

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

In the Matter of Allocation of Conserved Water Application CW-98, Morrow and Umatilla Counties) FINAL ORDER ON FINALIZATION OF ALLOCATION OF CONSERVED WATER CW-98

Applicant:

Stanfield Hutterian Brethren
c/o Herb Stahl
36345 Despain Gulch Road
Stanfield, OR 97875

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.

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).

An application for an allocation of conserved water shall include: (a) A description of the proposed measures; (b) A description of the existing diversion facilities and an estimate of the amount of water that can be diverted at the facilities; (c) The amount of water that will be needed for the original, authorized use after implementation of the conservation measures; (d) The amount of conserved water expected from implementation of the conservation measures; (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; (g) The

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.

applicant's choice of priority date for the conserved water; and (h) Any other information the commission considers necessary to evaluate the effectiveness of the proposal. ORS 537.465.

If a person proposes conservation measures within the boundaries of an irrigation district organized under ORS chapter 545 or a water control district organized under ORS chapter 553, at the time the person submits the application, the person also must submit evidence that the district has approved the conservation application. ORS 537.465.

If an application for the allocation of conserved water is approved, the Department shall issue orders describing the changes in the original water rights and once the conservation project is finalized, new certificates preserving the previously established priority of rights shall be issued describing the unaffected portion of the water rights and separate new certificates documenting the rights created by the allocation of conserved water. ORS 537.470(6).

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 allocation of conserved water applications. OAR Chapter 690, Division 077 provides additional criteria for evaluating proposed instream water rights. The statutes and rules outlined above require the Department to review the application and any comments received to make its findings and determinations.

Findings of Fact

1. On May 17, 2017, the Stanfield Hutterian Brethren filed an allocation of conserved water application under Certificates 91005, 91006, 91007, and 91008. The Department assigned the application number CW-98.
2. The conservation project involves modifying the center pivot circle irrigation machines to operate at lower pressures and reduced flows, and installation of state-of-the-art new low pressure, low flow spray nozzles.
3. Conversion to low pressure, low flow nozzles is a proven technology for conserving water.
4. An Order of Approval on Completion of Allocation of Conserved Water CW-98 (Approval Order) was issued on January 30, 2018. The order is recorded at Special Order Volume 107, Pages 530-545.

5. The Approval Order established the quantities of water conserved and allocated as follows:

Priority*	Originating 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
8/15/1967	91005	25%	3.66	658.54	75%	10.97	1975.61	100%	14.63	2634.15
3/9/1979	91006	25%	2.69	483.80	75%	8.06	1451.20	100%	10.75	1935.00
9/23/1983	91007	25%	0.41	73.43	75%	1.22	220.27	100%	1.63	293.70
4/6/1977	91008	25%	0.12	14.60	75%	0.37	43.80	100%	0.49	58.40
Totals			6.88	1230.37		20.62	3690.88		27.50	4921.25

* -priority dates are plus one minute (one minute junior to the originating right)

6. The Approval Order established the reduced rates for the existing uses as follows:

Priority	Originating Certificate	Acres	Rate		Duty	
			Maximum CFS	CFS/AC	Maximum AF	AF/AC
8/15/1967	91005	1756.1	29.27	1/60	5,268.3	3.0
3/9/1979	91006	1290.0	21.50	1/60	3,870.0	3.0
9/23/1983	91007	195.8	3.27	1/60	587.4	3.0
4/6/1977	91008	58.4	0.97	1/60	175.2	3.0

7. The Approval Order established the priority dates for any conserved water to be one minute junior to the originating rights.
8. The Approval order established areas within which the Applicant's portion of conserved water is to be used for out-of-stream uses as being within Township 2 North, Ranges 23, 24, 26, 27 and 28 East, W.M.; Township 3 North, Ranges 23, 24, 26, 27, 28, 29, 30, and 31 East, W.M.; Township 4 North, Ranges 23, 24, 25, 26, 27, 28, 29, 30, and 31 East, W.M.; and Township 5 North, Ranges 26, 27, 28, 29, 30, and 31 East, W.M
9. The Approval Order established a deadline of April 1, 2022, for the Request for Finalization form to be submitted.
10. On January 21, 2020, the Applicants submitted a Request for Finalization.

