

Guidelines and Criteria for Implementation of Chapter 90.92 RCW

Adopted 01/05/2010; Amended 04/06/2010

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Chapter 1 – Introduction

This document represents the technical guidance for the implementation of RCW 90.92 by the Walla Walla Watershed Management Partnership (Partnership). The Partnership has two active programs: Local Water Plans and Water Banking. If you are interested in participating in these programs you are encouraged to contact Partnership Staff, or visit the Partnership website, www.wallawallawatershed.org, where information has been compiled for potential participants.

Alternatively, if this technical guidance is of interest to you and you find this document leaves questions unanswered, be reminded that these programs are being administered by a Board and committees specifically crafted to “pilot local water management”. Meaning that it will be the people as much as the guidance document that will guarantee success of the program, but also that the document is part of a pilot program and as such is a living document that will be updated and reviewed as the pilot progresses. If you have specific comments on something that should be considered in the next review please notify Partnership staff at 509.524.5217 or matt.rajnus@wwcc.edu.

Chapter 2 – Local Water Plans

SECTION 1.0 PURPOSE

1.1 Overview

The purpose of this chapter is to establish the processes, guidelines and criteria for filing, review and approval of a local water plan (LWP) under the leadership of the Walla Walla Watershed Management Partnership (Partnership) with the advice of the Water Resource Panel (WRP).

A local water plan is a voluntary water management plan developed by local water right holders to manage their water use in a manner that substantially enhances stream flows in exchange for greater flexibility in exercising their water rights. This guidance is consistent with Chapter 90.92.080 Revised Code of Washington, and is subject to revision as necessary to effectuate the purpose of this Chapter.

[Org. 01/05/2010, Amd. 04/06/2010]

SECTION 2.0 ROLES AND RESPONSIBILITIES

2.1 Applicants

Applicants are responsible for preparation of proposed LWPs. This includes providing all information deemed necessary by the Partnership Board (Board), Staff or WRP to inform the review and approval process.

2.2 Partnership Board

The Board reviews proposed LWPs. Review includes consideration of the advice of the WRP as well as other comments submitted during the public notice period. The Board and the Washington State Department of Ecology (Ecology) must both approve a proposed LWP before approval becomes final. The Board may approve, return for modification or amendment, or deny any proposed LWP.

2.3 Partnership Staff

Staff provide support and assistance to the Board in administering the LWP process. Such support includes coordination between an applicant, the WRP, the Policy Advisory Group (PAG) and the Board. Staff provide pre-proposal support upon request, process submissions pursuant to adopted guidelines and criteria, post requisite public notices, and coordinate the review of proposed LWPs. Additional information may be requested by Staff to ensure the requirements of RCW 90.92.080 are met.

2.4 Water Resource Panel

The WRP provides advice and recommendations to the Board based on a technical review of a proposal. The WRP may also, in the Partnership's discretion, provide technical assistance in developing proposed LWPs.

2.5 Policy Advisory Group

The PAG advises the Board on policy issues. PAG members are notified of proposed LWPs as part of the public comment and notification process. The PAG may also be convened by the Board, at its discretion, to provide input on a proposed LWP.

2.6 State Agencies

Ecology and the Washington Department of Fish & Wildlife (WDFW) may, at their discretion, provide technical and policy assistance in evaluation of proposals. Failure of either Department to provide such assistance does not preclude approval of a local water plan. Ecology and the Board must both approve a proposed LWP before approval becomes final.

[Org. 01/05/2010]

SECTION 3.0 WATER USER ORGANIZATIONAL GUIDELINES

This section provides guidelines on eligibility for submission of a proposed LWP to the Board. A proposed LWP may be submitted by either an individual water users or a group of water users.

3.1 Individual Water Users

Individual applicants must demonstrate the following to the satisfaction of the Board:

3.1.1. *That the applicant owns or otherwise controls the entire place of use of the water right(s) included in the proposed LWP. If the applicant does not own or control the entire place of use, the following must be submitted with the proposal:*

- i) Documentation that conveys authority from all other landowners within the place of use to the applicant such that the applicant has a legally enforceable right to use the water right for the duration of the proposed LWP, or
- ii) Documentation establishing that the applicant has legal control over that portion of a water right that is subject of the LWP.

