

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

In the Matter of Allocation of Conserved)
Water Application CW-119,)
Morrow County)
) PRELIMINARY DETERMINATION
) PROPOSING APPROVAL ON COMPLETION
) AND FINALIZATION OF ALLOCATION OF
) CONSERVED WATER CW-119

Applicant

Farmland Reserve, Inc.
PO Box 2308
Pasco, WA 99302

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.

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

Pursuant to OAR 690-018-0050, any person objecting to the proposed allocation may file a protest to this Preliminary Determination with the Water Resources Commission within 60 days of the mailing of this determination.

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 October 29, 2020, Farmland Reserve, Inc. filed an allocation of conserved water application under Certificates 95154 and 95155. The Department assigned the application number CW-119.
2. On February 19, 2021, Farmland Reserve submitted an amended application and map removing acres covered under Certificate 95154 that resulted in a reduction in conserved water. Farmland Reserve also submitted an Amended Request for Finalization reflecting the reduction in conserved water.
3. On April 7, 2021, Farmland Reserve submitted an Amended Request for Finalization proposing the entire quantity of conserved water to be managed instream for future out-of-stream use. In addition, on April 2, 2021, Farmland Reserve requested the instream period run from April 15 through September 30.
4. The conservation project involved conversion from a multiple emitter drip system for irrigation of trees to center-pivot irrigation of row-crops utilizing low pressure low flow spray nozzles. The utilization of low-pressure low flow spray nozzles is a proven technology for conserving water.
5. Application CW-119 proposes a rate reduction of approximately 85.33 cubic feet per second (cfs) and proposes to reduce the annual volume by approximately 13,604.32 acre-feet (AF).

Conserved Water Description											
Certificate	Certificate				Needed				Conserved Water		
	Rate		Duty		Rate		Duty		Rate	Duty	
	Maximum CFS	CFS/AC	Maximum AF	AF/AC	Maximum CFS	CFS/AC	Maximum AF	AF/AC	Maximum CFS	Maximum AF	AF/AC
95154	127.81	0.025	27,593.01	4.5	102.40	0.0167	21,461.23	3.5	25.41	6,131.78	1.0
95155	184.71	0.025	33,626.43	4.5	124.79	0.0167	26,153.69	3.5	59.92	7,472.54	1.0
Totals									85.33	13,604.32	

6. The portion of the first right to be modified by CW-119 is as follows:

Certificate: 95154 in the name of FARMLAND RESERVE, INC. (perfected under Permit S-37150)

Use: IRRIGATION of 6,131.78 ACRES

Priority Date: JULY 25, 1973

Rate: 127.81 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, is limited to a diversion of ONE-FORTIETH 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 4.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: COLUMBIA RIVER, tributary to the PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
4 N	25 E	WM	2	NE NW	7	COLUMBIA RIVER PUMP STATION: SOUTH 86 DEGREES 22 MINUTES 46 SECONDS WEST, 2829 FEET FROM NE CORNER OF SECTION 2

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
3 N	26 E	WM	1	NE NE	2	31.00
3 N	26 E	WM	1	NW NE	2	30.89
3 N	26 E	WM	1	SW NE	1	31.63
3 N	26 E	WM	1	SE NE	1	31.00
3 N	26 E	WM	1	NE NW	2	31.07
3 N	26 E	WM	1	NW NW	2	29.40
3 N	26 E	WM	1	SW NW	1	31.38
3 N	26 E	WM	1	SE NW	1	32.36
3 N	26 E	WM	1	NE SW		33.14
3 N	26 E	WM	1	NW SW		26.91
3 N	26 E	WM	1	SW SW		27.24
3 N	26 E	WM	1	SE SW		32.55
3 N	26 E	WM	1	NE SE		31.73
3 N	26 E	WM	1	NW SE		27.52
3 N	26 E	WM	1	SW SE		25.99
3 N	26 E	WM	1	SE SE		29.20
3 N	26 E	WM	2	NE NE	2	30.75
3 N	26 E	WM	2	NW NE	2	29.87
3 N	26 E	WM	2	SW NE	1	31.06
3 N	26 E	WM	2	SE NE	1	32.14
3 N	26 E	WM	2	NE NW	2	31.09
3 N	26 E	WM	2	NW NW	2	29.70
3 N	26 E	WM	2	SW NW	1	30.48
3 N	26 E	WM	2	SE NW	1	32.34
3 N	26 E	WM	2	NE SW	1	31.76
3 N	26 E	WM	2	NW SW		29.77
3 N	26 E	WM	2	SW SW		29.92

