

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

In the Matter of Allocation of Conserved)
Water Application CW-105,)
Umatilla County) FINAL ORDER ON COMPLETION OF
ALLOCATION OF CONSERVED WATER
CW-105

Applicant

ROLOFF FARMS, INC.
151 BRADLEY STREET
WALLA WALLA, WA 99362

Applicant

KU'ULEI ORCHARDS, LLC
83618 CHUCKHOLE LANE
MILTON-FREEWATER, OR 97862

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).

If an application for the allocation of conserved water is approved, the Department shall issue orders documenting the changes to the original water rights, and once the conservation project is finalized, the Department shall issue new certificates preserving the previously established priority of rights to cover the unaffected portion of the water rights. 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.

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Findings of Fact

1. On September 4, 2018, Roloff Farms, Inc. filed an allocation of conserved water application under Certificates 92480 and 92518. The Department assigned the application number CW-105.
2. On October 30, 2018, the application was amended to include Ku’ulei Orchards, LLC as an applicant, and to identify the proposed area for the applicants’ portion of conserved water to be use.
3. On April 12, 2019, a Final Order Approving Allocation of Conserved Water CW-105 (Final Order) was issued and mailed on April 15, 2017. The Final Order is recorded at Special Order Volume 112, Pages 930-943.
4. The Final Order established the deadline for submitting a Notice of Completion of April 30, 2019, and the deadline for submitting a Request for Finalization of April 30, 2024.
5. The Final Order allocated the conserved water as follows:

Certificate	Priority	State’s Portion		Applicant’s Portion		Conserved Water	
		Percentage	Maximum Rate (CFS)	Percentage	Maximum Rate (CFS)	Percentage	Maximum Rate (CFS)
92480	1878	83%	0.026	17%	0.005	100%	0.031
	1888	83%	0.005	17%	0.002	100%	0.007
	1889	83%	0.036	17%	0.007	100%	0.043
	1902	83%	0.027	17%	0.005	100%	0.032
92518	1881	83%	0.073	17%	0.015	100%	0.088
	1885	83%	0.032	17%	0.007	100%	0.039
	1885	83%	0.031	17%	0.006	100%	0.037
	1885	83%	0.003	17%	0.001	100%	0.004
	1887	83%	0.032	17%	0.006	100%	0.038
92518	1889	83%	0.026	17%	0.005	100%	0.031
	1890	83%	0.124	17%	0.025	100%	0.149
	1890	83%	0.020	17%	0.004	100%	0.024
	1890	83%	0.040	17%	0.008	100%	0.048
	1890	83%	0.036	17%	0.007	100%	0.043
	1890	83%	0.008	17%	0.002	100%	0.010
	1892	83%	0.039	17%	0.008	100%	0.047
	1892	83%	0.027	17%	0.005	100%	0.032
	1893	83%	0.087	17%	0.018	100%	0.105
	1893	83%	0.021	17%	0.004	100%	0.025
	1900	83%	0.126	17%	0.026	100%	0.152
	1900	83%	0.098	17%	0.020	100%	0.118
	1901	83%	0.098	17%	0.020	100%	0.118
	1904	83%	0.115	17%	0.023	100%	0.138
1908	83%	0.008	17%	0.002	100%	0.010	
		Totals	1.138		0.231		1.369

6. The Final Order established the reduced rates for the existing uses under Certificates 92480 and 92518 as follows:

Certificate	Priority	Rate	
		Maximum CFS	CFS/AC
92480	1878 – 1902	0.226	0.025
92518	1881 – 1908	2.510	0.025
Total		2.736	

7. The Final Order allocated the following rate and volume to the State for instream use:

Certificate	Priority	Maximum Rate
92480	1878 - 1902	0.094
92518	1881 – 1908	1.044
Total		1.138

8. The Final Order established the amount of conserved water allocated to the Applicant. The rate and volume allocated to the Applicant is as follows:

Certificate	Priority	Maximum Rate
92480	1878 -- 1902	0.019
92518	1881 – 1908	0.212
Total		0.231

9. The Final Order established the following areas the Applicant's portion of conserved water may be used for out-of-stream uses as follows:

Twp	Rng	Mer	Sections
6 N	.35 E	WM	25, 35, and 36

10. On July 12, 2019, the Applicants filed a Notice of Completion.

Conclusions of Law

The Findings of Fact and Conclusions of Law set forth in the Final Order Approving Allocation of Conserved Water CW-105, recorded at Special Order Volume 112, Pages 930-943, are incorporated as if set forth fully herein. The project described in Allocation of Conserved Water Application CW-105, is consistent with the criteria in ORS 537.455 to 537.500, and OAR Chapter 690, Divisions 018 and 077.

Now, therefore, it is ORDERED:

1. The project is complete.
2. The right to the use of the water is restricted to beneficial use at the places of use described in Certificates 92480 and 92518, and is subject to all other conditions and limitations contained in said certificate and any related decree.

