



Walla Walla Watershed Management Partnership

For Fish ■ For Farms ■ For Everyone ■

Title: Gardena Farms Irrigation District #13 Local Water Plan Agreement

Number: LWP-10-01

Local Group: Gardena Farms Irrigation District #13

The Gardena Farms Irrigation District #13 Local Water Plan (LWP) Agreement is between the local group, identified as Gardena Farms Irrigation District #13; the water management board, established as the Walla Walla Watershed Management Partnership; and the Washington State Department of Ecology. The Local Water Plan is subject to all conditions and provisions of Chapter 90.92 RCW effective upon signature by all parties and authorized for implementation through June 30, 2016.

Part A - Introduction

This document is a Local Water Plan approved in accordance and consistent with Chapter 90.92 RCW. The primary purpose of the Gardena Farms Irrigation District #13 LWP is to enhance instream flow conditions in that reach of the Walla Walla River between the Gardena Farms Irrigation District #13 (GFID) diversion and several alternate points of diversion (POD) located approximately 15 miles downstream, below the confluence with the Touchet River. This would be accomplished by foregoing diversion of water at the existing GFID diversion and subsequently diverting the same amount of water downstream at the alternate PODs. The lands to be irrigated will be the same as those irrigated under existing practices.

There is an additional element to the LWP that will authorize shallow aquifer recharge (SAR) to occur during periods of high flows. Shallow aquifer recharge will in part mimic the natural function of floodplain in recharging the alluvial aquifer, and will help compensate for water that would normally be lost to seepage during conveyance through GFID system of ditches or from ground water withdrawals (for which there are current water rights) that might be substituted for surface water under this LWP.

It is not the intent of this LWP to increase the amount of water used or the number of acres irrigated by GFID. Rather the intent of this LWP is to allow more water to flow through a critical habitat reach of the Walla Walla River during low flow periods before being diverted for irrigation purposes, and to authorize diversion of water during periods of higher stream flows to provide environmental enhancement by mimicking the shallow groundwater recharge function formerly completed by natural flooding of the floodplain and/or seepage losses from unlined ditches. This LWP improves instream flow conditions in the Walla Walla River during fish critical times, and grants flexibility to irrigators by allowing for alternate points of diversion.

Implementation of the LWP will not result in enlargement of the local group's existing surface water rights. The local group will pilot local water management through June 30, 2016 under the

Gardena Farms Irrigation District #13 Local Water Plan, complying with monitoring and reporting requirements, and operating consistent with the baseline water determination and existing rules and regulations.

The Local Water Plan will enhance flows in a critical reach for Steelhead, Spring Chinook and Bull Trout. The execution of this LWP will not result in any impairment to existing water rights or instream flows.

Figure 1. Gardena Farms Irrigation District #13 Local Water Plan Project Area



Part B - Local Water Plan

1. PROCESS

The Gardena Farms Irrigation District #13 Local Water Plan process information and documentation are available on the Walla Walla Watershed Management Partnership (Partnership) website at <http://www.wallawallawatershed.org/projects/local-water-plans/126-lwp-10-01-gfid>. The LWP follows all requirements of Chapter 90.92 RCW and the Partnership's adopted guidelines and criteria for filing, review and approval of a local water plan.

- As filed on February 22, 2010, the Gardena Farms Irrigation District #13 Local Water Plan proposed to add shallow aquifer recharge as a beneficial use, and add alternate downstream points of diversion. The proposal is available at: http://www.wallawallawatershed.org/downloads/Partnership/LWP/10-01/10-01_Local-Water-Plan-Proposal.pdf.
- Public notice and solicitation of comments by the Walla Walla Watershed Management Partnership was provided through the posting of public notice on the Partnership website from February 22, 2010 to March 24, 2010. One comment was received, and was considered during development of the final Local Water Plan. The comment is available at: http://www.wallawallawatershed.org/downloads/Partnership/LWP/10-01/10-01_Comments.pdf. The Partnership response is available at:

http://www.wallawallawatershed.org/downloads/Partnership/LWP/10-01/10-01_Response-Public-Comments.pdf.

