

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

In the Matter of Allocation of Conserved)
Water Application CW-141,)
Jackson County) PRELIMINARY DETERMINATION PROPOSING
APPROVAL ON COMPLETION OF ALLOCATION
OF CONSERVED WATER CW-141

Applicant

Wooldridge Creek Vineyard, LLC
818 Slagle Creek Road
Grants Pass, OR 97527

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.

Pursuant to OAR 690-018-0050, any person objecting to the proposed allocation may file a protest to this Preliminary Determination with the Water Resources Commission within 60 days of the mailing of this determination.

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 February 2, 2024, Wooldridge Creek Vineyard, LLC filed an allocation of conserved water application under Certificate 52048. The Department assigned the application number CW-141.
2. The conservation project involves a change in drip tape emitter size and conversion of sprinklers to drip irrigation. The conversion to drip irrigation is a proven technology for conserving water.
3. Application CW-141 proposes a rate reduction of approximately 0.19 cubic foot per second (cfs) and proposes to reduce the annual volume by 37.8 acre-feet (AF).

Conserved Water Description											
Certificate	Certificate					Needed				Conserved Water	
	Well	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
52048	1	0.24	0.013	47.0	2.5	0.105	0.0056	20.68	1.1	0.135	26.32
	2	0.10	0.013	20.5	2.5	0.045	0.0056	9.02	1.1	0.055	11.48
	Total	0.34	0.013	67.5	2.5	0.15	0.0056	29.70	1.1	0.19	37.8

4. The right to be modified by CW-141 is as follows:
 - Certificate:** 52048 in the name of WILLIAM BASS, PRESIDENT PACIFIC CREST VINEYARDS, LTD (perfected under Permit G-8331)
 - Use:** IRRIGATION of 27.0 ACRES
 - Priority Date:** AUGUST 14, 1978

Rate: 0.34 CUBIC FOOT PER SECOND (CFS), BEING 0.24 CFS FROM WELL 1 AND 0.10 CFS FROM WELL 2

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-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year and shall be further limited to appropriation of water only to the extent that it does not impair or substantially interfere with existing surface water rights of others.

Source: TWO WELLS, a tributary of APPLGATE RIVER

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
37 S	4 W	WM	32	SW NE	WELL 2 – 350 FEET NORTH AND 2185 FEET WEST FROM THE E1/4 CORNER OF SECTION 32
37 S	4 W	WM	32	SE NE	WELL 1 – 500 FEET NORTH AND 1225 FEET WEST FROM THE E1/4 CORNER OF SECTION 32

Authorized Place of Use:

IRRIGATION – WELL 1					
Twp	Rng	Mer	Sec	Q-Q	Acres
37 S	4 W	WM	32	SW NE	11.6
37 S	4 W	WM	32	SE NE	4.0
37 S	4 W	WM	32	NW SE	3.2
Total					18.8

IRRIGATION – WELL 2					
Twp	Rng	Mer	Sec	Q-Q	Acres
37 S	4 W	WM	32	SW NE	8.2

5. Certificate 52048 does not specify a period of use. Therefore, pursuant to the Rogue River Decree, the irrigation season of use is April 1 through October 31 of each year.
6. Certificate 52048 lists the source as a tributary of Applegate River. Common nomenclature is to refer to the source as “two wells with the Applegate River Basin,” and will be referred to as such in the future.
7. 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 that the right is subject to forfeiture under ORS 540.610.
8. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of the application.

9. The Applicant requests that the conserved water be allocated as follows:

Certificate	State's Portion				Applicant's Portion			Conserved Water		
	Well	Percentage	Maximum Rate (CFS)	Max. Duty (Volume) AF	Percentage	Maximum Rate (CFS)	Max. Duty (Volume) AF	Percentage	Maximum Rate (CFS)	Max. Duty (Volume) AF
52048	1	25%	0.033	6.58	75%	0.102	19.74	100%	0.135	26.32
	2		0.014	2.87		0.041	8.61		0.055	11.48
	Totals		0.047	9.45		0.143	28.35		0.190	37.80

