

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

In the Matter of Allocation of Conserved )  
Water Application CW-14, )  
Umatilla County )  
 )  
 )

FINAL ORDER OF APPROVAL ON  
COMPLETION AND FINALIZATION  
ALLOCATION OF CONSERVED WATER  
CW-14

**Applicants**

Davis Orchards  
Todd & Natalie Davis  
Alan & Melody Davis  
Robert Davis  
53285 Appleton Road  
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).

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

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.

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.

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. 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 February 5, 2001, Todd Davis and Alan Davis filed an application for an allocation of conserved water under Certificates 13173, 12673, 13155, and 13174. The Department assigned the application number CW-14.
2. Allocation of Conserved Water Application CW-14 was placed on a processing hold pending the completion of the HB-3201 District mapping process. The HB-3201 process was completed in May 2017.
3. Certificate 92538 in the names of Todd L. and Natalie E. Davis was issued to replace Certificate 13173. Certificate 92402 in the names of Alan and Melody Davis was issued to replace Certificate 13174, as well as Certificates 88424, 88425, and a portion of 12542. Certificate 92403 in the names of Alan and Melody Davis, *et al.*, c/o Davis Orchards was issued to replace a portion of Certificate 13155. Certificate 92405 in the names of Alan, Melody, and Robert L. Davis was issued to replace a portion of Certificates 12673 and 12672.
4. On May 21, 2018, Davis Orchards, Todd & Natalie Davis, Alan & Melody Davis, and Robert Davis filed an amended application under Certificates 92538, 92402, 92403, and 92405.
5. The conservation project involves piping of open ditches from the point of diversion to eliminate seepage losses and converting from flood irrigation to sprinkler irrigation. The

pipng of open ditches and conversion from flood to sprinkler irrigation are proven technologies for conserving water.

6. Application CW-14 proposes a total rate reduction of approximately 0.262 cubic foot per second (cfs).

Conserved Water Description						
		Certificate		Needed		Conserved Water
Certificate	Priority	Maximum CFS	CFS/AC	Maximum CFS	CFS/AC	Maximum CFS
92538	1888	0.127	0.0375	0.085	0.025	0.042
92402	1900	0.150	0.0375	0.100	0.025	0.050
92403	1887	0.210	0.0375	0.141	0.025	0.069
92405	1888	0.169	0.0375	0.113	0.025	0.056
92405	1900	0.131	0.0375	0.088	0.025	0.043
Totals		0.787		0.527		0.260

7. The first right to be modified by CW-14 is as follows:

**Certificate:** 92538 in the names of Todd L. and Natalie E. Davis (confirmed by the Walla Walla Decree)  
**Use:** IRRIGATION of 3.39 ACRES  
**Priority Dates:** 1888  
**Rate:** 0.127 CUBIC FOOT PER SECOND  
**Limit/Duty:** The use is limited to 1.5 MINER’S INCHES PER ACRE, 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	SWNE	1030 FEET NORTH AND 900 FEET EAST FROM THE CENTER OF SECTION 12

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
6 N	35 E	WM	27	NE SE	200	3.39

8. The portion of the second right to be modified by CW-14 is as follows:

**Certificate:** 92402 in the names of Alan and Melody Davis (confirmed by the Walla Walla Decree)  
**Use:** IRRIGATION of 4.0 ACRES  
**Priority Dates:** 1900  
**Rate:** 0.15 CUBIC FOOT PER SECOND  
**Limit/Duty:** The use is limited to 1.5 MINER’S INCHES PER ACRE, 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	SWNE	1030 FEET NORTH AND 900 FEET EAST FROM THE CENTER OF SECTION 12

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
6 N	35 E	WM	27	NE SE	100	4.0

9. The third right to be modified by CW-14 is as follows:

**Certificate:** 92403 in the names of Alan and Melody Davis, *et al.*, c/o Davis Orchards (confirmed by the Walla Walla Decree)

