel of Camp Creek)

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-FORTIETH (1/40) 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 2.25 acre-feet per acre for each acre irrigated during the irrigation season of each year; provided further that the amount of water allowed herein, together with the amount secured under any other right existing for the same lands shall not exceed the acre-foot limitation allowed herein.

Source: NO NAME CREEK and SPRINGS (CAMP CREEK), tributaries to the WEST FORK OF HOOD RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Source/Description
1 N	9 E	WM	28	NW NE	CAMP CREEK: 500 FEET SOUTH AND 2470 FEET WEST FROM THE NE CORNER OF SECTION 28
1 N	9 E	WM	28	NW NE	CAMP CREEK: 390 FEET SOUTH AND 2440 FEET WEST FROM THE NE CORNER OF SECTION 28
1 N	9 E	WM	28	NW NE	CAMP CREEK: 160 FEET SOUTH AND 2180 FEET WEST FROM THE NE CORNER OF SECTION 28
1 N	9 E	WM	28	SW NW	NO NAME CREEK: 2050 FEET SOUTH AND 4280 FEET WEST FROM THE NE CORNER OF SECTION 28

3. 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 Certificates 39048 and 39049, and any related decree.
4. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each of the following locations:
 1. In the section of canal below the diversion of West Fork of Hood River and above No Name Creek diversion. Currently, OWRD gaging station (Gage ID #14116195) fulfills this requirement. However, if OWRD discontinues this gaging station or determines the data collected at this station is not the best method of accurately measuring flow, a different type of measuring device may be required.
 2. Near the end of the new pipeline before any turnouts to Dee Irrigation District patrons, as determined by the Watermaster.
 - 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.

5. The entire quantity of conserved water will be managed instream as follows:

Certificate	Priority Date	Source	Instream Period	Rate (cfs)	Volume (acre-feet)
39048	9/13/1909	West Fork Hood River	6/30 through 9/30	1.50	276.50
39049	3/7/1931	No Name Creek	6/30 through 9/30	1.50	276.50
Totals				3.00	553.00

Instream reach for Certificate 39048 (West Fork of Hood River): from the authorized point of diversion located at approximately river mile 6.2:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	9 E	WM	29	SE NE	2100 FEET SOUTH AND 5190 FEET WEST FROM NE CORNER OF SECTION 28

to the mouth of the West Fork of Hood River at river mile 0.0.

Instream reach for Certificate 39049 (No Name Creek): from the authorized point of diversion:

Twp	Rng	Mer	Sec	Q-Q	Source/Description
1 N	9 E	WM	28	SW NW	NO NAME CREEK: 2050 FEET SOUTH AND 4280 FEET WEST FROM THE NE CORNER OF SECTION 28

to the mouth and into the West Fork of Hood River, at approximately river mile 6.0, to the mouth of the West Fork of Hood River at river mile 0.0.

6. The deadline for filing Request for Finalization of the conservation project is on or before **September 9, 2018**.

Dated at Salem, Oregon this 17 day of September, 2013.


 Dwight French, Water Rights Services Administrator for
 PHILLIP C. WARD, DIRECTOR

Mailing date: SEP 18 2013