

and (i) Any other information the commission considers necessary to evaluate the application. ORS 537.465.

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. 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. 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 October 3, 2016, Hudson Bay District Improvement Co. (District) filed an allocation of conserved water application under Certificate 89170. On October 13, 2016, the District submitted amended pages for the application. The Department assigned the application number CW-94.
2. The District operates and maintains the water delivery system for the benefit of the landowners in the area. The District was incorporated on September 2, 1952, under ORS 554.
3. The conservation project involves piping approximately 6.7 miles of open ditch to eliminate seepage losses. The piping of an open ditch is a proven technology for conserving water.
4. On December 16, 2016, the Department issued a Draft Preliminary Determination proposing to approve Conserved Water Application CW-94. On March 28, 2017, based on a review of the starting point for the conserved water application, the Department issued an Amended Draft Preliminary Determination proposing to deny Conserved Water Application CW-94.
5. On May 1, 2017, the District submitted an Amended Conserved Water Application CW-94 (5/1/17 amended Application). The 5/1/2017 amended Application proposed a rate reduction of approximately 6.25 cfs.

6. On May 12, 2017, the Department issued a Draft Preliminary Determination proposing to approve Conserved Water Application CW-94. On June 14, 2017, the Applicant notified the Department to proceed with issuance of a Preliminary Determination.
7. On June 20, 2017, the Department issued a Preliminary Determination proposing to approve the Application based on the 5/1/2017 amended Application. The Preliminary Determination was mailed on June 21, 2017, starting a 60-day Protest period.
8. On August 15, 2017, the Applicant submitted a request to withdraw the Preliminary Determination stating the quantity of water conserved was greater than the amount stated in the 5/21/2017 amended Application.
9. Also on August 15, 2017, the Applicant submitted amended pages 4, 5, and 7 to supersede like pages of the 5/21/2017 amended Application. In addition, the Applicant submitted a Request for Finalization.
10. On August 17, 2017, the Department issued an Order Withdrawing the Preliminary Determination which was issued on June 20, 2017, and recorded in Special Order Volume 105, Pages 591 and 592.
11. Application CW-94, as amended on August 15, 2017, proposes a rate reduction of approximately 9.0 cubic feet per second (cfs).

Conserved Water Description			
Priority	Certificate	Needed	Conserved Water
	Maximum Rate (CFS)	Maximum Rate (CFS)	Rate (CFS)
February 16, 1903	24.07	15.07	9.00

12. The portion of the right to be modified by CW-94 is as follows:
Certificate: 89170 in the name of HUDSON BAY DISTRICT IMPROVEMENT COMPANY (confirmed by Walla Walla River decree)
Use: IRRIGATION of 998.60 ACRES, STOCK AND DOMESTIC
Priority Date: FEBRUARY 16, 1903
Rate: The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 24.07 cubic feet per second (cfs).
Limit/Duty: ONE AND ONE-HALF MINER'S INCHES PER ACRE
Source: LITTLE WALLA WALLA RIVER and the WALLA WALLA RIVER, tributaries of the COLUMBIA RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	35 E	WM	1	NE NW	POD #1 – 910 FEET SOUTH AND 700 FEET WEST FROM THE NORTH 1/4 CORNER OF SECTION 1
5 N	35 E	WM	12	SW NE	POD #2 – 1030 FEET NORTH AND 900 FEET EAST FROM THE CENTER CORNER OF SECTION 12

Authorized Place of Use:

