

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

In the Matter of Allocation of Conserved) PRELIMINARY DETERMINATION
Water Application CW-133,) PROPOSING APPROVAL ON COMPLETION
Hood River County) OF ALLOCATION OF CONSERVED WATER
) CW-133

Applicant

East Fork Irrigation District
PO Box 162
Odell, OR 97044

Applicable Law

Any person or group of persons holding a water use subject to transfer as defined in ORS 540.505 may submit an application for an Allocation of Conserved Water to the Water Resources Commission for a conservation project that has not yet been implemented or was implemented within five years prior to the submission of the application. ORS 537.465. Under the Allocation of Conserved Water Program, a portion of the water proposed to be conserved by an applicant may be used on additional lands, put to a different use, or be leased or sold to another user. OAR 690-018-0010. A portion of the water conserved is allocated to the state to be converted to an instream water right or to revert to the public for appropriation by other water users. ORS 537.470(3).

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.

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.

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).

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 January 23, 2023, East Fork Irrigation District (the District) filed an allocation of conserved water application under Certificate 92000. The Department assigned the application number CW-133.
2. On June 19, 2007, the District adopted an Allocation of Conserved Water Policy pursuant to OAR 690-018-0025. On August 11, 2020, the District reviewed and renewed the District’s Allocation of Conserved Water Policy.
3. The conservation project involves modifying the water delivery system by replacing approximately 5,217 feet of existing wood, concrete, and non-pressurized PVC pipe, with pressure rated pipe, eliminating seepage losses, overflow, and/or operational spills. The conversion to pressure rated piping is a proven technology for conserving water.
4. Application CW-133 proposes a rate reduction of approximately 1.0 cubic foot per second (cfs) and proposes to reduce the annual volume by 240.0 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
92000	100.5	1/80	23,936.78	3.0	99.5	1/80	23,696.78	2.78	1.0	240.0

5. The right to be modified by CW-133 is as follows:

Certificate: 92000 in the name of EAST FORK IRRIGATION DISTRICT (confirmed by Hood River Decree)
Use: IRRIGATION of 8498.27 ACRES, 33.5 INCHOATE, and 15.0 ACRES EQUIVALENT INDUSTRIAL
Priority Date: NOVEMBER 25, 1895
Rate: 100.50 CUBIC FEET PER SECOND (CFS), being 99.93 CFS for IRRIGATION, 0.39 CFS for INCHOATE ACRES, and 0.18 CFS for INDUSTRIAL USE
Limit/Duty: The amount of water used for irrigation, is limited to a diversion of 1/80 of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year, and an annual volume limitation of 23,936.78 ACRE-FEET per year.
Source: EAST FORK HOOD RIVER, tributary to HOOD RIVER

Authorized Point of Diversion:

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

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	G-Lot	Acres
1 N	10 E	WM	1	NE NE	1	5.65
1 N	10 E	WM	1	NW NE	2	18.00
1 N	10 E	WM	1	SW NE		16.25
1 N	10 E	WM	1	SE NE		27.10
1 N	10 E	WM	1	NE NW	3	8.00
1 N	10 E	WM	1	NW NW	4	32.20
1 N	10 E	WM	1	SW NW		40.00
1 N	10 E	WM	1	SE NW		14.20
1 N	10 E	WM	1	NE SW		33.60
1 N	10 E	WM	1	NW SW		36.40
1 N	10 E	WM	1	SW SW		3.40
1 N	10 E	WM	1	SE SW		10.00
1 N	10 E	WM	1	NW SE		7.80
1 N	10 E	WM	2	NE NE	1	29.30
1 N	10 E	WM	2	NW NE	2	26.60
1 N	10 E	WM	2	SW NE		34.80
1 N	10 E	WM	2	SE NE		36.40
1 N	10 E	WM	2	NE NW	3	30.20
1 N	10 E	WM	2	NW NW	4	28.80
1 N	10 E	WM	2	SW NW		2.80
1 N	10 E	WM	2	SE NW		7.50
1 N	10 E	WM	2	NE SW		2.40
1 N	10 E	WM	2	NW SW		3.30