- The Water Resource Panel convened three meetings to review the Local Water Plan proposal and comments, which led to modifications and clarifications in the final Local Water Plan and issuance of a Water Resource Panel report on March 18, 2011, available at: http://www.wallawallawatershed.org/downloads/Partnership/LWP/10-01/10-01_WRP-Report.pdf.
- The Local Water Plan will enhance flows in a critical reach for fish species in life stages to include Steelhead parr, smolts and adults; Spring Chinook smolts and adults; and, Bull trout sub-adults and adults. The impairment analysis completed in review of this proposal demonstrated no impairment to existing water rights, including instream flows.
- The Local Water Plan was reviewed under the State Environmental Policy Act (SEPA). A Local Water Plan is subject to a SEPA threshold determination (i.e., an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met.
 - It is a surface water right application for more than 1 cubic feet per second, unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cubic feet per second, so long as that irrigation project will not receive public subsidies;
 - It is a groundwater right application for more than 2,250 gallons per minute;
 - It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;
 - It is a part of a larger proposal that is subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA);
 - It is part of a series of exempt actions that, together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

This LWP meets the threshold for groundwater. The Department of Ecology as lead agency has determined that this proposal does not have a probable significant adverse impact upon the environment. A Final Determination of Non-Significance was filed on (April 25, 2011) and is available at: http://www.wallawallawatershed.org/downloads/Partnership/LWP/10-01/10-01_SEPA.pdf

2. EVALUATION CRITERIA

The parties considered mandatory evaluation criteria under Chapter 90.92 RCW and find that the Gardena Farms Irrigation District #13 Local Water Plan:

- contains, in adequate detail, the required elements outlined in RCW 90.92.080(3);
- substantially enhances instream flow conditions {RCW 90.92.090(2)};
- does not impair existing out-of-stream water rights {RCW 90.92.120(1)(c)};
- flow benefits provided outweigh any impacts on existing instream flow rights {RCW 90.92.120(1)(c)};
- considered public comments/concerns;
- does not exceed total water use which was determined to have been used in the Baseline Water Use Determination;

- is economically sustainable for the duration of the proposed project; and,
- meets State Environmental Policy Act (SEPA) requirements.

3. WATER RIGHTS AND BASELINE DETERMINATION

The Gardena Farms Irrigation District #13 Local Water Plan includes a determination by the Walla Walla Watershed Management Partnership of the baseline water use (Table 1) under Walla Walla River Adjudication Certificate No. 406 (Appendix A), consistent with guidelines adopted by the Partnership and in consultation with the Water Resource Panel.

Table 1. GFID #13 LWP Baseline Water Use Determination

WWRAC #406		
Instantaneous	4/1-6/30	93.33 cfs
Quantity	7/1-9/30	70 cfs
	10/1-3/31	100cfs
Annual Quantity	35,000 acre-feet Certificated	
	27,517 acre-feet highest use ¹	

¹ The fifteen year highest use is below the certificated right of 35,000 acre-feet due to seasonally low amounts of water in the Walla Walla River during summer and fall months, generally negating irrigation by GFID#13 in those months and due to Settlement Agreement bypass flows.

Water use under the Local Water Plan does not exceed the baseline quantities identified in Table 1.

Table 2. Baseline Water Remaining Instream

WWRAC #406		
Instantaneous	4/15-6/30	Up to 20 cfs
Quantity	10/1-12/31	Up to 20 cfs
Annual Quantity	Up to 6,613 acre-feet	

4. APPROVAL OF PROPOSED FLEXIBILITIES

The parties, under authority of Chapter 90.92 RCW, approve the flexibilities of use and application of water related to WW River Adjudicated Certificate #406 (Table 3) and those lands within the boundaries of Gardena Farms Irrigation District No. 3 for a term to run through June 30, 2016.

Table 3. Flexibilities in Use and Application of Water

WWRAC #406	
(1) Add Purpose of Use (up to 5 cfs)	Shallow Aquifer Recharge (SAR): Storage and infiltration of surface water to the shallow groundwater aquifer for the purpose of improving alluvial aquifer and river base flow conditions.
(2) Additional PODs	This flexibility authorizes use of up to 13 alluvial aquifer wells and 4

(up to 20 cfs)	surface water diversions as alternate PODs for up to 20 cfs. This will allow for water to be left instream for approximately 15 miles, while allowing GFID patrons to divert/withdraw water near the place of actual use.
(3) Banking/Use of Bypass Flows	Local Group would Bank minimum instream flows of 19 cfs from January 1 to June 30, and 18 cfs from July 1 to December 31 maintained past the GFID existing POD. Up to 5 cfs of this banked water could be diverted and used at the additional PODs located below the confluence of the Walla Walla and Touchet Rivers.