3.2 Groups of Water Users

3.2.1. *Group applicants must demonstrate the following to the satisfaction of the Board that the applicant group owns or otherwise controls the entire place of use of the water right(s) included in the proposed LWP. If the applicant does not own or control the entire place of use the following must be submitted with the proposal:*

- i) Documentation that conveys authority from all other landowners within the place of use to the applicant group such that the applicant group has a legally enforceable right to use the water right for the duration of the proposed LWP, or
- ii) Documentation establishing that the applicant group has legal control over that portion of a water right that is the subject of the LWP.

3.2.2. *Primary contacts are identified and documented for the group.*

3.2.3. *Individuals with decision making authority for the group are identified.*

[Org. 01/05/2010]

SECTION 4.0 REQUIRED ELEMENTS

This section lists and describes the necessary requirements for a proposed LWP pursuant to RCW 90.92.080(3). This section also includes additional elements the Board requires for LWPs.

4.1 Elements Required by Statute - RCW 90.92.080(3)

The following items are required for final approval of a LWP:

4.1.1. *A determination by the board of the baseline water use for all water rights involved in the local water plan, based on the guidelines adopted by the Board and in consultation with the water resource panel pursuant to RCW 90.92.080(3)(a).*

- i) Baseline Water use will be determined, as outlined in Appendix A. The Board will use this data to calculate and make a final determination on the baseline water use for purposes of the proposed LWP.
- ii) The baseline documents regarding water use that are submitted by the water users may not be used by Ecology to determine the validity of the water rights in any future administrative or regulatory actions {RCW 90.92.080(3)(a)}.
- iii) The applicant may choose to have their baseline water use calculated based on current Ecology guidelines.

4.1.2. *A clearly defined set of practices that provide for flexibility of water use – RCW 90.92.080(3)(b)*

The applicant must provide information that clearly describes how water will be managed within the proposed LWP. This information includes maps, diagrams, and narrative descriptions as necessary to define water management practices under the local water plan including any flexibilities which will be utilized to use and apply water in ways not otherwise authorized in the water right(s). Practices which may be proposed include, but are not limited to:

- i) Change or add to the authorized place of use {RCW 90.92.080(4)(a)};
- ii) Change or add points of diversion or withdrawal {RCW 90.92.080(4)(a)};

- iii) Change the period or season of use for water application {RCW 90.92.080(4)(a)};
- iv) Change or add a source of water supply {RCW 90.92.080(4)(b)};
- v) Implement conjunctive use of surface and ground water sources {RCW 90.92.080(4)(b)};
- vi) Shallow aquifer recharge to supplement shallow groundwater withdrawals or to replenish the aquifer {RCW 90.92.080(4)(c)}

4.1.3. *An estimate of the amount of water that will remain instream long term or during critical flow periods for fish – RCW 90.92.080(3)(c)*

The applicant must provide an estimate of the water that will remain instream in the form of a specified reduction in instantaneous quantity (Qi) or annual quantity (Qa), or reduction during critical flow periods for fish.

- i) If a proposed LWP will leave water instream as a result of reductions in Qi or Qa from the baseline determination, no further information will be required other than an estimate of the instream flow contribution.
- ii) If a proposed LWP will leave water instream during critical flow periods, sufficient information necessary to make such an assertion regarding critical flow periods for fish at the site (Primarily ESA listed fish and Spring Chinook or other native species of interest) will be required.
- iii) If a proposed LWP will provide instream flow by a method other than direct reduction in surface diversion, sufficient information and analysis must be provided to assist in the evaluation of the quantity (Qi), quality and timing of this water for instream flow contribution. Depending on the proposed method such information may include (but is not limited to):
 - (a) Water balance estimates, including surface-groundwater interactions,
 - (b) Site specific hydrologic assessments,
 - (c) Recharge plans for shallow aquifer recharge projects.