IRRIGATION

Twp	Rng	Mer	Sec	Q-Q	G-Lot	Acres
1N	10 E	WMM	2	SW SW		6.55
1N	10 E	WMM	2	NE SE		29.70
1N	10 E	WMM	2	NW SE		0.30
1N	10 E	WMM	2	SE SE		2.90
1N	10 E	WMM	3	NE NE	1	32.20
1N	10 E	WMM	3	NW NE	2	36.50
1N	10 E	WMM	3	SW NE	7	25.00
1N	10 E	WMM	3	SE NE	8	6.20
1N	10 E	WMM	3	NE NW	3	24.80
1N	10 E	WMM	3	NW NW	4	23.70
1N	10 E	WMM	3	SW NW	5	16.40
1N	10 E	WMM	3	SE NW	6	8.70
1N	10 E	WMM	3	NE SW	11	5.80
1N	10 E	WMM	3	NW SW	12	7.20
1N	10 E	WMM	3	SE SW	14	2.00
1N	10 E	WMM	3	NW SE	10	8.60
1N	10 E	WMM	3	SE SE	16	0.60
1N	10 E	WMM	10	NE NE	1	1.40
1N	10 E	WMM	10	NW NE	2	14.00
1N	10 E	WMM	10	SE NE	8	7.82
1N	10 E	WMM	10	NE NW	3	25.80
1N	10 E	WMM	10	NW NW	4	3.90
1N	10 E	WMM	10	SW NW	5	0.50
1N	10 E	WMM	10	SE NW	6	0.10
1N	10 E	WMM	10	NE SE	9	8.10
1N	10 E	WMM	10	NW SE	10	3.60
1N	10 E	WMM	10	SW SE	15	0.90
1N	10 E	WMM	10	SE SE	16	2.60
1N	10 E	WMM	11	SW NE		28.40
1N	10 E	WMM	11	SE NE		5.20
1N	10 E	WMM	11	SE NW		6.40
1N	10 E	WMM	11	NE SW		1.40
1N	10 E	WMM	11	NW SW		0.25
1N	10 E	WMM	11	SW SW		4.20
1N	10 E	WMM	11	SE SW		13.40
1N	10 E	WMM	11	NE SE		6.40
1N	10 E	WMM	11	NW SE		38.70
1N	10 E	WMM	15	NE NE	1	28.80
1N	10 E	WMM	15	NW NE	2	7.15
1N	10 E	WMM	15	SW NE	7	16.45
1N	10 E	WMM	15	SE NE	8	15.50
1N	10 E	WMM	15	NE NW	3	0.25
1N	10 E	WMM	15	SE NW	6	8.25

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	G-Lot	Acres
1 N	10 E	WM	15	SE SW	14	32.00
1 N	10 E	WM	15	NE SE	9	3.70
1 N	10 E	WM	15	NW SE	10	10.70
1 N	10 E	WM	15	SW SE	15	27.20
1 N	10 E	WM	15	SE SE	16	2.60
1 N	10 E	WM	22	NW NE	2	26.20
1 N	10 E	WM	22	SW NE	7	1.00
1 N	10 E	WM	22	NE NW	3	26.20
1 N	10 E	WM	22	SE NW	6	27.15
1 N	10 E	WM	22	NW SE	10	19.20
1 N	10 E	WM	22	SW SE	15	10.00
1 N	10 E	WM	27	NW NE	2	16.60
1 N	11 E	WM	6	NW NW	4	2.00
1 N	11 E	WM	6	SW NW	5	2.10
2 N	10 E	WM	1	SE NE		19.70
2 N	10 E	WM	1	NE SE		15.80
2 N	10 E	WM	1	SE SE		16.60
2 N	10 E	WM	12	NE NE		34.20
2 N	10 E	WM	12	NW NE		9.00
2 N	10 E	WM	12	SW NE		18.60
2 N	10 E	WM	12	SE NE		30.40
2 N	10 E	WM	12	SE NW		6.20
2 N	10 E	WM	12	NE SW		19.00
2 N	10 E	WM	12	SW SW		0.30
2 N	10 E	WM	12	SE SW		32.60
2 N	10 E	WM	12	NE SE		38.20
2 N	10 E	WM	12	NW SE		30.70
2 N	10 E	WM	12	SW SE		37.70
2 N	10 E	WM	12	SE SE		32.80
2 N	10 E	WM	13	NE NE		7.20
2 N	10 E	WM	13	NW NE		40.00
2 N	10 E	WM	13	SW NE		36.05
2 N	10 E	WM	13	SE NE		31.20
2 N	10 E	WM	13	NE NW		37.40
2 N	10 E	WM	13	NW NW		30.95
2 N	10 E	WM	13	SW NW		21.95
2 N	10 E	WM	13	SE NW		37.60
2 N	10 E	WM	13	NE SW		30.90
2 N	10 E	WM	13	NW SW		18.30
2 N	10 E	WM	13	SW SW		34.50
2 N	10 E	WM	13	SE SW		18.70
2 N	10 E	WM	13	NE SE		37.60
2 N	10 E	WM	13	NW SE		30.80

