

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

In the Matter of Allocation of Conserved)	PRELIMINARY DETERMINATION PROPOSING
Water Application CW-146,)	APPROVAL OF COMPLETION OF ALLOCATION
Wasco and Wheeler Counties)	OF CONSERVED WATER CW-146 AND 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 (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 September 9, 2024, WFR Water, LLC, Attn: Paul Sherrill filed an allocation of conserved water application under Certificates 25327, 55361, and 67096. The Department assigned the application number CW-146.
2. The conservation project involves installing a more efficient sprinkler size on a partial pivot system. The conversion to a more efficient sprinkler size is a proven technology for conserving water.
3. Application CW-146 proposes a rate reduction of approximately 0.09 cubic foot per second (cfs) and proposes to reduce the annual volume by 9.6 acre-feet (AF) under Certificate 25327, a rate reduction of approximately 0.26 cfs and a reduction in the annual volume by 78.1 AF under Certificate 55361, and a rate reduction of approximately 0.08 cfs and a reduction in the annual volume by 8.9 AF under Certificate 67096.

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
25327	0.24	0.025	48.0	5.0	0.15	0.0156	38.4	4.0	0.09	9.6
55361	1.48	0.019	390.5	5.0	1.22	0.0156	312.4	4.0	0.26	78.1
67096	0.22	0.025	44.5	5.0	0.14	0.0156	35.6	4.0	0.08	8.9
Totals	1.94		483.0		1.51		386.4		0.43	96.6

4. The portion of the first right to be modified by CW-146 is as follows:

Certificate: 25327 in the name of CHARLES S. HICKS (confirmed by JOHN DAY RIVER (F) Decree)
Use: IRRIGATION of 9.6 ACRES
Priority Date: 1908
Rate: 1/40 CUBIC FOOT PER SECOND PER ACRE IRRIGATED FROM APRIL 1 TO SEPT. 30; FURTHER LIMITED TO ONE ACRE-FOOT PER ACRE PER CALENDAR MONTH; TOTAL OF FIVE ACRE-FEET PER ACRE FOR SEASON
Source: JOHN DAY RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
Not described in certificate				

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	19 E	WM	26	NE NE	6.0
8 S	19 E	WM	26	SE NE	3.6
Total					9.6

5. The Department has received information from the applicant that better describes the authorized point of diversion under Certificate 25327:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	19 E	WM	26	NE SE	550 FEET SOUTH AND 840 FEET WEST FROM THE E 1/4 CORNER OF SECTION 26

6. The portion of the second right to be modified by CW-146 is as follows:

Certificate: 55361 in the name of BILLY M. CROSS (perfected under Permit S-37751)
Use: IRRIGATION of 78.1 ACRES
Priority Date: DECEMBER 9, 1974
Rate: 1.48 CUBIC FEET PER SECOND
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-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 5.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: JOHN DAY RIVER, a tributary of COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	19 E	WM	26	NE NE	1340 FEET NORTH AND 1240 FEET WEST FROM THE E 1/4 CORNER OF SECTION 26

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	19 E	WM	23	SE SE	4.2
8 S	19 E	WM	25	NW NW	29.8
8 S	19 E	WM	26	NE NE	21.9
8 S	19 E	WM	26	SE NE	22.2
Total					78.1

7. The portion of the third right to be modified by CW-146 is as follows:

Certificate: 67096 in the name of BILL CROSS (perfected under Permit S-49236)

Use: IRRIGATION of 8.9 ACRES

Priority Date: DECEMBER 28, 1984

Rate: 0.22 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 5.0 acre-feet for each acre irrigated during the irrigation season of each year.

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

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	19 E	WM	26	NE NE	NORTH DIVERSION - 1340 FEET SOUTH AND 1240 FEET WEST FROM THE NE 1/4 CORNER OF SECTION 26
8 S	19 E	WM	36	SW NW	SOUTH DIVERSION - 1350 FEET SOUTH AND 670 FEET EAST FROM THE NW CORNER OF SECTION 36

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	19 E	WM	23	SE SE	0.3
8 S	19 E	WM	25	NW NW	5.2
8 S	19 E	WM	26	NE NE	3.4
Total					8.9

8. Certificate 25327 identifies a period of use, being April 1 to September 30. Certificates 55361 and 67096 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.
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 rights are 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 rights were present within the five-year period prior to submittal of the application.