(1) **SAR:** With the addition of SAR as a purpose of use to WW River Adjudicated Cert. No. 406, the Local Group may divert up to 5 cfs for SAR purposes from December 1-May 31. Any diversion for SAR is subject to instream flows of 95 cfs from December 1-January 31 and 150 cfs from February 1-May 31, as measured at the Ecology Detour Road Gage (32A100). The maximum diversion rate for SAR is not to exceed 5 cfs, and the combined total diversion rates for SAR and irrigation purposes shall not exceed those quantities defined in the Baseline Water Use Determination. Any SAR project operating under this provision must have an Ecology approved monitoring and testing plan. The approval of this monitoring and testing plan will be independent of this agreement and the approval of the Partnership

(2) **Additional PODs:** This LWP allows for the use of up to 13 alluvial aquifer wells and 4 surface water diversions from April 15-June 30 and October 1-December 31. These additional points of withdrawal and diversion identified in Table 4 are located below the confluence of the Walla Walla and Touchet Rivers, approximately 15 miles downstream from the existing POD. The maximum quantity of water that may be conveyed to these additional points shall not exceed 20 cfs. Implementation of this flexibility is at the discretion of the Local Group). This element would improve instream flows in the mainstem Walla Walla River through an important habitat reach for salmonids, and allow downstream patrons to irrigate from diversion points and wells located at or near the actual place of use, as opposed to having to convey the water through nearly 15 miles of canal.

Table 4. GFID #13 Local Water Plan Additional PODs/POWs

POW	Longitude	Latitude	POD	Longitude	Latitude
Well	-118.7019	46.0207	Diversion	-118.7080	46.0304
Well	-118.6800	46.0204	Diversion	-118.6844	46.0340
Well	-118.6917	46.0167	Diversion	-118.7294	46.0277
Well	-118.7018	46.0140	Diversion (Approximate)	-118.7226	46.0246
Well	-118.6839	46.0239			
Well	-118.7084	46.0177			
Well	-118.7237	46.0211			
Well	-118.6827	46.0066			
Well	-118.6971	46.0185			
Well	-118.7245	46.0120			
Well	-118.7232	46.0115			
Well	-118.7133	46.0082			

Well -118.7151 46.0129

Alternate PODs may only be utilized when water is available at the primary diversion. The combined diversion rates and duties, alternate PODs plus Primary POD, shall not exceed the Baseline Water Use Determination of this LWP, and will not result in the enlargement of the existing surface water right. For every cfs and fraction thereof left in-stream at the primary diversion, an equal amount will be available at the alternate PODs/POWs.

(3) **Banking/Use of Bypass Flows:** GFID voluntarily maintains a daily average bypass flow past their existing POD of 19 cfs from January 1-June 30 and 18 cfs from July 1-December 31 at the Beet Road gage (32A105). These bypass flows will be placed in the Partnership Water Bank and allowed to remain instream. Currently, there is no diversion by GFID of any of the bypass flows. This LWP allows the flexibility of the Local Group to divert up to 5 cfs at one or more of the authorized additional PODs located below the confluence of the Walla Walla and Touchet Rivers. Any quantity diverted, up to the 5 cfs maximum, would still be counted as instream flow for purposes of accounting for bypass flows.

The Local Group shall implement the flexibilities in water use in compliance with the Terms and Conditions, Part C of the Local Water Plan, and adhere to the following duties and obligations as a condition of this agreement:

1. Additional PODs/Conjunctive Use

- a. Implementation is limited to April 15 - June 30 and October 1 - December 31;
- b. Diversion at alternate PODs is limited to a maximum rate of 20 cfs;
- c. For every cfs and fraction thereof left in-stream at the primary diversion, an equal amount will be available at the alternate PODs;
- d. A bypass flow, based on daily average flows at the Ecology Beet Road gage (32A10), of 19 cfs from January 1 - June 30 and 18 cfs from July 1 - December 31, shall be placed in the Partnership Bank and not diverted, except as provided below;
- e. Between October 1 and November 30, when bypass flows are in effect, up to 5 cfs of the water bypassed may be diverted at the additional PODs authorized through this plan, but still be accounted for as bypass water.
- f. No water shall be diverted at alternate PODs unless water is available, physically and legally, for the equivalent diversion at the primary POD
- g. The combined diversions, alternate PODs plus the Primary POD, shall not exceed Baseline Water Use as determined within this LWP.