IRRIGATION

Twp	Rng	Mer	Sec	Q-Q	G-Lot	Acres
2 N	10 E	WM	13	SW SE		31.00
2 N	10 E	WM	13	SE SE		37.00
2 N	10 E	WM	14	SW NE		13.70
2 N	10 E	WM	14	SE NE		24.60
2 N	10 E	WM	14	SE NW		2.00
2 N	10 E	WM	14	NE SW		22.80
2 N	10 E	WM	14	NW SW		0.80
2 N	10 E	WM	14	SW SW		10.20
2 N	10 E	WM	14	SE SW		30.80
2 N	10 E	WM	14	NE SE		31.05
2 N	10 E	WM	14	NW SE		34.50
2 N	10 E	WM	14	SW SE		36.50
2 N	10 E	WM	14	SE SE		38.00
2 N	10 E	WM	15	NE SE		0.40
2 N	10 E	WM	15	SW SE		10.60
2 N	10 E	WM	15	SE SE		33.20
2 N	10 E	WM	16	SW SE		4.00
2 N	10 E	WM	16	SE SE		0.60
2 N	10 E	WM	20	NE SE		12.20
2 N	10 E	WM	20	SW SE		13.30
2 N	10 E	WM	20	SE SE		25.80
2 N	10 E	WM	21	NE NE		14.95
2 N	10 E	WM	21	NW NE		20.60
2 N	10 E	WM	21	SW NE		39.50
2 N	10 E	WM	21	SE NE		38.00
2 N	10 E	WM	21	NE NW		3.40
2 N	10 E	WM	21	SW NW		12.80
2 N	10 E	WM	21	SE NW		22.40
2 N	10 E	WM	21	NE SW		18.20
2 N	10 E	WM	21	NW SW		37.40
2 N	10 E	WM	21	SW SW		12.40
2 N	10 E	WM	21	SE SW		22.50
2 N	10 E	WM	21	NE SE		38.85
2 N	10 E	WM	21	NW SE		38.50
2 N	10 E	WM	21	SW SE		34.00
2 N	10 E	WM	21	SE SE		39.00
2 N	10 E	WM	22	NE NE		26.50
2 N	10 E	WM	22	NW NE		38.30
2 N	10 E	WM	22	SW NE		35.80
2 N	10 E	WM	22	SE NE		29.80
2 N	10 E	WM	22	NE NW		33.20
2 N	10 E	WM	22	NW NW		31.50
2 N	10 E	WM	22	SW NW		37.70

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	G-Lot	Acres
2 N	10 E	WM	22	SE NW		38.00
2 N	10 E	WM	22	NE SW		36.30
2 N	10 E	WM	22	NW SW		39.20
2 N	10 E	WM	22	SW SW		38.40
2 N	10 E	WM	22	SE SW		32.00
2 N	10 E	WM	22	NE SE		35.85
2 N	10 E	WM	22	NW SE		33.80
2 N	10 E	WM	22	SW SE		36.00
2 N	10 E	WM	22	SE SE		36.55
2 N	10 E	WM	23	NE NE		41.40
2 N	10 E	WM	23	NW NE		41.20
2 N	10 E	WM	23	SW NE		40.00
2 N	10 E	WM	23	SE NE		40.00
2 N	10 E	WM	23	NE NW		38.80
2 N	10 E	WM	23	NW NW		31.80
2 N	10 E	WM	23	SW NW		33.60
2 N	10 E	WM	23	SE NW		38.20
2 N	10 E	WM	23	NE SW		40.00
2 N	10 E	WM	23	NW SW		16.20
2 N	10 E	WM	23	SW SW		24.35
2 N	10 E	WM	23	SE SW		40.00
2 N	10 E	WM	23	NE SE		38.80
2 N	10 E	WM	23	NW SE		39.70
2 N	10 E	WM	23	SW SE		36.80
2 N	10 E	WM	23	SE SE		39.40
2 N	10 E	WM	24	NE NE		37.40
2 N	10 E	WM	24	NW NE		25.40
2 N	10 E	WM	24	SW NE		30.60
2 N	10 E	WM	24	SE NE		34.60
2 N	10 E	WM	24	NE NW		23.40
2 N	10 E	WM	24	NW NW		40.20
2 N	10 E	WM	24	SW NW		36.40
2 N	10 E	WM	24	SE NW		17.10
2 N	10 E	WM	24	NE SW		26.60
2 N	10 E	WM	24	NW SW		29.60
2 N	10 E	WM	24	SW SW		31.20
2 N	10 E	WM	24	SE SW		33.50
2 N	10 E	WM	24	NE SE		36.60
2 N	10 E	WM	24	NW SE		17.00
2 N	10 E	WM	24	SW SE		9.10
2 N	10 E	WM	24	SE SE		30.15
2 N	10 E	WM	25	NE NE		18.60
2 N	10 E	WM	25	NW NE		13.00