11. 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
25327	25%	0.023	2.4	75%	0.067	7.2	100%	0.09	9.6
55361	25%	0.065	19.5	75%	0.195	58.6	100%	0.26	78.1
67096	25%	0.020	2.2	75%	0.060	6.7	100%	0.08	8.9
Total		0.108	24.1		0.322	72.5		0.43	96.6

12. 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.
13. The applicant proposes to change the point of diversion for the applicant's portion, being the Quasi-municipal use, downstream from the original points of diversion to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances	Approximate distance from original point of diversion in miles (mi.)	
8 S	19 E	WM	22	NW NW	1	850 FEET SOUTH AND 600 FEET EAST FROM THE NW CORNER OF SECTION 22	Certificate 25327	Certificates 55361 and 67096
							2.58 mi.	2.22 mi.

14. 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.
15. The Applicant requests that the priority dates for any conserved water be one minute junior to the originating rights.
16. The Applicant funded 100% of the conservation project.
17. 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.
18. The implementation of the conservation measures began no earlier than July 2024. 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.
19. 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, and other ecological values.

20. The Applicant requested the Department protect the new instream water right created from the conserved water under Certificates 25327, 55361, and 67096 at the authorized points of diversion on the John Day River.
21. The Applicant submitted a Notice of Completion with the application indicating the project was complete. The Applicant will submit a Request for Finalization of the allocation on or before December 31, 2025.
22. The application meets the requirements of OAR 690-018-0040.
23. 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. Certificate 66609 (MF 209) is an existing state agency requested instream water right within the same reach of the proposed instream water rights. Certificate 66609 (MF 209) is met but the identified flows (20 cfs year round) are insufficient to meet all biological needs. 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 with lists the lower mainstem John Day as limited by water quality and quantity.
24. Notice of the proposed conservation project was published in the Department's weekly notice on October 22, 2024, and in the Madras Pioneer newspaper on October 23 and 30, 2024, 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]

25. 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).
26. On March 13, 2025, the District #21 Watermaster performed a review of the proposed Allocation of Conserved Water Project. The Watermaster determined that there is a stream channel loss of 1% per mile minimum, in the proposed reach between the points of diversion where the Applicant is proposing to protect the State's portion, and the proposed point of diversion where the Applicant will appropriate their portion for an out-of-stream use; therefore, the quantity of the Applicant's portion of conserved water needs to be adjusted to mitigate for harm to other water rights. OAR 690-018-0050(4)(b)(d) and (j).
27. 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 #17).

28. 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-146 under the rights are as follows:

Certificate	Rate		Duty	
	Maximum CFS	CFS/AC	Maximum AF	AF/AC
25327	0.15	0.0156	38.4	4.0
55361	1.22	0.0156	312.4	4.0
67096	0.14	0.0156	35.6	4.0

(Finding of Fact #3).

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

Certificate	Priority Date	Maximum Rate (cfs)	Maximum Duty (Volume) (AF)
25327	1908, <i>plus one minute</i>	0.023	2.4
55361	December 9, 1974, <i>plus one minute</i>	0.065	19.5
67096	December 28, 1984, <i>plus one minute</i>	0.020	2.2
Totals		0.108	24.1

(Finding of Fact #11).

30. 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 #23).
31. Pursuant to ORS 537.470(3) and OAR 690-018-0050(4)(j), the amount of water allocated to the Applicant does need to be adjusted because streamflows are lost within the proposed reach due to evaporation. Reductions of 1% per mile in the quantities that may be allocated to the Applicant are necessary to prevent injury to downstream water users and enlargement of the rights. (Finding of Fact #26). The rates and volumes allocated to the Applicant are as follows:

Certificate	Priority Date	Maximum Rate	Maximum Duty (Volume)
25327	1908, <i>plus one minute</i>	0.065 cfs	7.01 AF
55361	December 9, 1974, <i>plus one minute</i>	0.191 cfs	57.3 AF
67096	December 28, 1984, <i>plus one minute</i>	0.059 cfs	6.55 AF
Totals		0.315 cfs	70.86 AF

32. The new instream water rights created will be protected in the John Day River at the authorized points of diversion as described in Findings of Fact #5, 6, and 7. OAR 690-018-0050(4)(h); OAR 690-077-0015(8).