**Use:** IRRIGATION of 5.62 ACRES

**Priority Dates:** 1887

**Rate:** 0.21 CUBIC FOOT PER SECOND

**Limit/Duty:** The use is limited to 1.5 MINER'S INCHES PER ACRE, 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	SWNE	1030 FEET NORTH AND 900 FEET EAST FROM THE CENTER OF SECTION 12

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
6 N	35 E	WM	27	NE SE	502	5.62

10. The portion of the fourth right to be modified by CW-14 is as follows:

**Certificate:** 92405 in the names of Alan, Melody and Robert L. Davis (confirmed by the Walla Walla Decree)

**Use:** IRRIGATION of 8.0 ACRES

**Priority Dates:** 1888 and 1900

**Rate:** 0.300 CUBIC FOOT PER SECOND (cfs), being 0.169 under 1888 priority and 0.131 cfs under 1900 priority

**Limit/Duty:** The use is limited to 1.5 MINER'S INCHES PER ACRE, 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	SWNE	1030 FEET NORTH AND 900 FEET EAST FROM THE CENTER OF SECTION 12

**Authorized Place of Use:**

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Priority
6 N	35 E	WM	27	NE SE	400	4.5	1888
6 N	35 E	WM	27	NE SE	400	3.5	1900
Total						8.0	

11. Certificates 92538, 92402, 92403, and 92405 do not list a period of use. Based on the Walla Walla River Decree, the existing water right has a year-round season of use without a specified duty limitation. However the existing rights are subject to beneficial use without waste in accordance with ORS 536.310. Use of the existing rights at the full amounts allowed year-round would exceed the amount necessary to accomplish the existing beneficial uses. Consistent with recent practices by water users and irrigation districts within the basin, a maximum of 8.4 acre-feet per acre (AF/acre) can beneficially be diverted for the existing use.
12. For purposes of this allocation of conserved water application the season of use is April 1 through October 31, and such other times when agricultural diversion are being exercised.
13. 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 the rights are subject to forfeiture under ORS 540.610.
14. 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.
15. The Applicant requests that the conserved water be allocated as follows:

Certificate	Priority	State's Portion		Applicant's Portion		Conserved Water	
		Percentage	Maximum Rate (CFS)	Percentage	Maximum Rate (CFS)	Percentage	Maximum Rate (CFS)
92538	1888	63%	0.026	37%	0.016	100%	0.042
92402	1900	63%	0.032	37%	0.018	100%	0.050
92403	1887	63%	0.043	37%	0.026	100%	0.069
92405	1888	63%	0.035	37%	0.021	100%	0.056
	1900	63%	0.027	37%	0.016	100%	0.043
Totals			0.163		0.097		0.260

16. The Applicants propose that their portion of the conserved water be allocated for an out-of-stream use within Section 27, Township 6 North, Range 35 East, W.M.
17. The Applicants request that the priority dates for any conserved water be one minute junior to the originating rights.
18. The Applicants funded 100% of the conservation project.

19. The Applicants submitted a completed Land Use Form from Umatilla County with the original application, which indicated the proposed use was allowed outright or is not regulated by Umatilla County's comprehensive plan.
20. The construction of the conservation measures began no earlier than September 1995. The original application indicated the conservation measures were implemented in April 1, 2001. The original application was filed within 5 years of implementation of the conservation measures.
21. The Applicants propose 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.
22. The Applicants requested the Department protect the new instream water right created from the conserved water under Certificates 92538, 92402, 92403, and 92405 from the authorized point of diversion where water is diverted for the Little Walla Walla River from the Walla Walla River at approximately River Mile (RM) 45.4 to the Oregon-Washington state line at approximately RM 40.0.
23. The project is complete and no additional time is needed for finalization.
24. The application meets the requirements of OAR 690-018-0040.
25. The original application included a letter from the Oregon Department of Fish and Wildlife (ODFW) supporting the application.
26. Notice of the proposed conservation project was published in the Department's weekly notice on July 16, 2002, and in the Walla Walla Bulletin newspaper on July 17, 24, and 31, 2002, as required under OAR 690-018-0050(1)(a) and (2). No comments were filed in response to the notices.