10. The Applicant proposes that its portion of the conserved water be allocated for an out-of-stream use within the SENE, SWNE, NWSE, NESE, and SESW of Section 32, Township 37 South, Range 4 West, W.M.
11. The Applicant requests that the priority date for any conserved water be the same as the originating right.
12. The Applicant funded 100% of the conservation project.
13. The Applicant submitted a completed Land Use Form from Jackson County that indicated the proposed use was allowed outright or is not regulated by Jackson County's comprehensive plan.
14. The implementation of the conservation measures began no earlier than April 2022. The Applicant provided evidence that it attempted to identify and resolve the concerns of water right holders in the area, governmental entities and other organizations who have asked to be consulted.
15. The Applicant submitted a Notice of Completion with the application indicating the project was complete. The Applicant will submit a Request for Finalization of the allocation on or before April 2027.
16. The application meets the requirements of OAR 690-018-0040.
17. Notice of the proposed conservation project was published in the Department's weekly notice on February 20, 2024, and in the Grants Pass Daily Courier newspaper on February 21 and 28, 2024, as required under OAR 690-018-0050(1)(a) and (2). No comments were filed in response to the notices.

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

18. 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 #3).

19. On April 5, 2024, the District #13 Watermaster performed a review of the proposed Allocation of Conserved Water Project. The Watermaster determined that the conservation project would not harm other water rights; therefore, no quantity of conserved water is needed to mitigate for harm to other water rights. OAR 690-018-0050(4)(b) and (d).
20. The conservation project is consistent with the local comprehensive land use plan requirements established in OAR 690-005-0045. OAR 690-018-0050(4)(c). (Finding of Fact #13).
21. Pursuant to OAR 690-018-0050(4)(e), the new reduced rate and duty for the existing uses involved in Allocation of Conserved Water Application CW-141 under Certificate 52048 are as follows:

Certificate	Rate			Duty	
	Well	Maximum CFS	CFS/AC	Maximum AF	AF/AC
52048	1	0.105	0.0056	20.68	1.1
	2	0.045	0.0056	9.02	1.1
	Total	0.15		29.7	

(Finding of Fact #3).

22. Pursuant to OAR 690-018-0050(4)(e), the rate and volume allocated to the State to remain in the source aquifer is as follows:

Priority Date	Well	Maximum Rate (cfs)	Maximum Duty (Volume) (AF)
August 14, 1978	1	0.033	6.58
	2	0.014	2.87
	Total	0.047	9.45

(Finding of Fact #9).

23. This conservation project is for groundwater. Therefore, pursuant to OAR 690-018-0050(4)(f), no finding is necessary regarding consultation with the Departments of Fish and Wildlife, Environmental Quality, and Parks and Recreation.
24. 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 #12). The rate and volume allocated to the Applicant is as follows:

Priority Date	Well	Maximum Rate	Maximum Duty (Volume)
August 14, 1978	1	0.102	19.74
	2	0.041	8.61
	Total	0.143	28.35

(Findings of Fact #9 and #11).

25. The areas within which the conserved water is proposed to be used for out-of-stream uses are within the SENE, SWNE, NWSE, NESE, and SESW of Section 32, Township 37 South, Range 4 West, W.M. (Finding of Fact #10). OAR 690-018-0050(4)(h).

26. The deadline for submitting a Request for Finalization is on or before April 2027. (Finding of Fact #15). OAR 690-018-0050(4)(i).
27. No other conditions or limitations are needed to prevent or mitigate for harm to existing water rights. (Finding of Fact #19). OAR 690-018-0050(4)(j).

Determination and Proposed Action

The project described in Allocation of Conserved Water Application CW-141, is consistent with the criteria in ORS 537.455 to 537.500, and OAR Chapter 690, Divisions 018 and 077. If protests are not filed pursuant to OAR 690-018-0050(6), the conserved water application will be approved.