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
3 N	26 E	WM	2	SE SW		32.79
3 N	26 E	WM	2	NE SE		30.51
3 N	26 E	WM	2	NW SE		28.45
3 N	26 E	WM	2	SW SE		29.64
3 N	26 E	WM	2	SE SE		32.36
3 N	26 E	WM	3	NE NE	2	30.00
3 N	26 E	WM	3	NW NE	2	31.84
3 N	26 E	WM	3	SW NE	1	31.12
3 N	26 E	WM	3	SE NE	1	29.95
3 N	26 E	WM	3	NE NW	2	28.87
3 N	26 E	WM	3	NW NW	2	29.12
3 N	26 E	WM	3	SW NW	1	30.78
3 N	26 E	WM	3	SE NW	1	31.27
3 N	26 E	WM	3	NE SW		31.44
3 N	26 E	WM	3	NW SW		30.96
3 N	26 E	WM	3	SW SW		29.47
3 N	26 E	WM	3	SE SW		30.76
3 N	26 E	WM	3	NE SE		30.91
3 N	26 E	WM	3	NW SE		31.99
3 N	26 E	WM	3	SW SE		29.03
3 N	26 E	WM	3	SE SE		28.83
3 N	26 E	WM	5	NE SW		31.65
3 N	26 E	WM	5	NW SW		29.07
3 N	26 E	WM	5	SW SW		29.17
3 N	26 E	WM	5	SE SW		30.71
3 N	26 E	WM	5	NE SE		29.85
3 N	26 E	WM	5	NW SE		30.15
3 N	26 E	WM	5	SW SE		30.47
3 N	26 E	WM	5	SE SE		30.26
3 N	26 E	WM	8	NE NE		29.68
3 N	26 E	WM	8	NW NE		32.42
3 N	26 E	WM	8	SW NE		35.35
3 N	26 E	WM	8	SE NE		27.15
3 N	26 E	WM	8	NE NW		8.2
3 N	26 E	WM	8	NE SE		30.02
3 N	26 E	WM	8	NW SE		36.89
3 N	26 E	WM	8	SW SE		32.45
3 N	26 E	WM	8	SE SE		27.67
3 N	26 E	WM	9	NE NE		29.31
3 N	26 E	WM	9	NW NE		31.09
3 N	26 E	WM	9	SW NE		32.27
3 N	26 E	WM	9	SE NE		29.78
3 N	26 E	WM	9	NE NW		29.34
3 N	26 E	WM	9	NW NW		31.49
3 N	26 E	WM	9	SW NW		33.76
3 N	26 E	WM	9	SE NW		30.92
3 N	26 E	WM	9	NE SW		27.68
3 N	26 E	WM	9	NW SW		32.50
3 N	26 E	WM	9	SW SW		32.45
3 N	26 E	WM	9	SE SW		27.31
3 N	26 E	WM	9	NE SE		29.07

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
3 N	26 E	WM	9	NW SE		32.39
3 N	26 E	WM	9	SW SE		30.94
3 N	26 E	WM	9	SE SE		28.05
3 N	26 E	WM	11	NE NE		31.39
3 N	26 E	WM	11	NW NE		31.86
3 N	26 E	WM	11	SW NE		30.37
3 N	26 E	WM	11	SE NE		31.10
3 N	26 E	WM	11	NE NW		31.47
3 N	26 E	WM	11	NW NW		30.23
3 N	26 E	WM	11	SW NW		29.99
3 N	26 E	WM	11	SE NW		32.71
3 N	26 E	WM	11	NE SW		33.08
3 N	26 E	WM	11	NW SW		30.88
3 N	26 E	WM	11	SW SW		28.79
3 N	26 E	WM	11	SE SW		32.48
3 N	26 E	WM	11	NE SE		32.24
3 N	26 E	WM	11	NW SE		31.89
3 N	26 E	WM	11	SW SE		29.29
3 N	26 E	WM	11	SE SE		31.10
3 N	26 E	WM	12	NE NE		32.28
3 N	26 E	WM	12	NW NE		28.13
3 N	26 E	WM	12	SW NE		28.64
3 N	26 E	WM	12	SE NE		31.74
3 N	26 E	WM	12	NE NW		32.27
3 N	26 E	WM	12	NW NW		27.96
3 N	26 E	WM	12	SW NW		28.44
3 N	26 E	WM	12	SE NW		31.74
3 N	26 E	WM	12	NE SW		32.53
3 N	26 E	WM	12	NW SW		30.04
3 N	26 E	WM	12	SW SW		26.89
3 N	26 E	WM	12	SE SW		27.58
3 N	26 E	WM	12	NE SE		32.49
3 N	26 E	WM	12	NW SE		29.96
3 N	26 E	WM	12	SW SE		26.34
3 N	26 E	WM	12	SE SE		28.22
3 N	26 E	WM	13	NE NE		29.83
3 N	26 E	WM	13	NW NE		30.58
3 N	26 E	WM	13	SW NE		30.62
3 N	26 E	WM	13	SE NE		29.74
3 N	26 E	WM	13	NE NW		30.90
3 N	26 E	WM	13	NW NW		30.47
3 N	26 E	WM	13	SW NW		31.19
3 N	26 E	WM	13	SE NW		30.07
3 N	26 E	WM	13	NE SW		31.13
3 N	26 E	WM	13	NW SW		31.67
3 N	26 E	WM	13	SW SW		30.48
3 N	26 E	WM	13	SE SW		29.32
3 N	26 E	WM	13	NE SE		30.63
3 N	26 E	WM	13	NW SE		31.78
3 N	26 E	WM	13	SW SE		30.93
3 N	26 E	WM	13	SE SE		29.27

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
3 N	27 E	WM	4	NE SW		29.94
3 N	27 E	WM	4	NW SW		29.30
3 N	27 E	WM	4	SW SW		31.22
3 N	27 E	WM	4	SE SW		30.30
3 N	27 E	WM	5	NE SW		30.04
3 N	27 E	WM	5	NW SW		31.79
3 N	27 E	WM	5	SW SW		30.21
3 N	27 E	WM	5	SE SW		28.66
3 N	27 E	WM	5	NE SE		25.89
3 N	27 E	WM	5	NW SE		29.50
3 N	27 E	WM	5	SW SE		30.65
3 N	27 E	WM	5	SE SE		27.36
3 N	27 E	WM	6	NE NE		24.32
3 N	27 E	WM	6	NW NE		35.50
3 N	27 E	WM	6	SW NE		34.02
3 N	27 E	WM	6	SE NE		23.86
3 N	27 E	WM	6	NE NW		25.37
3 N	27 E	WM	6	NW NW		38.94
3 N	27 E	WM	6	SW NW		38.80
3 N	27 E	WM	6	SE NW		26.08
3 N	27 E	WM	6	NE SW		27.68
3 N	27 E	WM	6	NW SW		35.24
3 N	27 E	WM	6	SW SW		31.03
3 N	27 E	WM	6	SE SW		25.51
3 N	27 E	WM	6	NE SE		29.18
3 N	27 E	WM	6	NW SE		32.12
3 N	27 E	WM	6	SW SE		30.67
3 N	27 E	WM	6	SE SE		28.70
3 N	27 E	WM	7	NE NE		27.64
3 N	27 E	WM	7	NW NE		31.89
3 N	27 E	WM	7	SW NE		31.83
3 N	27 E	WM	7	SE NE		28.99
3 N	27 E	WM	7	NE NW		25.12
3 N	27 E	WM	7	NW NW		36.05
3 N	27 E	WM	7	SW NW		34.85
3 N	27 E	WM	7	SE NW		25.52
3 N	27 E	WM	7	NE SW		24.60
3 N	27 E	WM	7	NW SW		36.64
3 N	27 E	WM	7	SW SW		31.65
3 N	27 E	WM	7	SE SW		21.96
3 N	27 E	WM	7	NE SE		27.11
3 N	27 E	WM	7	NW SE		33.65
3 N	27 E	WM	7	SW SE		32.12
3 N	27 E	WM	7	SE SE		26.86
3 N	27 E	WM	8	NE SW		28.52
3 N	27 E	WM	8	NW SW		32.21
3 N	27 E	WM	8	SW SW		31.17
3 N	27 E	WM	8	SE SW		28.55
3 N	27 E	WM	8	NE SE		29.37
3 N	27 E	WM	8	NW SE		31.04
3 N	27 E	WM	8	SW SE		30.57