IRRIGATION, DOMESTIC AND STOCKWATER							
Twp	Rng	Mer	Sec	Q-Q	Acres	SUPPLEMENTAL INFORMATION	
						Tax Lot	Name
6 N	34 E	WM	13	SW NE	23.60	200	BOSTWICK, (Trustees)
6 N	34 E	WM	13	SE NE	14.50	200	BOSTWICK, (Trustees)
6 N	34 E	WM	13	NE NW	21.30	21-0007	HUESBY
6 N	34 E	WM	13	NW NW	31.50	21-0007	HUESBY
6 N	34 E	WM	13	SW NW	14.00	21-0007	HUESBY
6 N	34 E	WM	13	SW NW	24.10	203	HELLBERG
6 N	34 E	WM	13	SE NW	13.70	21-0007	HUESBY
6 N	34 E	WM	13	SE NW	24.50	200	R. & J. BOSTWICK, (Trustees)
6 N	34 E	WM	13	NE SW	16.00	100	RICHARTZ BROS.
6 N	34 E	WM	13	NW SW	1.50	201	HELLBERG
6 N	34 E	WM	13	NW SE	11.20	100	RICHARTZ BROS.
6 N	35 E	WM	17	SW NW	17.90	601	LOCATI, M.
6 N	35 E	WM	17	SW NW	1.40	602	LOCATI, M.
6 N	35 E	WM	17	NE SW	39.10	101	LOCATI, A
6 N	35 E	WM	17	NW SW	39.10	103	LOCATI, M.
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6 N	35 E	WM	17	SW SE	9.40	103	LOCATI, A
6 N	35 E	WM	18	SW NE	22.50	100	LOCATI, M.
6 N	35 E	WM	18	SE NE	22.50	100	LOCATI, M.
6 N	35 E	WM	18	SW NW	22.50	100	LOCATI, M.
6 N	35 E	WM	18	SE NW	22.50	100	LOCATI, M.
6 N	35 E	WM	18	NE SW	40.00	200	CURCIO
6 N	35 E	WM	18	NW SW	38.90	200	CURCIO
6 N	35 E	WM	18	NE SE	7.00	700	LOCATI, M.
6 N	35 E	WM	18	NW SE	39.70	700	LOCATI, M.
6 N	35 E	WM	18	SE SE	38.20	600	DIXSON, J.
6 N	35 E	WM	18	SE SE	0.70	601	DIXSON, J.
6 N	35 E	WM	19	NE NE	28.00	100	CHVATAL
6 N	35 E	WM	20	NW NE	1.00	403	PALMER, B.
6 N	35 E	WM	20	NW NE	4.60	1500	LEE
6 N	35 E	WM	20	SW NE	20.00	400	LEE
6 N	35 E	WM	20	SE NE	9.50	203	CHILDERS
6 N	35 E	WM	20	SE NE	10.00	204	LONAI
6 N	35 E	WM	20	NE NW	15.50	402	NOBLE
6 N	35 E	WM	20	NE NW	10.80	400	LEE
6 N	35 E	WM	20	NE NW	1.00	403	PALMER, B.
6 N	35 E	WM	20	NE NW	6.90	500	GRAY, R.
6 N	35 E	WM	20	NW NW	1.60	402	NOBLE
6 N	35 E	WM	20	NW NW	35.60	500	GRAY, R.
6 N	35 E	WM	20	NW NW	2.60	400	LEE
6 N	35 E	WM	20	SW NW	6.50	500	GRAY, R.
6 N	35 E	WM	20	SW NW	16.00	400	LEE
6 N	35 E	WM	20	SE NW	39.80	400	LEE
6 N	35 E	WM	20	NE SW	3.00	100	LEE
6 N	35 E	WM	20	NE SW	20.50	1100	HAMBLIN
6 N	35 E	WM	20	NE SE	4.30	200	LONAI

IRRIGATION, DOMESTIC AND STOCKWATER							
Twp	Rng	Mer	Sec	Q-Q	Acres	SUPPLEMENTAL INFORMATION	
						Tax Lot	Name
6 N	35 E	WM	20	NE SE	11.00	1600	BOLLING, J
6 N	35 E	WM	20	NW SE	4.00	400	LEE
6 N	35 E	WM	20	SE SE	2.60	1600	BOLLING, J
6 N	35 E	WM	20	SE SE	4.00	1500	VILLA, A.
6 N	35 E	WM	20	SE SE	7.00	1401	STEPHENS, M.
6 N	35 E	WM	21	NW SW	18.00	400	HEIDENRICH
6 N	35 E	WM	21	NW SW	1.40	700	ALLEMAN
6 N	35 E	WM	21	SW SW	15.40	700	ALLEMAN
6 N	35 E	WM	21	SW SW	13.50	800	ROFF
6 N	35 E	WM	28	SW NE	11.70	1400	DELAHAYE
6 N	35 E	WM	28	NE NW	9.30	1500	TELLEFSON, K.
6 N	35 E	WM	28	NE NW	12.90	1601	TELLEFSON, K.
6 N	35 E	WM	28	NW NW	12.00	1601	TELLEFSON, K.
6 N	35 E	WM	28	NW NW	1.20	1601	TELLEFSON, K.
6 N	35 E	WM	28	SE NW	5.50	1400	DELAHAYE
TOTAL					998.60		