On October 5, 2018, the Department issued a Preliminary Determination proposing to approve Allocation of Conserved Water application CW-14, and mailed a copy to the Applicants and Walla Walla Irrigation District on October 9, 2018. No protests were filed within 60 days from the date of mailing the Preliminary Determination. OAR 690-018-0050(6).

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

27. 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 #6).
28. On August 31, 2018, the District #5 Watermaster performed a review of the proposed Allocation of Conserved Water Project. The Watermaster's review indicated the existence of seepage losses from the authorized PODs, commonly referred to as the Little Walla Walla River diversion headgate, at approximately RM 45.4 to the Oregon-Washington state line at

approximately RM 40.0. Enlargement could occur unless the instream water right allows for this seepage loss. In addition, the Watermaster determined the conservation project could harm other water rights if it was not conditioned to limit the maximum amount of water necessary to accomplish the existing beneficial uses.

Harm to other water rights can be mitigated by not protecting more water in the Walla Walla River than is legally available at the point of diversion. Harm can also be mitigated by limiting the period when water is being protected instream to April 1 through October 31 of each year, and other times when agricultural diversion are being exercised. Therefore, as conditioned, no quantity of conserved water is needed to mitigate for harm to other water rights. OAR 690-018-0050(4)(d).

29. The conservation project is consistent with the local comprehensive land use plan requirements established in OAR 690-005-0045. (Finding of Fact #19). OAR 690-018-0050(4)(c).

30. Pursuant to OAR 690-018-0050(4)(e), the new reduced rate for the existing uses involved in Allocation of Conserved Water Application CW-14 under Certificates 92538, 92402, 92403, and 92405 are as follows:

Certificate	Priority	Rate	
		Maximum CFS	CFS/AC
92538	1888	0.085	0.025
92402	1900	0.100	0.025
92403	1887	0.141	0.025
92405	1888	0.113	0.025
	1900	0.088	0.025
Total		0.527	

(Finding of Fact #6).

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

Originating Certificate	Priority	Rate
		Maximum CFS
92538	1888, <i>plus one minute</i>	0.026
92402	1900, <i>plus one minute</i>	0.032
92403	1887, <i>plus one minute</i>	0.043
92405	1888, <i>plus one minute</i>	0.035
	1900, <i>plus one minute</i>	0.027
Total		0.163

(Finding of Fact #15).

32. As required by OAR 690-018-0050(4)(f), the Department has determined that the instream right created will support public benefits. The proposed flows are necessary as the flow currently being left instream for fish benefits is unprotected. The proposed instream water right would allow the instream flow to be protected by priority date. (Finding of Fact #25).

33. Pursuant to ORS 537.470(3) and OAR 690-018-0050(4)(g), the amount of water allocated to the Applicant does not need to be adjusted because the Applicant funded 100% of the project. (Finding of Fact #18). The rate and volume allocated to the Applicant is as follows:

Originating Certificate	Priority	Rate
		Maximum CFS
92538	1888, <i>plus one minute</i>	0.016
92402	1900, <i>plus one minute</i>	0.018
92403	1887, <i>plus one minute</i>	0.026
92405	1888, <i>plus one minute</i>	0.021
	1900, <i>plus one minute</i>	0.016
Total		0.097

34. The instream right shall allow the use and protection of flows:

From the authorized POD as described below, at approximately River Mile (RM) 45.4.