4.1.4. *Performance measures and options for achieving reductions in total water use from baseline RCW 90.92.080(3)(d)*

The applicant must identify performance measures and options that quantify proposed reductions in total water use from the baseline, along with timelines for achieving those reductions. These performance measures will be used to assess progress toward achieving reductions in total water use from the baseline, as well as help document the effectiveness of water management changes. Examples of performance measures include irrigation efficiency upgrades and changes to cropping patterns.

4.1.5. *Performance measures for tracking improved stream flows long term or during critical periods for fish– RCW 90.92.080(3)(e)*

The applicant must provide performance measures incorporating the estimated instream flow contribution identified in section 4.1.3, locations at which they will be assessed, and timelines to track progress toward achieving the instream flow contribution. Timelines will be long term or specific to critical flow periods for fish. These performance measures will be used to assess progress toward achieving performance goals and inform efforts to improve stream flows, fish habitat, and other related parameters.

4.1.6. *Measurement, tracking and monitoring measures and procedures that ensure implementation and enforcement of the measures for flexibility of water use, enhancement of the stream flows, and other elements, terms, and conditions in the local water plan. – RCW 90.92.080(3)(f)*

The applicant must describe the measurement, tracking and monitoring measures and procedures to be employed to ensure the implementation and enforcement of the elements, terms and conditions of a LWP. Diversion or withdrawal source metering, stream flow monitoring, groundwater level measurement and operational controls are examples of tools which may be utilized for this process.

4.1.7. *Agree to allow a portion or all of their baseline water use to remain instream, as specified in the approved local water plan – RCW 90.92.080(5)(a)*

The applicant must agree to leave the water identified in 4.1.3 (RCW 90.92.080(3)(c)) instream. This amount will be placed in the water bank under RCW 90.92.070(2)(b).

4.1.8. *Have existing operable water conveyance infrastructure in place and available for use – RCW 90.92.080(5)(b)*

The applicant must describe their existing operable infrastructure for involved water rights. An applicant is not required to have infrastructure in place and available for use that would be required by practices proposed under 4.1.2.

4.1.9. *Identification of where water made available for stream flow enhancement will be deposited – RCW 90.92.080(5)(c)*

By default water made available for stream flow enhancement under 4.1.7 will be placed in the water bank under RCW 90.92.070. The applicant may request that upon approval of a LWP that this be transferred to the State Trust Water Rights Program.

4.1.10. *Commitment Criteria – RCW 90.92.080(5)(e) and RCW 90.92.080(8)*

- i) The minimum term of a proposed LWP is one year. LWPs of greater than 5 years are preferred.
- ii) The maximum term of a proposed LWP will be the expiration date of the authorizing legislation or ten years, whichever is less.

4.2 Elements Required by Board

In addition to statutory requirements, the Board requires the following items for final approval of a LWP:

4.2.1. *Map(s) of Plan Area*

A map, or series of maps, of the project area illustrating the proposal. Map(s) should include:

- i) Delineation of the boundaries of the plan area;
- ii) Place of use and points of withdrawal or diversion of existing water rights;
- iii) Place of use and points of withdrawal or diversion in the proposed LWP;
- iv) Any proposed infrastructure changes;
- v) Approximation of the reach experiencing instream flow improvements;
- vi) Location of the measures to be used for measurement, tracking and monitoring as required under RCW 90.92.080(3)(f);
- vii) Reference to the Township, Range and Section illustrated;

viii) Use of either a published map, USGS quad, or recent aerial photography as a base.

4.2.2. Copies of Water Rights

Copies of all water right documents relevant to the proposed LWP, including provisions and conditions regarding their use and relationship to other water rights.

4.2.3. Contingencies

Applicants must identify any and all items on which implementation of the proposed LWP is contingent such as funding, permitting requirements, third party agreements, infrastructure changes, etc.

[Org. 01/05/2010]

SECTION 5.0 FILING PROCESS

This section provides guidelines and criteria for filing a proposed LWP. Applications will be posted at www.wallwallawatershed.org.

5.1 Guidelines for Filing

5.1.1. Pre-Proposal Meeting with Staff (Optional, but recommended)

- i) Staff meets with applicant to provide assistance with the proposed LWP to ensure it is consistent with RCW 90.92.080.
- ii) Staff may address concerns and suggest changes or request additional information or data needs.