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

Source: John Day River, a tributary of the Columbia River

Certificate	Priority Date	Period	Rate (cfs)	Volume (AF)
25327	1908, <i>plus one minute</i>	August 1 to September 22	0.023	2.4
55361	December 9, 1974, <i>plus one minute</i>	April 1 to August 30	0.065	19.5
67096	December 28, 1984, <i>plus one minute</i>	June 1 to July 26	0.020	2.2
Totals			0.108	24.1

At the authorized points of diversion as follows:

Certificate	Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate River Mile (RM)
25327	8 S	19 E	WM	26	NE SE	550 FEET SOUTH AND 840 FEET WEST FROM THE E 1/4 CORNER OF SECTION 26	119.0
55361 and 67096	8 S	19 E	WM	26	NE NE	*1340 FEET NORTH AND 1240 FEET WEST FROM THE E 1/4 CORNER OF SECTION 26	118.5

*Certificates 55361 and 67096 share a common POD, but the distances provided are measured from a different reference point for each certificate. For the purposes of this description and hereafter, the measured distance from Certificate 55361 will be used to describe the common point of diversion.

34. 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).
35. The protection of flows at the authorized point of diversion is appropriate, considering:
- The instream water use begins at the recorded point of diversion;
 - The location of confluences with other streams downstream of the point of diversion.
 - There are no known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
 - 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).
36. 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).
37. 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 John Day River are insufficient to meet all biological needs for supporting aquatic life and anadromous and resident fish habitat. By replacing a portion of these instream water rights, any instream water rights 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 earlier priority dates.

38. 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).
39. The areas within which the conserved water is proposed to be used for out-of-stream 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 (Finding of Fact #12). OAR 690-018-0050(4)(h).
40. The deadline for submitting a Request for Finalization is December 31, 2025. (Finding of Fact #21). OAR 690-018-0050(4)(i).
41. Other conditions or limitations are needed to prevent or mitigate for harm to existing water rights. (Finding of Fact #26). OAR 690-018-0050(4)(j).

Determination and Proposed Action

The project described in Allocation of Conserved Water Application CW-146, 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-146 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 #3 and #25.*
2. *The proposed allocation of conserved water will not harm existing water rights. Finding of Fact #26 and #41.*
3. *The application is consistent with the requirements established in OAR 690-005-0045. Finding of Fact #17 and #27.*
4. *The changes proposed in CW-146 are approved.*
5. *The quantities of water conserved and allocated have been adjusted to account for a 1% loss per mile (Finding of Fact #26), and 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
25327	25%	0.023	2.4	75%	0.065	7.01	100%	0.088	9.41
55361	25%	0.065	19.5	75%	0.191	57.3	100%	0.256	76.8
67096	25%	0.020	2.2	75%	0.059	6.55	100%	0.079	8.75
Total		0.108	24.1		0.315	70.86		0.423	94.96

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 25327, 55361, and 67096 and any related decree.
7. The water user may use water on the existing place of use at the reduced rate and duty described below. Water Right Certificate 25327 is cancelled. Upon finalization of this project, a remaining right certificate will be issued for that portion of the right not affected by this application, and a superseding certificate will be issued for the existing uses and places of use at the reduced rate and duty.

Use: IRRIGATION of 9.6 ACRES

Priority Date: 1908

Rate: 0.15 CUBIC FOOT PER SECOND

Limit: The amount of water used for irrigation is limited to a diversion of 1/64 (ONE-SIXTY FOURTH) 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 4.0 acre feet per acre for each acre irrigated during the irrigation season of each year, and an annual volume limitation of 38.4 acre feet per year

Source: JOHN DAY RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	19 E	WM	26	NE SE	550 FEET SOUTH AND 840 FEET WEST FROM THE E 1/4 CORNER OF SECTION 26

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	19 E	WM	26	NE NE	6.0
8 S	19 E	WM	26	SE NE	3.6
Total					9.6

8. The water user may use water on the existing place of use at the reduced rate and duty described below. Water Right Certificate 55361 is cancelled. Upon finalization of this project, a remaining right certificate will be issued for that portion of the right not affected by this application, and a superseding certificate will be issued for the existing uses and places of use at the reduced rate and duty.