13. The original water right is further described in the Walla Walla Decree on Pages 55-60, under Paragraph 75 as limited to a maximum rate of 75.00 cfs, serving 2,673.76 acres.
14. The rate and acreage associated with the original Certificate (13083) from the Walla Walla Decree has been affected by transfers, cancellations, and allocations of conserved water. The approximate starting point for Certificate 89170 is as follows:

Activity	Rate	Acres
Start: Certificate 13083	75.000	2673.76
Cancellation: Spec. Order V. 28, P. 89	-0.393	-14.00
D-115 (4.2 acres not perfected)	-0.118	-4.20
T-4356	-0.561	-20.00
T-5938 - Certificate 52576	-0.561	-20.00
Certificate 67205 issued	73.367	2615.56

Activity	Rate	Acres
Start: Certificate 67205	73.367	2615.56
T-4356	0.561	20.00
T-5938 - Certificate 52576	0.561	20.00
Certificate 85805 issued	74.489	2655.56

Activity	Rate	Acres
Start: Certificate 85805	74.489	2655.56
CW-38	-10.488	0.00
Certificate 89170 issued	64.001	2655.56

15. Using the starting point of 64.001 cubic feet per second, the rate per acre is calculated as follows: $64.001 / 2655.56 \text{ acre} = 0.0241 \text{ cfs/ac}$. Only a portion of Certificate 89170 is involved in CW-94; therefore, the starting point for CW-94 is as follows:
 $(998.6 \text{ acres} \times 0.0241 \text{ cfs/ac} = 24.07 \text{ cfs})$

16. Based upon the Walla Walla River Decree, Certificate 89170 has a year-round season of use without a specified duty limitation. However, the existing right is subject to beneficial use without waste in accordance with ORS 536.310. Use of the existing right at the full amount allowed would exceed amounts necessary to accomplish the existing beneficial uses. After allocation of conserved water application CW-38, a maximum of 7.2 acre-feet (AF) per acre can be beneficially diverted for the existing use (19120.03 AF / 2655.56 [entirety of Cert. 89170] = 7.2 AF per acre).
17. Water has been used within the five-year period prior to submission of the allocation of conserved water application, and no evidence is available that would demonstrate the right is subject to forfeiture under ORS 540.610.
18. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of the application.
19. The District requests that the conserved water be allocated 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
89170	78.5%	7.07	2088.79	21.5%	1.93	571.48	100%	9.0	2660.27

20. The District proposes its portion of the conserved water be allocated for an out-of-stream use within Townships 5 and 6 North, Ranges 34 and 35 East, W.M.
21. The District requests the priority date for any conserved water be the same as the originating right, being February 16, 1903. In addition, the District requested to diminish the remaining right to be subordinate to the instream right created by this allocation of conserved water project.
22. The District has received federal and state non-reimbursable funds for this project. The District proposes an allocation of 78.5% to the state with the District receiving 21.5%. The District will be receiving less than the minimum 25% allocation under ORS 537.470(3).
23. The District submitted a completed Land Use Form from Umatilla County which indicated the proposed use was allowed outright or is not regulated by Umatilla County's comprehensive plan under ordinance UCDC Section 152.055(M).
24. The implementation of the conservation measures began no earlier than July 30, 2012. A request for finalization was submitted on August 15, 2017. The District has contacted the local governments and worked with the Confederated Tribe of the Umatilla Reservation to identify and resolve the concerns of water right holders in the area, governmental entities, and other organizations.

