

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

In the Matter of Allocation of Conserved) PRELIMINARY DETERMINATION
Water Application CW-139,) PROPOSING APPROVAL ON COMPLETION
Wasco County) AND FINALIZATION OF ALLOCATION OF
) CONSERVED WATER CW-139; and
) APPROVING A CHANGE IN POINT OF
) DIVERSION

Applicant

WFR Water, LLC
Attn: Paul Sherrill
1 Muddy Road
Antelope, OR 97001

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

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.

(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 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 September 28, 2023, WFR Water, LLC, Attn: Paul Sherrill filed an allocation of conserved water application under Certificates 65295 and 65327. The Department assigned the application number CW-139.
2. The conservation project involves converting from wheel lines to a more efficient pivot system combined with the use of end guns. The conversion to an efficient pivot system and end guns is a proven technology for conserving water.
3. Application CW-139 proposes a rate reduction of approximately 0.43 cubic foot per second (cfs) and proposes to reduce the annual volume by 93.6 acre-feet (AF) under Certificate 65295, and a rate reduction of approximately 0.045 cfs and annual volume reduction by 8.6 AF under Certificate 65327.

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
65295	1.13	0.025	225.5	5.0	0.72	0.016	135.3	3.0	0.41	90.2
65295	0.08	0.025	17.0	5.0	0.06	0.019	13.6	4.0	0.02	3.4
Totals	1.21		242.5		0.78		148.9		0.43	93.6

*Note: The first row describes water conserved using the center pivot irrigation system on 45.1 acres, and the second row describes water conserved using the end guns on 3.4 acres.

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
65327	0.10	0.025	19.5	5.0	0.06	0.016	11.7	3.0	0.04	7.8
65327	0.02	0.025	4.0	5.0	0.015	0.019	3.2	4.0	0.005	0.8
Totals	0.12		23.5		0.075		14.9		0.045	8.6

*Note: The first row describes water conserved using the center pivot irrigation system on 3.9 acres, and the second row describes water conserved using the end guns on 0.8 acres.

4. The portion of the first right to be modified by CW-139 is as follows:

Certificate: 65295 in the name of CONNECTICUT GENERAL LIFE INSURANCE COMPANY, C/O TIPPETT LAND & MORTGAGE COMPANY (perfected under Permit S-41913)
Use: IRRIGATION of 48.5 ACRES
Priority Date: MAY 10, 1977
Rate: 1.21 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 (or its equivalent) and 5 acre-feet for each acre irrigated during the irrigation season of each year.
Source: THE JOHN DAY RIVER, a tributary of THE COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	19 E	WM	23	SE SW	1000 FEET NORTH AND 1600 FEET EAST FROM THE SW CORNER OF SECTION 23

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
8 S	19 E	WM	23	SW SW	4	12.1
8 S	19 E	WM	23	SE SW		27.1
8 S	19 E	WM	23	SW SE		9.3
					Total	48.5

5. The portion of the second right to be modified by CW-139 is as follows:

Certificate: 65327 in the name of RAJNEESH NEO-SANNYAS INTERNATIONAL COMMUNE, C/O TIPPETT LAND & MORTGAGE COMPANY (perfected under Permit S-49235)
Use: IRRIGATION of 4.7 ACRES
Priority Date: JUNE 28, 1984
Rate: 0.12 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of

ONE-FORTIETH of one cubic foot per second (or its equivalent) and 5 acre-feet for each acre irrigated during the irrigation season of each year.

