

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

In the Matter of Allocation of Conserved)
Water Application CW-132,)
Yamhill County) FINAL ORDER ON COMPLETION AND
FINALIZATION OF ALLOCATION OF
CONSERVED WATER CW-132

Applicant

Sarbanand Enterprises, LLC
786 Road 188
Delano, CA 93215

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.

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 October 20, 2022, Sarbanand Enterprises, LLC filed an allocation of conserved water application under Certificates 53090 and 66607. The Department assigned the application number CW-132.
2. On May 31, 2023, a Final Order Approving Allocation of Conserved Water CW-132 (Approval Order) was issued and mailed on May 31, 2023. The Approval Order is recorded at Special Order Volume 128, Pages 428-438.
3. The Approval Order allocated the conserved water as follows:

Certificate	State's Portion			Applicant's Portion			Conserved Water		
	Percentage	Maximum Rate (CFS)	Maximum Duty (Volume) AF	Percentage	Maximum Rate (CFS)	Maximum Duty (Volume) AF	Percentage	Maximum Rate CFS)	Maximum Duty (Volume) AF
53090	25%	0.04	10.55	75%	0.12	31.65	100%	0.16	42.20
66607	25%	0.28	60.50	75%	0.85	181.50	100%	1.13	242.00
Totals		0.32	71.05		0.97	213.15		1.29	284.20

4. The Approval Order established the reduced rate and duty for the existing uses under Certificates 53090 and 66607 as follows:

Originating Certificate	Rate		Duty	
	Maximum CFS	CFS/AC	Maximum AF	AF/AC
53090	0.10	0.007	10.55	0.5
66607	0.38	0.007	60.50	0.5

5. The Approval Order allocated the following rates and volumes to the State for instream use:

Certificate	Priority Date	Period	Rate (cfs)	Volume (AF)
53090	September 23, 1980, <i>plus one minute</i>	April 1 through August 11	0.04	10.55
66607	July 23, 1945, <i>plus one minute</i>	April 1 through July 18	0.28	60.50
Totals			0.32	71.05

6. The Approval Order established the amount of conserved water allocated to the Applicant. The rates and volumes allocated to the Applicant is as follows:

Certificate	Priority Date	Rate (cfs)	Volume (acre-feet)
53090	September 23, 1980, <i>plus one minute</i>	0.12	31.65
66607	July 23, 1945, <i>plus one minute</i>	0.85	181.50

7. 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
5 S	5 W	WM	25
5 S	5 W	WM	26
5 S	5 W	WM	35
5 S	5 W	WM	36
6 S	5 W	WM	2

8. The Approval Order established the deadline for submitting a Notice of Completion of December 31, 2024, and the deadline for submitting a Request for Finalization of December 31, 2029.
9. On August 21, 2023, the Department received a Notice of Completion and a Request for Finalization.

Conclusions of Law

The Findings of Fact and Conclusions of Law set forth in the Final Order Approving Allocation of Conserved Water CW-132, recorded at Special Order Volume 128, Pages 428 to 438, are incorporated as if set forth fully herein. The project described in Allocation of Conserved Water Application CW-132, 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, and no additional time is needed for finalization.
2. 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:

Certificate: 53090 in the name of R. L. WALKER FARMS, INC. by DON L. WALKER, PRESIDENT (perfected under Permit S-45353)
Use: IRRIGATION of 459.6 ACRES
Priority Date: SEPTEMBER 23, 1980 *plus one minute*
Rate: 0.12 CUBIC FOOT PER SECOND
Limit: The amount of water used for irrigation is limited to a diversion of an annual volume limitation of 31.65 Acre Feet per year
Source: SOUTH YAMHILL RIVER, a tributary of WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	5 W	WM	35	SE NW	37	2360 FEET SOUTH AND 2950 FEET WEST FROM THE NE CORNER OF SECTION 35

