

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

In the Matter of Allocation of Conserved)
Water Application CW-93,)
Hood River County)

FINAL ORDER ON FINALIZATION OF
ALLOCATION OF CONSERVED WATER CW-93

Applicant

East Fork Irrigation District
PO Box 162
Odell, OR 97044

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).

If an application for the allocation of conserved water is approved, the Department shall issue orders documenting the changes to the original water rights, and once the conservation project is finalized, the Department shall issue new certificates preserving the previously established priority of rights to cover the unaffected portion of the water rights. 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.

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.

Findings of Fact

1. On September 14, 2016, East Fork Irrigation District (EFID) filed an allocation of conserved water application under Certificate 92000. On November 28, 2016, EFID submitted an amended application. The Department assigned the application number CW-93.
2. On April 17, 2017, a Final Order Approving Allocation of Conserved Water CW-93 (Final Order) was issued and mailed on April 19, 2017. The Final Order is recorded at Special Order Volume 104, Pages 537-545.
3. The Final Order established the deadline for submitting a Notice of Completion of June 30, 2018, and the deadline for submitting a Request for Finalization of December 31, 2019.
4. The Final Order allocated the conserved water as follows:

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
92000	75%	0.525	125.0	25%	0.175	41.6	100%	0.70	166.6

5. The Final Order established the reduced rate and duty for the existing uses under Certificate 92000 as follows:

Originating Certificate	Rate		Duty	
	Maximum CFS	CFS/AC	Maximum AF	AF/AC
92000	103.5	1/80	24650.78	3.0

6. The Final Order established the State's portion of conserved water may be protected for 120 days during the irrigation season without enlarging the right. The instream right shall allow the use and protection of flows as follows:
7. The Final Order allocated the following rate and volume to the State for instream use:

Priority Date	Rate (cfs)	Volume (acre-feet)
November 25, 1895, <i>plus one minute</i>	0.525	125.0

8. The Final Order established the amount of conserved water allocated to the Applicant. The rate and volume allocated to the Applicant is as follows:

Priority Date	Maximum Rate	Maximum Duty (Volume)
November 25, <i>plus one minute</i>	0.175 cfs	41.6 AF

9. The Final Order established the following areas the Applicant's portion of conserved water may be used for out-of-stream uses as follows:

Twp	Rng	Mer	Sections
1 N	10 E	WM	1, 2, 3, 10, 11, 15, 22, 27
1 N	11 E	WM	6
2 N	10 E	WM	1, 12 through 16, 20 through 30, and 33 through 36
2 N	11 E	WM	6, 7, 18, 19, 30
3 N	10 E	WM	36
3 N	11 E	WM	31

10. On May 15, 2018, EFID submitted its Notice of Completion.
11. On May 24, 2018, the Department issued its Final Order on Completion of Allocation of Conserved Water CW-93, recorded at Special Order Volume 108, Page 281-285.
12. On February 6, 2019, EFID submitted a Request for Finalization requesting:
- Superseding certificate for the existing uses at the reduced rate
 - A certificate for an instream water right for the state's portion of the conserved water.
 - An order allowing the Applicant's portion of conserved water to be temporarily reserved instream for future out-of-stream use.

Conclusions of Law

The Findings of Fact and Conclusions of Law set forth in the Final Order Approving Allocation of Conserved Water CW-93, recorded at Special Order Volume 104, Pages 537-545, are incorporated as if set forth fully herein. The project described in Allocation of Conserved Water Application CW-93, 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.
- The right to the use of the water is restricted to beneficial use at the place of use described in Certificate 92000, and is subject to all other conditions and limitations contained in said certificate and any related decree.
- Water Right Certificate 92000 is modified. A superseding certificate will be issued for the existing uses and places of use at the reduced rate and duty described below upon a determination by the Department that is necessary to more fully describe the right.

Use: IRRIGATION of 8521.99 ACRES, 9.8 ACRES INCHOATE, and 15.0 ACRES EQUIVALENT INDUSTRIAL

Priority Date: NOVEMBER 25, 1895

Rate: 103.50 CUBIC FEET PER SECOND

Limit: The amount of water used for irrigation is limited to a diversion of 1/80 of one cubic foot per second, 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, and an annual volume limitation of 24,650.78 acre feet per year

Source: EAST FORK HOOD RIVER, tributary to the HOOD RIVER

Authorized Place of Use:
ENTIRETY OF CERTIFICATE, as modified by prior place of use transfers

4. The Applicant's portion of conserved water shall be managed instream for future out-of-stream use until such time as the Applicant submits a 60-Day Notice of Use and Disposition of the Applicant's Portion of Conserved Water, as follows:

Priority Date	Maximum Rate	Maximum Duty (Volume)
November 25, plus one minute	0.175 cfs	41.6 AF

From the authorized point of diversion located at approximately river mile 6.4 on the East Fork of Hood River:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
1 S	10 E	WM	4	NW SW	1	3750 FEET SOUTH AND 430 FEET EAST FROM THE NW CORNER OF SECTION 4

To the mouth of the East Fork Hood River, described as where the East Fork and West Fork of Hood River join to form the main stem Hood River. This is further described as Hood River Mile 12.5 in the NWNE of Section 1, Township 1 North, Range 9 East, W.M., at latitude 45.605229, longitude 121.633196.

5. An instream water right certificate shall be issued for the East Fork of Hood River to provide for the conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, other ecological values, and pollution abatement.

Priority Date	Rate (cfs)	Volume (acre-feet)
November 25, 1895, plus one minute	0.525	125.0

From the authorized point of diversion located at approximately river mile 6.4 on the East Fork of Hood River:

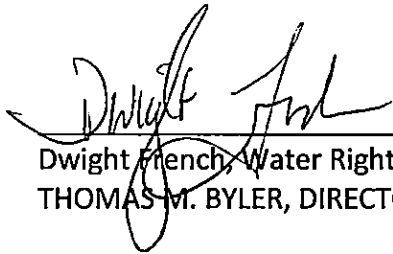
Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
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Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion. Stream channel losses and gains calculate based on available data and use of water by senior appropriators will determine the amount of water to which this right is entitled downstream from the original point of diversion within the specified stream reach.

The instream right 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.

Dated at Salem, Oregon this 14th day of February, 2019.



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

Mailing Date: FEB 15 2019