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
3 N	27 E	WM	8	SE SE		29.78
3 N	27 E	WM	9	NE NW		30.62
3 N	27 E	WM	9	NW NW		29.39
3 N	27 E	WM	9	SW NW		30.62
3 N	27 E	WM	9	SE NW		30.13
3 N	27 E	WM	9	NE SW		29.93
3 N	27 E	WM	9	NW SW		30.29
3 N	27 E	WM	9	SW SW		31.28
3 N	27 E	WM	9	SE SW		29.25
3 N	27 E	WM	9	NE SE		30.60
3 N	27 E	WM	9	NW SE		30.32
3 N	27 E	WM	9	SW SE		31.36
3 N	27 E	WM	9	SE SE		30.35
3 N	27 E	WM	18	NW SW		0.01
3 N	27 E	WM	18	SW SE		16.79
4 N	26 E	WM	33	SE NE		0.45
4 N	26 E	WM	33	NE SE		36.12
4 N	26 E	WM	33	NW SE		9.85
4 N	26 E	WM	33	SW SE		14.27
4 N	26 E	WM	33	SE SE		36.71
4 N	26 E	WM	34	SW NE		1.10
4 N	26 E	WM	34	SE NE		0.78
4 N	26 E	WM	34	NE SW		1.27
4 N	26 E	WM	34	NW SW		11.24
4 N	26 E	WM	34	SW SW		33.52
4 N	26 E	WM	34	SE SW		36.76
4 N	26 E	WM	34	NE SE		28.41
4 N	26 E	WM	34	NW SE		35.42
4 N	26 E	WM	34	SW SE		31.15
Total						6,131.78

7. The entirety of the second right to be modified by CW-119 is as follows:

Certificate: 95155 in the name of FARMLAND RESERVE, INC. (perfected under Permit S-36940)

Use: IRRIGATION of 7,472.54 ACRES

Priority Date: JUNE 29, 1973

Rate: 184.71 CUBIC FEET PER SECOND, if available at the original point of diversion: Lot 7 (NE NW, Section 2, T 4 N, R 25 E. W.M.; South 86 Degrees 22 Minutes 46 Seconds West, 2811 Feet from the NE Corner of Section 2)

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH 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 4.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: COLUMBIA River, tributary to the PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
4 N	25 E	WM	2	NE NW	7	COLUMBIA RIVER PUMP STATION: SOUTH 86 DEGREES 22 MINUTES 46 SECONDS WEST, 2829 FEET FROM NE CORNER OF SECTION 2

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
3 N	26 E	WM	5	NE NE	2	30.71
3 N	26 E	WM	5	NW NE	2	32.42
3 N	26 E	WM	5	SW NE	1	31.18
3 N	26 E	WM	5	SE NE	1	29.86
3 N	26 E	WM	5	NE NW	2	31.08
3 N	26 E	WM	5	NW NW	2	33.35
3 N	26 E	WM	5	SW NW	1	32.43
3 N	26 E	WM	5	SE NW	1	30.06
3 N	26 E	WM	6	NE NE	2	29.74
3 N	26 E	WM	6	NW NE	2	32.63
3 N	26 E	WM	6	SW NE	1	31.99
3 N	26 E	WM	6	SE NE	1	28.50
3 N	26 E	WM	6	NE NW	2	29.18
3 N	26 E	WM	6	NW NW	2	32.48
3 N	26 E	WM	6	SW NW	1	33.04
3 N	26 E	WM	6	SE NW	1	28.48
3 N	26 E	WM	6	NE SW	1	28.77
3 N	26 E	WM	6	NW SW	2	32.41
3 N	26 E	WM	6	SW SW	2	33.00
3 N	26 E	WM	6	SE SW	1	28.64
3 N	26 E	WM	6	NE SE		29.63
3 N	26 E	WM	6	NW SE		31.73
3 N	26 E	WM	6	SW SE		31.79
3 N	26 E	WM	6	SE SE		29.09
3 N	26 E	WM	7	NE NE		23.83
3 N	26 E	WM	7	NW NE		35.24
3 N	26 E	WM	7	SW NE		35.17
3 N	26 E	WM	7	SE NE		23.29
3 N	26 E	WM	7	NE NW	1	25.96
3 N	26 E	WM	7	NW NW	2	38.30
3 N	26 E	WM	7	SW NW	2	38.87
3 N	26 E	WM	7	SE NW	1	26.26
3 N	26 E	WM	7	NE SW	1	25.23
3 N	26 E	WM	7	NW SW	2	37.54
3 N	26 E	WM	7	SW SW	2	37.10
3 N	26 E	WM	7	SE SW	1	24.92
3 N	26 E	WM	7	NE SE		24.48
3 N	26 E	WM	7	NW SE		35.09
3 N	26 E	WM	7	SW SE		34.66
3 N	26 E	WM	7	SE SE		24.90
3 N	27 E	WM	18	NE SW		3.70
4 N	26 E	WM	16	NE SW		1.01

