

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

In the Matter of Allocation of Conserved) FINAL ORDER ON FINALIZATION OF
Water Application CW-92,) ALLOCATION OF CONSERVED WATER
Hood River, County) CW-92

Applicant:

Farmers Irrigation District
1985 Country Club Road
Hood River, OR 97031

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 or sold 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 measure as implemented and the date on which the measure was implemented; (b) A description of the diversion facilities before the conservation measure was implemented and the amount of water that was diverted at the facilities before the conservation measure was implemented; (c) The amount of water needed to supply existing rights after implementation of the conservation measure; (d) The amount of water conserved by implementing the conservation measure; (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 and the proposed location of use; (g) The applicant's choice of priority date for the conserved water; (h) Evidence that the measure was implemented within five years prior to the date of filing the application; and (i) Any other information the commission considers necessary to evaluate the application. ORS 537.465.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is 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.

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 not subject to repayment. ORS 537.470(3).

If an application for the allocation of conserved water is approved, the Department shall issue orders describing the changes in the original water rights. Once the conservation project is finalized, the Department shall issue new certificates preserving the previously established-priority date of the rights to reflect the unaffected portion of the water rights and new certificates reflecting the changes for the portions of the water rights involved in the conserved water application. ORS 537.470(6).

ORS 537.455 to 537.500 authorize and establish the process by 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 allocation of conserved water applications. OAR Chapter 690, Division 077 provides additional criteria for evaluating proposed instream water rights.

Findings of Fact

1. On September 20, 2016, Farmer’s Irrigation District (Applicant) filed an allocation of conserved water application under Certificate 74299. The Department assigned the application number CW-92.
2. The conservation measure involved replacing 2.1 miles of rusty and leaky galvanized pipe and ADS pipe of the North Green Point pipeline with HDPE pipe eliminating seepage losses. The replacement of leaky pipes eliminating seepage losses is a proven technology for conserving water.
3. The conservation measure is applicable to the point of diversion on North Fork Green Point Creek.
4. An Amended Final Order of Approval on Completion of Allocation of Conserved Water CW-92 (Approval Order) was issued on November 7, 2017. The order is recorded at Special Order Volume 107, Pages 118-139.
5. The Approval Order confirmed the following quantities of conserved water to be allocated:

Certificate	State’s Portion			Applicant’s Portion			Conserved Water		
	Percentage	Maximum Rate (CFS)	Maximum Duty (Volume) AF	Percentage	Maximum Rate (CFS)	Maximum Duty (Volume) AF	Percentage	Maximum Rate (CFS)	Maximum Duty (Volume) AF
74299	100%	1.5	357.0	0%	0	0	100%	1.50	357.0

- The Approval Order established the reduced rates and duties for the existing uses under Certificate 74299 as follows:

Originating Certificate	Priority	Rate		Duty		Acres
		Maximum CFS	CFS/AC	Maximum AF	AF/AC	
74299	12/1/1905	36.0*	0.0186	5453.4	3.0	1936.8

* Further limited by Finding of Fact #15 of the Hood River decree.

- The Approval Order established the priority dates for the conserved water to be one minute junior to the originating rights.
- The Completion Order established a deadline of December 15, 2021, for the Request for Finalization form to be submitted.
- On January 27, 2021, Certificate 74299 was superseded by Certificate 95432.
- On December 6, 2021, the Applicant submitted a Request for Finalization.

Conclusions of Law

The Findings of Fact and Conclusions of Law set forth in the Amended Final Order of Approval on Completion of Allocation of Conserved Water CW-92, recorded at Special Order Volume 107, Pages 118-139, are incorporated as if set forth fully herein. The project described in Allocation of Conserved Water Application CW-92, is consistent with the criteria in ORS 537.455 to 537.500, and OAR Chapter 690, Divisions 018 and 077.