If Allocation of Conserved Water Application CW-141 is approved, the Order Approving will include the following:

1. *The proposed change will result in a reduced diversion for the uses allowed under the original water right. Findings of Fact #3 and #18.*
2. *The proposed allocation of conserved water will not harm existing water rights. Finding of Fact #19 and #27.*
3. *The application is consistent with the requirements established in OAR 690-005-0045. Finding of Fact #13 and #20.*
4. *The changes proposed in CW-141 are approved.*
5. *The quantities of water conserved and allocated are as follows:*

Certificate	State's Portion				Applicant's Portion			Conserved Water		
	Well	Percentage	Maximum Rate (CFS)	Max. Duty (Volume) AF	Percentage	Maximum Rate (CFS)	Max. Duty (Volume) AF	Percentage	Maximum Rate (CFS)	Max. Duty (Volume) AF
52048	1	25%	0.033	6.58	75%	0.102	19.74	100%	0.135	26.32
	2		0.014	2.87		0.041	8.61		0.055	11.48
	Totals		0.047	9.45		0.143	28.35		0.19	37.8

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 Certificate 52048 and any related decree.*
7. *Water Right Certificate 52048 is cancelled. A superseding Certificate will be issued for the existing use and place of use (described in Finding of Fact #4) at the reduced rate and duty as follows:*

Use: IRRIGATION of 27.0 ACRES
Priority Date: AUGUST 14, 1978
Rate: 0.15 CUBIC FOOT PER SECOND (CFS), BEING 0.105 CFS FROM WELL 1 AND 0.045 CFS FROM WELL 2
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 SEVENTY-EIGHTH (1/178) 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 1.1 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 29.7 acre-feet per year.

Source: TWO WELLS within the APPLGATE RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
37 S	4 W	WM	32	SW NE	WELL 2 – 350 FEET NORTH AND 2185 FEET WEST FROM THE E1/4 CORNER OF SECTION 32
37 S	4 W	WM	32	SE NE	WELL 1 – 500 FEET NORTH AND 1225 FEET WEST FROM THE E1/4 CORNER OF SECTION 32

Authorized Place of Use:

IRRIGATION – WELL 1					
Twp	Rng	Mer	Sec	Q-Q	Acres
37 S	4 W	WM	32	SW NE	11.6
37 S	4 W	WM	32	SE NE	4.0
37 S	4 W	WM	32	NW SE	3.2
Total					18.8

IRRIGATION – WELL 2					
Twp	Rng	Mer	Sec	Q-Q	Acres
37 S	4 W	WM	32	SW NE	8.2

8. **Water use measurement conditions:**

- a. The water user shall maintain the meters or measuring devices in good working order.
- b. 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.

9. All conserved water, both the Applicant's portion and the State's portion shall remain in the source aquifer until a Request for Finalization is submitted as follows:

Certificate	State's Portion				Applicant's Portion			Conserved Water		
	Well	Percentage	Maximum Rate (CFS)	Max. Duty (Volume) AF	Percentage	Maximum Rate (CFS)	Max. Duty (Volume) AF	Percentage	Maximum Rate (CFS)	Max. Duty (Volume) AF
52048	1	25%	0.033	6.58	75%	0.102	19.74	100%	0.135	26.32
	2		0.014	2.87		0.041	8.61		0.055	11.48
	Totals		0.047	9.45		0.143	28.35		0.19	37.8

Upon Filing the Request for Finalization:

- 10. The project is complete, and no additional time is needed for finalization.

11. The project is complete, and no additional time is needed for finalization. The Applicant's portion of conserved water shall be used as described below, until a subsequent Notice of Use or Disposition is received pursuant to ORS 537.490 and OAR 690-019-0090.

Use: IRRIGATION of 28.75 ACRES
Priority Date: AUGUST 14, 1978
Rate: 0.143 CUBIC FOOT PER SECOND (CFS), BEING 0.102 CFS FROM WELL 1 AND 0.041 CFS FROM WELL 2
Limit: The amount of water used for shall be limited to ONE-TWO HUNDRED SECOND (1/202) 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 0.986 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 28.35 acre-feet per year.
Source: TWO WELLS within the APPLGATE RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
37 S	4 W	WM	32	SW NE	WELL 2 – 350 FEET NORTH AND 2185 FEET WEST FROM THE E1/4 CORNER OF SECTION 32
37 S	4 W	WM	32	SE NE	WELL 1 – 500 FEET NORTH AND 1225 FEET WEST FROM THE E1/4 CORNER OF SECTION 32

Authorized Place of Use:

