

Walla Wall River Irrigation District

Conserved Water Policy

Adopted June 9, 2005

A. Authority and Purpose. The Board of Directors (the “**Board**”) of the Walla Walla River Irrigation District (the “**District**”) is required to adopt a Conserved Water Policy (“**Policy**”) pursuant to Oregon Administrative Rule (“**OAR**”) 690-018-0025. The rule requires that if the District seeks allocations of conserved water pursuant to ORS 537.455 to 537.500, then it must adopt a policy that, at a minimum:

- Describes how water saved by conservation measures will be allocated by the District;
- Describes how the District will address the allocation of conserved water percentages under ORS 537.470;
- Provides District patrons the opportunity to fund a share of the conservation project that is proportionate to the patron’s share of the water rights involved in the allocation of conserved water and to receive a corresponding share of the conserved water;
- Provides District patrons an opportunity to petition for a vote by all District patrons on this Policy; and
- Provides District patrons an opportunity to appeal a proposed District conservation project to the Board for failure to follow this Policy.

In addition, the District is operating under a Settlement Agreement, as defined below, which currently requires a minimum bypass flow of 25 to 27 cubic feet per second at the Nursery Bridge Dam. Pursuant to the terms of the Settlement Agreement, it is of high priority to protect the bypass flows under an instream water right.

The purpose of this Policy is to provide District patrons with the information required by OAR 690-018-0025 and to establish the procedures by which this Policy will be implemented.

B. Definitions. The following definitions shall apply in this Policy.

1. “**Commission**” means the Water Resources Commission.
2. “**Conservation**” means the reduction of the amount of water diverted to satisfy an existing beneficial use achieved either by improving the technology or method for diverting, transporting, applying, or recovering the water or by implementing other approved conservation measures.
3. “**Conserved Water**” means that amount of water that results from conservation measures, measured as the difference between:

- a. The smaller of the amount stated on the water right or the maximum amount of water that can be diverted using the existing facilities; and
 - b. The amount of water needed after implementation of conservation measures to meet the beneficial use under the water right certificate.
4. **“District Allocation”** means the amount of Conserved Water allocated to the District by the Commission.
 5. **“Funding Patron”** means a patron of the District that funds all or a portion of a water conservation project as provided in paragraph D of this Policy.
 6. **“Settlement Agreement”** means 2004 Third Amended Civil Penalty Settlement Agreement between the United States Fish and Wildlife Service and the District, the Hudson Bay District Improvement Company, and Gardena Farms Irrigation District #13

C. Conserved Water Application

A Conserved Water application must be submitted to the Oregon Water Resources Department (the **“WRD”**) to request allocation of conserved water, as required by the WRD’s rules implementing the conserved water program set forth at ORS 537.455 to 537.500. The application must be accompanied by the appropriate fee and the applicant will be required to pay for costs associated with public notice requirements. There is a state public review process for such applications.

The District recognizes two types of applications:

1. District Application

When the Conserved Water occurs within the conveyance system, prior to a District diversion or measurement point at the farm, the Conserved Water is a transportation loss for which the District may apply. Applications may be the result of piping, lining, change in District point of diversion, or other capital improvements or methodology that results in Conserved Water and otherwise meets the State of Oregon’s conserved water program requirements. The allocation of Conserved Water as the result of a District project, and the expenditure of District funds and personnel, results in a benefit to the District as a whole.

2. Water User Application

When the Conserved Water occurs beyond the District’s point of diversion from the conveyance system to the farm, the Conserved Water is a transportation loss for which the water user beneficially applying irrigation to the landowner’s own property may apply. The allocation of Conserved Water as the result of the water user project and the expenditure of the water user’s funds is a benefit to the landowner applying for the conserved water project, and is proportionate to the amount of water at the point of

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diversion from the conveyance system to the farm, which has otherwise been allocated to the applicant.

D. Patrons May Fund Part of District Water Conservation Project. Patrons may fund a District water conservation project in an amount that is proportionate to the patron's share of the water rights involved in the allocation of Conserved Water. Patrons that provide funding to the District for a water conservation project in advance, or within one year of, the District first making expenditures for the conservation project shall be a Funding Patron and receive the portion of the District Allocation to which the Funding Patron is entitled under this Policy. In order to meet the District's obligations under the Settlement Agreement, the Patron's portion of Conserved Water may only be used to irrigate grounds normally and customarily irrigated in the last 10 years, or for instream purposes.

E. Allocation of Conserved Water. The District Allocation shall be allocated first to meet the District's obligations under the Settlement Agreement. Except for a Funding Patron, no patron shall be entitled to any of the District Allocation other than the amount necessary to maintain the patron's full rate and duty at its regular turn out(s). A Funding Patron shall be entitled to a portion of the District Allocation, after subtracting any amount of the District Allocation required to comply with the Settlement Agreement, equal to the percentage of the funding for the water conservation project paid to the District by the Funding Patron.

F. Petitions to Vote on Policy. District patrons may petition the Board to hold a vote of all District patrons on the approval of this Policy. The petition must be signed by fifty or more qualified electors within the District (pursuant to ORS 545.199(1)(b)) to be valid and to cause the District to hold a vote. Upon receiving a valid petition, the District shall hold a vote of all District patrons. The vote shall be whether to approve or reject this Policy. The vote shall be conducted according to the laws and procedures that govern District elections.

G. Appeal of Water Conservation Projects. Proposed water conservation projects shall be discussed and approved by the Board at any one of its regularly scheduled Board meetings. Patrons may comment on the proposed water conservation project during the Board meeting at which it is discussed. If the Board approves the proposed water conservation project, any patron in good standing may appeal the Board's decision in writing within two weeks from the date of the Board's decision. The appeal shall include the name, address, and telephone number of the patron appealing the Board's decision, a concise statement of the reasons the patron believes the proposed water conservation project does not comply with this Policy, and a concise statement of how the water conservation project should be modified to comply with this Policy. The Board shall consider a properly filed appeal at its next regularly scheduled meeting. The Board shall limit its consideration to whether the proposed water conservation project complies with this Policy. The patron appealing the Board's decision shall have an opportunity to address the Board concerning the patron's appeal. The Board may take any of the following actions: (1) grant the appeal and reject the proposed water conservation project, (2) modify the proposed water conservation project as proposed by the appealing patron to comply with this Policy, (3) direct the District Manager to modify the proposed water conservation project so as to comply

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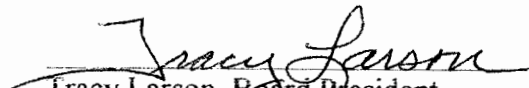
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with this Policy, or (4) reject the appeal and approve the proposed water conservation project as proposed.

H. Policy Review and Updates. The Board shall review and update this Policy at the first regularly scheduled Board meeting following every fifth anniversary of the Board either adopting or reviewing and updating this Policy. The Board may, in its sole discretion, review and update this Policy at any other Board meeting. The Board shall follow the process and provisions of this Policy, as required by OAR 690-018-0025(2), whenever reviewing and updating this Policy.

I. Applicability. This Policy applies only to applications for allocations of conserved water filed with the Oregon Water Resources Department by the District after November 5, 2004. This Policy does not apply to applications for allocations of conserved water filed by individuals, including District patrons.


Tracy Larson, Board President
Walla Walla River Irrigation District

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