5.1.2. LWP Proposal Submitted to Staff

- i) Staff reviews LWP proposal for completeness and may request additional information from the applicant.

5.1.3. Staff Files LWP Proposal

- i) Staff may file a complete LWP proposal consistent with the filing criteria (section 5.2)
- ii) Staff makes the LWP proposal available to the Board.
- iii) Staff refers the filed LWP proposal to the Water Resource Panel for review, comment and recommendation consistent with Section 6.0.
- iv) Staff prepares and provides public notice of the proposed LWP pursuant to RCW 90.92.090.

5.2 Criteria for Filing

5.2.1. *A proposed LWP must contain, in adequate detail, the required elements outlined in Sections 3-5. {RCW 90.92.080(3)}*

[Org. 01/05/2010]

SECTION 6.0 REVIEW PROCESS

This section provides guidelines and criteria for the review and evaluation of proposed LWPs.

6.1 Guidelines for LWP Proposal Review

6.1.1. WRP Evaluation of LWP Proposal

- i) WRP provides technical evaluation of proposal for compliance with criteria described in Section 6.2 and adherence to {RCW 90.92.080}.
- ii) WRP will advise on the baseline water use determination. {RCW 90.92.080(3)(a)}
- iii) WRP may request additional information or data from applicant.
- iv) WRP may consider any public comment received under section 5.1.3.iv. {RCW 90.92.090(1)}
- v) WRP issues a report containing advice to the Board. If consensus is not reached by WRP, a minority report may be submitted to the Board.

6.1.2. Preparation of a Draft LWP

- i) Staff will incorporate the following into a draft LWP:
 - (a) The proposed LWP document,
 - (b) The WRP Report,
 - (c) A summary of how and when procedural steps have been completed,
 - (d) A general Terms & Conditions section.

6.1.3. Review of a Draft LWP

- i) The draft LWP developed under 6.1.2 will be utilized for SEPA,
- ii) The Board will review a Draft LWP based on the Criteria in 6.2,
- iii) The Draft LWP will be jointly reviewed with the Participant and Ecology, the purpose of this review will be:
 - (a) Discuss and incorporate any necessary response to SEPA
 - (b) Negotiate additional (non-template) terms & conditions as necessary:

6.2 Criteria for Technical Evaluation of Proposed LWP

Review of a draft LWP will be based on the following:

- 6.2.1.** *The proposed LWP must substantially enhance instream flow conditions. {RCW 90.92.090(2)}*
- 6.2.2.** *The LWP must not impair other existing water rights, unless written approval is obtained by all owners of impaired water rights. (RCW 90.92.120(1)(c))*
- 6.2.3.** *Public comments and concerns must be taken into consideration in the proposed LWP.*
- 6.2.4.** *The total water use proposed under the LWP must not exceed the Baseline Water Use Determination.*
- 6.2.5.** *The LWP must be economically sustainable for the duration of the proposed project*
[Org. 01/05/2010]

SECTION 7.0 APPROVAL PROCESS

This section provides guidelines and criteria for approval of a proposed LWP.

7.1 Board Approval Guidelines

7.1.1. Prior to Board action:

- i) A Final LWP based on the outcomes of the joint review under 6.1.3.iii), has been prepared by Staff and reviewed by the Board.

7.1.2. Potential Board actions:

- i) Deny the LWP
- ii) Approve the Final LWP

Upon Board approval, the LWP will be signed by the Executive Director.

7.2 Criteria for Board Approval

Board approval of a Final LWP is contingent on the following:

- 7.2.1.** *The LWP must contain, in adequate detail, the required elements outlined in Section 3. {RCW 90.92.080(3)}*
- 7.2.2.** *The LWP must substantially enhance instream flow conditions. {RCW 90.92.090(2)}*
- 7.2.3.** *The LWP must not impair existing out of stream water rights, unless written approval is obtained by the owners of the impaired water rights. {RCW 90.92.120(1)(c)}*
- 7.2.4.** *The LWP must not impair existing instream flow rights unless the Board and Ecology agree that the benefits provided by the LWP outweigh the impacts on existing instream flow rights. {RCW 90.92.120(1)(c)}*
- 7.2.5.** *Public comments/concerns must be taken into consideration in the LWP.*
- 7.2.6.** *The total water use proposed under the LWP must not exceed that which was determined to have been used in the Baseline Water Use Determination.*
- 7.2.7.** *The LWP must be economically sustainable for the duration of the proposed project.*
- 7.2.8.** *The State Environmental Policy Act (SEPA) requirements have been met.*

[Org. 01/05/2010]

SECTION 8.0 REPORTING GUIDELINES

This section provides guidance regarding annual reporting guidelines, which outline the required content of the report and timeline for submittal.

