

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

In the Matter of Allocation of Conserved     ) FINAL ORDER ON FINALIZATION OF  
Water Application CW-124,                     ) ALLOCATION OF CONSERVED WATER  
Yamhill, County                             ) CW-124

**Applicant:**

Willamette Valley Land, LLC  
c/o Paul Kuehne  
PO Box 99  
Lafayette, OR 97127

**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.

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

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.

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 April 6, 2021, Willamette Valley Land, LLC (Applicant) filed an allocation of conserved water application under Certificate 48511. The Department assigned the application number CW-124.
2. The conservation project involves conversion from overhead and big gun sprinklers to drip irrigation. The conversion from overhead and big gun sprinklers to drip irrigation is a proven technology for conserving water.
3. On August 31, 2021, the Department issued a Final Order of Approval on Completion of Allocation of Conserved Water CW-124 (Completion Order), recorded at Special Order Volume 121, Pages 456-464. The Completion Order confirmed the following quantities of conserved water:

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
48511	25	0.031	6.3	75	0.094	19.0	100	0.125	25.3

4. The Completion Order established the reduced rates and duties for the existing uses under Certificate 48511 as follows:

Originating Certificate	Rate		Duty	
	Maximum CFS	CFS/AC	Maximum AF	AF/AC
48511	0.025	0.002	4.7	0.39

5. The Approval Order established the priority dates for the conserved water to be one minute junior to the originating right.
6. The Approval 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	Section
4 S	4 W	WM	31
5 S	4 W	WM	6

7. On November 24, 2021, the Applicant submitted a Request for Finalization.

#### Conclusions of Law

The Findings of Fact and Conclusions of Law set forth in the Final Order on Completion of Allocation of Conserved Water CW-124, recorded at Special Order Volume 121, Pages 456-464, are incorporated as if set forth fully herein. The project described in Allocation of Conserved Water Application CW-124, 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:

- The project is complete, and no additional time is needed for finalization.
- The Applicant's portion of conserved water shall be used as described below until such time as a subsequent Notice of Use and Disposition form is submitted pursuant to ORS 537.490.

**Use:** IRRIGATION OF 253.6 ACRES  
**Priority Date:** JANUARY 25, 1977, *plus one minute*  
**Rate:** 0.094 CUBIC FEET PER SECOND  
**Limit:** The amount of water used for irrigation is limited to a diversion of an annual volume limitation of 19.0 acre feet per year  
**Source:** The South Yamhill River, a tributary of the Yamhill River  
**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	4 W	WM	6	SE NE	1600 FEET SOUTH AND 480 FEET WEST FROM THE NE CORNER OF SECTION 6

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres	Tax Lot
4 S	4 W	WM	31	SW NE	5		3.2	600
4 S	4 W	WM	31	SE NW	4		1.2	600/803
4 S	4 W	WM	31	NE SW			29.7	600/803
4 S	4 W	WM	31	SE SW	1		40.6	803
4 S	4 W	WM	31	SE SW		75	1.5	803
4 S	4 W	WM	31	NW SE			20.4	600/803
4 S	4 W	WM	31	SW SE			19.7	803
5 S	4 W	WM	6	NW NE			13.6	303
5 S	4 W	WM	6	SW NE			10.7	803
5 S	4 W	WM	6	SW NE			1.7	401
5 S	4 W	WM	6	NE NW			18.1	803
5 S	4 W	WM	6	NE NW		64	11.9	803
5 S	4 W	WM	6	NW NW		64	1.5	803
5 S	4 W	WM	6	SW NW		64	1.7	803
5 S	4 W	WM	6	SW NW		64	9.5	401
5 S	4 W	WM	6	SE NW			17.5	803
5 S	4 W	WM	6	SE NW		64	11.3	803
5 S	4 W	WM	6	SE NW			7.8	401
5 S	4 W	WM	6	SE NW		64	4.2	401
5 S	4 W	WM	6	NE SW			1.9	401
5 S	4 W	WM	6	NE SW		64	7.5	401
5 S	4 W	WM	6	NW SW		64	18.4	401
<b>TOTAL</b>							<b>253.6</b>	

3. Water use limitations: The use of water under this right is limited to a maximum of 1/480 of one cubic foot per second (0.002) per acre and a maximum of 0.39 acre feet per acre irrigated, with an annual volume limitation of 19.0 acre-feet.
  
4. Water Right Certificate 48511 is cancelled. A new certificate will be issued for that portion of Certificate 48511 not affected by CW-124. And additionally, 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 12.0 ACRES

**Priority Date:** JANUARY 25, 1977

**Rate:** 0.025 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 1/480 of one cubic foot per second (0.002 cfs) per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 0.39 acre-feet per acre for each acre irrigated during the irrigation season of each year, limited to an annual volume of 4.7 acre-feet.

**Source:** SOUTH YAMHILL RIVER, tributary to the YAMHILL RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	4 W	WM	6	SE NE	37	1600 FEET SOUTH AND 480 FEET WEST FROM THE NE CORNER OF SECTION 6

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	4 W	WM	31	SE SE	59	4.5
4 S	4 W	WM	32	SW SW	59	7.2
4 S	4 W	WM	32	SE SW	59	0.3
Total						12.0

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 the point of diversion on the South Yamhill River at the location described in Item #2, above, and a second meter for the conserved lands. The water user shall install such meters as may be required by the Watermaster to ensure expansion of the right is not occurring.
- 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. 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:

Source: South Yamhill River, tributary to the Yamhill River

Priority Date	Period	Rate (cfs)	Volume (acre-feet)
1/25/1977, plus one minute	July 1 through October 10	0.031	6.3

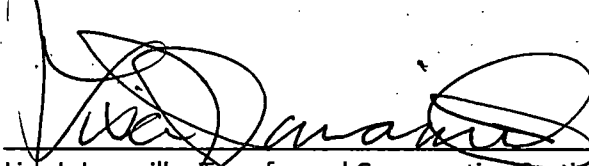
At the authorized point of diversion at approximately River Mile (RM) 17.6:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	4 W	WM	6	SE NE	37	1600 FEET SOUTH AND 480 FEET WEST FROM THE NE CORNER OF SECTION 6

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.

The instream right established by this allocation of conserved water shall replace a portion of instream water rights established pursuant to ORS 537.341 or 537.346 and shall be in addition to instream water rights established pursuant to ORS 537.348 or 537.470 unless otherwise specified by a subsequent order establishing a new instream water right.

Dated at Salem, Oregon: DEC 06 2021



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
THOMAS M. BYLER, DIRECTOR

Mailing date: DEC 07 2021