

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

In the Matter of Allocation of Conserved Water Application CW-85, Morrow County ) ORDER APPROVING USE AND  
) DISPOSITION OF APPLICANT'S  
) PORTION OF CONSERVED WATER  
)

**Applicant**

Windy River  
822 Highway 395 South #423  
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-85. 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 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 2, 2015, the Department issued a Final Order on Finalization of Allocation of Conserved Water CW-85, (Final Order), recorded at Special Order Volume 95, Pages 395-400.
2. The proposed areas for the Applicant's portion of conserved water to be used for out-of-stream uses were identified in the Final Order as follows:

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.

Township	Range	Mer.
2 North	23, 24, 26, 27, and 28 East	WM
3 North	23, 24, 26, 27, 28, 29 and 30 East	WM
4 North	23, 24, 25, 26, 27, 28, 29, and 30 East	WM
5 North	26, 27, 28, 29 and 30 East	WM

3. The Final Order identified the Applicant's portion of conserved water as follows:

Originating Certificate	Priority	Maximum Rate (CFS)	Maximum Duty (Volume) AF
89304	6/29/1973*	6.62	1205.00

\* - plus one minute

4. The Department was notified of the proposed use of the conserved water on April 2, 2015. Therefore, to prevent enlargement of the right, the quantity of conserved water available for use must be reduced to accommodate the period of time the conserved water was managed instream during the irrigation season. The quantity of conserved water available for use during the 2015 irrigation season is as follows:

Originating Certificate	Priority	Period of Use	Maximum Rate (CFS)	Maximum Duty (Volume) AF
89304	6/29/1973*	April 2 to October 31	6.62	1047.75

5. On April 7, 2015, the Applicant submitted a 60-Day Notice of Use or Disposition for a the Applicant's Portion of Conserved Water for CW-85 along with the required documentation.
6. The Applicant proposes to use a portion of their conserved water reserved instream for future out-of-stream use as follows:

**Originating Certificate:** 89304  
**Person/Entity Using the Water:** Madison Ranches, LLC  
29299 Madison Road  
Echo, OR 97826

**Use:** IRRIGATION of 2314.0 ACRES  
**Priority Date:** June 29, 1973, plus one minute  
**Rate/Volume:** 6.62 CUBIC FEET PER SECOND (CFS), Limited to 1047.75 ACRE FEET PER YEAR  
**Source:** COLUMBIA RIVER, tributary to the PACIFIC OCEAN

**Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	25 E	WM	2	NE NW	150 FEET SOUTH AND 2990 FEET WEST FROM THE NE CORNER OF SECTION 2

**Place of Use:**

Twp	Range	Mer	Sec	Qtr	Qtr	Tax Lot	Acres
3 N	26 E	WM	24	NE	NE	1305	31.3
3 N	26 E	WM	24	NW	NE	1305	31.3
3 N	26 E	WM	24	SW	NE	1305	31.3

Twp	Range	Mer	Sec	Qtr	Qtr	Tax Lot	Acres	
3	N	26	E	WM	24	SE NE	1305	34.4
3	N	26	E	WM	24	NE NW	1305	31.3
3	N	26	E	WM	24	NW NW	1305	31.3
3	N	26	E	WM	24	SW NW	1305	31.3
3	N	26	E	WM	24	SE NW	1305	31.3
3	N	26	E	WM	24	NE SE	1305	39.6
3	N	26	E	WM	24	NW SE	1305	9.2
3	N	26	E	WM	24	SW SE	1305	5.7
3	N	26	E	WM	24	SE SE	1305	32.7
3	N	27	E	WM	11	NE NE	4600	36.4
3	N	27	E	WM	11	NW NE	4600	3.3
3	N	27	E	WM	11	SW NE	4600	3.2
3	N	27	E	WM	11	SE NE	4600	34.7
3	N	27	E	WM	11	NE SW	4600	2.9
3	N	27	E	WM	11	NW SW	4600	1.4
3	N	27	E	WM	11	SW SW	4600	29.4
3	N	27	E	WM	11	SE SW	4600	38.0
3	N	27	E	WM	12	NW NE	4700	23.7
3	N	27	E	WM	12	SW NE	4700	25.1
3	N	27	E	WM	12	NE NW	4700	29.5
3	N	27	E	WM	12	NW NW	4700	24.6
3	N	27	E	WM	12	SW NW	4700	22.1
3	N	27	E	WM	12	SE NW	4700	32.9
3	N	27	E	WM	12	SW SW	4702	4.6
3	N	27	E	WM	12	SE SW	4702	4.0
3	N	27	E	WM	13	NE NW	4701	35.2
3	N	27	E	WM	13	NW NW	4701	37.5
3	N	27	E	WM	13	SW NW	4701	22.6
3	N	27	E	WM	13	SE NW	4701	20.6
3	N	27	E	WM	14	NE NE	4701	0.4
3	N	27	E	WM	14	NW NE	4701	1.0
3	N	27	E	WM	14	SW NE	4701	9.0
3	N	27	E	WM	14	NE NW	4701	29.2
3	N	27	E	WM	14	NW NW	4701	21.0
3	N	27	E	WM	14	SW NW	4701	9.7
3	N	27	E	WM	14	SE NW	4701	32.5
3	N	27	E	WM	14	NE SW	4701	40.0
3	N	27	E	WM	14	NW SW	4701	15.5
3	N	27	E	WM	14	SE SW	4701	3.9
3	N	27	E	WM	14	NW SE	4701	16.6
3	N	27	E	WM	15	NW NW	4900	17.4
3	N	27	E	WM	15	SW NW	4900	37.8
3	N	27	E	WM	15	NW SW	4900	7.4
3	N	27	E	WM	16	NE NE	1100	16.9
3	N	27	E	WM	16	NW NE	1100	16.0
3	N	27	E	WM	16	SW NE	1100	15.7
3	N	27	E	WM	16	SE NE	1100	37.0
3	N	27	E	WM	16	NE NW	1100	37.8
3	N	27	E	WM	16	NW NW	1100	13.1
3	N	27	E	WM	16	SW NW	1100	14.0
3	N	27	E	WM	16	SE NW	1100	38.5

