

**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-98,) OF A PORTION OF THE APPLICANT'S
Morrow County) PORTION OF CONSERVED WATER

Applicant

Stanfield Hutterian Brethren
c/o Herb Stahl
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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-64. 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 January 30, 2018, an Order of Approval on Completion of Allocation of Conserved Water CW-98 (Approval Order) was issued. The Approval Order is recorded at Special Order Volume 107, Pages 530-545.

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. On January 23, 2020, the Department issued a Final Order on Finalization of Allocation of Conserved Water CW-98 (Finalization Order), recorded at Special Order Volume 114, Pages 951-960.
3. The Approval Order and the Finalization Order identified the proposed areas for the Applicant's portion of conserved water to be used for out-of-stream uses as follows:

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

4. The Finalization Order allocated the Applicant's portion of conserved water as follows:

Priority	Originating Certificate	Maximum Rate (CFS)	Maximum Duty (Volume) AF
8/15/1967, <i>plus one minute</i>	91005	10.97	1975.61
3/9/1979, <i>plus one minute</i>	91006	8.06	1451.20
9/23/1983, <i>plus one minute</i>	91007	1.22	220.27
4/6/1977, <i>plus one minute</i>	91008	0.37	43.80
Totals		20.62	3690.88

5. The Finalization 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.
6. On March 10, 2020, following submission of a 60-Day Notice of Use or Disposition, the Department issued its Final Order Approving Use and Disposition of a Portion of the Applicant's Portion of Conserved Water (2020 Use Order) recorded at Special Order Volume 116, Pages 258 – 262. The 2020 Use Order authorized the use of 6.39 cfs limited to 1144.0 AF on 1593.0 acres of River Crest Farm with the remaining portion of conserved water being managed instream for future out-of-stream use.
7. Following issuance of the 2020 Use Order, the balance of the Applicant's portion was as follows:

Priority Date	Originating Certificate	Rate (CFS)	Duty (Volume) AF
8/15/1967, <i>plus one minute</i>	91005	4.58	831.61
3/9/1979, <i>plus one minute</i>	91006	8.06	1451.20
9/23/1983, <i>plus one minute</i>	91007	1.22	220.27
4/6/1977, <i>plus one minute</i>	91008	0.37	43.80
Totals		14.23	2546.88

8. On February 1, 2021, the Applicant submitted a 60-Day Notice of Use and Disposition proposing to use a portion of its remaining conserved water from a new point of diversion located upstream on the Columbia River as follows:

Originating Certificate: 91006
Person/Entity Using the Water: Cold Springs Canyon, LLC
 PO Box 387
 Helix, OR 97835

Use: IRRIGATION of 999.90 ACRES
Priority Date: MARCH 9, 1979, *plus one minute*
Rate/Volume: 5.0 CUBIC FEET PER SECOND (CFS), Limited to 1035.69 ACRE FEET
Source: COLUMBIA RIVER, tributary to the PACIFIC OCEAN

Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
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) 2860 FEET NORTH AND 70 FEET EAST FROM THE SW CORNER OF SECTION 8
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

Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
4 N	30 E	WM	1	SW SW	400	24.10
4 N	30 E	WM	1	SE SW	200	27.00
4 N	30 E	WM	1	SW SE	400	23.00
4 N	30 E	WM	1	SE SE	400	5.50
4 N	30 E	WM	1	SE SE	403	0.50
4 N	30 E	WM	2	SE SE	400	1.80
4 N	30 E	WM	11	NE NE	1300	1.60
4 N	30 E	WM	11	SE NE	1300	4.20
4 N	30 E	WM	11	NE SE	1200	6.00
4 N	30 E	WM	11	SE SE	1200	5.00
4 N	30 E	WM	12	NE NE	1400	24.00
4 N	30 E	WM	12	NW NE	1400	38.50
4 N	30 E	WM	12	SW NE	1400	37.70
4 N	30 E	WM	12	SE NE	1400	32.30
4 N	30 E	WM	12	NE NW	1400	36.20
4 N	30 E	WM	12	NW NW	1400	36.70
4 N	30 E	WM	12	SW NW	1400	38.40
4 N	30 E	WM	12	SE NW	1400	36.20

