

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

In the Matter of Allocation of Conserved)
Water Application CW-119,) ORDER APPROVING USE AND DISPOSITION
Morrow County) 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-119. 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 Applicants submitted a 60-Day Notice of Use or Disposition for a portion of the Applicants' Portion of Conserved Water for CW-119. This request was to relocate 43.30 cfs of conserved water, approved under the Prior Order recorded at Special Order Volume 120, Pages 166 – 185, for irrigation of 998.70 acres.
6. On January 19, 2023, the Department issued a Final Order (Special Order Volume 127, Pages 247-252), approving the use or disposition of a portion of applicant's portion of conserved water under the terms of an order approving Allocation of Conserved Water application CW-119.

7. On December 27, 2022, 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 1,789.34 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	8.43	1,040.59	10.63	3,558.25
95155	6/29/1973*	44.94	5,604.41	31.98	1,268.13	12.96	4,336.28
Totals		64.00	10,203.25	40.41	2,308.72	23.59	7,894.53

*plus one minute

Originating Certificate: 95154

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

Use: IRRIGATION of 835.59 ACRES

Priority Date: JULY 25, 1973, *plus one minute*

Rate: 8.43 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 1,040.59 acre feet.

Source: COLUMBIA RIVER, tributary to the PACIFIC OCEAN

Authorized Points 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
5 N	30 E	WM	8	SW NW		EAST IMPROVEMENT DISTRICT PUMPING STATION – 2910 FEET NORTH AND 120 FEET EAST FROM THE SW CORNER OF SECTION 8

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

Twp	Rng	Sec	Qtr	Qtr	GLot	Tax Lot	Acres	Type of Use
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	2	NE NW	400	32.88	Irrigation
3	N	29	E	2	NW NW	400	20.14	Irrigation
3	N	29	E	2	SW NW	400	9.74	Irrigation
3	N	29	E	2	SE NW	400	16.72	Irrigation
3	N	29	E	2	NE SW	400	8.49	Irrigation
3	N	29	E	2	NW SW	400	19.27	Irrigation
3	N	29	E	2	SW SW	400	34.79	Irrigation
3	N	29	E	2	SE SW	400	16.64	Irrigation
3	N	29	E	3	NE NW	400	29.63	Irrigation
3	N	29	E	3	NW NW	400	22.87	Irrigation
3	N	29	E	3	SE NW	400	11.46	Irrigation
3	N	29	E	3	SE SE	400	0.28	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	13	SW SE	3700	31.36	Irrigation
3	N	29	E	13	SE SE	3700	30.29	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 NE	8700	0.01	Irrigation
3	N	29	E	24	NW NE	8700	0.01	Irrigation
3	N	29	E	24	NE NW	4000	3.45	Irrigation
3	N	29	E	24	NW NW	4000	2.99	Irrigation
3	N	29	E	24	SW NW	4000	18.22	Irrigation
3	N	29	E	24	SE NW	4000	17.47	Irrigation
3	N	29	E	24	NE SW	4000	15.46	Irrigation
3	N	29	E	24	NW SW	4000	15.71	Irrigation
3	N	30	E	4	NE SE	3300	22.56	Irrigation
3	N	30	E	4	NW SE	3300	14.69	Irrigation

Twp	Rng	Sec	Qtr	Qtr	Glot	Tax Lot	Acres	Type of Use	
3	N	30	E	4	SW	SE	3300	23.25	Irrigation
							Total	835.59	

Originating Certificate: 95155
Person/Entity Using the Water: Farmland Reserve, Inc.
Use: IRRIGATION of 953.75 ACRES
Priority Date: JUNE 29, 1973, *plus one minute*
Rate: 31.98 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 1,268.13 acre feet.
Source: COLUMBIA River, tributary to the PACIFIC OCEAN

Authorized Points 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
5 N	30 E	WM	8	SW NW		EAST IMPROVEMENT DISTRICT PUMPING STATION - 2910 FEET NORTH AND 120 FEET EAST FROM THE SW CORNER OF SECTION 8

Authorized Place of Use:

Twp	Rng	Sec	Qtr	Qtr	TaxLot	G Lot	Acres	Type of Use	
3	N	30	E	4	SE	SE	3300	31.46	Irrigation
3	N	30	E	10	NE	NW	800	28.29	Irrigation
3	N	30	E	10	NW	NW	800	30.37	Irrigation
3	N	30	E	10	SW	NW	800	28.26	Irrigation
3	N	30	E	10	SE	NW	800	27.19	Irrigation
3	N	30	E	10	NE	SE	1600	28.87	Irrigation
3	N	30	E	10	NW	SE	1600	27.46	Irrigation
3	N	30	E	10	SW	SE	1400	27.30	Irrigation
3	N	30	E	10	SE	SE	1400	29.36	Irrigation
3	N	30	E	11	NE	SW	1500	27.65	Irrigation
3	N	30	E	11	NW	SW	1500	30.15	Irrigation
3	N	30	E	11	SW	SW	1500	32.50	Irrigation
3	N	30	E	11	SE	SW	1500	30.84	Irrigation

Twp	Rng	Sec	Qtr	Qtr	TaxLot	G Lot	Acres	Type of Use
3	N	30	E	14	NE NW	1700	29.26	Irrigation
3	N	30	E	14	NW NW	2000	29.54	Irrigation
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
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	20.44	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							953.75	

7. The balance of the Applicants' Portion of Conserved Water (23.59 cfs, 7,894.53 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, <i>plus one minute</i>	4/15 through 9/30	10.63	3,558.25
95155	June 29, 1973, <i>plus one minute</i>	4/15 through 9/30	12.96	4,336.28
Totals			23.59	7,894.53

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	7	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.

Conclusions of Law

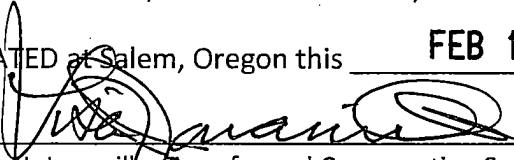
1. The proposed use is within the area described under OAR 690-018-0050(4)(h).
2. The proposed use would not constitute an expansion of the right.
3. The proposed use is consistent with OAR 690-005-0045 (Standards for Goal Compliance and Compatibility with Acknowledged Comprehensive Plans).

Now, therefore, it is ORDERED:

1. The use of water as described in Finding of Fact #7 is approved.
2. The use of water for irrigation as described above in Finding of Fact #5, and as described in Finding of Fact #5 in the Final Order recorded at Special Order Volume 127, Pages 247-252, is no longer authorized.

3. The right is subject to the provisions of OAR 690-0018-0090(6) and ORS 540.510 to 540.539, 540.572 to 540.578, and 540.610 to 540.670.

DATED at Salem, Oregon this FEB 13 2023.



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
DOUGLAS E. WOODCOCK, ACTING DIRECTOR
Oregon Water Resources Department

Mailing date: FEB 13 2023