IRRIGATION						
Twp	Ring	Mer	Sec	Q-Q	G-Lot	Acres
2N	10 E	WM	25	SE NE		4.00
2N	10 E	WM	25	NE NW		38.80
2N	10 E	WM	25	NW NW		31.80
2N	10 E	WM	25	SW NW		8.15
2N	10 E	WM	25	SE NW		9.40
2N	10 E	WM	25	NE SW		32.70
2N	10 E	WM	25	NW SW		9.70
2N	10 E	WM	25	SW SW		12.60
2N	10 E	WM	25	SE SW		1.70
2N	10 E	WM	25	NW SE		18.40
2N	10 E	WM	25	SW SE		23.30
2N	10 E	WM	25	SE SE		24.30
2N	10 E	WM	26	NE NE		33.00
2N	10 E	WM	26	NW NE		8.80
2N	10 E	WM	26	SW NE		33.85
2N	10 E	WM	26	SE NE		37.85
2N	10 E	WM	26	NE NW		33.05
2N	10 E	WM	26	NW NW		27.03
2N	10 E	WM	26	SW NW		6.96
2N	10 E	WM	26	SE NW		23.98
2N	10 E	WM	26	SW SW		12.80
2N	10 E	WM	26	SE SW		36.60
2N	10 E	WM	26	NE SE		13.15
2N	10 E	WM	26	SW SE		31.80
2N	10 E	WM	26	SE SE		23.95
2N	10 E	WM	27	NE NE		6.30
2N	10 E	WM	27	NW NE		23.60
2N	10 E	WM	27	SW NE		6.00
2N	10 E	WM	27	SE NE		5.00
2N	10 E	WM	27	NE NW		8.00
2N	10 E	WM	27	NW NW		24.05
2N	10 E	WM	27	SW NW		26.40
2N	10 E	WM	27	SE NW		14.40
2N	10 E	WM	27	NE SW		11.80
2N	10 E	WM	27	NW SW		21.50
2N	10 E	WM	27	SW SW		7.60
2N	10 E	WM	27	SE SW		16.60
2N	10 E	WM	27	NE SE		33.10
2N	10 E	WM	27	NW SE		38.20
2N	10 E	WM	27	SW SE		30.80
2N	10 E	WM	27	SE SE		30.00
2N	10 E	WM	28	NE NE		29.45
2N	10 E	WM	28	NW NE		35.05