Conclusions of Law

The Findings of Fact and Conclusions of Law set forth in the Final Order Approving Allocation of Conserved Water CW-98, recorded at Special Order Volume 107, Pages 530-545, are incorporated as if set forth fully herein. The project described in Allocation of Conserved Water Application CW-98, 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:

1. The project is complete and no additional time is needed for finalization.
2. The Applicant's portion of conserved water (20.62 cfs, 3,690.88 AF) shall be used and managed instream until a Notice of Use or Disposition is received pursuant to ORS 537.490 and OAR 690-019-0090.

The water shall be managed instream at the common authorized point of diversion located at approximately River Mile 278.3:

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

3. 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	4.07	1975.61
3/9/1979, plus one minute	91006	March 1 through October 31	2.97	1451.20
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			7.58	3690.88

4. Water Right Certificate 91005 is cancelled. A new certificate will be issued for that portion of Certificate 91005 not affected by CW-98. A superseding Certificate will be issued for the existing use and place of use at the reduced rate and duty as follows:

Originating

Certificate: 91005 in the name of STANFIELD HUTTERIAN BRETHERN (perfected under Permit S-32309)

Use: IRRIGATION of 1756.1 ACRES

Priority Date: AUGUST 15, 1967

Rate: 29.7 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, shall be limited to ONE-SIXTIETH (1/60) 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 is further limited to an annual volume limitation of 5,268.3 acre-feet per year.

Source: COLUMBIA RIVER, tributary to the PACIFIC OCEAN

Authorized Point of Diversion:

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 EAST 1/4 CORNER OF SECTION 23

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 N	26 E	WM	1	NE NW	3	6.40
4 N	26 E	WM	1	SW NW		28.4
4 N	26 E	WM	1	SE NW		36.6
4 N	26 E	WM	1	NE SW		36.9
4 N	26 E	WM	1	NW SW		32.0
4 N	26 E	WM	1	SW SW		37.6
4 N	26 E	WM	1	SE SW		35.7
4 N	26 E	WM	2	SE NE		0.3
4 N	26 E	WM	2	NW SW	16	0.8
4 N	26 E	WM	2	SW SW	13	20.4
4 N	26 E	WM	2	SE SW	14	2.5
4 N	26 E	WM	2	SW SE		1.5
4 N	26 E	WM	2	SE SE		6.5
4 N	26 E	WM	3	SE SW		9.5
4 N	26 E	WM	3	SW SE		22.0
4 N	26 E	WM	3	SE SE		30.6
4 N	26 E	WM	10	NE NE		6.0
4 N	26 E	WM	10	SE NE		0.3
4 N	26 E	WM	10	NE SE		0.2
4 N	26 E	WM	10	SE SE		0.3
4 N	26 E	WM	11	NE NE		37.9
4 N	26 E	WM	11	NW NE		38.3
4 N	26 E	WM	11	SW NE		38.5
4 N	26 E	WM	11	SE NE		37.1
4 N	26 E	WM	11	NE NW		37.6
4 N	26 E	WM	11	NW NW		38.7
4 N	26 E	WM	11	SW NW		34.9
4 N	26 E	WM	11	SE NW		38.3
4 N	26 E	WM	11	NE SW		37.0
4 N	26 E	WM	11	NW SW		33.1
4 N	26 E	WM	11	SW SW		32.6
4 N	26 E	WM	11	SE SW		36.4
4 N	26 E	WM	11	NE SE		37.1
4 N	26 E	WM	11	NW SE		36.6
4 N	26 E	WM	11	SW SE		38.1
4 N	26 E	WM	11	SE SE		36.3
4 N	26 E	WM	12	NE NW		35.4
4 N	26 E	WM	12	NW NW		36.1
4 N	26 E	WM	12	SW NW		37.5
4 N	26 E	WM	12	SE NW		37.0
4 N	26 E	WM	12	NE SW		35.2
4 N	26 E	WM	12	NW SW		33.4