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 N	26 E	WM	16	NW SW		12.26
4 N	26 E	WM	16	SW SW		32.57
4 N	26 E	WM	16	SE SW		37.73
4 N	26 E	WM	16	SW SE		16.69
4 N	26 E	WM	16	SE SE		5.43
4 N	26 E	WM	17	NE SE		22.08
4 N	26 E	WM	17	NW SE		7.48
4 N	26 E	WM	17	SW SE		31.72
4 N	26 E	WM	17	SE SE		31.67
4 N	26 E	WM	20	NE NE		38.90
4 N	26 E	WM	20	NW NE		25.71
4 N	26 E	WM	20	SW NE		31.70
4 N	26 E	WM	20	SE NE		32.36
4 N	26 E	WM	20	NE SE		38.32
4 N	26 E	WM	20	NW SE		26.46
4 N	26 E	WM	20	SW SE		32.19
4 N	26 E	WM	20	SE SE		33.41
4 N	26 E	WM	21	NE NE		40.40
4 N	26 E	WM	21	NW NE		33.72
4 N	26 E	WM	21	SW NE		34.42
4 N	26 E	WM	21	SE NE		35.69
4 N	26 E	WM	21	NE NW		34.19
4 N	26 E	WM	21	NW NW		36.07
4 N	26 E	WM	21	SW NW		30.93
4 N	26 E	WM	21	SE NW		39.56
4 N	26 E	WM	21	NE SW		36.17
4 N	26 E	WM	21	NW SW		36.65
4 N	26 E	WM	21	SW SW		32.52
4 N	26 E	WM	21	SE SW		40.13
4 N	26 E	WM	21	NE SE		40.20
4 N	26 E	WM	21	NW SE		33.79
4 N	26 E	WM	21	SW SE		33.35
4 N	26 E	WM	21	SE SE		36.31
4 N	26 E	WM	22	NE NE		11.64
4 N	26 E	WM	22	NW NE		23.49
4 N	26 E	WM	22	SW NE		35.32
4 N	26 E	WM	22	SE NE		16.15
4 N	26 E	WM	22	NE NW		2.43
4 N	26 E	WM	22	NW NW		14.36
4 N	26 E	WM	22	SW NW		35.29
4 N	26 E	WM	22	SE NW		39.13
4 N	26 E	WM	22	NE SW		34.29
4 N	26 E	WM	22	NW SW		33.26
4 N	26 E	WM	22	SW SW		35.72
4 N	26 E	WM	22	SE SW		38.98
4 N	26 E	WM	22	NE SE		32.95
4 N	26 E	WM	22	NW SE		39.04
4 N	26 E	WM	22	SW SE		33.37
4 N	26 E	WM	22	SE SE		23.35
4 N	26 E	WM	23	SW NE		22.41

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 N	26 E	WM	23	SE NE		21.67
4 N	26 E	WM	23	NE NW		4.87
4 N	26 E	WM	23	NW NW		4.09
4 N	26 E	WM	23	SW NW		35.92
4 N	26 E	WM	23	SE NW		37.96
4 N	26 E	WM	23	NE SW		28.30
4 N	26 E	WM	23	NW SW		31.82
4 N	26 E	WM	23	SW SW		37.89
4 N	26 E	WM	23	SE SW		35.15
4 N	26 E	WM	23	NE SE		35.70
4 N	26 E	WM	23	NW SE		35.03
4 N	26 E	WM	23	SW SE		37.35
4 N	26 E	WM	23	SE SE		35.56
4 N	26 E	WM	24	SW NE	1	0.56
4 N	26 E	WM	24	SW NW		8.56
4 N	26 E	WM	24	SE NW	6	1.15
4 N	26 E	WM	24	NE SW		35.45
4 N	26 E	WM	24	NW SW		35.91
4 N	26 E	WM	24	SW SW		37.11
4 N	26 E	WM	24	SE SW		35.51
4 N	26 E	WM	24	NE SE		26.73
4 N	26 E	WM	24	NW SE		33.87
4 N	26 E	WM	24	SW SE		37.24
4 N	26 E	WM	24	SE SE		35.32
4 N	26 E	WM	25	NE NE		29.76
4 N	26 E	WM	25	NW NE		34.04
4 N	26 E	WM	25	SW NE		36.81
4 N	26 E	WM	25	SE NE		37.84
4 N	26 E	WM	25	NE NW		34.00
4 N	26 E	WM	25	NW NW		35.24
4 N	26 E	WM	25	SW NW		36.80
4 N	26 E	WM	25	SE NW		39.33
4 N	26 E	WM	25	NE SW		34.32
4 N	26 E	WM	25	NW SW		34.10
4 N	26 E	WM	25	SW SW		38.33
4 N	26 E	WM	25	SE SW		36.53
4 N	26 E	WM	25	NE SE		32.75
4 N	26 E	WM	25	NW SE		33.14
4 N	26 E	WM	25	SW SE		38.09
4 N	26 E	WM	25	SE SE		34.17
4 N	26 E	WM	26	NE NE		34.21
4 N	26 E	WM	26	NW NE		34.05
4 N	26 E	WM	26	SW NE		37.52
4 N	26 E	WM	26	SE NE		38.46
4 N	26 E	WM	26	NE NW		32.72
4 N	26 E	WM	26	NW NW		25.98
4 N	26 E	WM	26	SW NW		37.34
4 N	26 E	WM	26	SE NW		38.90
4 N	26 E	WM	26	NE SW		33.54
4 N	26 E	WM	26	NW SW		17.41