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

To the Oregon-Washington state line, at approximately RM 40.0 as follows:

Priority Date	Period Protected Instream	Rate (CFS)
1887, <i>plus one minute</i>	April 1 through October 31	0.043
1888, <i>plus one minute</i>	April 1 through October 31	0.061
1900, <i>plus one minute</i>	April 1 through October 31	0.059
Total		0.163

Within the described instream reach, stream channel losses and gains calculated based on available data and the use of senior appropriators will determine the amount of water to which this right is entitled downstream from the original point of diversion and within the specified stream reach from the authorized point of diversion at approximately RM 45.4 and whether the described instream flows below the point of diversion may be adjusted. If adjusted, instream flows from immediately below the point of diversion to the Oregon-Washington state line at approximately RM 40.0 may not exceed the quantities specified at the point of diversion.

35. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water right. OAR 690-077-0015(10).
36. The protection of flows at the authorized point of diversion is appropriate, considering:
- 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



- d. 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).
37. The combination of instream rights for the proposed reach on the Walla Walla River does not exceed the amount needed to provide increased public benefits, and does not exceed the estimated average natural flow or level occurring from the drainage system. OAR 690-077-0015(4) and (11).
38. There are no existing instream water rights on the Walla Walla River established pursuant to ORS 537.341 (minimum flow conversion) or ORS 537.336 (state agency process) within the specified reach. By adding to other instream water rights established pursuant to ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process) located within the proposed reach, 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 proposed areas within which the conserved water is proposed to be used for out-of-stream uses are within Section 27, Township 6 North, Range 35 East, W.M. (Finding of Fact #16). OAR 690-018-0050(4)(h).
40. The project is complete. No additional time is required for finalization. (Finding of Fact #23). OAR 690-018-0050(4)(i).
41. As conditioned in Finding of Fact #28, no other limitations are needed to prevent or mitigate for harm to existing water rights. OAR 690-018-0050(4)(j).

### **Conclusions of Law**

The project described in Allocation of Conserved Water Application CW-14, 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 proposed change will result in a reduced diversion for the uses allowed under the original water right. Finding of Fact #30.
2. The proposed allocation of conserved water, as conditioned, will not harm existing water rights. Finding of Fact #28.
3. The application is consistent with the requirements established in OAR 690-005-0045. Finding of Fact #29.
4. The changes proposed in CW-14 are approved.

5. The quantities of water conserved and allocated are as follows:

Certificate	Priority	State's Portion		Applicant's Portion		Conserved Water	
		Percentage	Maximum Rate (CFS)	Percentage	Maximum Rate (CFS)	Percentage	Maximum Rate (CFS)
92538	1888	63%	0.026	37%	0.016	100%	0.042
92402	1900	63%	0.032	37%	0.018	100%	0.050
92403	1887	63%	0.043	37%	0.026	100%	0.069
92405	1888	63%	0.035	37%	0.021	100%	0.056
	1900	63%	0.027	37%	0.016	100%	0.043
Totals			0.163		0.097		0.260

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 92538, 92402, 92403, and 92405 and any related decree.

7. Water Right Certificate 92538 is cancelled. A new certificate will be issued for the existing use and place of use at the reduced rate as follows:

**Use:** IRRIGATION of 3.39 ACRES  
**Priority Dates:** 1888  
**Rate:** 0.085 CUBIC FOOT PER SECOND  
**Limit/Duty:** The use is limited to 1.0 MINER'S INCH PER ACRE, 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	SWNE	1030 FEET NORTH AND 900 FEET EAST FROM THE CENTER OF SECTION 12

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
6 N	35 E	WM	27	NE SE	200	3.39

8. Water Right Certificate 92402 is cancelled. A new certificate will be issued for portion of the right not affected by this modification, and a superseding certificate will be issued for the existing use and place of use at the reduced rate as follows:

**Certificate:** 92402 in the names of Alan and Melody Davis (confirmed by the Walla Walla Decree)  
**Use:** IRRIGATION of 4.0 ACRES  
**Priority Dates:** 1900  
**Rate:** 0.10 CUBIC FOOT PER SECOND  
**Limit/Duty:** The use is limited to 1.0 MINER'S INCH PER ACRE, 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	SWNE	1030 FEET NORTH AND 900 FEET EAST FROM THE CENTER OF SECTION 12