2. Shallow Aquifer Recharge

- a. Up to five (5) cfs of the Baseline Water Use may be diverted and used for SAR, with the following conditions:
 - i. Implementation shall be limited to December 1 – May 31;
 - ii. Flows at the Ecology Detour Road Gage (32A100) must be above 95 cfs from December 1 – January 31 and 150 cfs from February 1 – May 31;

- iii. Total instantaneous diversions or withdrawals from all points for the combined SAR and irrigation uses shall not exceed those amounts delineated in the Baseline Water Use;
- iv. Any SAR project operating under this LWP must have an Ecology approved monitoring and testing plan. The approval of this monitoring and testing plan will be independent of this agreement and the approval of the Partnership.

3. General Conditions

- a. Quantities of water diverted under this LWP shall not exceed Baseline Water Use as defined herein;
- b. All withdrawals/diversions of water operating under this LWP shall have functioning data-logging meters installed.
- c. All water rights and uses authorized through this LWP will continue to be subject to regulation under existing laws, rules and court decrees;
- d. An annual report shall be produced and submitted consistent with Partnership reporting guidelines for the period of 10/1-9/30, by 11/15 of each year beginning in 2011 providing:
 - i. Meter data for water use under the LWP, both instantaneous and total, separately for all participating points of withdrawal/diversion;
 - ii. Daily average flows above and below the boundaries of the LWP;
 - iii. Groundwater levels within the boundaries of the LWP;
 - iv. Photo documentation of the LWP;
 - v. LWP project evaluation

Part C - Terms and Conditions

1. REQUIREMENTS OF RCW 90.92

- a. All actions by any of the parties must be consistent with the specific requirements of Chapter 90.92 RCW.

2. PROTECTION OF LOCAL GROUP'S WATER RIGHTS

- a. The water rights in the Local Water Plan as authorized for the uses described in Part B of the Local Water Plan are:
 - i. Not subject to either the approval of Ecology under RCW 90.03.380 through 90.03.390, 90.44.100, and 90.44.105, or a tentative determination of the validity and extent of the water rights;
 - ii. Not subject to loss by forfeiture under RCW 90.14.130 through 90.14.200 during the period of time from when the Local Water Plan is approved to the expiration or nullification of the Local Water Plan as provided in Part B of the Local Water Plan; and
 - iii. Not to be exercised in a manner that would result in injury or detriment to other existing water rights unless express written approval is obtained from the holder of the impaired water right. To allow impacts to existing instream flow rights, the Partnership and Ecology must agree that the flow benefits provided the Local Water Plan outweigh the impacts.

- b. The years during the period of time when the Local Water Plan is operational may not be considered or calculated as a period of time that the water was not applied to use for purposes of RCW 90.14.130 through 90.14.200. Further, the years during this period of time under the rights subject to the Local Water Plan may not be considered or calculated as a period of time that the water was not applied to use and for purposes of future applications to change the water right for additional purposes or acreage under RCW 90.03.380.

3. PROTECTION OF OTHER WATER RIGHTS EXCLUSIVE OF LOCAL GROUP'S WATER RIGHTS

- a. Nothing in this Local Water Plan authorizes the impairment of existing water rights.
- b. A water rights holder who believes the holder's water right has been impaired by any action under this Local Water Plan may request that Ecology review the impairment claim. If Ecology determines that some action under this Local Water Plan is impairing existing rights, Ecology, the Partnership, and the Local Group must amend the Local Water Plan to eliminate the impairment. Any decision by Ecology to alter or not alter the Local Water Plan is appealable to the Pollution Control Hearings Board under RCW 43.21B.230. (RCW 90.92.100)

4. LIMITED USE OF DOCUMENTS

- a. All documents regarding water use submitted to the Partnership by the water users shall not be used by Ecology at any time to determine the validity of the water rights in any future administrative or regulatory action (RCW 90.92.080(3)a), unless authorization for such use is granted by the Local Group. This section shall survive termination of the Local Water Plan.

5. ACCESS FOR MONITORING

- a. The Local Group shall allow the Partnership and its employees, agents, successors and assigns, at all times during the term of the Local Water Plan access to the lands necessary for implementing monitoring and compliance terms of the Local Water Plan. Access will be used solely for the purpose of allowing the Partnership and its employees, agents, successors and assigns to:
 - i. Monitor and enforce the terms of the Local Water Plan; and
 - ii. Measure instream flows, return flows, and collect other hydrological data relating to any water body, whether on the surface or underground, affecting or affected by the Local Water Plan.
- b. The Partnership will provide notice to the Local Group no less than 48 hours prior to access to the land. The Local Group is entitled to be present when the Partnership accesses the land, if it so desires. If the Local Group is unable to provide access within 24 hours, it shall provide alternative times acceptable to the Partnership for access within 7 days.
- c. The water source and/or water transmission facilities are not wholly located upon land owned by the Local Group. Approval of a Local Water Plan does not convey to the parties a right of access to, or other right to use, land which the Local Group does not legally possess. Obtaining such a right is a private matter between Local Group and owner of that land.