IRRIGATION

Twp	Rng	Mer	Sec	Q-Q	G-Lot	Acres
2 N	10 E	WMM	28	SW NE		28.50
2 N	10 E	WMM	28	SE NE		31.40
2 N	10 E	WMM	28	NE NW		10.75
2 N	10 E	WMM	28	NW NW		1.90
2 N	10 E	WMM	28	SE NW		0.40
2 N	10 E	WMM	28	NE SE		13.20
2 N	10 E	WMM	28	NW SE		24.00
2 N	10 E	WMM	28	SW SE		11.80
2 N	10 E	WMM	28	SE SE		11.20
2 N	10 E	WMM	29	NE NE		2.70
2 N	10 E	WMM	29	NW NE		28.60
2 N	10 E	WMM	29	SW NE		1.00
2 N	10 E	WMM	29	NE NW		6.80
2 N	10 E	WMM	29	SE NW		19.60
2 N	10 E	WMM	29	NW SW		7.80
2 N	10 E	WMM	29	SW SW		2.70
2 N	10 E	WMM	30	NE SE		8.90
2 N	10 E	WMM	30	SE SE		6.00
2 N	10 E	WMM	33	NE SE		0.10
2 N	10 E	WMM	34	NE NE		25.80
2 N	10 E	WMM	34	NW NE		37.40
2 N	10 E	WMM	34	SW NE		37.50
2 N	10 E	WMM	34	SE NE		32.90
2 N	10 E	WMM	34	NE NW		13.70
2 N	10 E	WMM	34	NW NW		4.90
2 N	10 E	WMM	34	SW NW		19.00
2 N	10 E	WMM	34	SE NW		9.40
2 N	10 E	WMM	34	NE SW		28.20
2 N	10 E	WMM	34	NW SW		27.90
2 N	10 E	WMM	34	SW SW		27.00
2 N	10 E	WMM	34	SE SW		37.70
2 N	10 E	WMM	34	NE SE		33.80
2 N	10 E	WMM	34	NW SE		32.40
2 N	10 E	WMM	34	SW SE		38.80
2 N	10 E	WMM	34	SE SE		38.30
2 N	10 E	WMM	35	NE NE		36.60
2 N	10 E	WMM	35	NW NE		23.75
2 N	10 E	WMM	35	SW NE		13.40
2 N	10 E	WMM	35	SE NE		3.70
2 N	10 E	WMM	35	NE NW		27.80
2 N	10 E	WMM	35	NW NW		16.40
2 N	10 E	WMM	35	SW NW		37.85
2 N	10 E	WMM	35	SE NW		24.90

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	G-Lot	Acres
2 N	10 E	WM	35	NE SW		31.70
2 N	10 E	WM	35	NW SW		36.70
2 N	10 E	WM	35	SW SW		32.20
2 N	10 E	WM	35	SE SW		30.00
2 N	10 E	WM	35	NE SE		37.80
2 N	10 E	WM	35	NW SE		34.30
2 N	10 E	WM	35	SW SE		38.00
2 N	10 E	WM	35	SE SE		34.40
2 N	10 E	WM	36	NE NE		12.80
2 N	10 E	WM	36	NW NE		17.40
2 N	10 E	WM	36	SE NE		21.00
2 N	10 E	WM	36	NE NW		35.35
2 N	10 E	WM	36	NW NW		27.30
2 N	10 E	WM	36	SW NW		19.20
2 N	10 E	WM	36	SE NW		23.15
2 N	10 E	WM	36	NE SW		9.80
2 N	10 E	WM	36	NW SW		22.20
2 N	10 E	WM	36	SW SW		37.30
2 N	10 E	WM	36	SE SW		28.00
2 N	10 E	WM	36	NE SE		1.60
2 N	10 E	WM	36	NW SE		1.60
2 N	10 E	WM	36	SW SE		23.50
2 N	10 E	WM	36	SE SE		0.60
2 N	11 E	WM	6	NW NE		10.80
2 N	11 E	WM	6	SW NE		1.80
2 N	11 E	WM	6	NE NW		38.40
2 N	11 E	WM	6	NW NW		23.60
2 N	11 E	WM	6	SW NW		21.30
2 N	11 E	WM	6	SE NW		24.48
2 N	11 E	WM	6	NE SW		26.50
2 N	11 E	WM	6	NW SW		37.00
2 N	11 E	WM	6	SW SW		32.00
2 N	11 E	WM	6	SE SW		33.40
2 N	11 E	WM	6	NW SE		1.00
2 N	11 E	WM	6	SW SE		10.40
2 N	11 E	WM	7	NE NE		9.70
2 N	11 E	WM	7	NW NE		18.60
2 N	11 E	WM	7	SW NE		36.90
2 N	11 E	WM	7	SE NE		7.60
2 N	11 E	WM	7	NE NW		36.40
2 N	11 E	WM	7	NW NW		38.60
2 N	11 E	WM	7	SW NW		39.80
2 N	11 E	WM	7	SE NW		40.00