3. Water Right Certificate 92480 is cancelled. A new certificate will be issued for that portion of the water right not affected by this Allocation of Conserved Water application. A superseding Certificate will be issued for the existing use and place of use at the reduced rate and duty as follows:

Use: IRRIGATION of 9.03 ACRES
Priority Dates: 1878, 1888, 1889, and 1902
Rate: 0.226 CUBIC FOOT PER SECOND
Limit/Duty: The use is limited to ONE MINER'S INCH PER ACRE or 0.226 cubic feet per second, or its equivalent in case of rotation measured at the point of diversion from the source.
Source: LITTLE WALLA WALLA RIVER, tributary to the WALLA WALLA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	35 E	WM	12	SW NE	1030 FEET NORTH AND 900 FEET EAST FROM THE CENTER OF SECTION 12

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Priority
6 N	35 E	WM	35	SE NW	1700	2.50	1878
6 N	35 E	WM	35	SE NW	1700	2.50	1902
6 N	35 E	WM	35	NE SW	300	0.53	1888
6 N	35 E	WM	35	NE SW	300	3.50	1889
Total						9.03	

4. Water Right Certificate 92518 is cancelled. A new certificate will be issued for that portion of the water right not affected by this Allocation of Conserved Water application. A superseding Certificate will be issued for the existing use and place of use at the reduced rate and duty as follows:

Use: IRRIGATION, DOMESTIC, AND LIVESTOCK ON 0.80 ACRE and IRRIGATION ON 99.54 ACRES
Priority Dates: 1881, 1885, 1887, 1889, 1890, 1892, 1893, 1900, 1901, 1904, and 1908
Rate: ONE MINER'S INCH PER ACRE or 2.51 CUBIC FEET PER SECOND
Source: LITTLE WALLA WALLA RIVER, tributary to the WALLA WALLA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	35 E	WM	12	SW NE	1030 FEET NORTH AND 900 FEET EAST FROM THE CENTER OF SECTION 12

Authorized Place of Use:

IRRIGATION, DOMESTIC, AND LIVESTOCK							
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Priority
6 N	35 E	WM	35	SE SE	2900	0.80	1890

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Priority
6 N	35 E	WM	35	NE NE	400	11.92	1890
6 N	35 E	WM	35	NE NE	700	8.40	1893
6 N	35 E	WM	35	NE NE	400	0.77	1908
6 N	35 E	WM	35	SE NE	3801	1.88	1890
6 N	35 E	WM	35	SE NE	4300	3.85	1890
6 N	35 E	WM	35	SE NE	4401	3.43	1890
6 N	35 E	WM	35	SE NE	3801	3.14	1885
6 N	35 E	WM	35	SE NE	4100	2.95	1885
6 N	35 E	WM	35	SE NE	4200	0.29	1885
6 N	35 E	WM	35	SE NE	4200	3.75	1892
6 N	35 E	WM	35	SE NE	4200	2.55	1892
6 N	35 E	WM	35	SE NE	4200	3.00	1887
6 N	35 E	WM	35	SE NW	1800	2.50	1889
6 N	35 E	WM	35	SE SE	2900	7.00	1881
6 N	35 E	WM	35	SE SE	2900	2.00	1893
6 N	35 E	WM	36	SW NW	701	9.47	1901
6 N	35 E	WM	36	SW NW	800	9.45	1900
6 N	35 E	WM	36	NW SW	800	11.00	1904
6 N	35 E	WM	36	NW SW	800	12.19	1900
Total						99.54	

5. Water use measurement conditions:

- a. Before the use of the Applicant's portion of conserved water, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion.
- 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.

6. All conserved water shall be managed instream as follows until such time as a Request for Finalization is filed. To prevent enlargement, the rate has been adjusted so the total volume limitation is not exceeded during the time the water is to be protected.

Originating Certificate	Priority	Period of Use	Rate
92480	1878	April 1 through October 31	0.031
92518	1881	April 1 through October 31	0.088
92518	1885	April 1 through October 31	0.080
92518	1887	April 1 through October 31	0.038
92480	1888	April 1 through October 31	0.007
92480	1889	April 1 through October 31	0.074
92518	1890	April 1 through October 31	0.274
92518	1892	April 1 through October 31	0.079
92518	1893	April 1 through October 31	0.130
92518	1900	April 1 through October 31	0.270

Originating Certificate	Priority	Period of Use	Rate
92518	1901	April 1 through October 31	0.118
92480	1902	April 1 through October 31	0.032
92518	1904	April 1 through October 31	0.138
92518	1908	April 1 through October 31	0.010
Total			1.369

Source: Walla Walla River

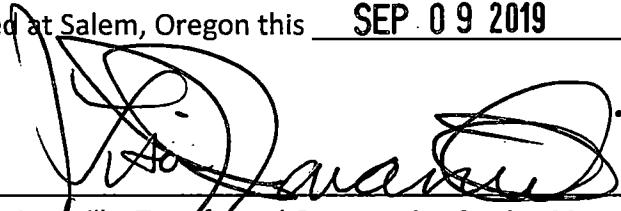
From: Authorized the authorized POD; also known as the Little Walla Walla River headgate, located at approximately RM 45.4:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	35 E	WM	12	SW NE	1030 FEET NORTH AND 900 FEET EAST FROM THE CENTER ¼ CORNER OF SECTION 12

To the Oregon-Washington state line at approximately RM 40.0, located in the SWNE of Section 13, Township 6 North, Range 35 East, W.M.

7. The deadline for filing a Request for Finalization is on or before April 30, 2024, or within five years of filing the Notice of Completion, whichever occurs first.

Dated at Salem, Oregon this SEP 09 2019.



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

Mailing Date: SEP 11 2019