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 N	26 E	WM	26	SW SW		20.62
4 N	26 E	WM	26	SE SW		36.41
4 N	26 E	WM	26	NE SE		33.64
4 N	26 E	WM	26	NW SE		33.39
4 N	26 E	WM	26	SW SE		38.42
4 N	26 E	WM	26	SE SE		36.86
4 N	26 E	WM	27	NE NE		33.16
4 N	26 E	WM	27	NW NE		38.48
4 N	26 E	WM	27	SW NE		33.35
4 N	26 E	WM	27	SE NE		25.32
4 N	26 E	WM	27	NE NW		33.79
4 N	26 E	WM	27	NW NW		32.95
4 N	26 E	WM	27	SW NW		35.59
4 N	26 E	WM	27	SE NW		38.55
4 N	26 E	WM	27	NE SW		34.47
4 N	26 E	WM	27	NW SW		33.25
4 N	26 E	WM	27	SW SW		35.42
4 N	26 E	WM	27	SE SW		38.87
4 N	26 E	WM	27	NE SE		33.01
4 N	26 E	WM	27	NW SE		38.93
4 N	26 E	WM	27	SW SE		34.29
4 N	26 E	WM	27	SE SE		25.79
4 N	26 E	WM	28	NE NE		39.72
4 N	26 E	WM	28	NW NE		33.35
4 N	26 E	WM	28	SW NE		33.34
4 N	26 E	WM	28	SE NE		35.56
4 N	26 E	WM	28	NE NW		35.40
4 N	26 E	WM	28	NW NW		36.57
4 N	26 E	WM	28	SW NW		33.26
4 N	26 E	WM	28	SE NW		39.11
4 N	26 E	WM	28	NE SW		35.45
4 N	26 E	WM	28	NW SW		36.39
4 N	26 E	WM	28	SW SW		33.71
4 N	26 E	WM	28	SE SW		38.75
4 N	26 E	WM	28	NE SE		39.68
4 N	26 E	WM	28	NW SE		33.21
4 N	26 E	WM	28	SW SE		33.80
4 N	26 E	WM	28	SE SE		36.36
4 N	26 E	WM	29	NE NE		37.94
4 N	26 E	WM	29	NW NE		26.76
4 N	26 E	WM	29	SW NE		31.16
4 N	26 E	WM	29	SE NE		33.30
4 N	26 E	WM	29	NE SE		37.15
4 N	26 E	WM	29	NW SE		26.65
4 N	26 E	WM	29	SW SE		31.00
4 N	26 E	WM	29	SE SE		34.32
4 N	26 E	WM	32	NE NE		36.91
4 N	26 E	WM	32	NW NE		27.38
4 N	26 E	WM	32	SW NE		31.52
4 N	26 E	WM	32	SE NE		34.71

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 N	26 E	WM	32	NE SE		36.22
4 N	26 E	WM	32	NW SE		29.74
4 N	26 E	WM	32	SW SE		31.68
4 N	26 E	WM	32	SE SE		34.83
4 N	26 E	WM	33	NE NE		39.63
4 N	26 E	WM	33	NW NE		33.04
4 N	26 E	WM	33	SW NE		34.08
4 N	26 E	WM	33	SE NE		35.58
4 N	26 E	WM	33	NE NW		35.50
4 N	26 E	WM	33	NW NW		35.79
4 N	26 E	WM	33	SW NW		33.56
4 N	26 E	WM	33	SE NW		38.23
4 N	26 E	WM	33	NE SW		35.71
4 N	26 E	WM	33	NW SW		34.26
4 N	26 E	WM	33	SW SW		33.35
4 N	26 E	WM	33	SE SW		36.70
4 N	26 E	WM	33	NE SE		3.13
4 N	26 E	WM	33	NW SE		23.25
4 N	26 E	WM	33	SW SE		18.98
4 N	26 E	WM	34	NE NE		32.57
4 N	26 E	WM	34	NW NE		38.43
4 N	26 E	WM	34	SW NE		32.90
4 N	26 E	WM	34	SE NE		24.06
4 N	26 E	WM	34	NE NW		34.20
4 N	26 E	WM	34	NW NW		33.28
4 N	26 E	WM	34	SW NW		34.64
4 N	26 E	WM	34	SE NW		38.44
4 N	26 E	WM	34	NE SW		33.35
4 N	26 E	WM	34	NW SW		21.95
4 N	26 E	WM	34	NW SE		2.66
4 N	26 E	WM	35	NE NE		36.01
4 N	26 E	WM	35	NW NE		35.17
4 N	26 E	WM	35	SW NE		31.08
4 N	26 E	WM	35	SE NE		32.06
4 N	26 E	WM	35	NE NW		36.38
4 N	26 E	WM	35	NW NW		34.97
4 N	26 E	WM	35	SW NW		30.55
4 N	26 E	WM	35	SE NW		31.07
4 N	26 E	WM	36	NE NE		32.14
4 N	26 E	WM	36	NW NE		35.95
4 N	26 E	WM	36	SW NE		32.14
4 N	26 E	WM	36	SE NE		30.39
4 N	26 E	WM	36	NE NW		35.46
4 N	26 E	WM	36	NW NW		35.96
4 N	26 E	WM	36	SW NW		32.00
4 N	26 E	WM	36	SE NW		30.65
Total						7,472.54

8. Certificates 95154 and 95155 do not list a period of use; therefore, pursuant to OAR 690-250-0070, the irrigation season of use is March 1 through October 31.