25. The District proposes that any instream water right created be for the purposes of conservation, maintenance, and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values.
26. The District requests the Department protect the new instream water right created from the conserved water under Certificate 89170 from the authorized point of diversion (POD #2) in Section 12, Township 5 North, Range 35 East, W.M., at approximately River Mile (RM) 50.0, to the Oregon-Washington state line at approximately RM 44.5.
27. The application meets the requirements of OAR 690-018-0040.
28. The Department has consulted with the Oregon Department of Fish and Wildlife (ODFW) to ascertain whether the proposed instream flows are necessary to support instream flow uses. ODFW advised the proposed instream water right will protect and support flows for spawning, rearing, and migration of native fishes in the mainstem of the Walla Walla River.
29. Notice of the proposed conservation project was published in the Department's weekly notice on November 22, 2016, and in the Valley Herald newspaper on November 4 and 11, 2016, as required under OAR 690-018-0050(1)(a) and (2). Comments were received from the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) on December 13, 2016. The CTUIR recommended the instream flow would maximize benefits to the fisheries by occurring during the time periods of May 15 through July 22 and September 15 through October 15.
30. On June 21, 2017, the Department issued a Preliminary Determination proposing to approve Allocation of Conserved Water application CW-94, and mailed a copy to the Applicant. On August 15, 2017, the Applicant request the Preliminary Determination be withdrawn as the quantity of water conserved was greater than stated in the application. On August 17, 2017, the Preliminary Determination was withdrawn.
31. On August 15, 2017, the Applicant amended pages 4, 5, and 7 of the application along with a request for Finalization of the Allocation. On August 28, 2017, the Department issued an Amended Preliminary Determination. There were no commenters to the public notice required under OAR 690-018-0050(3). No protests were filed within 60 days from the date of mailing the Amended Preliminary Determination. OAR 690-018-0050(6).

Allocation of Conserved Water Review Criteria [OAR 690-018-0050]

32. The proposed allocation of conserved water will result in a reduced diversion of the use allowed under the existing right pursuant to OAR 690-0018-0050(4)(a). (Finding of Fact #11).
33. On December 7, 2016, the District #5 Watermaster performed a review of the proposed Allocation of Conserved Water Project. The Department staff determined the return flows from lands served by the diversion do not return to the Walla Walla River in Oregon. Therefore, the proposed allocation of conserved water will not harm existing water rights so long as the instream use created by the allocation of conserved water project has the

following conditions: a) the quantity of water protected in the stream reach does not exceed the quantity of water legally available at the original point of diversion; b) the stream channel losses and gains are calculated based on available data and the use of water by senior appropriators will determine the amount of water to which the right is entitled downstream from the original point of diversion within the specified stream reach; and c) the instream right created by this allocation of conserved water project is not additive to the by-pass flow conditions described in Permit S-53662, or other water rights, unless otherwise specified by subsequent order. OAR 690-018-0050(4)(b).

- 34. The conservation project is consistent with the local comprehensive land use plan requirements established in OAR 690-005-0045. (Finding of Fact #23). OAR 690-018-0050(4)(c).
- 35. No harm will occur to other water rights if the conditions and limitations set forth in Finding of Fact #33 are included for the instream water right to be created by this allocation of conserved water. Therefore, no quantity of conserved water is needed to mitigate for harm to other water rights. OAR 690-018-0050(4)(d).
- 36. Pursuant to OAR 690-018-0050(4)(e), the new reduced rate and duty for the existing uses involved in Allocation of Conserved Water Application CW-94 under Certificate 89170 are as follows:

Originating Certificate	Rate	Duty
	Maximum CFS	Maximum AF
89170	15.07	4529.65

(Finding of Fact #11).

- 37. Pursuant to OAR 690-018-0050(4)(e), the rate and volume allocated to the State for instream use is as follows:

Maximum Rate	Maximum Duty (Volume)
7.07 cfs	2088.79 AF

(Finding of Fact #19).

- 38. In consultation with the Oregon Department of Fish and Wildlife, the Department has determined the conserved water is needed to support public benefits in the Walla Walla River to provide for the conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values. OAR 690-018-0050(4)(f). (Finding of Fact #28).

- 39. Pursuant to ORS 537.470(3) and OAR 690-018-0050(4)(g), the amount of water allocated to the District does not need to be adjusted because the District will be receiving less than the minimum 25% allocation allowed under ORS 537.470(3). The rate and volume allocated to the District is as follows:

Priority Date	Maximum Rate	Maximum Duty (Volume)
February 16, 1903	1.93 cfs	571.48 AF

(Finding of Fact #19).

- 40. The stream reach for the State’s instream water right created by CW-94 will be protected in the Walla Walla River from authorized point of diversion #2 as described in Finding of Fact #12, at approximately RM 50 to the Oregon-Washington state line at approximately RM 44.5. OAR 690-018-0050(4)(h); OAR 690-077-0015(8).
- 41. To prevent enlargement, the period of use for water to be protected instream must be adjusted so the annual volume limitation is not exceeded.