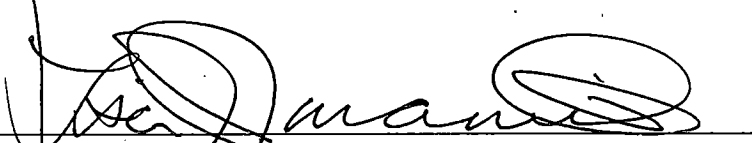
IRRIGATION – WELL 1					
Twp	Rng	Mer	Sec	Q-Q	Acres
37 S	4 W	WM	32	SW NE	8.10
37 S	4 W	WM	32	SE NE	6.60
37 S	4 W	WM	32	SE SW	5.60
37 S	4 W	WM	32	NE SE	0.25
37 S	4 W	WM	32	NW SE	4.60
Total					25.15

IRRIGATION – WELL 2					
Twp	Rng	Mer	Sec	Q-Q	Acres
37 S	4 W	WM	32	SW NE	1.8
37 S	4 W	WM	32	NW SE	1.8
Total					3.6

12. The areas within which the Applicant's portion of conserved water may be used for out-of-stream uses are within the SENE, SWNE, NWSE, NESE, and SESW of Section 32, Township 37 South, Range 4 West, W.M.

13. The State's portion of conserved water (0.047 cfs, 9.45 AF) shall remain in the source aquifer.

Dated at Salem, Oregon AUG 09 2024.


Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
IVAN GALL, DIRECTOR
Oregon Water Resources Department

Mailing Date: AUG 12 2024

NOTICE OF RIGHTS

The Legislative Assembly finds that persons affected by actions taken by state agencies have a right to be informed of their rights and remedies with respect to those actions. ORS 183.415. The Commission shall notify the applicant and any other person requesting notice, of the action the Commission intends to take under ORS 537.470(3). Any person objecting to the proposed allocation may file a protest requesting a contested case hearing before the Commission. ORS 537.470(4).

If a protest to the proposed allocation of conserved water is received by the Department within 60 days of the mailing of the preliminary determination pursuant to ORS 537.470(4) and OAR 690-018-0050(4), the Director may work with the applicant and any protestant to determine whether the issues can be resolved through mutually agreeable conditions, or by modifying the application. OAR 690-018-0050(6).

If protests are received raising issues that cannot be resolved pursuant to OAR 690-018-0050(6), the Director shall present the application, all protests and a recommendation for action to the Commission for review and action. OAR 690-018-0050(8).

The Commission shall examine the application, the protests and the Director's recommendation. If the Commission finds the allocation of conserved water is likely to injure existing water rights or is otherwise inconsistent with these rules, the Commission may direct the Department to hold a contested case hearing on the application pursuant to ORS 183.413 and OAR 690, Divisions 1 and 2 or to resume attempts to resolve the disputed issues. If the Commission finds the allocation of conserved water is not likely to injure existing rights and is otherwise consistent with OAR 690-018-0050, the Commission may authorize the Director to issue an order approving the application. OAR 690-018-0050(9).

In the event of a land use dispute, as defined in OAR 690-005-0015, the Director shall follow resolution procedures provided in 690-005-0040 (Resolution of Land Use Disputes). OAR 690-018-0050(10).

If a protest is withdrawn, or any party to a hearing notifies the Department or the administrative law judge that the party will not appear, or if the party fails to appear at a scheduled hearing, the Director may issue a final order by default. If the Director issues a Final Order by default, the Department designates the relevant portions of its files on this matter, including all materials that parties have submitted relating to this matter, as the record for purpose of proving a *prima facie* case upon default.

Any party may be represented by an attorney at the hearing. Legal aid organizations may be able to assist a party with limited financial resources. Generally, partnerships, corporations, associations, governmental subdivisions, or public or private organizations are represented by an attorney. However, consistent with OAR 690-002-0020 and OAR 690-137-0555, an agency representative may represent partnerships, corporations, associations, governmental subdivisions or public or private organization if the Department determines that appearance of a person by an authorized representative will not hinder the orderly and timely development of the record in this case.

Notice Regarding Servicemembers: Active-duty servicemembers have a right to stay proceedings under the federal Servicemembers Civil Relief Act. 50 U.S.C. App. §§501-597b. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 971-355-4127, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

Protests should be addressed to the attention of Allocation of Conserved Water Program, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.