

OCHOCO IRRIGATION DISTRICT
Crook County, Oregon

RESOLUTION No. 2019-__

A RESOLUTION ADOPTING A CONSERVED WATER POLICY

The Board of Directors of the Ochoco Irrigation District (Crook County, Oregon) (hereinafter referred to as “the District”) hereby adopts the following Conserved Water Policy.

“Ochoco Irrigation District Conserved Water Policy”

Authority & Purpose for Policy

The Board of Directors (Board) of the District is required to adopt a Conserved Water Policy pursuant to Oregon Administrative Rule (OAR) 690-018-0025. The rule requires that the District 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 the Policy pursuant to applicable statutes governing elections or recalls; and
- Provides District patrons an opportunity to appeal a proposed District conservation project to the District Board for failure to follow this Policy.

Conserved Water Program

Oregon’s “conserved water program” is a voluntary program under which the District may develop a water conservation project and then apply for use of the conserved water. ORS 537.455 through 537.500. This Policy directs how the District will assess proposed water conservation projects and details the required elements of OAR 690-018-0025.

District water conservation efforts benefit all patrons within the District. Water conserved by improving or modifying the District’s water delivery system or practices shall be considered water conserved by the District. All conserved water allocations resultant from District conservation efforts shall be made to the District, subject only to the right of District patrons to fund water conservation efforts as described below.

Conserved Water Application

As a prerequisite to utilizing conserved water under Oregon's conserved water program, the District must submit an application to the Oregon Water Resources Department (WRD) requesting an allocation of conserved water. ORS 537.465. The application must be accompanied by the appropriate fee and there may be costs required to provide notice. There is a state public review process for such applications.

To initiate a water conservation project proposal, District staff shall prepare either (i) the state application form according to WRD requirements, or (ii) a project summary including all project specifications, and an analysis of projected water savings. District staff will provide such application form or project summary, as applicable, to the Board for review and approval. Because every conserved water project is unique, each Board approval shall specify how conserved water shall be used within the District and will describe the allocation of conserved water percentages under ORS 537.470. If approved by the Board, the District may submit an application that is consistent with such approval to WRD for its review.

Allocation of Conserved Water

The Board will observe Oregon law when allocating conserved water, including without limitation the following regulations:

OAR 690-018-0020(4) "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.

OAR 690-018-0012(1) Pursuant to ORS 537.470(3), after determining the quantity of conserved water, if any, required to mitigate the effects on other water rights, the Commission shall allocate 25 percent of the remaining conserved water 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 public sources. If more than 25 percent of the funds used to finance the conservation measures comes from federal or state public sources and is not subject to repayment, the Commission shall allocate to the state a percentage equal to the percentage of public funds used to finance the conservation measures and allocate to the applicant a percentage equal to the percentage of other funds used to finance the conservation measures. In no event, however, shall the applicant receive less than 25 percent of the remaining conserved water unless the applicant proposes a higher allocation to the state.

OAR 690-018-0012(2) A water right affected by an allocation of conserved water under this program shall retain its original priority date. The priority date of the conserved water rights shall be either the same as or one minute after that of the original right.

Patron Funding

District patrons may fund a 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 conserved water allocated to the District by the Commission (the "District Allocation") to which the Funding Patron is entitled under this Policy.

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 turnout(s). A Funding Patron shall be entitled to a portion of the District Allocation equal to the percentage of the funding for the water conservation project paid to the District by the Funding Patron.

Appeal Process

If the Board approves a particular proposed water conservation project, any District patron in good standing may appeal the Board's decision.

Form of Request for Appeal: A District patron wishing to appeal a Board decision to pursue a water conservation project must submit to the Board a request for appeal. All such requests must:

- be in writing;
- be submitted within two weeks following the date of the Board's decision;
- include the name, address, and telephone number of the District patron appealing the Board's decision and a concise statement of the reasons the patron believes the proposed water conservation project should be modified to comply with this Policy.

Upon receiving a properly submitted request, the Board shall consider the appeal at one of the next two regularly scheduled meetings. The District shall provide notice to the requesting patron of the date the appeal will be heard.

Grounds for Appeal: The Board shall limit its consideration to whether the proposed water conservation project complies with this Policy. The District patron appealing the Board's decision shall have an opportunity to address the Board concerning the appeal.

Decision by the Board: On appeal, the Board may make one of the following determinations:

- grant the appeal and reject the proposed water conservation project;
- modify the proposed water conservation project as proposed by the appealing water user;
- direct the District manager to work with the District patron who is appealing the Board's decision for the purpose of modifying the proposed water conservation project so as to comply with this Policy; or

- reject the appeal and approve the proposed water conservation project as proposed.

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 fifteen percent of the total number of votes that may be cast in an election for a director pursuant to ORS 545.189(1) 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.

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.

Applicability

This Policy applies to all applications for allocations of conserved water filed with WRD by the District following the date of adoption described below. Pursuant to OAR 690-018-0025(3), this Policy does not apply to applications for allocations of conserved water filed by individuals, including District patrons.

THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY AND SHALL SUPERSEDE ANY PREVIOUSLY ADOPTED CONSERVED WATER POLICIES.

ADOPTED BY THE BOARD OF DIRECTORS OF OCHOCO IRRIGATION DISTRICT AT A REGULAR MEETING HELD ON THE __ DAY OF NOVEMBER, 2019, BY THE FOLLOWING VOTES.

AYES: _____
NAYS: _____
ABSENT: _____

Wade Flegel, Chairman

ATTEST

Bruce Scanlon
Manager