Source: THE JOHN DAY RIVER, a tributary of THE COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	19 E	WM	23	SE SW	1000 FEET NORTH AND 1600 FEET EAST FROM THE SW CORNER OF SECTION 23

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	19 E	WM	23	SW SE	4.7

- Certificates 65295 and 65327 do not list a period of use; therefore, pursuant to the John Day River (F) Decree, the irrigation season of use is April 1 to September 30.
- 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 rights are subject to forfeiture under ORS 540.610.
- A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of the application.
- 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
65295	25%	0.11	23.40	75%	0.32	70.20	100%	0.43	93.6
65327	25%	0.011	2.15	75%	0.034	6.45	100%	0.045	8.6
Totals		0.121	25.55		0.354	76.65		0.475	102.2

- The Applicant proposes that its portion of the conserved water be allocated for an out-of-stream use, being Quasi-municipal use within Section 36, Township 8 South, Range 18 East, W.M., and Sections 21, 28, 29, 31, and 32, Township 8 South, Range 19 East, W.M.
- The applicant proposes to change the point of diversion for the applicant's portion, being the Quasi-municipal use, approximately 1.5 miles downstream from the original point of diversion to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
8 S	19 E	WM	22	NW NW	1	850 FEET SOUTH AND 600 FEET EAST FROM THE NW CORNER OF SECTION 22

- The Applicant's portion of the conserved water proposed for Quasi-municipal use will be limited to the season of use, being April 1 to September 30.

13. The Applicant requests that the priority date for any conserved water be one minute junior to the originating rights.
14. The Applicant funded 100% of the conservation project.
15. The Applicant submitted a completed Land Use Form from Wasco County that indicated the proposed use was allowed outright or is not regulated by Wasco County's comprehensive plan.
16. The implementation of the conservation measures began no earlier than July, 2019. 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.
17. The Applicant proposes that any instream water rights 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 rights created from the conserved water under Certificates 65295 and 65327 at the authorized point of diversion on the John Day River, as described in Findings of Fact #4 and #5.
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.
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. ODFW determined although there is no agency-requested instream water right, the water allocated to the state is necessary to support the conservation, maintenance and enhancement of aquatic and fish life, wildlife and fish and wildlife habitat (in-stream flow purposes) in accordance with ORS 537.332 to 537.360. Fall Chinook, Spring Chinook, Summer Steelhead, Bull trout, and Redband trout are present in the lower John Day. In addition to being Essential Salmonid Habitat, the lower John Day is included in the Mid-Columbia River Conservation and Recovery Plan which lists the lower mainstem John Day as limited by water quality and quantity.
22. Notice of the proposed conservation project was published in the Department's weekly notice on October 31, 2023, and in the Madras Pioneer newspaper on November 1 and 8, 2023, as required under OAR 690-018-0050(1)(a) and (2). No comments were filed in response to the notices.

23. On March 12, 2024, the Department issued a draft Preliminary Determination proposing to approve Allocation of Conserved Water Application CW-139. Due to the change in use for the Applicant's portion of conserved water from irrigation to Quasi-municipal, the Watermaster had initial concerns regarding enlargement. In consultation with the District 21 Watermaster, the Department placed a rate limitation on the Applicant's portion in order to avoid enlargement of the rights involved in CW-139, while maximizing the use of the Applicant's portion to include the entirety of the season. The draft Preliminary Determination cover letter set forth a deadline of April 11, 2024, to respond.
24. On March 20, 2024, the Department held a meeting with the applicant's agent to address their concerns with the rate limitations placed on the Applicant's portion of conserved water.
25. On April 17, 2024, the Department determined that the rate limitations placed on the Applicant's portion of conserved water were no longer needed. The Department determined that a revised draft Preliminary Determination should be issued to establish the rates for the Applicant's portion of conserved water as originally proposed.

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

26. 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 #3).
27. On February 12, 2024, the District #21 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).
28. 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 #15).
29. 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-139 are as follows:

Certificate	Rate		Duty	
	Maximum CFS	CFS/AC	Maximum AF	AF/AC
65295	0.72	0.016	135.3	3.0
65295	0.06	0.019	13.6	4.0
Total	0.78		148.9	

*Note: The first row describes the new reduced rate and duty for the existing uses using the center pivot irrigation system on 45.1 acres, and the second row describes the new reduced rate and duty for the existing uses using the end guns on 3.4 acres.