9. 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 that the right is subject to forfeiture under ORS 540.610.
10. 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.
11. The Applicant requested that the conserved water be allocated as follows:

Certificate	State's Portion			Applicant's Portion			Conserved Water		
	Percentage	Maximum Rate (CFS)	Max. Duty (Volume) AF	Percentage	Maximum Rate (CFS)	Max. Duty (Volume) AF	Percentage	Maximum Rate (CFS)	Max. Duty (Volume) AF
95154	25%	6.35	1,532.94	75%	19.06	4,598.84	100%	25.41	6,131.78
95155	25%	14.98	1,868.13	75%	44.94	5,604.41	100%	59.92	7,472.54
Totals		21.33	3,401.07		64.00	10,203.25		85.33	13,604.32

12. The Applicant proposed that its portion of the conserved water be allocated for future out-of-stream irrigation use within the following areas:

Twp	Range	Twp	Range	Twp	Range	Twp	Range	Twp	Range	Twp	Range
1N	22E	2N	22E	3N	22E	4N	22E	5N	25E	6N	30E
1N	23E	2N	23E	3N	23E	4N	23E	5N	26E	6N	31E
1N	24E	2N	24E	3N	24E	4N	24E	5N	27E		
1N	25E	2N	26E	3N	26E	4N	25E	5N	28E		
1N	26E	2N	27E	3N	27E	4N	26E	5N	29E		
1N	27E	2N	28E	3N	28E	4N	27E	5N	30E		
1N	28E	2N	29E	3N	29E	4N	28E	5N	31E		
1N	29E	2N	30E	3N	30E	4N	29E				
1N	30E	2N	31E	3N	31E	4N	30E				
1N	31E					4N	31E				

13. The Applicant requested that the priority date for any conserved water be one-minute junior to the originating right.
14. The Applicant funded 100% of the conservation project.
15. The Applicant submitted a completed Land Use Form from Umatilla County that indicated the proposed use was allowed outright or is not regulated by Umatilla County's comprehensive plan.
16. The conservation project began in 2016 and implementation of the conservation measures occurred in 2019. The Applicant verified no water right holders in the area, governmental entities or other organizations have requested to be consulted about the allocation of conserved water.
17. The Applicant proposed 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.

18. The Applicant requested the Department protect the new instream water right created from the conserved water under Certificates 95154 and 95155 from the authorized point of diversion on the Columbia River to the mouth.
19. The Applicant submitted a Notice of Completion with the application indicating the project was complete. In addition, the Applicant submitted a Request for Finalization of the allocation. The Request for Finalization was subsequently amended.
20. The application meets the requirements of OAR 690-018-0040.
21. 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. The Federal Columbia River Power System Biological Opinion identified target flows. Water protected as an instream water right will help meet the target flows identified to increase survival of ESA-list salmon and steelhead species, as well as other native fish species.
22. Notice of the proposed conservation project was published in the Department’s weekly notice on December 22, 2020, and in the East Oregonian newspaper on December 17 and 24, 2020, as required under OAR 690-018-0050(1)(a) and (2). No comments were filed in response to the notices.

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

23. 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 #5).
24. On March 15, 2021, the District #5 Watermaster performed a review of the proposed Allocation of Conserved Water Project. The Watermaster determined that the conservation project would not harm other water rights; therefore, no quantity of conserved water is needed to mitigate for harm to other water rights. However, to prevent enlargement of the rights, the Watermaster has determined that a totalizing flow meter with telemetry is required at the original point of diversion. OAR 690-018-0050(4)(b) and (d).
25. The conservation project is consistent with the local comprehensive land use plan requirements established in OAR 690-005-0045. (Finding of Fact #15). OAR 690-018-0050(4)(c).
26. 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-119 under Certificates 95154 and 95155 are as follows:

Certificate	Rate		Duty	
	Maximum CFS	CFS/AC	Maximum AF	AF/AC
95154	102.40	0.0167	21,461.23	3.5
95155	124.79	0.0167	26,153.89	3.5

(Finding of Fact #5).

27. Pursuant to ORS 537.470(3) and OAR 690-018-0050(4)(g), the amount of water allocated to the Applicant does not need to be adjusted because the Applicant funded 100% of the project. (Finding of Fact #14). The rate and volume of conserved water allocated to the Applicant is as follows:

Certificate	Priority Date	Maximum Rate (cfs)	Maximum Duty (Volume) (AF)
95154	July 25, 1973, <i>plus one minute</i>	19.06	4,598.84
95155	June 29, 1973, <i>plus one minute</i>	44.94	5,604.41
Totals		64.00	10,203.25

(Finding of Fact #11).

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

Certificate	Priority	Maximum Rate (cfs)	Maximum Duty (Volume) (AF)
95154	July 25, 1973, <i>plus one minute</i>	6.35	1,532.94
95155	June 29, 1973, <i>plus one minute</i>	14.98	1,868.13
Totals		21.33	3,401.07

(Finding of Fact #11).

29. As required by OAR 690-018-0050(4)(f), the Department has determined that the instream right created will support public benefits. (Finding of Fact #21).
30. The Applicant requested the new instream water rights be protected from the authorized point of diversion on the Columbia to the mouth. However, the quantity of water to be protected is not a measurable quantity in the Columbia River. Therefore, the new instream water right created will be protected in the Columbia River at the authorized point of diversion as described in Findings of Fact #6 and #7, at approximately River Mile 271.5. OAR 690-018-0050(4)(h); OAR 690-077-0015(8).
31. To prevent enlargement, the rate for water to be protected instream must be adjusted so the annual volume limitation is not exceeded. By reducing the rate, the conserved water may be protected throughout the entire irrigation season without enlarging the right.
32. The instream rights shall allow the use and protection of flows as follows:

Source: Columbia River, tributary to Pacific Ocean

Certificate	Priority Date	Period	Rate (cfs)	Volume (acre-feet)
95154	7/25/1973, <i>plus one minute</i>	3/1 through 10/31	3.15	1,532.94
95155	6/29/1973, <i>plus one minute</i>	3/1 through 10/31	3.84	1,868.13
Totals			6.99	3,401.07

At the authorized point of diversion for Certificate 95154 and 95155 at approximately River Mile 271.5:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
4 N	25 E	WM	2	NE NW	7	COLUMBIA RIVER PUMP STATION: SOUTH 86 DEGREES 22 MINUTES 46 SECONDS WEST, 2829 FEET FROM NE CORNER OF SECTION 2

