

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

In the Matter of Allocation of Conserved Water Application CW-148, Jackson County ) PROPOSED FINAL ORDER PROPOSING ) APPROVAL OF ALLOCATION OF ) CONSERVED WATER CW-148 AND A ) CHANGE IN POINT OF DIVERSION

**Applicant**

Julie Caputo  
8191 South Fork Little Butte Creek Rd  
Eagle Point, OR 97524

**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

Under Oregon Laws 2025, chapter 575, section 20(6), section 20(7), and section 3a(1), any person may file a protest of this Proposed Final Order within 30 days after publication of notice of this Proposed Final Order in the Department's weekly notice. Under Oregon Laws 2025, chapter 575, section 20(7) and section 3a(2), if a protest is filed, any person who supports this Proposed Final Order may file a request for party status within 30 days after the deadline for filing a protest. Please refer to the end of this document for further information about filing protests and requests for party status.

(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 29, 2025, Julie Caputo filed an allocation of conserved water application under Certificate 17226. The Department assigned the application number CW-148.
2. The conservation project involves converting from an open ditch and flood irrigation to a pump and sprinkler irrigation system. The conversion from flood irrigation to sprinkler irrigation is a proven technology for conserving water.
3. Application CW-148 proposes a rate reduction of approximately 0.079 cubic foot per second (cfs) and proposes to reduce the annual volume by 27.57056 acre-feet (AF).

Conserved Water Description										
Certificate	Certificate				Needed				Conserved Water	
	Rate		Duty		Rate		Duty		Rate	Duty
Certificate	Maximum CFS	CFS/AC	Maximum AF	AF/AC	Maximum CFS	CFS/AC	Maximum AF	AF/AC	Maximum CFS	Maximum AF
17226	0.2	0.02	71.70112	7.2941119	0.121	0.012309	44.13056	4.489375	0.079	27.57056

4. The portion of the right to be modified by CW-148 is as follows:

**Certificate:** 17226 in the name of C. E. WILHITE (confirmed by LITTLE BUTTE CREEK (F) Decree)

**Use:** IRRIGATION of 9.83 ACRES and STOCK

**Priority Date:** JULY 1, 1907

**Rate:** 0.2 CUBIC FOOT PER SECOND; MEASURED AT THE HEAD OF THE DITCH OR THE POINT WHERE THE SAME LEAVES THE NATURAL STREAM, FROM APRIL 1<sup>ST</sup> TO OCTOBER 1<sup>ST</sup> OF EACH YEAR

**Source:** SOUTH FORK of LITTLE BUTTE CREEK

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q
<i>Not specified in certificate</i>				

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
37 S	2 E	WM	11	SW SE	4.90
37 S	2 E	WM	11	SE SE	4.93
					Total 9.83

5. The Department has received information from the Watermaster that better describes the authorized point of diversion under Certificate 17226, as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
37 S	2 E	WM	13	NW NW	LATITUDE: 42.3585911141 LONGITUDE: -122.5388019521

6. The applicant proposes to change the point of diversion for the existing uses described in Finding of Fact #4 above, to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
37 S	2 E	WM	11	SW SE	LATITUDE: 42.36069 LONGITUDE: -122.54770

7. Certificate 17226 identifies a period of use, being April 1 to October 1 of each year.

8. 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.

9. A diversion structure and ditch 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.

10. 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
17226	100%	0.079	27.57056	0%	0	0	100%	0.079	27.57056

11. The Applicant requests that the priority date for any conserved water be the same as the originating right.

12. The applicant received state and federal funds for approximately 100% of the projected cost of this conservation project.
13. The Applicant is not required to submit a completed Land Use Form from Jackson County, as 100% of the conserved water is being dedicated to the State for instream uses. The applicant has submitted a Pre-Construction Notification, which indicates the action does not require a local land use approval and is compatible with the affected local government's comprehensive plan.
14. The Applicant anticipates implementation of the conservation measures to occur on or before April 30, 2026.
15. 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.
16. The Applicant requested the Department protect the new instream water right created from the conserved water under Certificate 17226 from the authorized point of diversion to the mouth of Little Butte Creek.
17. The Applicant requested the deadline for submitting the Notice of Completion of April 30, 2026. The Applicant will submit a Request for Finalization of the allocation on or before December 31, 2026.
18. The application meets the requirements of OAR 690-018-0040.
19. Instream Water Right Certificates 59822 and 75997 exist in the stream reach where the proposed instream water right is to be protected but may not always be met. The public benefit or use for the proposed instream water right is for the same instream flow purposes.
20. Notice of the proposed conservation project was published in the Department's weekly notice on October 28, 2025, and in the Rogue Valley Times newspaper on October 25 and November 1, 2025, 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]***

21. 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).
22. On October 14, 2025, the District #13 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).

23. 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 #13).

24. 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-148 under Certificate 17226 are as follows:

Certificate	Rate		Duty	
	Maximum CFS	CFS/AC	Maximum AF	AF/AC
17226	0.121	0.012309	44.13056	4.489375

(Finding of Fact #3).

25. 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)
July 1, 1907	0.079	27.57056

(Finding of Fact #10).

