

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

In the Matter of Allocation of Conserved) ORDER APPROVING USE AND DISPOSITION
Water Application CW-65,) OF A PORTION OF APPLICANT'S PORTION
Morrow County) OF CONSERVED WATER

Applicant

Royale Columbia Farms
Attn: Gregg Juul
PO Box 130
Hermiston, OR 97838

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-65. 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).

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.

Findings of Fact

1. On November 17, 2011, the Department issued a Final Order Approving Allocation of Conserved Water Project CW-65 and Additional Points of Diversion (Approval Order), recorded in Special Order Volume 85, Pages 698-713.
2. On December 11, 2011, the Applicant identified additional lands to be irrigated from the conserved water.
3. On January 18, 2012, at the Applicant's request, the Department issued an Order Finalizing Increment II of Allocation of Conserved Water CW-65 (Increment 2 Order), recorded at Special Order Volume 85, Pages 950-956.
4. On July 1, 2019, the Applicant submitted Claims of Beneficial Use for the "Applied (Proof Required)" portions of conserved water as required under the Approval Order and Increment 2 Order.
5. On September 30, 2019, the Department issued an Order on Submission of Claims of Beneficial Use and Approving Disposition and Use of the Applicant's Portion of Conserved Water (Final Order), under Allocation of Conserved Water Project CW-65, recorded in Special Order Volume 113, Pages 1277-1291.
6. The proposed areas for the Applicants' portion of conserved water to be used for out-of-stream uses were identified in the Final Order as follows:

Township	Range
2 North	23, 24, 26, 27, 28, 29 East
3 North	23, 24, 26, 27, 28, 29, 30, 31 East
4 North	23, 24, 25, 26, 27, 28, 29, 30, 31 East
5 North	26, 27, 28, 29, 30, 31 East

7. The Final Order clarified and corrected the current allocation of the Applicant's portion of conserved water and was identified in the Final Order as follows:

Applicant's Portion of Conserved Water				Applied (Proof Submitted) Increment 1		Applied (Proof Submitted) Increment 2		Reserved Instream for Future Out-of-Stream Use	
Originating Certificate	Priority	Rate (cfs)	Volume (AF)	Rate (cfs)	Volume (AF)	Rate (cfs)	Volume (AF)	Rate (cfs)	Volume (AF)
50872	12/5/1974*	0.98	224.93	0.89	203.90	0.04	9.89	0.05	11.14
81197	12/8/1970*	9.89	2047.90	7.01	1451.70	2.88	596.20	0	0
84967	12/8/1970*	0.52	117.22	0.37	83.69	0.04	10.15	0.11	23.38
Totals		11.39	2390.05	8.27	1739.29	2.96	616.24	0.16	34.52

*Plus one minute

8. As of September 20, 2019, the current allocation of the Applicant's portion of conserved water is as follows:

Applicant's Portion of Conserved Water				Use on Other Lands		Reserved Instream for Future Out-of-Stream Use	
Originating Certificate	Priority	Rate (cfs)	Volume (AF)	Rate (cfs)	Volume (AF)	Rate (cfs)	Volume (AF)
50872	12/5/1974*	0.98	224.93	0.93	213.79	0.05	11.14
81197	12/8/1970*	9.89	2047.90	9.89	2047.9	0	0
84967	12/8/1970*	0.52	117.22	0.41	93.84	0.11	23.38
Totals		11.39	2390.05	11.23	2355.53	0.16	34.52

9. On January 20, 2022, the Applicants submitted a subsequent 60-Day Notice of Use or Disposition for a portion of the Applicants' Portion of Conserved Water for CW-65 along with the required documentation. This request is to relocate the 0.51 cfs of water and 117.12 acre feet from originating Certificate 50872 with priority date December 5, 1974, approved under the Prior Order recorded at Special Order Volume 113, Pages 1277-1291 for irrigation of 30.5 acres at the following place of use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
5 N	29 E	WM	30	SE NE	3300	17.9
5 N	30 E	WM	18	SE SE	903	12.6
Total						30.5

10. On February 1, 2022, the Department contacted the applicant by written correspondence to notify the applicant and applicant's agent of a deficiency in the 60-Day Notice of Use or Disposition. The table describing the Applicant's Conserved Water Out-of-Stream Use Location identified a township, range, and section that did not match the map, or the place of use as identified in Special Order 113, Page 1288. The Department requested the agent to verify the information provided, and if needed, revise and resubmit the 60-Day Notice of Use or Disposition. The agent submitted a revised 60-Day Notice of Use or Disposition, resolving the deficiency.
11. On April 6, 2022, upon further review, the Department determined the applicant submitted a Groundwater Allocation of Conserved Water Notice of Use rather than the appropriate Surface Water Allocation of Conserved Water Notice of Use, as Certificate 50872 authorizes the use of water from the Columbia River. Additionally, it appeared the applicant was requesting an additional point of diversion and did not submit a completed Land Use Information form, as required under OAR 690-018-0090(2)(c), and 690-005-0045.
12. On April 13, 2022, the Department corresponded with the applicant's agent by telephone, informing them that the notice of use needs to be submitted on the correct form along with a completed Land Use Information form.

13. On April 18, 2022, the applicant's agent submitted a Surface Water Allocation of Conserved Water Notice of Use or Disposition and the completed Land Use Information form, resolving the deficiencies.
14. The Applicants propose to relocate the use of the 0.51 cfs of conserved water as listed below.