Twp	Range	Mer	Sec	Qtr	Qtr	Tax Lot	Acres	
3	N	27	E	WM	16	NE SW	1100	30.7
3	N	27	E	WM	16	NW SW	1100	33.9
3	N	27	E	WM	16	SW SW	1100	26.5
3	N	27	E	WM	16	SE SW	1100	27.5
3	N	27	E	WM	16	NE SE	1100	7.1
3	N	27	E	WM	17	NE NE	1100	36.1
3	N	27	E	WM	17	NW NE	1100	22.4
3	N	27	E	WM	17	SW NE	1100	23.4
3	N	27	E	WM	17	SE NE	1100	35.5
3	N	27	E	WM	17	NE NW	1100	34.3
3	N	27	E	WM	17	NW NW	1100	28.4
3	N	27	E	WM	17	SW NW	1100	34.4
3	N	27	E	WM	17	SE NW	1100	39.0
3	N	27	E	WM	17	NE SW	1100	4.7
3	N	27	E	WM	17	NW SW	1100	2.7
3	N	27	E	WM	19	NE NW	1204	31.3
3	N	27	E	WM	19	NW NW	1204	31.3
3	N	27	E	WM	19	SW NW	1204	31.5
3	N	27	E	WM	19	SE NW	1204	31.3
3	N	27	E	WM	19	NW SW	1204	20.7
3	N	27	E	WM	19	SW SW	1204	14.3
3	N	27	E	WM	26	NE NW	3500	5.2
3	N	27	E	WM	26	NW NW	3500	21.2
3	N	27	E	WM	26	SW NW	3500	28.4
3	N	27	E	WM	26	SE NW	3500	11.4
3	N	27	E	WM	26	NE SW	3500	37.0
3	N	27	E	WM	26	NW SW	3500	37.5
3	N	27	E	WM	26	SW SW	3500	25.1
3	N	27	E	WM	26	SE SW	3500	24.8
3	N	27	E	WM	34	NE NE	5800	34.8
3	N	27	E	WM	34	NW NE	5800	20.8
3	N	27	E	WM	34	SW NE	5800	12.5
3	N	27	E	WM	34	SE NE	5800	33.7
3	N	27	E	WM	34	NE SE	5800	40.0
3	N	27	E	WM	34	NW SE	5800	24.4
3	N	27	E	WM	34	SW SE	5800	14.8
3	N	27	E	WM	34	SE SE	5800	36.5
3	N	27	E	WM	35	NE NW	5700	34.0
3	N	27	E	WM	35	NW NW	5700	34.5
3	N	27	E	WM	35	SW NW	5700	25.4
3	N	27	E	WM	35	SE NW	5700	23.1
3	N	27	E	WM	35	NW SW	5700	24.3
3	N	27	E	WM	35	SW SW	5700	14.8
Total							2314.0	

7. If the conserved water is utilized on the same acreage during subsequent irrigation seasons under this Order, then the maximum duty (volume) shall be 1205.0 acre-feet per year.
8. Madison Ranches, LLC shall have sufficient measuring devices installed for reporting and monitoring the water use from CW-85. The reports must be submitted annually by the end

of each Calendar year to the Watermaster. The Department may request additional data, measuring devices, and more frequent reporting if necessary.

**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 #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 10 day of April, 2015.

  
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Dwight French, Water Right Services Administrator for  
THOMAS M. BYLER, DIRECTOR

Mailing date: APR 14 2015