8.1 Reporting Frequency

The LWP water user contact is required to submit an annual report (“Report”) to the Board.

- 8.1.1.** *Unless otherwise mandated by the Board, the initial Report is due January 15th of the year after the LWP contract is signed, and then by January 15th every year thereafter for the length of the contract.*
- 8.1.2.** *The report may be submitted electronically.*

8.2 Information Required for Annual Report

The Report should contain the following information:

- 8.2.1.** *Monitoring data results and analysis*
 - i) Groundwater levels within boundaries of the LWP,
 - ii) Stream flows upstream and downstream of the boundaries of the LWP,
 - iii) Water diversion or withdrawal meter data (data-logging required),
 - iv) Portion of baseline water use contributed to instream flow, and
 - v) Other measurements, tracking and monitoring tasks required in the LWP,
 - vi) Photo documentation of the project area.

8.2.2. Project evaluation

- i) Successes realized,
- ii) Problems encountered,
- iii) Reports on non-compliance of any LWP provisions,
- iv) Proposed changes to LWP provisions or conditions,
- v) Updates on any projects related to the LWP.

[Org. 01/05/2010, Amd 04/06/2010]

SECTION 9.0 DISPUTE RESOLUTION & REVOCATION PROCESS

This section provides a dispute resolution process for water users, the Board, and Ecology.

9.1 Initiation of Dispute Resolution Process

9.1.1. *The dispute resolution process in 9.2 will be initiated by any of the following:*

- i) A complaint submitted to the Board by a water user or group of users participating in an approved LWP concerning a violation of the terms and conditions of a LWP that specifically requests the matter be resolved through the dispute resolution process.
- ii) A determination by the Board that a violation of the terms and conditions of an approved LWP has occurred.

9.1.2. *An impairment claim submitted to the Board will follow the process in 9.2.*

Such claim may also be filed with Ecology {RCW 90.92.100(2)}

9.1.3. *Determinations that a LWP is ineligible for filing under Section 5.0, not recommended for approval under Section 6.0, or denied by the Board under Section 7.0 may be appealed to the Board in a public meeting. A decision by the Board shall be final.*

9.1.4. *Any person not party to an approved LWP may appeal the decision directly to the Pollution Control Hearings Board {RCW 90.92.100}.*

9.2 Dispute Resolution – Non-Compliance with Terms and Conditions

A LWP will adhere to the following process for dispute resolution and revocation related to non-compliance

9.2.1. *The Board at its discretion may seek compliance with a LWP that is not in compliance with its terms and conditions. However, failure to seek compliance does not waive the right of the Board to seek compliance at a later time. {RCW 90.92.090(4)}*

9.2.2. *If the Board determines that the LWP is not in compliance with its terms or a participant submits a complaint alleging violations of the terms and conditions of a LWP, the following dispute resolution process must be invoked to seek compliance and resolution.*

- i) *Staff shall collect and compile all available information and data related to the complaint and make it available to the Board and the Participant. Staff shall contact and seek input from all interested parties, including Ecology and the Participant. If the dispute or complaint is in regard to Board action, the Board shall proceed to selection of a neutral third party facilitator under 9.2.2.iv.*