Certificate	Rate		Duty	
	Maximum CFS	CFS/AC	Maximum AF	AF/AC
65327	0.06	0.016	11.7	3.0
65327	0.015	0.019	3.2	4.0
Total	0.075		14.9	

*Note: The first row describes the new reduced rate and duty for the existing uses using the center pivot irrigation system on 3.9 acres, and the second row describes the new reduced rate and duty for the existing uses using the end guns on 0.8 acres. (Finding of Fact #3).

30. Pursuant to OAR 690-018-0050(4)(e), the rates and volumes allocated to the State for instream use are as follows:

Certificate	Priority Date	Maximum Rate (cfs)	Maximum Duty (Volume) (AF)
65295	May 10, 1977, <i>plus one minute</i>	0.11	23.40
65327	June 28, 1984, <i>plus one minute</i>	0.011	2.15
Total Volume			25.55

(Finding of Fact #9).

31. As required by OAR 690-018-0050(4)(f), the Department has determined that the instream rights created will support public benefits. (Finding of Fact #21).
32. 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 rates and volumes allocated to the Applicant are as follows:

Certificate	Priority Date	Maximum Rate (cfs)	Maximum Duty (Volume)(AF)
65295	May 10, 1977, <i>plus one minute</i>	0.32	70.20
65327	June 28, 1984, <i>plus one minute</i>	0.034	6.45

(Findings of Fact #9 and #14).

33. The new instream water rights created will be protected in the John Day River at the authorized point of diversion as described in Findings of Fact #4 and #5. OAR 690-018-0050(4)(h); OAR 690-077-0015(8).
34. The instream rights shall allow the use and protection of flows as follows:

Source: The John Day River, tributary to the Columbia River

Certificate	Priority Date	Period	Rate (cfs)	Volume (AF)
65295	May 10, 1977, <i>plus one minute</i>	April 1 through July 16	0.11	23.40
65327	June 28, 1984, <i>plus one minute</i>	April 1 through July 8	0.011	2.15
Total Volume				25.55

At the authorized point of diversion at approximately River Mile (RM) 117.9:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	19 E	WM	23	SE SW	1000 FEET NORTH AND 1600 FEET EAST FROM THE SW CORNER OF SECTION 23

35. 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).
36. 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 river bed downstream from the point of diversion; and
 - d. Any return flows resulting from the exercise of the existing water rights would re-enter the river downstream of the point of the instream water rights.
 OAR 690-077-0015(8).
37. The combination of instream rights for the proposed point on the John Day 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).
38. There are no other 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 John Day River.
39. 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).
40. The areas within which the conserved water is proposed to be used for out-of-stream uses, being Quasi-municipal use, are within Section 36, Township 8 South, Range 18 East, W.M, and Sections 21, 28, 29, 31, and 32, Township 8 South, Range 19 East, W.M. (Finding of Fact #10). OAR 690-018-0050(4)(h).
41. No further time is needed to complete the project, as the project has been completed and finalized. (Finding of Fact #19). OAR 690-018-0050(4)(i).
42. No other conditions or limitations are needed to prevent or mitigate for harm to existing water rights. (Finding of Fact #27). OAR 690-018-0050(4)(j).

Determination and Proposed Action

The project described in Allocation of Conserved Water Application CW-139, 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-139 is approved, the Order Approving will include the following:

1. *The proposed changes will result in a reduced diversion for the uses allowed under the original water rights. Findings of Fact #3 and #26.*
2. *The proposed allocation of conserved water will not harm existing water rights. Finding of Fact #27.*
3. *The application is consistent with the requirements established in OAR 690-005-0045. Finding of Fact #15 and #28.*
4. *The changes proposed in CW-139 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
65295	25%	0.11	23.40	75%	0.32	70.20	100%	0.43	93.6
65327	25%	0.011	2.15	75%	0.034	6.45	100%	0.045	8.6
Totals		0.121	25.55		0.354	76.65		0.475	102.2