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	DLC	Tax Lot	Acres
5 S	5 W	WM	25	SW SW	70	200	1.7
5 S	5 W	WM	26	SE SW		200	4.1
5 S	5 W	WM	26	SE SW	70	200	3.1
5 S	5 W	WM	26	SW SE	70	200	19.8
5 S	5 W	WM	26	SE SE	70	200	19.5
5 S	5 W	WM	35	NE NE	70	200	19.0
5 S	5 W	WM	35	NE NE		200	16.2
5 S	5 W	WM	35	NE NE	37	200	0.9
5 S	5 W	WM	35	NW NE	70	200	21.2
5 S	5 W	WM	35	NW NE	37	200	18.8
5 S	5 W	WM	35	NW NE	37	200	0.4
5 S	5 W	WM	35	SW NE		200	4.2
5 S	5 W	WM	35	SW NE	37	200	35.7
5 S	5 W	WM	35	SE NE		200	15.2
5 S	5 W	WM	35	SE NE	37	200	15.1
5 S	5 W	WM	35	NE NW	70	200	3.1
5 S	5 W	WM	35	NE NW		200	8.0
5 S	5 W	WM	35	SE NW		200	2.6
5 S	5 W	WM	35	SE NW	37	200	6.5
5 S	5 W	WM	35	NE SW	37	200	19.4
5 S	5 W	WM	35	NW SW	37	200	6.6
5 S	5 W	WM	35	SW SW	37	200	13.4
5 S	5 W	WM	35	SE SW	37	200	9.2
5 S	5 W	WM	35	NE SE		200	8.5
5 S	5 W	WM	35	NE SE	37	200, 700, 800	22.9
5 S	5 W	WM	35	NE SE	38	800	0.3
5 S	5 W	WM	35	NW SE	37	200	18.3
5 S	5 W	WM	35	SW SE	37	200, 700	9.7
5 S	5 W	WM	35	SE SE	37	700, 800	40.2
5 S	5 W	WM	35	SE SE	38	800	0.5
5 S	5 W	WM	36	NE NW	68	200	0.4
5 S	5 W	WM	36	SW NW		200	4.2
5 S	5 W	WM	36	NE SW	68	200	0.6
5 S	5 W	WM	36	NW SW		200	29.3

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	DLC	Tax Lot	Acres
5 S	5 W	WM	36	NW SW	38	900	2.3
5 S	5 W	WM	36	NW SW	68	900	0.7
5 S	5 W	WM	36	SW SW	38	800, 900	17.0
5 S	5 W	WM	36	SW SW	37	800, 900	3.1
6 S	5 W	WM	2	NE NE	42	800, 1500	2.3
6 S	5 W	WM	2	NW NE	42	700, 800, 1500	14.4
6 S	5 W	WM	2	NE NW	42	200	8.1
6 S	5 W	WM	2	SE NW	42	200	2.1
6 S	5 W	WM	2	SE NW	67	200	11.0
Total							459.6

Certificate: 66607 in the name of R. L. WALKER FARMS, INC. (perfected under Permit S-18862)

Use: IRRIGATION of 459.6 ACRES

Priority Date: JULY 23, 1945 *plus one minute*

Rate: 0.85 CUBIC FOOT PER SECOND

Limit: The amount of water used for irrigation is limited to a diversion of an annual volume limitation of 181.5 Acre Feet per year

Source: SOUTH YAMHILL RIVER, a tributary of WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	5 W	WM	35	SW SW	1050 FEET NORTH AND 300 FEET EAST FROM THE SW CORNER OF SECTION 35

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	DLC	Tax Lot	Acres
5 S	5 W	WM	25	SW SW	70	200	1.7
5 S	5 W	WM	26	SE SW		200	4.1
5 S	5 W	WM	26	SE SW	70	200	3.1
5 S	5 W	WM	26	SW SE	70	200	19.8
5 S	5 W	WM	26	SE SE	70	200	19.5
5 S	5 W	WM	35	NE NE	70	200	19.0
5 S	5 W	WM	35	NE NE		200	16.2
5 S	5 W	WM	35	NE NE	37	200	0.9
5 S	5 W	WM	35	NW NE	70	200	21.2
5 S	5 W	WM	35	NW NE		200	18.8
5 S	5 W	WM	35	NW NE	37	200	0.4
5 S	5 W	WM	35	SW NE		200	4.2
5 S	5 W	WM	35	SW NE	37	200	35.7
5 S	5 W	WM	35	SE NE		200	15.2
5 S	5 W	WM	35	SE NE	37	200	15.1
5 S	5 W	WM	35	NE NW	70	200	3.1
5 S	5 W	WM	35	NE NW		200	8.0
5 S	5 W	WM	35	SE NW		200	2.6
5 S	5 W	WM	35	SE NW	37	200	6.5
5 S	5 W	WM	35	NE SW	37	200	19.4
5 S	5 W	WM	35	NW SW	37	200	6.6