- ii) *Staff will facilitate meetings and discussions between the Board and affected parties in an attempt to resolve the dispute. Staff will have up to 30 days to work with affected parties to achieve resolution, in coordination and consultation with the Board and Ecology.*
- iii) *If the staff efforts are unsuccessful, the Board shall appoint a committee, which may include one or more members of the Board, WRP and Ecology to hold discussions with the affected parties in order to seek resolution of the dispute. The committee shall have 30 days to seek resolution and may ask for one 30 day extension by the Board. The decision of the committee must be unanimous and will be binding on the parties. If the committee cannot make a unanimous decision, a neutral third party shall be employed as provided in section iv).*
- iv) *The Board or Ecology may decide to employ a neutral third party ('facilitator') to facilitate discussions and mediate possible resolutions to the dispute. If a facilitator is requested by the Board:*
 - (a) *The Board will provide Ecology and water users with a list of potential candidates to serve as a facilitator. All parties must agree on the selection.*
 - (b) *The parties will each submit reports detailing their respective positions regarding the dispute. Reports shall be provided to each party and to the agreed upon facilitator. The reports shall be submitted to all parties no later than 14 days after the facilitator has been employed.*
 - (c) *Meetings and discussions will be arranged by the facilitator. This process will have up to 60 days to reach resolution to the complaint.*
 - (d) *Facilitator costs will be born equally by: the Partnership, Ecology, and water users participating in the LWP.*
 - (e) *The facilitator shall provide the guidelines and process for the discussions.*
 - (f) *The decision of the facilitator will be final.*

9.2.3. *All negotiations, submitted reports and documents shall remain confidential and cannot be used by any party for purposes other than negotiations.*

9.2.4. *If the Board determines the dispute cannot be resolved and there has been a violation of the terms of the LWP by the participants of a LWP, the Board may revoke the LWP for noncompliance with its terms and conditions. {RCW 90.92.090(4)}*

The Board may make the revocation of the LWP effective immediately, or at some future date, but in no case any later than the end of the irrigation season during which the revocation action takes place.

9.2.5. *If the Board revokes a LWP due to noncompliance, the water users in the LWP must thereafter exercise the water rights only as the water rights were authorized and conditioned prior to the approval of the LWP, and all rights and duties that were terms in the LWP lapse and are not valid or enforceable. {RCW 90.92.090(4)}*

9.3 Dispute Resolution - Impairment Claims

9.3.1. *A water rights holder who believes the holder's water right has been impaired by any action under Chapter 90.92 may submit a complaint to the Board and follow the process outlined in Section 9.2, above, or may directly request that Ecology review the impairment claim. {RCW 90.92.100(2)}*

9.3.2. *If Ecology receives an impairment review request, and determines that some action under Chapter 90.92 is impairing existing water rights, Ecology, the Board, and the water users must amend the LWP to eliminate the impairment, unless express written approval is obtained from the holder of the impaired water right allowing for the injury to that right. {RCW 90.92.100(2)} {RCW 90.92.120(c)}*

- i) *Amendment to the LWP must be agreed upon by Ecology, the Board, and water users associated with the LWP. If agreement on an amendment to the LWP to eliminate the impairment cannot be reached, the LWP will be considered out of compliance with its terms and conditions and subject to revocation by the Board.*

[Org. 01/05/2010]

APPENDIX A – BASELINE WATER USE DETERMINATION

The purpose of the baseline determination is to quantify the historic beneficial use of water to meet the goal of Local Water Plans [LWP]. The goal is to enhance stream flows through implementation of LWPs utilizing a process that encourages and provides incentives for water users to participate in development of those plans. The baseline determination is intended to be a flexible principle. A baseline determination is specifically not meant to be a determination of the legal extent and validity of a water right (See 90.92.120(1)(a)). However, LWPs must result in enhanced flows; as such the WRP will make recommendations and the Board will provide a final ruling on whether a LWP meets this criteria.

Data Provided by Applicant per Guidance Document – Section 4.1.1

The data below is required to be submitted to the extent it is available. Data requirements may be modified or alternative methods may be used on a case by case basis if recommended by the WRP or otherwise required by the Board.

1. Pump or motor information, e.g. size, make, model, pump set depth
2. Irrigation scheduling information, Including data such as: application method(s), line spacing, set times, nozzle size, number of sprinklers operating pressures
3. Crop records, Farm Service Agency (FSA) crop records preferred (acres & crop type)
4. Dated aerial photographs which delineate area included in the proposed LWP

Procedures for Baseline Water Use Determination:

Calculations for water use are to be made for up to the 15 most recent years preceding the submittal of the proposed LWP.

