

Amended



State of Oregon
Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900

Application for
Allocation of Conserved Water
Part 1 of 4 – Minimum Requirements Checklist

This application will be returned if Parts 1 through 4 and all required attachments are not completed and included.
For questions, please call (503) 986-0900, and ask for Allocation of Conserved Water Section.

Check all items included with this application. (N/A = Not Applicable)

- Part 1 – Completed Minimum Requirements Checklist.
- Part 2 – Completed Applicant Information and Signature.
- Part 3 – Completed Water Right Information and Conservation Measures. Please include a separate Part 3 for each water right. List all water right certificates involved in this application here: **92440 and 92473.**
- Part 4 – Completed Mitigation, Proposed Use, Project Schedule, Funding, and Fee Calculation.

Attachments:

- Fees – Amount enclosed: \$ _____ (From last page of application).
- Application Map. Must have sufficient detail to locate and describe the facilities and areas involved in the conservation measures. Must show the place of use where water is being used if the rate or duty are changing.
- Land Use Information Form with approval and signature. (Not required if 100% of Conserved Water is being transferred instream.) **or**
Land Use Notice - Notice of the intent to create an instream water right must be provided to each affected county, city, municipal corporation, or tribal government along the proposed instream reach.
- N/A Completed Evidence of Use Affidavit and Supporting Documentation.
- N/A Affidavit(s) of Consent.
- N/A Letter of approval from Irrigation or Water Control District. For water rights served by or issued in the name of a District, this must be provided when the transfer applicant is not the District.
- N/A Irrigation or Water Control District's adopted policy on allocation of conserved water.
- N/A If construction of the project has begun or been completed and if more than 25 percent of the project costs have been expended before applying for allocation of conserved water, evidence that you have attempted to identify and resolve the concerns of water right holders in the area, governmental entities or other organizations who have asked to be consulted regarding the allocation of conserved water.
- N/A Evidence for Fee Waiver.
- N/A Notice of Completion.
- N/A Request for Finalization. (Entire project listed on the application must be complete. No partial finalization will be recognized.)

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Part 2 of 4 – Applicant Information and Signature

Applicant Information

APPLICANT/BUSINESS NAME EARL BROWN & SONS, INC.			PHONE NO. 541-938-6645	ADDITIONAL CONTACT NO.
ADDRESS PO BOX 249			FAX NO.	
CITY MILTON-FREEWATER	STATE OR	ZIP 97862	E-MAIL	

Applicant Information

APPLICANT/BUSINESS NAME JIM WALISER ORCHARDS, INC., c/o Jennifer Jackson			PHONE NO.	ADDITIONAL CONTACT NO.
ADDRESS 52967 SUNQUIST ROAD			FAX NO.	
CITY MILTON-FREEWATER	STATE OR	ZIP 97862	E-MAIL	

The applicant is an irrigation district organized under ORS Chapter 545 or a water control district organized under ORS Chapter 553. The District's OAR 690-018-0025 allocation of conserved water policy was adopted: ____ / ____ / 20 ____.

OR

The applicant(s) are the sole owner of the land on which the water right, or portion thereof, proposed for conservation measures is located? Yes No

If NO, include signatures of all landowners (and mailing address if different than the applicant's) or attach affidavits of consent (and mailing addresses) from all landowners or individuals/entities to which the water right(s) has been conveyed.

LANDOWNER NAME James Waliser Orchards c/o Jennifer Jackson			PHONE NO.
ADDRESS 52967 SUNQUIST ROAD			
CITY MILTON-FREEWATER	STATE OR	ZIP 97862	E-MAIL

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Representative Information – The person(s) listed below is/are authorized to represent the applicant in all matters relating to this application.

REPRESENTATIVE/BUSINESS NAME			PHONE NO.	ADDITIONAL CONTACT NO.
ADDRESS			FAX NO.	
CITY	STATE	ZIP	E-MAIL	

Check this box if this project is fully or partially funded by the American Recovery and Reinvestment Act. (Federal stimulus dollars)

I understand that I will be required to submit payment to the Department for publication of a notice in a newspaper with general circulation in the area where the water right is located, once per week for two consecutive weeks. If more than one qualifying newspaper is available, I suggest publishing the notice in the following paper: N/A, published 11/14 & 21/2003.

I (we) affirm that the information contained in this application is true and accurate.



Ronald E Brown
Applicant signature
Jennifer Jackson
Applicant signature

Earl Brown & Sons, Inc. by
Print Name (and Title if applicable)

Jim Waliser Orchards, Inc. by
Print Name (and Title if applicable)

Date


4-17-18
Date

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In your own words tell us what conservations measures you have made or propose to make and the reason for the change(s): Converting from open ditch and flood irrigation. Installing a new weir to limit diversion and Constructing a bulge with a 6.0 acre-foot capacity. Water will be pumped through new mainline. Replaced old on-farm system with more efficient Nelson micro-sprinklers.

 To meet State Land Use Consistency Requirements, you must list all local governments (each county, city, municipal corporation, or tribal government) within whose jurisdiction the conservation project and/or proposed instream reach will be located.

ENTITY NAME UMATILLA COUNTY, DEPT. OF LAND USE PLANNING	ADDRESS 216 SE 4TH STREET	
CITY PENDLETON	STATE OR	ZIP 97801

ENTITY NAME CONFEDERATED TRIBES OF UMATILLA INDIAN RESERVATION, DEPT OF NATURAL RESOURCES	ADDRESS 46411 TIMINE WAY	
CITY PENDLETON	STATE OR	ZIP 97801

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

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Part 3 of 4 – Water Right Information and Conservation Measures

Please use a separate Part 3 for **each** water right involved in the proposed allocation of conserved water.

WATER RIGHT INFORMATION:

Water Right Subject to Transfer (check and complete **ONE** of the following):

<input checked="" type="checkbox"/> Certificated Right	12768 & 13126 superseded by 92440	
	Certificate Number	Permit Number or Decree Name
<input type="checkbox"/> Adjudicated, Un-certificated Right		
	Name of Decree	Page Number
<input type="checkbox"/> Permit for which Proof has been Approved		
	Permit Number	Special Order Volume _____, Page _____
<input type="checkbox"/> Transferred Right for which Proof has been Filed		
	Previous Certificate / Transfer Number	Date Claim of Beneficial Use Submitted

County: Umatilla

Describe the pre-project water delivery system. Include information on the diversion structure, pumps, and conveyance facilities (including canals, pipelines and sprinklers used to divert, convey and apply the water at the authorized place of use). *Provide sufficient detail for the Department to determine the system capacity.* Water is measured at the points of diversion by weirs cut according to specifications of 16.8 gpm/acre. A 15 hp pump serves water from Lydell ditch to the properties which are watered using open ditch flood irrigation.

Table 1: Pre-Project Description

List: A) the maximum rate and annual duty (volume) of water that may be diverted **as stated on the water right of record**; and B) the maximum amount of water that can be diverted using the pre-project facilities (“**system capacity**”). If there are multiple priority dates on the water right, list the rate and duty associated with each priority date. *(If the water right is only limited by rate, do not list a duty, and conversely, if the water is only limited by duty, do not list a rate.)*

PRE-PROJECT DESCRIPTION											
			Column A Water Right of Record				Column B System Capacity				
			Rate		Duty		Rate		Duty		
Originating Water Right #	Priority	Acres	Maximum	CFS/AC	Maximum	AF/AC	Maximum	CFS/AC	Maximum	AF/AC	
12768/92440	1898	2.41	0.089	0.037							
13126/92440	1898	3.00	0.111	0.037							
Totals		5.41	0.200				2.68				

Note: 1 miner's inch = 1/40 cfs; 1 cfs = 448.8 gpm 1 cfs = 1.983471 ac-ft/day

CONSERVATION MEASURES:

Describe the type of conservation measures, check all that apply:

- On-Farm efficiency project
- Distribution project, such as a ditch piping or lining project
- Other: _____

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Describe the proposed changes to the physical system, operations and application methods that will result in the conservation of water. If these proposed changes will change the point of diversion, you must meet the ODFW fish screen and bypass requirements pursuant to ORS 540.525. *Please include a description and details of how the estimate of water conserved was determined. Please provide sufficient detail for the Department to provide notice of the project.* Installation of new weir at the pod. A 6.0 acre-feet bulge to be built; water to be pumped through new 10-12 inhv mainline by a 30 hp pump station. Old on-farm system will be replace with new more efficient micro-sprinklers.

Place of Use Involved in Conservation Measures

List only the part of the right that will be affected. If the entire right is being affected, just state "entire Certificate."

Orig. Cert	Twp		Rng		Sec	¼	¼	Tax Lot	Acres	Type of Use listed On Certificate	Priority Date
	2	S	9	E	15	NE	NW	153.0		EXAMPLE	1/1/1865
12768/92440	6	N	35	E	35	SW	NW	1400	2.41	IRR	1898
13126/92440	6	N	35	E	35	SW	NW	1300	3.00	IRR	1898
									5.41		

Are there other water right certificates, water use permits, ground water registrations, or uncertificated decreed rights associated with the above lands? Yes No. If YES, list the certificates, water use permits, ground water registrations, or uncertificated decreed numbers: _____

Is the project within the boundaries of an irrigation district or water control district? Yes No If YES, and applicant is not a District, you must provide a letter of approval from the District.

Table 2: Conserved Water

In Column A, list the smaller of A or B from Table 1 (Pre-Project Description). In Column B, list the amount of water that will be needed for the existing, authorized use(s) after implementing the conservation measures. In Column C, subtract Column B from Column A and enter the results (e.g., A – B = C). (If the water right is only limited by rate, do not list a duty; and conversely, if the water is only limited by duty, do not list a rate.)

Conserved Water Description											
Priority	Column A				Column B				Column C		
	Table 1 – Smaller of A or B				Needed				Conserved Water		
	Rate		Duty		Rate		Duty		Rate	Duty	
	Maximum CFS	CFS/AC	Maximum AF	AF/AC	Maximum CFS	CFS/AC	Maximum AF	AF/AC	Maximum CFS	Maximum AF	AF/AC
1898	0.089	0.037			0.060				0.029		
1898	0.111	0.037			0.075				0.036		
Totals	0.020				0.135				0.065		

Table 3: Allocation of Conserved Water

List the portions of the conserved water that will be allocated to the state and applicant. Note: Column A plus Column B should total Column C (e.g., A + B = C).

Conserved Water Allocation								
Column A			Column B			Column C		
State's Portion			Applicant's Portion			Conserved Water		
Percentage*	Maximum Rate	Maximum Duty (Volume)	Percentage	Maximum Rate	Maximum Duty (Volume)	Percentage	Maximum Rate	Maximum Duty (Volume)
61%	0.040		39%	0.025		100%	0.065	

* must be at least 25%

The priority for the conserved water is requested to be:

- The same as the original right, or
- One minute junior to the original right.

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Part 3 of 4 – Water Right Information and Conservation Measures

Please use a separate Part 3 for **each** water right involved in the proposed allocation of conserved water.

WATER RIGHT INFORMATION:

Water Right Subject to Transfer (check and complete **ONE** of the following):

<input checked="" type="checkbox"/> Certificated Right	<u>13088 superseded by 92473</u>	
	Certificate Number	Permit Number or Decree Name
<input type="checkbox"/> Adjudicated, Un-certificated Right	_____	_____
	Name of Decree	Page Number
<input type="checkbox"/> Permit for which Proof has been Approved	_____	_____
	Permit Number	Special Order Volume _____, Page _____
<input type="checkbox"/> Transferred Right for which Proof has been Filed	_____	_____
	Previous Certificate / Transfer Number	Date Claim of Beneficial Use Submitted

County: Umatilla

Describe the pre-project water delivery system. Include information on the diversion structure, pumps, and conveyance facilities (including canals, pipelines and sprinklers used to divert, convey and apply the water at the authorized place of use). *Provide sufficient detail for the Department to determine the system capacity.* Water is measured at the points of diversion by weirs cut according to specifications of 16.8 gpm/acre. A 15 hp pump serves water from Lydell ditch to the properties which are watered using open ditch flood irrigation.

Table 1: Pre-Project Description

List: A) the maximum rate and annual duty (volume) of water that may be diverted **as stated on the water right of record**; and B) the maximum amount of water that can be diverted using the pre-project facilities (“**system capacity**”). If there are multiple priority dates on the water right, list the rate and duty associated with each priority date. (*If the water right is only limited by rate, do not list a duty, and conversely, if the water is only limited by duty, do not list a rate.*)

PRE-PROJECT DESCRIPTION											
			Column A Water Right of Record				Column B System Capacity				
			Rate		Duty		Rate		Duty		
Originating Water Right #	Priority	Acres	Maximum	CFS/AC	Maximum	AF/AC	Maximum	CFS/AC	Maximum	AF/AC	
13088/92473	1886	5.0	0.188	0.0375							
Totals							2.87				

Note: 1 miner's inch = 1/40 cfs; 1 cfs = 448.8 gpm 1 cfs = 1.983471 ac-ft/day

CONSERVATION MEASURES:

Describe the type of conservation measures, check all that apply:

- On-Farm efficiency project
- Distribution project, such as a ditch piping or lining project
- Other: _____

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Describe the proposed changes to the physical system, operations and application methods that will result in the conservation of water. If these proposed changes will change the point of diversion, you must meet the ODFW fish screen and bypass requirements pursuant to ORS 540.525. *Please include a description and details of how the estimate of water conserved was determined. Please provide sufficient detail for the Department to provide notice of the project.* Installation of new weir at the pod. A 6.0 acre-feet bulge to be built; water to be pumped through new 10-12 inch mainline by a 30 hp pump station. Old on-farm system will be replaced with new more efficient micro-sprinklers.

Place of Use Involved in Conservation Measures

List only the part of the right that will be affected. If the entire right is being affected, just state "entire Certificate."

Twp		Rng		Sec	¼	¼	Tax Lot	Gvt Lot or DLC	Acres	Type of Use listed On Certificate	Priority Date
2	S	9	E	15	NE	NW	153.0	100		EXAMPLE	1/1/1865
6	N	35	E	35	NW	SW	700		5.0	IRR	1886
Total									5.0		

Are there other water right certificates, water use permits, ground water registrations, or uncertificated decreed rights associated with the above lands? Yes No. If YES, list the certificates, water use permits, ground water registrations, or uncertificated decreed numbers: _____

Is the project within the boundaries of an irrigation district or water control district? Yes No If YES, and applicant is not a District, you must provide a letter of approval from the District.

Table 2: Conserved Water

In Column A, list the smaller of A or B from Table 1 (Pre-Project Description). In Column B, list the amount of water that will be needed for the existing, authorized use(s) after implementing the conservation measures. In Column C, subtract Column B from Column A and enter the results (e.g., A – B = C). (If the water right is only limited by rate, do not list a duty; and conversely, if the water is only limited by duty, do not list a rate.)

Conserved Water Description											
Priority	Column A				Column B				Column C		
	Table 1 – Smaller of A or B				Needed				Conserved Water		
	Rate		Duty		Rate		Duty		Rate	Duty	
	Maximum CFS	CFS/AC	Maximum AF	AF/AC	Maximum CFS	CFS/AC	Maximum AF	AF/AC	Maximum CFS	Maximum AF	AF/AC
1886	0.188	0.0375			0.125	0.025			0.063		
Totals	0.088				0.125				0.063		

Table 3: Allocation of Conserved Water

List the portions of the conserved water that will be allocated to the state and applicant. Note: Column A plus Column B should total Column C (e.g., A + B = C).

Conserved Water Allocation								
Column A			Column B			Column C		
State's Portion			Applicant's Portion			Conserved Water		
Percentage*	Maximum Rate	Maximum Duty (Volume)	Percentage	Maximum Rate	Maximum Duty (Volume)	Percentage	Maximum Rate	Maximum Duty (Volume)
61%	0.038		39%	.025		100%	0.063	

* must be at least 25%

The priority for the conserved water is requested to be:

- The same as the original right, or
- One minute junior to the original right.

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**Part 4 of 4 – Mitigation, Proposed Use,
Project Schedule, Funding, and
Fee Calculation**

MITIGATION:

Describe any expected effects from the proposed allocation of conserved water on other water rights. Describe what currently happens to the water that is proposed to be conserved. A portion of it is left in the walla Walla River to benefit listed fish species. The remaining portion is used for irrigation.

Describe any mitigation or other measures that are planned to avoid harm to other water rights. No harmful effects expected

PROPOSED USE:

N/A For new out-of-stream uses, describe the intended use and boundaries of the expected area within which the diversion structures and places of use of the applicants' conserved water right will be located. This is land other than that to which this water right is appurtenant. Intended Use: irrigation ; Boundaries: S1/2 SWNW of Section 35, T6N, R35E, W.M.

For instream uses to be created:

Originating Water Right (as identified in Part 3)	Priority Date	Source	Proposed Instream Period	Rate (cfs)*	Volume (ac-ft)**
12768/92440	1898	Little Walla Walla Rier, tributary to Walla Walla River		0.018	
13126/92440	1898	Little Walla Walla Rier, tributary to Walla Walla River		0.022	
* 93088/92473	1886	Little Walla Walla Rier, tributary to Walla Walla River		0.038	
TOTALS				0.078	

To calculate rate (if other than the rate allowed by the right), divide the volume by the number of days in the period and then divide by 1.983471; or

To calculate volume, multiply the rate by the number of days in the instream period and then multiply by 1.983471.

Note: The instream rate may not exceed the maximum rate conserved and the total volume may not exceed to maximum volume or duty conserved (Table 3, Column C)

Location of the proposed instream water right.

Water is requested to be protected within a reach. Location of the proposed reach (identify the extent of the reach): *(e.g., from the upstream POD located at RM _____ to downstream location at the mouth at RM _____)* protect the water instream in the Walla Walla River from the authorized POD at approx. RM 50 downstream to the mouth at approx. RM 44.5.

OR

Water is requested to be protected at a point at the following location (i.e. legal description of the point of diversion (POD)) _____

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Public Use for which conserved water right should be managed under an instream right (check at least one box):

- Conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values.
- Recreation.
- Pollution Abatement.

List any existing instream water rights at the same point or within the same requested reach(es):

- None.
- Instream Water Right Certificates: _____

Is it your intent to have the proposed instream water right transfer be additive to any instream water right established under ORS 537.348 (instream transfer application process) and ORS 537.470 (allocation of conserved water) and replace a portion of any instream water right established under ORS 537.341 (state agency application process) and ORS 537.346 (conversion of minimum perennial streamflows) with an earlier priority date?

- Yes No. If no, please explain your intent below:

Is the requested instream flow intended to exceed the estimated average natural flow or natural lake level occurring from the drainage system?

- No; **OR**
- Yes (Provide supporting documentation that demonstrates why additional flows are significant for the public use requested.); **OR**
- Yes, and it is presumed that flows that exceed the estimated average natural flow or natural lake levels are significant because:
 - The requested flow does not exceed the maximum amount of any instream water right applied for under ORS 537.338 (state agency instream water right application process); the requested public use is for the same public use; and the requested reach covers a portion or same reach as the state agency instream water right; **and**
 - The stream is in an ODFW flow restoration priority watershed during the requested instream period; **or**
 - The stream is listed as water quality limited by DEQ.

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PROJECT SCHEDULE:

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- N/A For a project that has **not** been completed, please provide the dates on which the applicant intends to do the following:

Begin Construction	Complete Construction and File Notice of Completion	Request that Entire Conserved Water Allocation be Finalized
Date: 2001	Date: 2002	*Date: 2002

* Must be within 5 years from the date of filing the Notice of Completion.

Note: If construction of the project has begun or has been completed, and if more than 25 percent of the project costs have been expended before submitting this application, you must submit evidence that you have attempted to identify and resolve the concerns of water right holders in the area, governmental entities or other organization who have asked to be consulted regarding the allocation of conserved water.

N/A For a project that has been completed, provide the dates when the conservation measures were implemented and the date by which the applicant intends to request the allocation be finalized. Complete and attach Notice of Completion form.

Conservation Measures Were Implemented	Request that Entire Conserved Water Allocation be Finalized
<i>*Date: 2002</i>	<i>**Date: 2002</i>

** Must be within 5 years prior to the date of filing this application.*

*** Must be within 5 years from the date of filing this Application and Notice of Completion.*

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FUNDING

N/A Federal or state public funds that are not subject to repayment are to be used for the project. Refer to OAR 690-018-0040(18)(a)-(d) for further information in completing this section.

Source of Funding: Federal: _____ State: _____

Total cost for project engineering \$ _____
Total cost for construction \$ _____

The present value of any incremental changes in the cost of operations and maintenance that are directly attributable to the project that would not be incurred or realized in the absences of the project is \$ _____.

The amount of funding and the value of any in-kind contributions for project engineering and construction and for any incremental changes in the costs of operations and maintenance to be provided from federal or state public funds that are not subject to repayment is \$ _____.

The amount of funding and the value of any in-kind contributions for project engineering and construction and for any incremental change since costs of operations and maintenance to be provided from other funds is \$ _____.

N/A Enter the percentage from Table 3, Column B (Applicant's Portion of Conserved Water) _____%. If this is more than 25%, what portion of project funds (expressed as a percentage) come from federal or state public sources? _____%

N/A The Oregon Watershed Enhancement Board (OWEB) have a contractual interest in this project. The OWEB project number is _____.

FEE CALCULATION

Fee Schedule – ORS 536.050	
\$1,160.00 - Base (1 st Water Right)	Add \$410.00 for each additional right
$\$1,160 + (\text{ } \times \$410) = \text{Total Fee } \$ \text{ } \text{ }$	

Fee Waiver Worksheet	
To qualify for a waiver of up to 50%, you must provide evidence to establish your application meets the following criteria:	
<input type="checkbox"/>	(a) Will be converted to an instream right pursuant to ORS 537.348; or
<input type="checkbox"/>	(b) Is necessary to complete a project funded under ORS 541.375 (OWEB); or
<input type="checkbox"/>	(c) Is approved by the Oregon Department of Fish and Wildlife as a project that will result in a net benefit to fish and wildlife habitat. See OAR 690-018-0040(25).
If the project meets one of the above standards, use the following formula to calculate the fees:	
<input type="checkbox"/>	(d) Enter Percentage from Table 3, Column A = _____%
<input type="checkbox"/>	(e) Deduct 25% from percentage in (d) above = _____%
<input type="checkbox"/>	(f) Enter the lesser of (e) above or 50% _____
<input type="checkbox"/>	(g) Total Fee x % waived (f) = Fee Waiver \$ _____*
<i>Example: (d) = 100% - 25% (e) = 75% (max 50% waived) = Fee x 50% = Fee Waiver</i>	
Total Fee \$ _____ – Fee Waiver (g) \$ _____ = Amount Due \$ _____	

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