IRRIGATION

Twp	Rng	Mer	Sec	Q-Q	G-Lot	Acres
2 N	11 E	W/M	7	NE SW		39.80
2 N	11 E	W/M	7	NW SW		38.00
2 N	11 E	W/M	7	SW SW		39.10
2 N	11 E	W/M	7	SE SW		38.80
2 N	11 E	W/M	7	NE SE		5.40
2 N	11 E	W/M	7	NW SE		40.00
2 N	11 E	W/M	7	SW SE		39.00
2 N	11 E	W/M	7	SE SE		3.40
2 N	11 E	W/M	18	NE NE		24.60
2 N	11 E	W/M	18	NW NE		32.00
2 N	11 E	W/M	18	SW NE		29.90
2 N	11 E	W/M	18	SE NE		23.20
2 N	11 E	W/M	18	NE NW		37.95
2 N	11 E	W/M	18	NW NW		39.80
2 N	11 E	W/M	18	SW NW		35.95
2 N	11 E	W/M	18	SE NW		39.50
2 N	11 E	W/M	18	NE SW		38.40
2 N	11 E	W/M	18	NW SW		38.80
2 N	11 E	W/M	18	SW SW		35.00
2 N	11 E	W/M	18	SE SW		33.90
2 N	11 E	W/M	18	NE SE		27.00
2 N	11 E	W/M	18	NW SE		39.20
2 N	11 E	W/M	18	SW SE		37.40
2 N	11 E	W/M	18	SE SE		28.20
2 N	11 E	W/M	19	NE NE		4.95
2 N	11 E	W/M	19	NW NE		32.60
2 N	11 E	W/M	19	SW NE		33.20
2 N	11 E	W/M	19	SE NE		2.80
2 N	11 E	W/M	19	NE NW		25.40
2 N	11 E	W/M	19	NW NW		33.40
2 N	11 E	W/M	19	SW NW		33.00
2 N	11 E	W/M	19	SE NW		33.10
2 N	11 E	W/M	19	NE SW		22.10
2 N	11 E	W/M	19	NW SW		35.90
2 N	11 E	W/M	19	SW SW		38.40
2 N	11 E	W/M	19	SE SW		28.50
2 N	11 E	W/M	19	NE SE		4.20
2 N	11 E	W/M	19	NW SE		34.20
2 N	11 E	W/M	19	SW SE		18.40
2 N	11 E	W/M	30	NW NE		4.40
2 N	11 E	W/M	30	SW NE		2.60
2 N	11 E	W/M	30	NE NW		17.95
2 N	11 E	W/M	30	NW NW		32.70

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	G-Lot	Acres
2 N	11 E	WM	30	SW NW		32.65
2 N	11 E	WM	30	SE NW		13.00
2 N	11 E	WM	30	NW SW		18.80
3 N	10 E	WM	36	SE NE		14.20
3 N	10 E	WM	36	NE SE		4.40
3 N	11 E	WM	31	NW NE	2	8.90
3 N	11 E	WM	31	NE NW		13.10
3 N	11 E	WM	31	NW NW		0.40
3 N	11 E	WM	31	SW NW		5.70
3 N	11 E	WM	31	SE NW		9.60
3 N	11 E	WM	31	NE SW		18.60
3 N	11 E	WM	31	NW SW		9.70
3 N	11 E	WM	31	SW SW		10.70
3 N	11 E	WM	31	SE SW		15.70
					Total	8531.77

INDUSTRIAL						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres Equivalent
1 S	10 E	WM	10	SE NE	8	15.0
1 S	10 E	WM	10	NE SE	9	
1 S	10 E	WM	11	NW NW		
1 S	10 E	WM	11	SW NW		
1 S	10 E	WM	11	NW SW		

6. Certificate 92000 does not describe the period of use of the right. Under the terms and conditions of the Final Decree of the Circuit Court for Hood River County dated October 24, 1921, the irrigation season was fixed as beginning on the 15th day of April and ending on the 1st day of October of each year (Decree Finding No. 23). However, additional information is available from the decree indicating the duty allowed for the right is 3.0 acre-feet/acre (AF/ac), with a rate of 1/80 cfs/acre (Decree Finding No. 28) for 120 days.
7. 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.
8. 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.

9. The Applicant requests 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
92000	100%	1.0	240.0	0	0	0	100%	1.0	240.0