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
4 N	30 E	WM	12	NE SW	1400	36.00
4 N	30 E	WM	12	NW SW	1400	36.00
4 N	30 E	WM	12	SW SW	1400	37.00
4 N	30 E	WM	12	SE SW	1400	36.50
4 N	30 E	WM	12	NE SE	1400	36.20
4 N	30 E	WM	12	NW SE	1400	36.00
4 N	30 E	WM	12	SW SE	1400	36.50
4 N	30 E	WM	12	SE SE	1400	31.00
4 N	30 E	WM	13	NW NE	1400	16.50
4 N	30 E	WM	13	NE NW	1400	18.50
4 N	30 E	WM	13	NW NW	1400	5.00
4 N	30 E	WM	14	NE NE	1400	37.50
4 N	30 E	WM	14	NW NE	1400	31.50
4 N	30 E	WM	14	SW NE	1400	28.50
4 N	30 E	WM	14	SE NE	1400	31.50
4 N	31 E	WM	7	NE NW	1801	14.50
4 N	31 E	WM	7	NW NW	1801	23.40
4 N	31 E	WM	7	SW NW	1801	36.80
4 N	31 E	WM	7	SE NW	1801	27.60
4 N	31 E	WM	7	NE SW	1802	21.80
4 N	31 E	WM	7	NW SW	1802	37.00
4 N	31 E	WM	7	SW SW	1802	5.80
4 N	31 E	WM	7	SE SW	1802	0.10
Total						999.90

9. State agency requested instream rights and minimum flow conversion rights under ORS 537.341 and 537.346 do not exist in the Columbia River. The upstream proposed point of diversion change does not result harm to other water rights. There are numerous intervening points of diversion between the authorized point of diversion and the proposed points of diversion. However, the quantity of water proposed to be moved (5.0 cfs) is not a measurable quantity in this reach of Columbia River.
10. The balance of the Applicants' Portion of Conserved Water under application CW-98 will continue to be reserved instream for future out-of-stream use:

Priority Date	Originating Certificate	Rate (CFS)	Duty (Volume) AF
8/15/1967, plus one minute	91005	4.58	831.61
3/9/1979, plus one minute	91006	3.06	415.51
9/23/1983, plus one minute	91007	1.22	220.27
4/6/1977, plus one minute	91008	0.37	43.80
Totals		9.23	1511.19

11. To prevent enlargement, the rate of Applicant's portion of conserved water to be managed instream must be adjusted so the annual volume limitation is not exceeded. By reducing the rate, the conserved water may be managed throughout the entire irrigation season, as follows:

Priority Date	Originating Certificate	Period	Rate (cfs)	Volume (acre-feet)
8/15/1967, plus one minute	91005	March 1 through October 31	1.71	831.61
3/9/1979, plus one minute	91006	March 1 through October 31	0.86	415.51
9/23/1983, plus one minute	91007	March 1 through October 31	0.45	220.27
4/6/1977, plus one minute	91008	March 1 through October 31	0.09	43.80
Totals			3.11	1511.19

At the common authorized point of diversion for Certificates 91005, 91006, 91007, and 91008 located at approximately River Mile 278.3:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
5 N	26 E	WM	23	SE NE	1	600 FEET NORTH AND 230 FEET WEST FROM THE EAST 1/4 CORNER OF SECTION 23

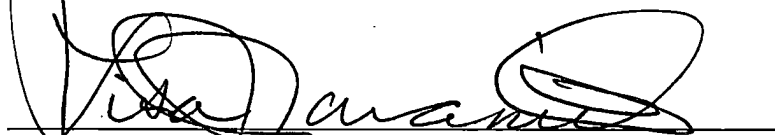
Conclusions of Law

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 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 MAR 05 2021.



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

Mailing date: MAR 08 2021