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 N	26 E	WM	12	SW SW		39.2
4 N	26 E	WM	12	SE SW		36.6
4 N	26 E	WM	13	NE NW		36.4
4 N	26 E	WM	13	NW NW		35.3
4 N	26 E	WM	13	SW NW		31.7
4 N	26 E	WM	13	SE NW		36.6
4 N	26 E	WM	13	NE SW		35.1
4 N	26 E	WM	13	NW SW		31.5
4 N	26 E	WM	13	SW SW		30.6
4 N	26 E	WM	13	SE SW		28.7
4 N	26 E	WM	14	NE NE		7.9
4 N	26 E	WM	14	NW NE		5.0
4 N	26 E	WM	14	SE NE		0.1
4 N	26 E	WM	14	NE NW		6.5
4 N	26 E	WM	14	NE SE		0.3
4 N	26 E	WM	14	SE SE		0.2
4 N	26 E	WM	15	NE NE		26.6
4 N	26 E	WM	15	NW NE		30.8
4 N	26 E	WM	15	SW NE		35.7
4 N	26 E	WM	15	SE NE		31.1
4 N	26 E	WM	15	NE NW		27.5
4 N	26 E	WM	15	NW NW		32.4
4 N	26 E	WM	15	SW NW		35.4
4 N	26 E	WM	15	SE NW		39.2
4 N	26 E	WM	15	NE SW		9.6
4 N	26 E	WM	15	NW SW		1.6
4 N	26 E	WM	15	NW SE		6.9
Total						1756.1

5. Water Right Certificate 91006 is cancelled. A new certificate will be issued for that portion of Certificate 91006 not affected by CW-98. A superseding Certificate will be issued for the existing use and place of use at the reduced rate and duty as follows:

Originating

Certificate: 91006 in the name of STANFIELD HUTTERIAN BRETHERN (perfected under Permit S-44511)

Use: IRRIGATION of 1290.0 ACRES

Priority Date: MARCH 9, 1979

Rate: 21.5 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, shall be limited to ONE-SIXTIETH (1/60) 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 is further limited to an annual volume limitation of 3,870.0 acre-feet per year.

Source: COLUMBIA RIVER, tributary to the PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
5 N	26 E	WM	23	SE NE	1	POD 1: 600 FEET NORTH AND 230 FEET WEST FROM THE EAST ¼ CORNER OF SECTION 23

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 N	26 E	WM	1	SW NW		2.5
4 N	26 E	WM	1	NW SW		5.3
4 N	26 E	WM	2	SW NE		7.4
4 N	26 E	WM	2	SE NE		12.3
4 N	26 E	WM	2	SE NW	10	3.8
4 N	26 E	WM	2	NE SW	11	35.9
4 N	26 E	WM	2	NW SW	16	21.0
4 N	26 E	WM	2	SW SW	13	15.5
4 N	26 E	WM	2	SE SW	14	36.3
4 N	26 E	WM	2	NE SE		37.2
4 N	26 E	WM	2	NW SE		38.5
4 N	26 E	WM	2	SW SE		35.0
4 N	26 E	WM	2	SE SE		29.3
4 N	26 E	WM	3	SW SW		4.2
4 N	26 E	WM	10	NE NW		32.1
4 N	26 E	WM	10	NW NW		31.6
4 N	26 E	WM	10	SW NW		37.9
4 N	26 E	WM	10	SE NW		37.5
4 N	26 E	WM	10	NE SW		34.5
4 N	26 E	WM	10	NW SW		37.1
4 N	26 E	WM	10	SW SW		35.2
4 N	26 E	WM	10	SE SW		39.8
4 N	26 E	WM	10	NW SE		31.5
4 N	26 E	WM	10	SW SE		40.1
4 N	26 E	WM	10	SE SE		36.7
4 N	26 E	WM	11	NE NW		1.4
4 N	26 E	WM	11	NW NW		0.1
4 N	26 E	WM	11	SW SW		5.5
4 N	26 E	WM	13	SW NW		6.5
4 N	26 E	WM	13	NW SW		3.8
4 N	26 E	WM	13	SW SW		4.2
4 N	26 E	WM	14	NE NE		26.3
4 N	26 E	WM	14	NW NE		29.9
4 N	26 E	WM	14	SW NE		38.7
4 N	26 E	WM	14	SE NE		38.3
4 N	26 E	WM	14	NE NW		26.9
4 N	26 E	WM	14	NW NW		36.3
4 N	26 E	WM	14	SW NW		37.8
4 N	26 E	WM	14	SE NW		38.1
4 N	26 E	WM	14	NE SW		35.0
4 N	26 E	WM	14	NW SW		39.2
4 N	26 E	WM	14	SW SW	1	11.5
4 N	26 E	WM	14	SE SW	3	26.0