10. The Applicant requests that the priority date for any conserved water be one minute junior to the originating right.
11. The Applicant received over 95% of non-reimbursable state and federal funds for the conservation project.
12. The Applicant submitted a completed Land Use Form from Hood River County that indicated the proposed use was allowed outright or is not regulated by Hood River County's comprehensive plan.
13. The Applicant 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, other ecological values, and water quality.
14. The Applicant requested the Department protect the new instream water right created from the conserved water under Certificate 92000 from the authorized point of diversion to the mouth of the mainstem Hood River at approximately River Mile 0.0.
15. The Applicant submitted a Notice of Completion with the application indicating the project was complete, and the implementation of the conservation measures began no earlier than November 30, 2022. The Applicant provided evidence that it attempted to identify and resolve the concerns of water right holders in the area, governmental entities and other organizations who have asked to be consulted. The Applicant will submit a Request for Finalization of the allocation on or before June 30, 2024.
16. The application meets the requirements of OAR 690-018-0040.
17. The Department has consulted with the Oregon Department of Fish and Wildlife (ODFW) and the Oregon Department of Environmental Quality (DEQ) to ascertain whether the proposed instream flows are necessary to support instream flow uses. The Department has determined the proposed instream flows are necessary to support instream flow uses. The East Fork Hood River, below the EFID diversion for the East Fork Main Canal, is water quality limited for iron (year round), copper (year round), thallium (year round), biological criteria (year round), and temperature (year round and spawning). Instream Water Right Certificate 94270 exists in the stream reach where the proposed instream water right is to be protected may not always be met. The public benefit or use for the proposed instream water right is for the same instream flow purposes. The priority date of Certificate 94270 is NOVEMBER 25, 1895, *plus one minute*. Replacing a portion of Certificate 94270 with an earlier priority date supports the public benefits.

18. Notice of the proposed conservation project was published in the Department’s weekly notice on March 7, 2023, and in the Columbia Gorge News newspaper on March 8 and 15, 2023, 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]

19. 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 #4).
20. On January 30, 2023, the District #3 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. OAR 690-018-0050(4)(b) and (d).
21. The conservation project is consistent with the local comprehensive land use plan requirements established in OAR 690-005-0045. OAR 690-018-0050(4)(c). (Finding of Fact #12).
22. 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-133 under Certificate 92000 are as follows:

Certificate	Rate		Duty	
	Maximum CFS	CFS/AC	Maximum AF	AF/AC
92000	99.5	1/80	23,696.78	2.78

(Finding of Fact #4).

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

Priority Date	Maximum Rate (cfs)	Maximum Duty (Volume) (AF)
November 25, 1895, <i>plus one minute</i>	1.0	240.0

(Finding of Fact #9).

24. As required by OAR 690-018-0050(4)(f), in consultation with ODFW, the Department has determined that the instream right created will support public benefits. The East Fork Hood River contains critical habitat for several fish species, which are currently listed under the Endangered Species Act. The proposed instream water right will also provide flows for necessary for supporting aquatic life and anadromous and resident fish habitat which are not always met under the current instream water rights. (Finding of Fact #17).

25. The new instream water right created will be protected in East Fork Hood River from the authorized point of diversion as described in Finding of Fact #5, at approximately River Mile 6.4 to the mouth of the East Fork Hood River, described as where the East Fork and West Fork Hood River join to form the mainstem Hood River. This is further described as Hood River Mile 12.5 in the NWNE of Section 1, Township 1 North, Range 9 East, W.M., at latitude 45.605229, longitude 121.633196. OAR 690-077-0015(8).
26. EFID had requested the Department protect the instream water right from the authorized point of diversion on East Fork Hood River to the mouth of Hood River. If water is to be protected from the source stream (East Fork Hood River) into a receiving stream (Hood River); the quantity must be measurable in the receiving stream. The Department has determined the 1.0 cfs is not a measurable quantity in Hood River. OAR 690-018-0050(4)(h); OAR 690-077-0015(8).
27. The State's portion of conserved water may be protected for 120 days during the irrigation season without enlarging the right.
28. The instream right shall allow the use and protection of flows as follows:

Source: East Fork Hood River, tributary to Hood River

Priority Date	Period	Rate (cfs)	Volume (AF)
November 25, 1895, <i>plus one minute</i>	June 3 through September 30	1.0	240.0

From the authorized point of diversion at approximately River Mile (RM) 6.4 on the East Fork of Hood River:

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

To: the mouth of the East Fork Hood River, described as where the East Fork and West Fork of Hood River join to form the mainstem Hood River. This location is further described as Hood River Mile 12.5 in the NWNE of Section 1, Township 1 North, Range 9 East, W.M., at latitude 45.605229, longitude 121.633196. (Findings of Fact #9 and #25).

29. 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).
30. The protection of flows within the proposed reach 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. The reach for an instream water right is typically from the point of diversion on the source stream to the mouth of that source stream. However, water may be protected further downstream if the quantity of water is measurable in the receiving stream, in this case, Hood River. The quantity of water proposed to be protected instream is not measurable in Hood River.