Now, therefore, it is ORDERED:

- The project is complete, and no additional time is needed for finalization.
- Water Right Certificate 95432 is cancelled. The modified rate and duty for Certificate 94532 is as follows:

Use: IRRIGATION of 191.70 ACRES, SUPPLEMENTAL IRRIGATION OF 1745.10 ACRES

Priority Date: DECEMBER 1, 1905

Rate: 36.0 CUBIC FEET PER SECOND (cfs), being 8.5 cfs from North Fork Green Point Creek, 15.0 cfs from South Fork Green Point Creek, 10.0 cfs from Dead Point Creek and 2.5 cfs from South Fork Pine Creek

Limit/Duty: This right is subject to the provisions of Finding No. 15 of the Hood River Decree which provides the total quantity diverted from all sources at any one time under this Certificate together with Certificates 95431 and 95433 shall not exceed 31.62 cfs (2529.4 primary acres multiplied by 1/80 cfs per acre).

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is 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 for each acre irrigated during the irrigation season of each year.

Sources: NORTH FORK GREEN POINT CREEK, SOUTH FORK GREEN POINT CREEK, DEAD POINT CREEK, AND SOUTH FORK PINE CREEK, tributaries of HOOD RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	G-Lot	Measured Distances
1 N	9 E	WM	3	SE SW	4	NO. FORK GREEN POINT CREEK: 340 FEET NORTH AND 7090 FEET EAST FROM THE NW CORNER OF SECTION 9
1 N	9 E	WM	10	NW NW		SO. FORK GREEN POINT CREEK: 430 FEET SOUTH AND 5670 FEET EAST FROM THE NW CORNER OF SECTION 9
1 N	9 E	WM	2	NE NW		DEAD POINT CREEK: 370 FEET SOUTH AND 1570 FEET EAST FROM THE NW CORNER OF SECTION 2
2 N	9 E	WM	25	SW SE		SO. FORK PINE CREEK: 875 FEET NORTH AND 1700 FEET WEST FROM THE SE CORNER OF SECTION 25

3. Water use measurement conditions:
 - a. Before the use of the Applicant's portion of conserved water, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion.
 - 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.

4. To prevent enlargement, the rate of State's portion of conserved water dedicated instream must be adjusted so the annual volume limitation is not exceeded. By reducing the season of use, the full quantity of conserved water may be protected.

The Department shall issue a new instream water right certificate for the conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values in the North Fork Green Point Creek. The instream right shall allow the use and protection of flows as follows:

Priority Date	Period	Rate (cfs)	Volume (acre-feet)
December 1, 1905, <i>plus one minute</i>	June 3 through September 30	1.50	357.0

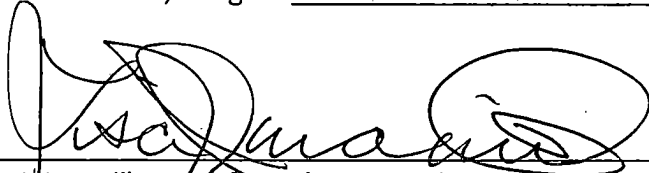
From the authorized point of diversion from North Fork Green Point Creek located as follows:

Twp	Rng	Mer	Sec	Q-Q	G-Lot	Measured Distances
1 N	9 E	WM	3	SE-SW	4	NO. FORK GREEN POINT CREEK: 340 FEET NORTH AND 7090 FEET EAST FROM THE NW CORNER OF SECTION 9

Protected to the confluence with Green Point Creek located in the NENW of Section 10, Township 1 North, Range 9 East, W.M., then protected in Green Point Creek to the mouth at the confluence with the West Fork of Hood River located in the SENW of Section 12, Township 1 North, Range 9 East, W.M.

The instream right established by this allocation of conserved water shall replace a portion of instream water rights established pursuant to ORS 537.341 or 537.346 and shall be in addition to instream water rights established pursuant to ORS 537.348 or 537.470 unless otherwise specified by a subsequent order establishing a new instream water right.

Dated at Salem, Oregon: MAR 07 2022



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M. BYLER, DIRECTOR