(Findings of Fact #30 and #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 65295 and 65327 and any related decree.*
7. *Water Right Certificate 65295 is cancelled. A new certificate will be issued for that portion of the water right not affected by 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 #4) at the reduced rate and duty as follows:*

Use: IRRIGATION of 48.5 ACRES

Priority Date: MAY 10, 1977

Rate: 0.78 CUBIC FOOT PER SECOND (CFS), BEING 0.72 CFS FOR IRRIGATION OF 45.1 ACRES, AND 0.06 CFS FOR IRRIGATION OF 3.4 ACRES

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-SIXTY-SECOND (1/62) of one cubic foot per second for IRRIGATION of 45.1 ACRES, and limited to ONE-FIFTY-SECOND (1/52) of one cubic foot per second for IRRIGATION of 3.4 ACRES, 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 for IRRIGATION of 45.1 ACRES, and not to exceed 4.0 acre-feet per acre for each acre for IRRIGATION of 3.4 ACRES irrigated during the irrigation season of each year, and is further limited to an annual volume limitation of 148.9 acre-feet per year.

Source: THE JOHN DAY RIVER, tributary to THE COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	19 E	WM	23	SE SW	1000 FEET NORTH AND 1600 FEET EAST FROM THE SW CORNER OF SECTION 23

Authorized Place of Use:

IRRIGATION (0.019 cfs/ac; 4.0 af/acre)						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
8 S	19 E	WM	23	SW SW	4	0.8
8 S	19 E	WM	23	SE SW		1.6
8 S	19 E	WM	23	SW SE		1.0
Total						3.4

IRRIGATION (0.016 cfs/ac; 3.0 af/acre)						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
8 S	19 E	WM	23	SW SW	4	11.3
8 S	19 E	WM	23	SE SW		25.5
8 S	19 E	WM	23	SW SE		8.3
Total						45.1

8. Water Right Certificate 65327 is cancelled. A new certificate will be issued for that portion of the water right not affected by 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 4.7 ACRES

Priority Date: JUNE 28, 1984

Rate: 0.075 CUBIC FOOT PER SECOND (CFS), BEING 0.06 CFS FOR IRRIGATION OF 3.9 ACRES, AND 0.015 CFS FOR IRRIGATION OF 0.8 ACRES

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-SIXTY-SECOND (1/62) of one cubic foot per second for the IRRIGATION of 3.9 ACRES, and limited to ONE-FIFTY-SECOND (1/52) of one cubic foot per second for the IRRIGATION of 0.8 ACRES, 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 for IRRIGATION of 3.9 ACRES, and not to exceed 4.0 acre-feet per acre for each acre for IRRIGATION of 0.8 ACRES irrigated during the irrigation season of each year, and is further limited to an annual volume limitation of 14.9 acre-feet per year.

Source: THE JOHN DAY RIVER, tributary to THE COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	19 E	WM	23	SE SW	1000 FEET NORTH AND 1600 FEET EAST FROM THE SW CORNER OF SECTION 23

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Cfs/Acre	AF/Acre
8 S	19 E	WM	23	SW SE	3.9	0.016	3.0
8 S	19 E	WM	23	SW SE	0.8	0.019	4.0
Total					4.7		

9. *The consumptive use of conserved water under these rights shall be subject to such water measurement conditions the Department deems necessary to prevent injury and enlargement. The Department has determined that totalizing flow meters are to be installed and maintained at all John Day points of diversion (POD) and the lateral supplying water up the hill. The totalizing flow meters installed at the John Day River PODs shall be capable of displaying 2 years of data without turning over and shall not be reset. When repair and replacement is necessary, the owner/operator will provide the Watermaster with date stamped pictures showing before and after flow meter and power meter readings, reporting total Acre Feet and kilowatt hours.*
10. *Water use measurement conditions:*
 - a. *Before the use of the Applicant’s portion of conserved water, the water user shall install totalizing flow meters at each point of diversion (POD) on the John Day River, and the lateral supplying water up the hill. The totalizing flow meters installed at the John Day River PODs shall be capable of displaying 2 years of data without turning over and shall not be reset. When repair and replacement is necessary, the owner/operator will provide the Watermaster with date stamped pictures showing before and after flow meter and power meter readings, reporting total Acre Feet and kilowatt hours.*
 - b. *The water user shall maintain the meters or measuring devices in good working order.*
 - c. *The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
11. *The project is complete, and no additional time is needed for finalization.*
12. *The Applicant’s portion of conserved water under Certificate 65295 shall be used as described below, until a subsequent Notice of Use or Disposition is received pursuant to ORS 537.490 and OAR 690-019-0090.*