26. 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 #19).

27. The new instream water right created will be protected in South Fork Little Butte Creek from the authorized point of diversion as described in Finding of Fact #5, at approximately River Mile 24.3 to the mouth of Little Butte Creek. OAR 690-018-0050(4)(h); OAR 690-077-0015(8).

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

Source: South Fork Little Butte Creek

Priority Date	Period	Rate (cfs)	Volume (AF)
July 1, 1907	April 1 to October 1	0.079	27.57056

From the authorized point of diversion at approximately River Mile (RM) 24.3:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
37 S	2 E	WM	13	NW NW	LATITUDE: 42.3585911141 LONGITUDE: -122.5388019521

To: the mouth at the confluence with Little Butte Creek

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:

- The instream water use begins at the recorded point of diversion;
- The location of confluences with other streams downstream of the point of diversion.

- c. There are no known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
- d. Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.

OAR 690-077-0015(8).

31. The combination of instream rights for the proposed reach on South Fork Little Butte Creek 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 South Fork Little Butte Creek 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.

33. 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 deadline for submitting a Notice of Completion is April 30, 2026. The deadline for submitting a Request for Finalization is December 31, 2026. (Finding of Fact #17). 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 #22). OAR 690-018-0050(4)(j).

### **Determination and Proposed Action**

The project described in Allocation of Conserved Water Application CW-148, 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-148 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 #21.*
2. *The proposed allocation of conserved water will not harm existing water rights. Finding of Fact #22 and #35.*
3. *The application is consistent with the requirements established in OAR 690-005-0045. Finding of Fact #13 and #23.*
4. *The changes proposed in CW-148 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
17226	100%	0.079	27.57056	0%	0	0	100%	0.079	27.57056

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 17226 and any related decree.

Upon filing the Notice of Completion:

7. Water Right Certificate 17226 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 9.83 ACRES

**Priority Date:** JULY 1, 1907

**Rate:** 0.121 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, shall be limited to ONE-EIGHTY-FIRST (1/81) 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 4.489375 acre-feet per acre for each acre irrigated during the irrigation season of each year, and is further limited to an annual volume limitation of 44.13056 acre-feet per year.

**Source:** SOUTH FORK of LITTLE BUTTE CREEK

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
37 S	2 E	WM	11	SW SE	LATITUDE: 42.36069 LONGITUDE: -122.54770

8. Water use measurement conditions:

- The water user shall maintain the meters or measuring devices in good working order, at each point of diversion.
- 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)
July 1, 1907	April 1 to October 1	0.079	27.57056

**SOUTH FORK of LITTLE BUTTE CREEK**

*From the authorized point of diversion at approximately River Mile (RM) 24.3:*

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
37 S	2 E	WM	13	NW NW	LATITUDE: 42.3585911141 LONGITUDE: -122.5388019521

*To: the mouth of South Fork of Little Butte Creek at the confluence with Little Butte Creek*

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 as follows:

Priority Date	Period	Rate (cfs)	Volume (acre-feet)
July 1, 1907	April 1 to October 1	0.079	27.57056

*South Fork of Little Butte Creek: From the authorized point of diversion under Certificate 17226 located at approximately RM 24.3:*

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
37 S	2 E	WM	13	NW NW	LATITUDE: 42.3585911141 LONGITUDE: -122.5388019521

*To: the mouth of South Fork of Little Butte Creek at the confluence with Little Butte Creek*

*Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original points of diversion. Stream channel losses and gains calculated based on available data and the use of water by senior appropriators will determine the amount of water to which this right is entitled downstream from the original point of diversion within the specified stream reach.*

Dated at Salem, Oregon January 27, 2026.



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

*Mailing Date: January 28, 2026*

**If no protest of this Proposed Final Order is received by March 13, 2026, this Proposed Final Order will become a final order on April 15, 2026 without any further action by the Department. Oregon Laws 2025, chapter 575, section 3a(4). However, no later than April 15, 2026, the Department may withdraw this Proposed Final Order for reconsideration and issuance of a superseding proposed final order. Oregon Laws 2025, chapter 575, section 3a(5).**

#### **Notification of Intent to Pursue Approval of Transfer through Consent to Injury Process**

If this Proposed Final Order determines that a change in point of diversion or appropriation would result in injury, the applicant may file a notification of intent to pursue approval of the transfer under the consent to injury process outlined in OAR 690-380-5030 to 690-380-5050.

#### **Protests and Requests for Party Status**

The following sections explain how to: (1) file a protest in opposition to this Proposed Final Order to request a contested case hearing on this Proposed Final Order; and (2) file a request for party status to request to participate in any contested case proceeding in support of this Proposed Final Order.

**Protests:** Under the provisions of Oregon Laws 2025, chapter 575, section 20(7) and section 3a(1), any person may protest this Proposed Final Order. Protests must be mailed or hand delivered to the Oregon Water Resources Department at the following address: 725 Summer Street NE, Suite A, Salem, OR 97301. If you wish to submit a protest by U.S. mail, please consider mailing early to

ensure the Department receives the protest by the deadline specified. Protests must be received by the Water Resources Department no later than **March 13, 2026**.