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	DLC	Tax Lot	Acres
5 S	5 W	WM	35	SW SW	37	200	13.4
5 S	5 W	WM	35	SE SW	37	200	9.2
5 S	5 W	WM	35	NE SE		200	8.5
5 S	5 W	WM	35	NE SE	37	200, 700, 800	22.9
5 S	5 W	WM	35	NE SE	38	800	0.3
5 S	5 W	WM	35	NW SE	37	200	18.3
5 S	5 W	WM	35	SW SE	37	200, 700	9.7
5 S	5 W	WM	35	SE SE	37	700, 800	40.2
5 S	5 W	WM	35	SE SE	38	800	0.5
5 S	5 W	WM	36	NE NW	68	200	0.4
5 S	5 W	WM	36	SW NW		200	4.2
5 S	5 W	WM	36	NE SW	68	200	0.6
5 S	5 W	WM	36	NW SW		200	29.3
5 S	5 W	WM	36	NW SW	38	900	2.3
5 S	5 W	WM	36	NW SW	68	900	0.7
5 S	5 W	WM	36	SW SW	38	800, 900	17.0
5 S	5 W	WM	36	SW SW	37	800, 900	3.1
6 S	5 W	WM	2	NE NE	42	800, 1500	2.3
6 S	5 W	WM	2	NW NE	42	700, 800, 1500	14.4
6 S	5 W	WM	2	NE NW	42	200	8.1
6 S	5 W	WM	2	SE NW	42	200	2.1
6 S	5 W	WM	2	SE NW	67	200	11.0
Total							459.6

3. Water Right Certificate 53090 is cancelled. 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 21.1 ACRES
Priority Date: SEPTEMBER 23, 1980
Rate: 0.10 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-ONE HUNDRED FORTY SECOND (1/142) 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 0.5 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 10.55 acre-feet per year.
Source: SOUTH YAMHILL RIVER, a tributary of WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
5 S	5 W	WM	35	SE NW	37	2360 FEET SOUTH AND 2950 FEET WEST FROM THE NE CORNER OF SECTION 35

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
5 S	5 W	WM	35	SE NE	7	7.8
5 S	5 W	WM	36	SW NW		13.3
Total						21.1

4. Water Right Certificate 66607 is cancelled. A new certificate will be issued for that portion of Certificate 66607 not affected by CW-132. 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 121.0 ACRES

Priority Date: JULY 23, 1945

Rate: 0.38 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-ONE HUNDRED FORTY SECOND (1/142) 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 0.5 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 60.5 acre-feet per year.

Source: SOUTH YAMHILL RIVER, a tributary of WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	5 W	WM	35	SW SW	1050 FEET NORTH AND 300 FEET EAST FROM THE SW CORNER OF SECTION 35

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
5 S	5 W	WM	25	SW SW		70	18.5
5 S	5 W	WM	25	SE SW		70	1.0
5 S	5 W	WM	36	NE NW		70	7.7
5 S	5 W	WM	36	NE NW		68	18.2
5 S	5 W	WM	36	NW NW		70	5.6
5 S	5 W	WM	36	NW NW	4		5.2
5 S	5 W	WM	36	NW NW		68	1.5
5 S	5 W	WM	36	SW NW		68	2.6
5 S	5 W	WM	36	SW NW			19.1
5 S	5 W	WM	36	SE NW		68	28.2
5 S	5 W	WM	36	NE SW		68	8.8
5 S	5 W	WM	36	NW SW		68	1.0
5 S	5 W	WM	36	NW SW	3		3.6
Total							121.0

5. Water use measurement conditions:
- 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.
 - The water user shall maintain the meters or measuring devices in good working order.
 - 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. To prevent enlargement, the rate of State's portion of conserved water dedicated instream must be adjusted so the annual volume limitation is not exceeded. By reducing the season of use, the full quantity of conserved water may be protected. The Department shall issue new instream water right certificates for pollution abatement in the South Yamhill River. The instream rights shall allow the use and protection of flows as follows:

Originating Certificate	Priority Date	Period	Rate (cfs)	Volume (acre-feet)
53090	September 23, 1980, plus one minute	April 1 through August 11	0.04	10.55
66607	July 23, 1945, plus one minute	April 1 through July 18	0.28	60.50
Totals			0.32	71.05

South Yamhill River: At the authorized points of diversion for Certificates 53090 and 66607 as follows:

Certificate	Twp	Rng	Mer	Sec	Q-Q	DLC	Approximate River Mile (RM)	Measured Distances
53090	5 S	5 W	WM	35	SE NW	37	29.5	2360 FEET SOUTH AND 2950 FEET WEST FROM THE NE CORNER OF SECTION 35
66607	5 S	5 W	WM	35	SW SW		30.2	1050 FEET NORTH AND 300 FEET EAST FROM THE SW CORNER OF SECTION 35

Within the specified stream reaches, 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 rights 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: SEP 20 2023

A handwritten signature in black ink, appearing to read "for Dwight J. Jaramillo". The signature is written over a horizontal line.

Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
DOUGLAS E. WOODCOCK, ACTING DIRECTOR
OREGON WATER RESOURCES DEPARTMENT

Mailing date: SEP 21 2023