33. 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).
34. The protection of flows at the authorized point of diversion is appropriate, considering:
 - a. The instream water use begins at the recorded point of diversion;
 - 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 riverbed 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 point of the instream water right.
 OAR 690-077-0015(8).
35. The combination of instream rights for the proposed point on the Columbia 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).
36. 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).
37. The proposed areas within which the conserved water may be used for future out-of-stream uses are as follows:

Twp	Range	Twp	Range	Twp	Range	Twp	Range	Twp	Range	Twp	Range
1N	22E	2N	22E	3N	22E	4N	22E	5N	25E	6N	30E
1N	23E	2N	23E	3N	23E	4N	23E	5N	26E	6N	31E
1N	24E	2N	24E	3N	24E	4N	24E	5N	27E		
1N	25E	2N	26E	3N	26E	4N	25E	5N	28E		
1N	26E	2N	27E	3N	27E	4N	26E	5N	29E		
1N	27E	2N	28E	3N	28E	4N	27E	5N	30E		
1N	28E	2N	29E	3N	29E	4N	28E	5N	31E		
1N	29E	2N	30E	3N	30E	4N	29E				
1N	30E	2N	31E	3N	31E	4N	30E				
1N	31E					4N	31E				

(Finding of Fact #12). OAR 690-018-0050(4)(h).

38. The project is complete, and no additional time is required for finalization of the conservation project. (Finding of Fact #19). OAR 690-018-0050(4)(i).

39. No other conditions or limitations are needed to prevent or mitigate for harm to existing water rights. (Finding of Fact #24). OAR 690-018-0050(4)(j).

Determination and Proposed Action

The project described in Allocation of Conserved Water Application CW-119, is consistent with the criteria in ORS 537.455 to 537.500, and OAR Chapter 690, Divisions 018 and 077. *If protests are not filed pursuant to OAR 690-018-0050(6), the conserved water application will be approved.*

If Allocation of Conserved Water Application CW-119 is approved, the Order Approving will include the following:

1. *The proposed change will result in a reduced diversion for the uses allowed under the original water rights. Findings of Fact #5 and #23.*
2. *The proposed allocation of conserved water will not harm existing water rights. Findings of Fact #24 and #39.*
3. *The application is consistent with the requirements established in OAR 690-005-0045. Findings of Fact #15 and #25.*
4. *The changes proposed in CW-119 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)	Max. Duty (Volume) AF	Percentage	Maximum Rate (CFS)	Max. Duty (Volume) AF	Percentage	Maximum Rate (CFS)	Max. Duty (Volume) AF
95154	25%	6.35	1,532.94	75%	19.06	4,598.84	100%	25.41	6,131.78
95155	25%	14.98	1,868.13	75%	44.94	5,604.41	100%	59.92	7,472.54
Totals		21.33	3,401.07		64.00	10,203.25		85.33	13,604.32

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 Certificates 95154 and 95155 and any related decree.*
7. *Water Right Certificate 95154 is cancelled. A new certificate will be issued for that portion of the right not involved in this Allocation of Conserved Water application, and a superseding Certificate will be issued for the existing use and place of use (described in Finding of Fact #5) at the reduced rate and duty as follows:*

Use: IRRIGATION of 6131.78 ACRES
Priority Date: JULY 25, 1973
Rate: 102.40 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, is limited to a diversion of ONE SIXTIETH (1/60) 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 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year with an annual volume limitation of 21,461.23 acre feet.

Source: COLUMBIA RIVER, tributary to the PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
4 N	25 E	WM	2	NE NW	7	COLUMBIA RIVER PUMP STATION: SOUTH 86 DEGREES 22 MINUTES 46 SECONDS WEST, 2829 FEET FROM NE CORNER OF SECTION 2

8. *Water Right Certificate 95155 is cancelled. A superseding Certificate will be issued for the existing use and place of use (described in Finding of Fact #6) at the reduced rate and duty as follows:*

Use: IRRIGATION of 7,472.54 ACRES

Priority Date: JUNE 29, 1973

Rate: 124.79 CUBIC FEET PER SECOND, if available at the original point of diversion: Lot 7 (NE NW, Section 2, T 4 N, R 25 E. W.M.; South 86 Degrees 22 Minutes 46 Seconds West, 2811 Feet from the NE Corner of Section 2)

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-SIXTIETH (1/60) 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 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year with an annual volume limitation of 26,153.69 acre feet.

Source: COLUMBIA River, tributary to the PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
4 N	25 E	WM	2	NE NW	7	COLUMBIA RIVER PUMP STATION: SOUTH 86 DEGREES 22 MINUTES 46 SECONDS WEST, 2829 FEET FROM NE CORNER OF SECTION 2

9. *The proposed areas within which the Applicant's portion of conserved water is to be used for future out-of-stream irrigation uses are as follows:*

Twp	Range	Twp	Range	Twp	Range	Twp	Range	Twp	Range	Twp	Range
1N	22E	2N	22E	3N	22E	4N	22E	5N	25E	6N	30E
1N	23E	2N	23E	3N	23E	4N	23E	5N	26E	6N	31E
1N	24E	2N	24E	3N	24E	4N	24E	5N	27E		
1N	25E	2N	26E	3N	26E	4N	25E	5N	28E		
1N	26E	2N	27E	3N	27E	4N	26E	5N	29E		
1N	27E	2N	28E	3N	28E	4N	27E	5N	30E		
1N	28E	2N	29E	3N	29E	4N	28E	5N	31E		
1N	29E	2N	30E	3N	30E	4N	29E				
1N	30E	2N	31E	3N	31E	4N	30E				
1N	31E					4N	31E				