Use: QUASI-MUNICIPAL
Priority Date: MAY 10, 1977, plus one minute
Rate: 0.32 CUBIC FOOT PER SECOND (CFS)
Limit: The amount of water used is further limited to an annual volume limitation of 70.2 acre-feet per year, APRIL 1 to SEPTEMBER 30.

Source: THE JOHN DAY RIVER, tributary to THE COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
8 S	19 E	WM	22	NW NW	1	850 FEET SOUTH AND 600 FEET EAST FROM THE NW CORNER OF SECTION 22

Authorized Place of Use:

QUASI-MUNICIPAL					
Twp	Rng	Mer	Sec	Q-Q	GLot
8 S	18 E	WM	36	NE NE	
8 S	18 E	WM	36	NW NE	
8 S	18 E	WM	36	SW NE	
8 S	18 E	WM	36	SE NE	
8 S	18 E	WM	36	SE SE	
8 S	19 E	WM	21	SE SE	
8 S	19 E	WM	28	NE NE	
8 S	19 E	WM	28	NW NE	
8 S	19 E	WM	28	SW NE	
8 S	19 E	WM	28	SE NE	
8 S	19 E	WM	28	SE NW	
8 S	19 E	WM	28	NE SW	
8 S	19 E	WM	28	NW SW	3
8 S	19 E	WM	28	SW SW	4
8 S	19 E	WM	28	SE SW	
8 S	19 E	WM	28	NW SE	
8 S	19 E	WM	29	SW NE	
8 S	19 E	WM	29	SE NE	
8 S	19 E	WM	29	SW NW	2
8 S	19 E	WM	29	NE SW	
8 S	19 E	WM	29	NW SW	3
8 S	19 E	WM	29	SW SW	4
8 S	19 E	WM	29	SE SW	
8 S	19 E	WM	29	NE SE	
8 S	19 E	WM	29	NW SE	
8 S	19 E	WM	29	SW SE	
8 S	19 E	WM	29	SE SE	
8 S	19 E	WM	31	NE NE	
8 S	19 E	WM	31	SW NE	
8 S	19 E	WM	31	SE NE	
8 S	19 E	WM	31	NW NW	1
8 S	19 E	WM	31	SW NW	2
8 S	19 E	WM	31	SE NW	
8 S	19 E	WM	31	NE SW	
8 S	19 E	WM	31	NW SW	3
8 S	19 E	WM	31	SW SW	4
8 S	19 E	WM	31	SE SW	
8 S	19 E	WM	31	NE SE	
8 S	19 E	WM	31	NW SE	
8 S	19 E	WM	32	NE NW	
8 S	19 E	WM	32	NW NW	1

QUASI-MUNICIPAL					
Twp	Rng	Mer	Sec	Q-Q	GLot
8 S	19 E	WM	32	SW NW	2
8 S	19 E	WM	32	NW SW	3
8 S	19 E	WM	32	SW SW	4

13. The Applicant's portion of conserved water under Certificate 65327 shall be used as described below, until a subsequent Notice of Use or Disposition is received pursuant to ORS 537.490 and OAR 690-019-0090.

Use: QUASI-MUNICIPAL

Priority Date: JUNE 28, 1984, plus one minute

Rate: 0.034 CUBIC FOOT PER SECOND (CFS)

Limit: The amount of water used is further limited to an annual volume limitation of 6.45 acre-feet per year, APRIL 1 to SEPTEMBER 30.