Use: IRRIGATION of 78.1 ACRES

Priority Date: DECEMBER 9, 1974

Rate: 1.22 CUBIC FEET PER SECOND

Limit: The amount of water used for irrigation is limited to a diversion of 1/64 (ONE-SIXTY FOURTH) 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 4.0 acre feet per acre for each acre irrigated during the irrigation season of each year, and an annual volume limitation of 312.4 acre feet per year

Source: JOHN DAY RIVER, a tributary of COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	19 E	WM	26	NE NE	1340 FEET NORTH AND 1240 FEET WEST FROM THE E 1/4 CORNER OF SECTION 26

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	19 E	WM	23	SE SE	4.2
8 S	19 E	WM	25	NW NW	29.8
8 S	19 E	WM	26	NE NE	21.9
8 S	19 E	WM	26	SE NE	22.2
Total					78.1

9. The water user may use water on the existing place of use at the reduced rate and duty described below. Water Right Certificate 67096 is cancelled. Upon finalization of this project, a remaining right certificate will be issued for that portion of the right not affected by this application, and a superseding certificate will be issued for the existing uses and places of use at the reduced rate and duty.

Use: IRRIGATION of 8.9 ACRES

Priority Date: DECEMBER 28, 1984

Rate: 0.14 CUBIC FOOT PER SECOND

Limit: The amount of water used for irrigation is limited to a diversion of 1/64 (ONE-SIXTY FOURTH) 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 4.0 acre feet per acre for each acre irrigated during the irrigation season of each year, and an annual volume limitation of 35.6 acre feet per year

Source: JOHN DAY RIVER, a tributary of COLUMBIA RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	19 E	WM	26	NE NE	NORTH DIVERSION - 1340 FEET SOUTH AND 1240 FEET WEST FROM THE NE 1/4 CORNER OF SECTION 26
8 S	19 E	WM	36	SW NW	SOUTH DIVERSION - 1350 FEET SOUTH AND 670 FEET EAST FROM THE NW CORNER OF SECTION 36

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	19 E	WM	23	SE SE	0.3
8 S	19 E	WM	25	NW NW	5.2
8 S	19 E	WM	26	NE NE	3.4
Total					8.9

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. *All conserved water, both the Applicant's portion and the State's portion shall be managed instream until a Request for Finalization is submitted as follows:*

<i>Certificate</i>	<i>Priority Date</i>	<i>Period</i>	<i>Rate (cfs)</i>	<i>Volume (acre-feet)</i>
25327	1908, plus one minute	August 1 to September 22	0.088	9.41

John Day River

At the authorized point of diversion at approximately River Mile (RM) 119.0:

<i>Twp</i>	<i>Rng</i>	<i>Mer</i>	<i>Sec</i>	<i>Q-Q</i>	<i>Measured Distances</i>
8 S	19 E	WM	26	NE-SE	550 FEET SOUTH AND 840 FEET WEST FROM THE E 1/4 CORNER OF SECTION 26

<i>Certificate</i>	<i>Priority Date</i>	<i>Period</i>	<i>Rate (cfs)</i>	<i>Volume (acre-feet)</i>
55361	December 9, 1974, plus one minute	April 1 to August 30	0.256	76.8
67096	December 28, 1984, plus one minute	June 1 to July 26	0.079	8.75
<i>Totals</i>			0.335	85.55

John Day River, a tributary of Columbia River

At the authorized point of diversion at approximately River Mile (RM) 118.5:

<i>Twp</i>	<i>Rng</i>	<i>Mer</i>	<i>Sec</i>	<i>Q-Q</i>	<i>Measured Distances</i>
8 S	19 E	WM	26	NE NE	1340 FEET NORTH AND 1240 FEET WEST FROM THE E 1/4 CORNER OF SECTION 26

Upon Filing the Request for Finalization:

12. The project is complete, and no additional time is needed for finalization.
13. Water Right Certificate 25327 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 9.6 ACRES
 - Priority Date:** 1908
 - Rate:** 0.15 CUBIC FOOT PER SECOND
 - Limit:** The amount of water used for irrigation is limited to a diversion of 1/64 (ONE-SIXTY FOURTH) 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 4.0 acre feet per acre for each acre irrigated during the irrigation season of each year, and an annual volume limitation of 38.4 acre feet per year
 - Source:** JOHN DAY RIVER
14. Water Right Certificate 55361 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 #6) at the reduced rate and duty as follows:
 - Use:** IRRIGATION of 78.1 ACRES
 - Priority Date:** DECEMBER 9, 1974
 - Rate:** 1.22 CUBIC FEET PER SECOND
 - Limit:** The amount of water used for irrigation is limited to a diversion of 1/64 (ONE-SIXTY FOURTH) 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 4.0 acre feet per acre for each acre irrigated during the irrigation season of each year, and an annual volume limitation of 312.4 acre feet per year
 - Source:** JOHN DAY RIVER, a tributary of COLUMBIA RIVER
15. Water Right Certificate 67096 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 #7) at the reduced rate and duty as follows:
 - Use:** IRRIGATION of 8.9 ACRES
 - Priority Date:** DECEMBER 28, 1984
 - Rate:** 0.14 CUBIC FOOT PER SECOND
 - Limit:** The amount of water used for irrigation is limited to a diversion of 1/64 (ONE-SIXTY FOURTH) 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 4.0 acre feet per acre for each acre irrigated during the irrigation season of each year, and an annual volume limitation of 35.6 acre feet per year