1. Determine the Qi (instantaneous pumping capacity) of the current system
 - a) Irrigation system inventory (sprinklers, nozzle size, pressure, pump curve)
2. Acreage Determination
 - a) FSA records/maps, GIS, GPS, Aerial maps
3. Determine the Qa (duty) of the highest use crop
 - a) Look back up to 15 years to see the crop history
 - b) Determine Washington Irrigation Guide (WIG) crop irrigation requirements for highest use crop
 - c) Divide the WIG number for that crop by the efficiency of the existing irrigation system.

Flood ¹	50%	Hand Set / Wheel Lines	75%	Pivots	80%-90%
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Alternate Procedures (Acreage Expansion/ Purpose of Use/ Trust Water Right):

1. If irrigated acres or purposes of use, other than aquifer replenishment, are proposed to be added to right, the baseline water use will be calculated following the procedure in RCW 90.03.380(1), except that there will be no averaging; calculated or estimated return flows are subtracted from the highest one year of use within the period described to arrive at annual consumptive quantity (ACQ), which then constitutes the baseline water use for purposes of the LWP.
2. If water identified for stream flow enhancement in the proposed LWP is requested to ultimately be placed into the Trust Water Right Program, the baseline water use will be calculated consistent with Chapter 90.42 RCW.

[Org. 01/05/2010, Amd. 04/06/2010]

¹ Further efficiency numbers are available at: <http://www.ecy.wa.gov/programs/wr/rules/images/pdf/guid1210.pdf>

APPENDIX B – PUBLIC NOTICE TEMPLATE

BEFORE THE WALLA WALLA WATERSHED MANAGEMENT PARTNERSHIP BOARD WALLA WALLA, WASHINGTON

Notice of Proposal for a Local Water Plan (SUMMARIZE PROPOSED CHANGES TO WATER RIGHTS).

TAKE NOTICE: That on (INSERT DATE), (INSERT APPLICANT(S) NAME) of (INSERT LOCATION) filed a proposal for a Local Water Plan with the Walla Walla Watershed Management Partnership to (DESCRIBE PROPOSED CHANGES AND CERT/PERMIT NUMBER OF WATER RIGHT).

That said right, under priority date of (INSERT DATE), authorizes diversion/withdrawal of up to (INSERT QUANTITIES) cubic feet per second/gallons per minute, (INSERT QUANTITY) acre-feet per year from (INSERT SOURCE) at a point located within the (INSERT LOCATION OF DIVERSION/WITHDRAWAL). That said right authorizes water to be used for (INSERT PURPOSE OF USE) from (INSERT SEASON OF USE) within the following legal description: (INSERT LEGAL DESCRIPTION OF PLACE OF USE).

The applicant proposes to change the (DESCRIBE PROPOSED CHANGES).

Any person wishing to formally comment on this proposal for a Local Water Plan may do so by filing written comments with the Walla Walla Watershed Management Partnership office located at the Water & Environmental Center, Walla Walla Community College, 500 Tausick Way, Walla Walla, WA., within thirty (30) days from (INSERT DATE OF INITIAL POSTING).

Any interested party may submit comments and other information to the Walla Walla Watershed Management Partnership Board regarding this application. The comments and information may be submitted in writing or verbally at any public meeting of the board held to discuss or decide on the application. This application will be on the board agenda during its regular meetings to normally be held on the first Tuesday of each month until completion of application (check website for current meeting dates and agenda (<http://www.wallawallawatershed.org/calendar>)). Note: This notice does not constitute notice of a meeting for the purposes of the Open Public Meetings Act, RCW 42.30.

[Org. 01/05/2010]

Chapter 3 – Water Banking – non-use agreements

SECTION 1.0 PURPOSE

1.1 Overview

The purpose of this chapter is to establish the guidelines and criteria for water non-use agreements; a type of water banking agreements under the leadership of the Walla Walla Watershed Management Partnership (Partnership). A water non-use agreement is any agreement under RCW 90.92.070(2)(a) where the water right holder submits a water banking non-use application (application) and it is approved by the Board to not use a portion or all of their water right, or under RCW 90.92.070(2)(b) as part of the approval of a LWP. Water banked under this chapter will be for instream flow use only and will not be available for re-allocation or as mitigation for other uses. This guidance is consistent with Chapter 90.92 Revised Code of Washington, and is subject to revision as necessary to effectuate the purpose of this Chapter.