**Protests must meet the following requirements:**

- Be in writing;
- Include the protestant's name, address, and telephone number;
- Include a description of the protestant's interest in the Proposed Final Order, and, if the protestant claims to represent the public interest, a precise statement of the public interest represented;
- Include a detailed description of how the action proposed in the Proposed Final Order would impair or be detrimental to the protestant's interest and/or the claimed public interest;
- Identify which of the Proposed Final Order's recommended findings of fact, conclusions of law or conditions of approval the protestant objects to;
- Raise all reasonably ascertainable issues and include all reasonable available arguments that support the protestant's position;
- Include any citation of legal authority to support the protest, if known;
- Explain how the issues raised in the protest are within the Department's jurisdiction;
- If the protestant is the applicant, include a protest fee of \$720 required by ORS 536.050; and
- If the protestant is not the applicant, include a protest fee of \$1,425 required by ORS 536.050.

**Requests for Party Status:** Under the provisions of Oregon Laws 2025, chapter 575, section 20(7) and section 3a(2), if this Proposed Final Order is protested, any person who supports this Proposed Final Order may file a request for party status to request to participate in any contested case proceeding on the Proposed Final Order or for judicial review of a final order resulting from the Proposed Final Order. Requests for party status must be mailed or hand delivered to the Oregon Water Resources Department at the following address: 725 Summer Street NE, Suite A, Salem, OR 97301. If you wish to submit a request for party status by U.S. mail, please consider mailing early to ensure the Department receives the request by the deadline specified. Requests for party status must be received by the Water Resources Department no later than **April 12, 2026**.

**Requests for party status must be in writing and include the following:**

- Names and addresses of the requester and any organization the requester represents;
- Name and address of the requester's attorney, if any;
- A statement of whether the request is for participation as a party or a limited party, and, if as a limited party, the precise area or areas in which participation is sought;
- If the requester seeks to protect a personal interest in the outcome of any contested case hearing on the Proposed Final Order, a detailed statement of the requester's interest,

economic or otherwise, and how such interest may be affected by the results of the hearing;

- If the requester seeks to represent a public interest in the results of any contested case hearing on the Proposed Final Order, a detailed statement of such public interest, the manner in which such public interest will be affected by the results of the hearing, and the requester's qualifications to represent such public interest;
- A statement of the reasons why existing parties to the proceeding cannot adequately represent the private and/or public interest(s) the requester seeks to represent; and
- The request for party status fee of fee of \$1,425 required by Oregon Laws 2025, chapter 575, section 3a(2)(b)(C) and ORS 536.050.

After the deadline for requests for party status, the Department will provide copies of any timely requests for party status, accept responses to requests for party status, and consider and rule on timely requests for party status as provided in OAR 137-003-0535.

### **Additional Notices**

***Notice of the circumstances under which this Proposed Final Order will become a final order:*** If no protest of this Proposed Final Order is timely received and the Department does not withdraw this Proposed Final Order for reconsideration within 33 days after the close of the period for submitting a protest, this Proposed Final Order will become a final order on the date that is 33 days after the close of the period for submitting a protest, with no further action required by the Department. If a protest or protests are timely received, but later: (1) all timely-filed protests are withdrawn and the withdrawals are not based on a settlement agreement requiring changes to this Proposed Final Order; (2) all protestants fail to appear at a scheduled hearing; or (3) all protestants notify the Department or the administrative law judge that the protestants will not appear at a scheduled hearing, the protestants will have waived any right to a hearing, and the Department or the administrative law judge will issue an order dismissing the protests and notifying the parties that this Proposed Final Order has become a final order. OAR 137-003-0672. The Department designates the relevant portions of its file on this matter, including all materials that you have submitted relating to this matter, as the record for the purpose of proving a *prima facie* case upon default. OAR 137-003-0672.

***Notice of Right to Pursue Approval of Transfer through Consent to Injury Process after Contested Case Hearing:*** If after a contested case hearing on this Proposed Final Order the Department issues a proposed order finding that a change in point of diversion or appropriation will result in injury, the applicant may file a notification of intent to pursue approval of the transfer under OAR 690-380-5030 to 690-380-5050 within 15 days of receipt of the proposed order. Notwithstanding 690-002-0175, if the applicant files a notification of intent to pursue approval of the transfer under 690-380-5030 to 690-380-5050, the deadline for filing exceptions to the proposed order shall be 30 days after the Department provides notice to the parties that the transfer does not meet the requirements of 690-380-5030 to 690-380-5050.

***Notice of right to be represented by an attorney:*** You may be represented by an attorney at any contested case hearing on this Proposed Final Order. 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 137-003-0555, an “authorized representative” as defined at OAR 137-003-0555(1)(b) may represent a partnership, corporation, association, governmental subdivision 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 to active duty servicemembers:*** Active-duty service members have a right to stay proceedings under the federal Service Members 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 971-453-1175, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

If you have questions about how to file a protest or a request for party status, or if you have previously filed a protest or a request for party status and you want to know the status, please contact Will Davidson at 503-507-2749.

If you have questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0900.