42. The instream right shall allow the use and protection of flows as follows:

Priority Date		Period	Rate (cfs)	Volume (acre-feet)
February 16, 1903	Season 1	4/25 through 7/21	7.07	1233.79
February 16, 1903	Season 2	9/1 through 10/31	7.07	855.00
Total				2088.79

- 43. The amount and timing of the proposed instream flows are allowable within the limits and use of the original water right. OAR 690-077-0015(10).
- 44. The protection of flows within the proposed reach is appropriate, considering:
 - a. The instream water use begins at the recorded point of diversion (for POD #2);
 - b. The location of confluences with other streams downstream of the point of diversion.
 - c. There are no known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
 - d. Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.
 OAR 690-077-0015(8).
- 45. The combination of instream rights for the proposed reach on the Walla Walla River does not exceed the amount needed to provide increased public benefits, and does not exceed the estimated average natural flow or level occurring from the drainage system. OAR 690-077-0015(4) and (11).
- 46. There are no existing instream water rights for the proposed reach on the Walla Walla River established pursuant to ORS 537.341 (minimum flow conversion) or ORS 537.336 (state agency process). By adding to other instream water rights established pursuant to ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process) located within the proposed reach, any new instream water rights established by this conserved water project would provide protection for additional flows identified as necessary for conservation, maintenance, and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values. OAR 690-077-0015(11).
- 47. The proposed areas within which the conserved water is proposed to be used for out-of-stream uses are within Townships 5 and 6 North, Ranges 34 and 35 East, W.M. (Finding of Fact #20). OAR 690-018-0050(4)(h).
- 48. The project was implemented on July 30, 2012. The project is complete. A Request for Finalization was submitted on August 15, 2017. (Finding of Fact #24). OAR 690-018-0050(4)(i).

49. No other conditions or limitations, except those identified in Finding of Fact #33, are needed to prevent or mitigate for harm to existing water rights. OAR 690-018-0050(4)(j).

Conclusions of Law

The project described in Allocation of Conserved Water Application CW-94 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 proposed change will result in a reduced diversion for the uses allowed under the original water right. Findings of Fact #11 and #32.
2. The proposed allocation of conserved water will not harm existing water rights. Findings of Fact #33 and #49.
3. The application is consistent with the requirements established in OAR 690-005-0045. Findings of Fact #23 and #34.
4. The changes proposed in CW-94 are approved.
5. The quantities of water conserved and allocated are 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
89170	78.5%	7.07	2088.79	21.5%	1.93	571.48	100%	9.0	2660.27

6. The right to the use of the water is restricted to beneficial use at the places of use described, and is subject to all other conditions and limitations contained in Certificate 89170 and any related decree.
7. Water Right Certificate 89170 is cancelled. A new certificate will be issued for that portion of the water right not involved in this conserved water application.
8. A superseding Certificate will be issued for the existing authorized use and place of use (described in Finding of Fact #12) at the reduced rate and duty as follows:

Certificate: 89170 in the name of HUDSON BAY DISTRICT IMPROVEMENT COMPANY (confirmed by Walla Walla River decree)
Use: IRRIGATION of 998.60 ACRES, STOCK AND DOMESTIC
Priority Date: FEBRUARY 16, 1903
Rate: 15.07 CUBIC FEET PER SECOND (cfs)
Limit/Duty: ONE AND ONE-HALF MINER'S INCHES PER ACRE, limited to an ANNUAL VOLUME of 4529.65 ACRE-FEET (AF)