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
6 N	35 E	WM	27	NE SE	100	4.0

9. Water Right Certificate 92403 is cancelled. A new certificate will be issued for the existing use and place of use at the reduced rate as follows:

**Certificate:** 92403 in the names of Alan and Melody Davis, c/o Davis Orchards (confirmed by the Walla Walla Decree)  
**Use:** IRRIGATION of 5.62 ACRES  
**Priority Dates:** 1887  
**Rate:** 0.141 CUBIC FOOT PER SECOND  
**Limit/Duty:** The use is limited to 1.0 MINER'S INCH PER ACRE, 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	SWNE	1030 FEET NORTH AND 900 FEET EAST FROM THE CENTER OF SECTION 12

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
6 N	35 E	WM	27	NE SE	502	5.62

10. Water Right Certificate 92405 is cancelled. A new certificate will be issued for portion of the right not affected by this modification, and a superseding certificate will be issued for the existing use and place of use at the reduced rate as follows:

**Certificate:** 92405 in the names of Alan, Melody and Robert L. Davis (confirmed by the Walla Walla Decree)  
**Use:** IRRIGATION of 8.0 ACRES  
**Priority Dates:** 1888 and 1900  
**Rate:** 0.201 CUBIC FOOT PER SECOND (cfs), being 0.113 under 1888 priority and 0.088 cfs under 1900 priority  
**Limit/Duty:** The use is limited to 1.0 MINER'S INCH PER ACRE, 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	SWNE	1030 FEET NORTH AND 900 FEET EAST FROM THE CENTER OF SECTION 12

**Authorized Place of Use:**

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Priority
6 N	35 E	WM	27	NE SE	400	4.5	1888
6 N	35 E	WM	27	NE SE	400	3.5	1900
Total						8.0	

11. 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 and where water is diverted into the bulge.
- 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.

12. The project is complete and no additional time is needed for finalization.

13. The Applicants’ portion of conserved water shall be used at the following location until such time as a new Notice of Use and Disposition form is filed and approved:

Priority Dates and Rate:

Priority Date	CFS
1887, <i>plus one minute</i>	0.026
1888, <i>plus one minute</i>	0.037
1900, <i>plus one minute</i>	0.034
Total	0.097

Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	35 E	WM	27	NE SE	3.9

14. 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 in the Walla Walla River from the authorized POD as described below, also known as the Little Walla Walla headgate diversion at approximately River Mile 45.4:

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

To the Oregon-Washington state line at approximately RM 40.0. The instream right shall allow the use and protection of flows as follows:


Priority Date	Period Protected Instream	Rate (CFS)
1887, <i>plus one minute</i>	April 1 through October 31	0.043
1888, <i>plus one minute</i>	April 1 through October 31	0.061
1900, <i>plus one minute</i>	April 1 through October 31	0.059
Total		0.163

Water rights upstream of the original point of diversion shall not be subject to regulation for flows in excess of the quantities to which this instream water right is entitled at the original point of diversion.

Within the described instream reach, stream channel losses and gains calculated based on available data and the use of senior appropriators will determine the amount of water to which this right is entitled downstream from the original point of diversion and within the specified stream reach from the authorized point of diversion at approximately RM 45.4 and whether the described instream flows below the point of diversion may be adjusted. If adjusted, instream flows from immediately below the point of diversion to the Oregon-Washington state line at approximately RM 40.0 may not exceed the quantities specified at the point of diversion.

The instream right established by this conserved water application 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 this 12<sup>th</sup> day of December, 2018.

  
 \_\_\_\_\_  
 Dwight French, Water Rights Services Administrator for  
 THOMAS M. BYLER, DIRECTOR

Mailing Date: DEC 13 2018