[Org. 01/05/2010, Amd. 04/06/2010]

SECTION 2.0 ROLES AND RESPONSIBILITIES

2.1 Water Right Holders

Interested water right holders are responsible for preparation of an application providing all information deemed necessary by the Partnership Board (Board) to inform the review and approval process.

2.2 Partnership Board

The Board accepts, acquires, or otherwise approves or denies entry of water rights into the water bank.

2.3 Partnership Staff

Staff pursues participation in the program at the direction of the Board, and prepares necessary documentation for the Board to take action.

2.4 Water Resource Panel

The Water Resource Panel (WRP) will be available to give advice on water banking issues as requested by the Board.

2.5 Policy Advisory Group

The Policy Advisory Group (PAG) will be available to give advice on water banking issues as requested by the Board.

2.6 Ecology

Ecology may be requested to accept the transfer of a permanent trust water right under RCW 90.92.070(3)(b).

[Org. 01/05/2010, Amd. 04/06/2010]

SECTION 3.0 REQUIRED ELEMENTS

This section lists and describes the elements necessary for an application.

3.1 Elements Required by Statute - RCW 90.92.070(1-6)

By statute, an application must contain the following:

3.1.1. *Identification of a temporary or permanent basis for participation. {RCW 90.92.070(1)}*

3.2 Elements Required by Board

The Board requires that an application also contain the following:

3.2.1. *Copies of Water Rights*

Applicants must provide copies of all relevant water right documents, including provisions and conditions regarding their use and relationship to other water rights.

3.2.2. *Contingencies*

Applicants must identify any and all items on which the water banking agreement is contingent such as funding, permitting requirements, third party agreements, infrastructure changes, etc.

3.2.3. *Commitment Criteria*

- i) There is no minimum term, but longer terms will be preferred.
- ii) The maximum term will be the expiration date of the legislation.

[Org. 01/05/2010, Amd. 04/06/2010]

SECTION 4.0 FILING PROCESS

This section provides guidelines and criteria for the filing of an application for Board approval.

4.1 Guidelines for Filing

4.1.1. *Water Right Holder completes an application including the information identified in Section 3.*

4.1.2. *Application is considered filed upon successful completion of staff review.*

4.2 Criteria for Filing

4.2.1. *The application must contain, in adequate detail, the required elements outlined in Section 3.*

[Org. 01/05/2010, Amd. 04/06/2010]

SECTION 5.0 REVIEW PROCESS

This section provides guidelines for the review and evaluation of an application.

5.1 Guidelines for Review

5.1.1. *Necessary documentation submitted to the Board*

- i) Staff will submit necessary documentation to the Board no later than five days prior to a regularly scheduled Board meeting.
- ii) The Board may take action without further review.

SECTION 6.0 APPROVAL PROCESS

This section provides guidelines for approval of an application.

6.1 Approval Guidelines

6.1.1. *The Board may:*

- i) *Request additional information from water right holder, Staff, WRP or PAG*
- ii) *Take action to approve or deny an application.*

[Org. 01/05/2010, Amd. 04/06/2010]

SECTION 7.0 REPORTING GUIDELINES

This section provides guidance regarding reporting guidelines which outline the required content of the report and timeline for submittal.

7.1 Reporting Frequency

The water right holder will be responsible to submit a report.

7.1.1. *Unless otherwise mandated by the Board, annual reports will be required, with the initial Report to be due January 15th of the year after the application is approved, and then by January 15th every year thereafter for the length of the agreement.*

7.1.2. *The report may be submitted electronically.*

7.2 Information Required for Report

The Report will contain the following information:

7.2.1. *Monitoring data results*

7.2.2. *Project evaluation*

- i) *Report of any non-compliance.*
- ii) *Proposed changes to provisions/conditions.*

[Org. 01/05/2010, Amd. 04/06/2010]