Originating Certificates: 50872

Person/Entity Using the Water:

Cold Springs Canyon, LLC
 PO Box 387
 Helix, OR 97835

Use: IRRIGATION of 999.9 ACRES

Priority Dates: December 5, 1974, *plus one minute*

Rate/Volume: 0.51 CUBIC FOOT PER SECOND (CFS), Limited to 117.12 ACRE FEET (AF)

Source: COLUMBIA RIVER, tributary to the PACIFIC OCEAN

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	7	SE SW	POD #3 (SUPERIOR FARMS PUMPING STATION) 460 FEET NORTH AND 1680 FEET EAST FROM THE SW CORNER OF SECTION 7
5 N	30 E	WM	8	NE NW	POD #1: (HAWMAN PUMPING STATION) 9360 FEET NORTH AND 3530 FEET WEST FROM THE SE CORNER OF SECTION 17
5 N	30 E	WM	8	SW NW	POD #2: (ROYALE COLUMBIA FARMS PUMPING STATION) 2860 FEET NORTH AND 70 FEET EAST FROM THE SW CORNER OF SECTION 8

Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
4 N	30 E	WM	1	SW SW	400	24.1
4 N	30 E	WM	1	SE SW	200	27.0
4 N	30 E	WM	1	SW SE	400	23.0
4 N	30 E	WM	1	SE SE	400	5.5
4 N	30 E	WM	1	SE SE	403	0.5
4 N	30 E	WM	2	SE SE	400	1.8
4 N	30 E	WM	11	NE NE	1300	1.6
4 N	30 E	WM	11	SE NE	1300	4.2
4 N	30 E	WM	11	NE SE	1200	6.0
4 N	30 E	WM	11	SE SE	1200	5.0
4 N	30 E	WM	12	NE NE	1400	24.0
4 N	30 E	WM	12	NW NE	1400	38.5
4 N	30 E	WM	12	SW NE	1400	37.7
4 N	30 E	WM	12	SE NE	1400	32.3
4 N	30 E	WM	12	NE NW	1400	36.2
4 N	30 E	WM	12	NW NW	1400	36.7

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
4 N	30 E	WM	12	SW NW	1400	38.4
4 N	30 E	WM	12	SE NW	1400	36.2
4 N	30 E	WM	12	NE SW	1400	36.0
4 N	30 E	WM	12	NW SW	1400	36.0
4 N	30 E	WM	12	SW SW	1400	37.0
4 N	30 E	WM	12	SE SW	1400	36.5
4 N	30 E	WM	12	NE SE	1400	36.2
4 N	30 E	WM	12	NW SE	1400	36.0
4 N	30 E	WM	12	SW SE	1400	36.5
4 N	30 E	WM	12	SE SE	1400	31.0
4 N	30 E	WM	13	NW NE	1400	16.5
4 N	30 E	WM	13	NE NW	1400	18.5
4 N	30 E	WM	13	NW NW	1400	5.0
4 N	30 E	WM	14	NE NE	1400	37.5
4 N	30 E	WM	14	NW NE	1400	31.5
4 N	30 E	WM	14	SW NE	1400	28.5
4 N	30 E	WM	14	SE NE	1400	31.5
4 N	31 E	WM	7	NE NW	1801	14.5
4 N	31 E	WM	7	NW NW	1801	23.4
4 N	31 E	WM	7	SW NW	1801	36.8
4 N	31 E	WM	7	SE NW	1801	27.6
4 N	31 E	WM	7	NE SW	1802	21.8
4 N	31 E	WM	7	NW SW	1802	37.0
4 N	31 E	WM	7	SW SW	1802	5.8
4 N	31 E	WM	7	SE SW	1802	0.1
Total						999.9

15. The applicant also proposes an additional point of diversion as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance from original points of diversion in feet (ft.)		
5 N	30 E	WM	8	SW NW	POD #4 (EAST IMPROVEMENT DISTRICT PUMPTING STATION) – 2910 FEET NORTH AND 120 FEET EAST FROM THE SW CORNER OF SECTION 8	POD #1	POD #2	POD #3
						2228 ft. downstream	70 ft. upstream	4503 ft. upstream

Conclusions of Law

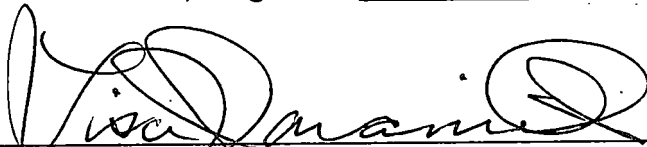
1. The proposed use is within the area described under OAR 690-018-0050(4)(h).
2. The proposed use would not constitute an expansion of the right.

3. The proposed use is consistent with OAR 690-005-0045(Standards for Goal Compliance and Compatibility with Acknowledged Comprehensive Plans).
4. The District 5 Watermaster has indicated approval for the use of the additional point of diversion.

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

1. The use of water as described in Finding of Fact #14 is approved.
2. The use of 0.51 cfs of water for irrigation using up to 117.12 acre feet of water on 30.5 acres as described above in Finding of Fact #9, and as described in the Final Order recorded at Special Order Volume 113, Pages 1277-1291, is no longer authorized.
3. The Applicant's portion of conserved water identified as Reserved Instream for Future Out-of-Stream Use in Finding of Fact #8, shall be managed instream until such time as a Notice of Use and Disposition is submitted and approved.
4. 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 **JUL 08 2022** .



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M. BYLER, DIRECTOR
Oregon Water Resources Department

Mailing date: **JUL 14 2022**