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 N	26 E	WM	14	NE SE		36.9
4 N	26 E	WM	14	NW SE		34.4
4 N	26 E	WM	14	SW SE	5	32.5
4 N	26 E	WM	14	SE SE		35.8
4 N	26 E	WM	15	NE NE		7.9
4 N	26 E	WM	15	NW NE		7.1
4 N	26 E	WM	15	SE NE		8.0
4 N	26 E	WM	15	NE NW		7.8
4 N	26 E	WM	15	NW NW		1.9
4 N	26 E	WM	15	NE SE		14.6
4 N	26 E	WM	23	NE NE		14.3
4 N	26 E	WM	23	NW NE		0.5
4 N	26 E	WM	24	NW NW	4	4.6
					Total	1290.0

6. Water right Certificate 91007 is cancelled. A superseding Certificate will be issued for the existing use and place of use at the reduced rate and duty as follows:

Originating

Certificate: 91007 in the name of STANFIELD HUTTERIAN BRETHERN (perfected under Permit S-48119)

Use: IRRIGATION of 195.8 ACRES

Priority Date: SEPTEMBER 23, 1983

Rate: 3.27 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, shall be limited to ONE-SIXTIETH (1/60) 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 is further limited to an annual volume limitation of 587.4 acre-feet per year.

Source: COLUMBIA RIVER, tributary to the PACIFIC OCEAN

Authorized Point of Diversion:

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 EAST 1/4 CORNER OF SECTION 23

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	26 E	WM	10	NE NE	31.7
4 N	26 E	WM	10	NW NE	37.6
4 N	26 E	WM	10	SW NE	38.1
4 N	26 E	WM	10	SE NE	36.1
4 N	26 E	WM	10	NE NW	2.0
4 N	26 E	WM	10	SE NW	0.7
4 N	26 E	WM	10	NE SE	35.1

Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	26 E	WM	10	NW SE	5.0
4 N	26 E	WM	11	SW NW	4.4
4 N	26 E	WM	11	NW SW	5.1
Total					195.8

7. Water Right Certificate 91008 is cancelled. A superseding Certificate will be issued for the existing use and place of use at the reduced rate and duty as follows:

Originating

Certificate: 91008 in the name of STANFIELD HUTTERIAN BRETHERN (perfected under Permit S-43935)

Use: IRRIGATION of 58.4 ACRES

Priority Date: APRIL 6, 1977

Rate: 0.97 CUBIC FOOT 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, shall be limited to ONE-SIXTIETH (1/60) 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 is further limited to an annual volume limitation of 175.2 acre-feet per year.

Source: COLUMBIA RIVER, tributary to the PACIFIC OCEAN

Authorized Point of Diversion:

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 EAST 1/4 CORNER OF SECTION 23

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 N	26 E	WM	13	SW SW		1.5
4 N	26 E	WM	13	SE SW		0.9
4 N	26 E	WM	24	NE NW	3	34.3
4 N	26 E	WM	24	NW NW	4	21.7
Total						58.4

8. 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.

9. 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 rate, the conserved water may be managed throughout the entire irrigation season. 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 Columbia River. The instream right shall allow the use and protection of flows as follows:


Priority Date	Originating Certificate	Period	Rate (cfs)	Volume (acre-feet)
8/15/1967, plus one minute	91005	March 1 through October 31	1.36	658.54
3/9/1979, plus one minute	91006	March 1 through October 31	1.00	483.80
9/23/1983, plus one minute	91007	March 1 through October 31	0.15	73.43
4/6/1977, plus one minute	91008	March 1 through October 31	0.03	14.60
Totals			2.54	1230.37

Columbia River: At the common authorized point of diversion under 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 EAST 1/4 CORNER OF SECTION 23

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: JAN 23 2020


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

Mailing date: JAN 24 2020