Source: JOHN DAY RIVER, a tributary of COLUMBIA RIVER

16. 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.

17. The project is complete, and no additional time is needed for finalization. The Applicant's portion of conserved water under Certificate 25327 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: 1908, plus one minute

Rate: 0.065 CUBIC FOOT PER SECOND (CFS)

Limit: The amount of water is further limited to an annual volume limitation of 7.01 acre-feet per year, APRIL 1 to SEPTEMBER 30.

Source: JOHN DAY 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	

QUASI-MUNICIPAL					
Twp	Rng	Mer	Sec	Q-Q	GLot
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
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

18. *The project is complete, and no additional time is needed for finalization. The Applicant's portion of conserved water under Certificate 55361 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: December 9, 1974, plus one minute

Rate: 0.191 CUBIC FOOT PER SECOND (CFS)

Limit: The amount of water is further limited to an annual volume limitation of 57.3 acre-feet per year, APRIL 1 to SEPTEMBER 30.

Source: JOHN DAY RIVER, a tributary of COLUMBIA RIVER

Authorized Point of Diversion:

<i>Twp</i>	<i>Rng</i>	<i>Mer</i>	<i>Sec</i>	<i>Q-Q</i>	<i>GLot</i>	<i>Measured Distances</i>
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					
<i>Twp</i>	<i>Rng</i>	<i>Mer</i>	<i>Sec</i>	<i>Q-Q</i>	<i>GLot</i>
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
8 S	19 E	WM	32	SW NW	2
8 S	19 E	WM	32	NW SW	3

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

19. The project is complete, and no additional time is needed for finalization. The Applicant's portion of conserved water under Certificate 67096 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: December 28, 1984, plus one minute

Rate: 0.059 CUBIC FOOT PER SECOND (CFS)

Limit: The amount of water is further limited to an annual volume limitation of 6.55 acre-feet per year, APRIL 1 to SEPTEMBER 30.

Source: JOHN DAY RIVER, a tributary of 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	

QUASI-MUNICIPAL					
Twp	Rng	Mer	Sec	Q-Q	GLot
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

20. The areas within which the Applicant's portion of conserved water may be used for out-of-stream 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.
21. 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 as follows:

Certificate	Priority Date	Period	Rate (cfs)	Volume (acre-feet)
25327	1908, plus one minute	August 1 to September 22	0.023	2.4

John Day River: At the authorized point of diversion under Certificate 25327 located at approximately RM 119.0:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	19 E	WM	26	NE SE	550 FEET SOUTH AND 840 FEET WEST FROM THE E 1/4 CORNER OF SECTION 26

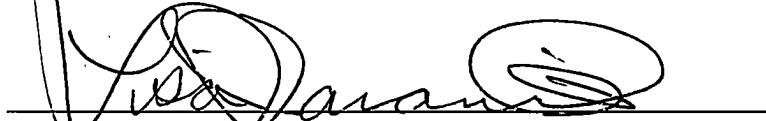
Certificate	Priority Date	Period	Rate (cfs)	Volume (acre-feet)
55361	December 9, 1974, plus one minute	April 1 to August 30	0.065	19.5
67096	December 28, 1984, plus one minute	June 1 to July 26	0.02	2.2
Totals			0.085	21.7

John Day River: At the authorized point of diversion under Certificates 55361 and 67096 located at approximately RM 118.5:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	19 E	WM	26	NE NE	1340 FEET NORTH AND 1240 FEET WEST FROM THE E 1/4 CORNER OF SECTION 26

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 JUN 18 2025



Lisa Jaramillo, Transfer and Conservation Section Manager, for
IVAN GALL, DIRECTOR
Oregon Water Resources Department

Mailing Date: JUN 20 2025

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.