Source: LITTLE WALLA WALLA RIVER and the WALLA WALLA RIVER,
tributaries of the COLUMBIA RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	35 E	WM	1	NE NW	POD #1 – 910 FEET SOUTH AND 700 FEET WEST FROM THE NORTH 1/4 CORNER OF
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Twp	Rng	Mer	Sec	Q-Q	Acres	SUPPLEMENTAL INFORMATION	
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6 N	35 E	WM	20	NE NW	6.90	500	GRAY, R.
6 N	35 E	WM	20	NW NW	1.60	402	NOBLE
6 N	35 E	WM	20	NW NW	35.60	500	GRAY, R.
6 N	35 E	WM	20	NW NW	2.60	400	LEE
6 N	35 E	WM	20	SW NW	6.50	500	GRAY, R.
6 N	35 E	WM	20	SW NW	16.00	400	LEE
6 N	35 E	WM	20	SE NW	39.80	400	LEE
6 N	35 E	WM	20	NE SW	3.00	100	LEE
6 N	35 E	WM	20	NE SW	20.50	1100	HAMBLÉN
6 N	35 E	WM	20	NE SE	4.30	200	LONAI
6 N	35 E	WM	20	NE SE	11.00	1600	BOLLING, J
6 N	35 E	WM	20	NW SE	4.00	400	LEE
6 N	35 E	WM	20	SE SE	2.60	1600	BOLLING, J
6 N	35 E	WM	20	SE SE	4.00	1500	VILLA, A.
6 N	35 E	WM	20	SE SE	7.00	1401	STEPHENS, M.
6 N	35 E	WM	21	NW SW	18.00	400	HEIDENRICH
6 N	35 E	WM	21	NW SW	1.40	700	ALLEMAN
6 N	35 E	WM	21	SW SW	15.40	700	ALLEMAN
6 N	35 E	WM	21	SW SW	13.50	800	ROFF
6 N	35 E	WM	28	SW NE	11.70	1400	DELAHAYE
6 N	35 E	WM	28	NE NW	9.30	1500	TELLEFSON, K.
6 N	35 E	WM	28	NE NW	12.90	1601	TELLEFSON, K.
6 N	35 E	WM	28	NW NW	12.00	1601	TELLEFSON, K.
6 N	35 E	WM	28	NW NW	1.20	1601	TELLEFSON, K.
6 N	35 E	WM	28	SE NW	5.50	1400	DELAHAYE
				TOTAL	998.60		

This water right shall be subordinate to the State's instream water right created by allocation of conserved water project (CW-94) described in this order and Certificate 89171, which have the same priority date. When the instream water rights are fully met, the District may divert water under this right.

The water user shall maintain and operate the existing measurement devices at the points of diversion and shall make such improvements as may be required by the Department.

All other conditions of the existing water right certificate shall be included in the superseding certificate.

9. The District's portion of conserved water (1.93 cfs, 571.48 AF) shall be used and managed instream until a Notice of Use or Disposition is received pursuant to ORS 537.490 and OAR 690-019-009. The water shall be managed instream from the authorized point of diversion on the Walla Walla River at approximately River Mile 50:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	35 E	WM	12	SW NE	POD #2 – 1030 FEET NORTH AND 900 FEET EAST FROM THE CENTER CORNER OF

To the Oregon-Washington state line at approximately River Mile 44.5, as follows:

Priority Date	Period	Rate (cfs)	Volume (acre-feet)
February 16, 1903	5/6 through 10/1	1.93	571.48

10. The priority date for the conserved water held by the District is February 16, 1903, and shall be subordinate to the State's instream water rights created by the allocation of conserved water projects CW-38 (Cert. 89171) and CW-94.
11. The areas within which the Applicant's portion of conserved water is proposed to be used for out-of-stream uses are within Townships 5 and 6 North, Ranges 34 and 35 East, W.M.
12. 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 Walla Walla River as follows:

Priority Date	Period	Rate (cfs)	Volume (acre-feet)
February 16, 1903	Season 1 4/25 through 7/21	7.07	1233.79
February 16, 1903	Season 2 9/1 through 10/31	7.07	414.5
Total			2088.79

From the authorized point of diversion on the Walla Walla River at approximately River Mile 50.

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	35 E	WM	12	SW NE	POD #2 – 1030 FEET NORTH AND 900 FEET EAST FROM THE CENTER CORNER OF SECTION 12

To the Oregon-Washington state line at approximately River Mile 44.5.

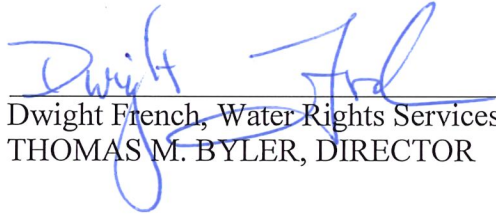
The instream right shall contain the following conditions:

Water rights upstream of the original point of diversion shall not be subject to regulation for flows in excess of the quantities to which this instream water right is entitled at the original point of diversion.

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. The stream channel losses and gains are calculated based on available data and the 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. This

instream right is not in addition to the by-pass flow conditions described in Permit 53662, or other water rights, unless otherwise specified by a subsequent order.

Dated at Salem, Oregon this 30th day of October, 2017.



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

Mailing date: OCT 31 2017