- 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).
31. The combination of instream rights for the proposed reach on the East Fork Hood 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).
 32. The existing instream water rights established pursuant to ORS 537.341 (minimum flow conversion) or ORS 537.336 (state agency process), within the proposed reach on the East Fork Hood River are sufficient to protect the monthly quantities of water necessary for supporting aquatic life and anadromous and resident fish habitat, but are not always met. By replacing a portion of these instream water rights, any instream water right created as a result of this allocation will provide protection of stream flows identified as necessary for supporting aquatic life and anadromous and resident fish habitat under an earlier priority date.
 33. 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 right 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).
 34. The project is complete. The deadline for submitting a Request for Finalization is June 30, 2024. (Finding of Fact #15). OAR 690-018-0050(4)(i).
 35. No other conditions or limitations are needed to prevent or mitigate for harm to existing water rights. (Finding of Fact #20). OAR 690-018-0050(4)(j).

Determination and Proposed Action

The project described in Allocation of Conserved Water Application CW-133, 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-133 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 right. Findings of Fact #4 and #19.*

2. *The proposed allocation of conserved water will not harm existing water rights. Finding of Fact #20 and #35.*
3. *The application is consistent with the requirements established in OAR 690-005-0045. Finding of Fact #21.*
4. *The changes proposed in CW-133 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
92000	100%	1.0	240.0	0%	0	0	100%	1.0	240.0

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 92000 and any related decree.*
7. *Water Right Certificate 92000 is cancelled. 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 8531.77 ACRES, (INCLUDING INCHOATE, and 15.0 ACRES EQUIVALENT INDUSTRIAL)

Priority Date: NOVEMBER 25, 1895

Rate: 99.50 CUBIC FEET PER SECOND (CFS), being 99.33 CFS for IRRIGATION (INCLUDING INCHOATE), and 0.17 CFS for INDUSTRIAL USE

Limit/Duty: The amount of water used for irrigation, is limited to a diversion of 1/80 of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year, and an annual volume limitation of 23696.78 ACRE-FEET per year.

Source: EAST FORK HOOD RIVER, tributary to HOOD RIVER

8. *Water use measurement conditions:*
 - a. *The water user shall maintain the meters or measuring devices in good working order.*
 - b. *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. All conserved water shall be managed instream until a Request for Finalization is submitted as follows:

Priority Date	Period	Rate (cfs)	Volume (acre-feet)
November 25, 1895, plus one minute	June 3 through September 30	1.0	240.0

East Fork Hood River, tributary to Hood River

From the authorized point of diversion at approximately River Mile (RM) 6.4:

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

To: the mouth of the East Fork Hood River at RM 0.0, at the confluence with Hood River

Upon Filing the Request for Finalization:

10. The project is complete, and no additional time is needed for finalization.
11. 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; and water quality, as follows:

Priority Date	Period	Rate (cfs)	Volume (acre-feet)
November 25, 1895, plus one minute	June 3 through September 30	1.0	240.0

East Fork Hood River: From the authorized point of diversion under Certificate 92000 at approximately River Mile (RM) 6.4:

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

To the mouth of the East Fork Hood River at RM 0.0, at the confluence with Hood River to the mouth of the East Fork Hood River at RM 0.0, at the confluence with Hood River

Within the specified stream reaches, 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.

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.

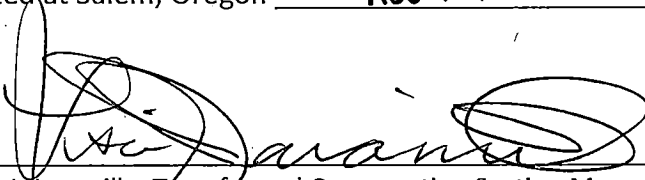
Any party may be represented by an attorney at the hearing. Legal aid organizations may be able to assist a party with limited financial resources. Generally, partnerships, corporations, associations, governmental subdivisions, or public or private organizations are represented by an attorney. However, 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 servicemembers have a right to stay proceedings under the federal Servicemembers Civil Relief Act. 50 U.S.C. App. §§501-597b. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 971-355-4127, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

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.

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 **AUG / 4 2023** .



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
DOUGLAS E. WOODCOCK, ACTING DIRECTOR
Oregon Water Resources Department

Mailing Date: **AUG / 7 2023**

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).