10. Water use measurement conditions to prevent enlargement:
- a. The Applicant shall install a totalizing flow meter with telemetry at the original point of diversion from the Columbia River.
 - b. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where any device is located within a private structure, the Watermaster shall request access upon reasonable notice.
 - c. Before the use of the Applicant's portion of conserved water, the water user shall install a totalizing flow meter with telemetry at each point of diversion from the Columbia River. The totalizing flow meter may measure the flow associated with this and other water right or permits using the point of diversion, provided the other water rights from the same point of diversion are identified and reported to the Watermaster. In addition, each user of conserved water under these rights is required to install a totalizing flow meter at each re-diversion point from the common delivery system or other locations as may be required by the Watermaster. The measuring devices need to be approved by the Watermaster prior to installation.
 - d. The Applicant and/or water user shall maintain the required devices in good working order.
 - e. The Applicant shall also make raw data/information (the rate of flow and total volume of water diverted) from the telemetered measuring devices at the PODs available to the Department in near-real time.
11. The Applicant's portion of conserved water (64.0 cfs, 10,203.25 AF) shall be managed instream until such time as a superseding Notice of Use and Disposition is submitted and approved under ORS 537.490(1) and OAR 690-018-0090.

To prevent enlargement, the rate and period of use for water to be protected instream is adjusted so the annual volume limitation is not exceeded. By reducing the rate and period of use, the conserved water may be protected without enlarging the right as follows:

Source: Columbia River, tributary to the Pacific Ocean

Certificate	Priority Date	Period	Rate (cfs)	Volume (acre-feet)
95154	7/25/1973, plus one minute	4/15 through 9/30	13.72	4,598.84
95155	6/29/1973, plus one minute	4/15 through 9/30	16.72	5,604.41
Totals			30.44	10,203.25

At the authorized point of diversion at approximately River Mile 271.5:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
4 N	25 E	WM	2	NE NW	7	COLUMBIA RIVER PUMP STATION: SOUTH 86 DEGREES 22 MINUTES 46 SECONDS WEST, 2829 FEET FROM NE CORNER OF SECTION 2

12. The Department shall issue new instream water right certificates for the conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values as follows:

Source: Columbia River, tributary to Pacific Ocean

Certificate	Priority Date	Period	Rate (cfs)	Volume (acre-feet)
95154	7/25/1973, plus one minute	3/1 through 10/31	3.15	1,532.94
95155	6/29/1973, plus one minute	3/1 through 10/31	3.84	1,868.13
Totals			6.99	3,401.07


At the authorized point of diversion at approximately River Mile 271.5:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
4 N	25 E	WM	2	NE NW	7	COLUMBIA RIVER PUMP STATION: SOUTH 86 DEGREES 22 MINUTES 46 SECONDS WEST, 2829 FEET FROM NE CORNER OF SECTION 2

13. *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 points of diversion. Stream channel losses and gains 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.*

The instream right established by this allocation shall replace a portion of instream water rights established pursuant to ORS 537.341 OR 537.346 and be in addition to instream water rights established pursuant to ORS 537.348 or 537.470 unless otherwise specified in an order approving a new instream water right under these statutes.

DATED at Salem, Oregon this 12th day of APRIL, 2021.



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

Mailing Date: APRIL 12, 2021.

NOTICE OF RIGHTS

The Legislative Assembly finds that persons affected by actions taken by state agencies have a right to be informed of their rights and remedies with respect to those actions. ORS 183.415. The Commission shall notify the applicant and any other person requesting notice, of the action the Commission intends to take under ORS 537.470(3). Any person objecting to the proposed allocation may file a protest requesting a contested case hearing before the Commission. ORS 537.470(4).

If a protest to the proposed allocation of conserved water is received by the Department within 60 days of the mailing of the preliminary determination pursuant to ORS 537.470(4) and OAR 690-018-0050(4), the Director may work with the applicant and any protestant to determine whether the issues can be resolved through mutually agreeable conditions, or by modifying the application. OAR 690-018-0050(6).

If protests are received raising issues that cannot be resolved pursuant to OAR 690-018-0050(6), the Director shall present the application, all protests, and a recommendation for action to the Commission for review and action. OAR 690-018-0050(8).

The Commission shall examine the application, the protests and the Director's recommendation. If the Commission finds the allocation of conserved water is likely to injure existing water rights or is otherwise inconsistent with these rules, the Commission may direct the Department to hold a contested case hearing on the application pursuant to ORS 183.413 and OAR 690, Divisions 1 and 2 or to resume attempts to resolve the disputed issues. If the Commission finds the allocation of conserved water is not likely to injure existing rights and is otherwise consistent with OAR 690-018-0050, the Commission may authorize the Director to issue an order approving the application. OAR 690-018-0050(9).

In the event of a land use dispute, as defined in OAR 690-005-0015, the Director shall follow resolution procedures provided in 690-005-0040 (Resolution of Land Use Disputes). OAR 690-018-0050(10).

If a protest is withdrawn, or any party to a hearing notifies the Department or the administrative law judge that the party will not appear, or if the party fails to appear at a scheduled hearing, the Director may issue a final order by default. If the Director issues a Final Order by default, the Department designates the relevant portions of its files on this matter, including all materials that parties have submitted relating to this matter, as the record for purpose of proving a *prima facie* case upon default.

Any party may be represented by an attorney at the hearing. Legal aid organizations may be able to assist a party with limited financial resources. Generally, partnerships, corporations, associations, governmental subdivisions, or public or private organizations are represented by an attorney. However, consistent with OAR 690-002-0020 and OAR 690-137-0555, an agency representative may represent partnerships, corporations, associations, governmental subdivisions or public or private organization if the Department determines that appearance of a person by an

authorized representative will not hinder the orderly and timely development of the record in this case.

Notice Regarding Servicemembers: Active duty service members have a right to stay proceedings under the federal Servicemembers Civil Relief Act. For more information, contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll-free telephone number.

Protests should be addressed to the attention of Allocation of Conserved Water Program, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.

IMPORTANT: Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. Mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified.