



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

Amended

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)

- X Part 1 – Completed Minimum Requirements Checklist.
- X Part 2 – Completed Applicant Information and Signature.
- X 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: **see attached spreadsheet.**
- X Part 4 – Completed Mitigation, Proposed Use, Project Schedule, Funding, and Fee Calculation.

Attachments:

- Fees – Amount enclosed: \$ _____ (From last page of application).
- X 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.
- X 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.
- X N/A Completed Evidence of Use Affidavit and Supporting Documentation.
- N/A Affidavit(s) of Consent.
- X 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.
- X 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.
- X N/A Evidence for Fee Waiver.
- X N/A Notice of Completion.
- X 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		541-938-6645	RON BROWN
PO BOX 249		FAX NO.	
MILTON FREEWATER	OR	97862	E-MAIL RON@WATERMILLWINERY.COM

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 is 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		PHONE NO.	
ADDRESS			
CITY	STATE	ZIP	E-MAIL

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: _____.

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



Ron Brown
Applicant signature

Ron Brown President
Print Name (and Title if applicable)

4/13/2018
Date


Applicant signature

Print Name (and Title if applicable)

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): A portion of the Lydell Ditch will be piped in order to conserve water as it is conveyed to these and other downstream properties. Water will be measured at the same point of diversion at a reduced rate of 11.2 GPM per ace (from 16.8 per acre). A new 600' x 45' bukge with a capcity of 8.9 AF will be built to serve the listed properties. The irrigation system will be upgraded to Nelson R-10 and R-20 micro-sprinklers. The lands in this application are served by the Walla Walla River Irrigation District. The District is working cooperatively with federal fish agencies and local landowners to protect senior water rights in the Walla Walla River to benefit listed fish species.

 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 DEPARTMENT OF LAND USE PLANNING	ADDRESS 216 SE 4 TH STREET	
CITY PENDLETON	OR	97801

ENTITY NAME CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION	ADDRESS 46411 TIMINE	
PENDLETON	OR	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 type="checkbox"/> Certificated Right	Please see attached spreadsheet Certificate Number _____	Dated 2/7/2018 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.*

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
Totals										

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.* _____

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
Total											

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
Totals											

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)
%			%			100%		

* 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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Orig. Cert	New Cert	Priority	Twp	Rng	Sec	40 Qtr	160 Qtr	TaxLot	Acres	CFS/Acre	Total CFS	CW CFS/Acre	Total CFS After CW	GPM After CW	Total Cons. Water	State's Portion CW in CFS	Appl. Portion CW in CFS	Appl. CW as GPM	Name on Certificate	
12682	92489	3/1/1901	6 N	35 E	34	SW	NE	1200	19.00	0.0375	0.713	0.025	0.475	213.18	0.238	0.159	0.078	35.17	Lorraine Brown	
31669	92440	1901	6 N	35 E	34	NW	NE	700	18.02	0.0375	0.667	0.025	0.451	202.18	0.217	0.145	0.071	32.06	Earl Brown & Sons	
12676	92412	1893	6 N	35 E	34	NE	NE	500	9.80	0.0375	0.368	0.025	0.245	109.96	0.123	0.082	0.040	18.14	Carrie, Evelyn & Virginia Feigner	
12677	92523	1886	6 N	35 E	34	NE	NE	600	9.00	0.0375	0.338	0.025	0.225	100.98	0.113	0.075	0.037	16.66	Ron & Gretchen Brown	
12677	92523	1893	6 N	35 E	34	NE	NE	600	0.70	0.0375	0.026	0.025	0.018	7.85	0.009	0.006	0.003	1.30	Ron & Gretchen Brown	
12565	92440	1890	6 N	35 E	34	SE	NE	1600	3.20	0.0375	0.120	0.025	0.080	35.90	0.040	0.027	0.013	5.92	Earl Brown & Sons	
12687	92440	1893	6 N	35 E	34	SE	NE	1600	7.20	0.0375	0.266	0.025	0.180	80.78	0.086	0.058	0.028	12.74	Earl Brown & Sons	
12687	92440	1901	6 N	35 E	34	SE	NE	1600	2.30	0.0375	0.085	0.025	0.058	25.81	0.028	0.018	0.009	4.07	Earl Brown & Sons	
T-7642	92440	1871	6 N	35 E	34	NW	SE	301	1.00	0.0375	0.037	0.025	0.025	11.22	0.012	0.008	0.004	1.78	Earl Brown & Sons	
49219	92481	1886	6 N	35 E	34	SW	NE	1400	5.00	0.0375	0.188	0.025	0.125	56.10	0.063	0.042	0.021	9.26	L & E Family Partnership	
88073	92440	1904	6 N	35 E	34	NW	SE	301	1.50	0.0375	0.055	0.025	0.038	16.83	0.018	0.012	0.006	2.59	Earl Brown & Sons	
88073	92440	1890	6 N	35 E	34	NW	SE	301	6.00	0.0375	0.222	0.025	0.150	67.32	0.072	0.048	0.024	10.66	Earl Brown & Sons	
49565	92622	5/10/1977	6 N	35 E	34	SW	NE	1400	4.75	0.0375	0.194	0.025	0.119	53.30	0.075	0.050	0.025	11.14	L & E Family Partnership	
									87.47		3.277		2.187	981.41	1.091	0.731	0.360	161.51		
45330	92621	5/7/1917	6 N	35 E	34	SW	NE	1400	4.86	0.0125	0.061								The rate is already at 1/80th. Not included in CW.	L & E Family Partnership

Note: 0.0375 cfs = 1-1/2 miner's inch or 3/80; 0.025 cfs = 1 miner's inch or 1/40
cfs x 448.8 = gpm

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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. We expect that the conserved water that is designated to the State will be left in the Walla Walla River to benefit listed fish species. The conserved water being retained by the landowner will be used for irrigation on already irrigated ground and will replace junior water rights on the properties and well use in those areas covered.

Describe any mitigation or other measures that are planned to avoid harm to other water rights. We do not anticipate harm of any kind to other water rights as a result of this project.

PROPOSED USE:

X 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: ;
Boundaries: The landowner proposes to use a portion of the conserved water from this project on acreage in the NE1/4 of Section 34, T6N, R35E WM. Specifically, 7.66 acres of tax lot 400; 2.34 acres on tax lot 501; and 4.44 acres on tax lot 1600. Additionally, certificate 92577 with a 1922 priority date, covering 4.4 acres of tax lot 1600 will be cancelled.

X 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)**
Please refer	to attached	Spreadsheet dated	2/7/2018		
TOTAL VOLUME					

*Tip: 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)

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Location of the proposed instream water right.

X 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 Point of Diversion at approximately RM 50, downstream to the mouth at approximately 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)) _____

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.

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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?

X 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?

- X 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.

PROJECT SCHEDULE:

X 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. ***Application was put on Administrative Hold with WRD pending the outcome of the Walla Walla River Irrigation District's SB-3201 water right mapping process.**

X 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
*Date: 2002	**Date: 2002

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

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

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FUNDING

- X 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 } \_____	

Fee Waiver Worksheet	
To qualify for a waiver of up to 50%, you must provide evidence to establish your application meets the following criteria:	
	(a) Will be converted to an instream right pursuant to ORS 537.348; or
	(b) Is necessary to complete a project funded under ORS 541.375 (OWEB); or
	(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:	
	(d) Enter Percentage from Table 3, Column A = _____%
	(e) Deduct 25% from percentage in (d) above = _____%
	(f) Enter the lesser of (e) above or 50% _____
	(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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