Source: THE JOHN DAY RIVER, tributary to THE COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
8 S	19 E	WM	22	NW NW	1	850 FEET SOUTH AND 600 FEET EAST FROM THE NW CORNER OF SECTION 22

Authorized Place of Use:

QUASI-MUNICIPAL					
Twp	Rng	Mer	Sec	Q-Q	GLot
8 S	18 E	WM	36	NE NE	
8 S	18 E	WM	36	NW NE	
8 S	18 E	WM	36	SW NE	
8 S	18 E	WM	36	SE NE	
8 S	18 E	WM	36	SE SE	
8 S	19 E	WM	21	SE SE	
8 S	19 E	WM	28	NE NE	
8 S	19 E	WM	28	NW NE	
8 S	19 E	WM	28	SW NE	
8 S	19 E	WM	28	SE NE	
8 S	19 E	WM	28	SE NW	
8 S	19 E	WM	28	NE SW	
8 S	19 E	WM	28	NW SW	3
8 S	19 E	WM	28	SW SW	4
8 S	19 E	WM	28	SE SW	
8 S	19 E	WM	28	NW SE	
8 S	19 E	WM	29	SW NE	
8 S	19 E	WM	29	SE NE	
8 S	19 E	WM	29	SW NW	2
8 S	19 E	WM	29	NE SW	
8 S	19 E	WM	29	NW SW	3
8 S	19 E	WM	29	SW SW	4
8 S	19 E	WM	29	SE SW	
8 S	19 E	WM	29	NE SE	
8 S	19 E	WM	29	NW SE	

QUASI-MUNICIPAL					
Twp	Rng	Mer	Sec	Q-Q	GLot
8 S	19 E	WM	29	SW SE	
8 S	19 E	WM	29	SE SE	
8 S	19 E	WM	31	NE NE	
8 S	19 E	WM	31	SW NE	
8 S	19 E	WM	31	SE NE	
8 S	19 E	WM	31	NW NW	1
8 S	19 E	WM	31	SW NW	2
8 S	19 E	WM	31	SE NW	
8 S	19 E	WM	31	NE SW	
8 S	19 E	WM	31	NW SW	3
8 S	19 E	WM	31	SW SW	4
8 S	19 E	WM	31	SE SW	
8 S	19 E	WM	31	NE SE	
8 S	19 E	WM	31	NW SE	
8 S	19 E	WM	32	NE NW	
8 S	19 E	WM	32	NW NW	1
8 S	19 E	WM	32	SW NW	2
8 S	19 E	WM	32	NW SW	3
8 S	19 E	WM	32	SW SW	4

14. The areas within which the Applicant's portion of conserved water may be used for out-of-stream uses, being Quasi-municipal uses, are within Section 36, Township 8 South, Range 18 East, W.M, and Sections 21, 28, 29, 31, and 32, Township 8 South, Range 19 East, W.M.
15. 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:

Certificate	Priority Date	Period	Rate (cfs)	Volume (AF)
65295	May 10, 1977, plus one minute	April 1 through July 16	0.11	23.40
65327	June 28, 1984, plus one minute	April 1 through July 8	0.011	2.15
			Total Volume	25.55

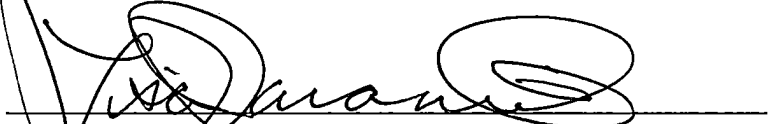
John Day River: At the authorized point of diversion under Certificates 65295 and 65327 located at approximately RM 117.9:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	19 E	WM	23	SE SW	1000 FEET NORTH AND 1600 FEET EAST FROM THE SW CORNER OF SECTION 23

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.

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 MAY 13 2024.



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

Mailing Date: MAY 14 2024

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 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.