6. CONTINUATION OF LOCAL WATER PLAN

- a. Upon the expiration of the Local Water Plan that has been operating for five or more years, the Local Group may request that the Partnership and Ecology make the elements of the Local Water Plan, including the water rights deposited to the water bank used for stream flow enhancement for placement in the trust water rights program, permanent authorizations and conditions for use of the water rights. The request will be evaluated based on whether:
 - i. The determination of the baseline water use adequately represents the extent and validity of the donated water right; and
 - ii. Whether there is injury or detriment to other existing water rights; or
 - iii. The written approval obtained from the holder of an impaired water right is continued or renewed.
- b. If the Partnership and Ecology approve the request under subsection (a) of this section, Ecology shall issue superseding water rights consistent with the management and uses of the water under the Local Water Plan. That portion of the baseline water rights deposited in the water bank for placement in the trust water rights program must be made permanent and transferred in accordance with Chapter 90.42 RCW.

7. TERMINATION

- a. The Local Water Plan expires by its terms, by written withdrawal of any party, or upon agreement by all parties to the contract.
- b. If the Local Group is not in compliance with the terms of the Local Water Plan, the Partnership shall, consistent with the dispute resolution process adopted by the Partnership, seek compliance. If the Partnership revokes the Local Water Plan due to noncompliance, the water users in the Local Water Plan must thereafter exercise the water rights only as the water rights were authorized and conditioned prior to the approval of the Local Water Plan, and all rights and duties that were terms in the Local Water Plan lapse and are not valid or enforceable.
- c. If the Local Water Plan expires and the water management and uses under the local water plan are not granted approval to be permanent, the water users in the Local Water Plan must thereafter exercise the water rights only as the water rights were authorized and conditioned prior to the Local Water Plan, and all rights and duties that were terms in the Local Water Plan lapse and are not valid or enforceable.

8. DISPUTE RESOLUTION

- a. Parties agree to utilize, to the extent applicable, the Dispute Resolution process identified in the "Partnership's Guidelines and Criteria for the Implementation of RCW 90.92" current revision.

9. ADDITIONAL PROVISIONS

- a. An approved data-logging measuring device shall be installed and maintained for each source authorized by this Local Water Plan in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173 <http://www.ecy.wa.gov/programs/wr/measuring/measuringhome.html>.

- b. Use of water under this authorization shall be contingent upon the water right holder's maintenance of efficient water delivery systems and use of up-to-date water conservation practices consistent with established regulation requirements and facility capabilities.

10. ENTIRE AGREEMENT; MODIFICATIONS; CONSTRUCTION

- a. This Local Water Plan constitutes the entire agreement of the Local Group, the Partnership and Ecology with respect to the Local Water Plan.
- b. This Local Water Plan shall not be modified or amended except by a written instrument signed by all parties.
- c. This Local Water Plan will be governed by and construed under the laws of the state of Washington. The captions and paragraph titles used in this Local Water Plan are for reference only and will not be used in the interpretation of this Local Water Plan or any related document. If any provision of this Local Water Plan is determined to be illegal, void, or unenforceable, such determination will not affect any other provision of this Local Water Plan and all such other provisions will remain in full force and effect.

11. NOTICE AND CONTACTS

- a. The names, addresses, telephone, and fax numbers of the parties to this Local Water Plan for use in written communication and notice between the parties are as follows:

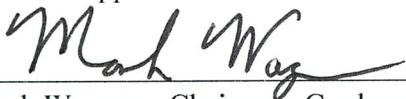
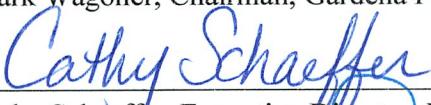
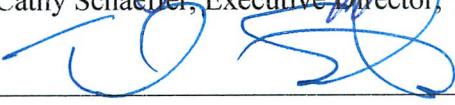
<p>Local Group: Gardena Farms Irrigation District #13 539 White Rd. Touchet, WA 99360 Attn: Stuart Durfee Tel: 509-394-2331 Fax: 509-394-2983 Email: gfid13@360comm.net</p>	<p>Partnership: Walla Walla Watershed Management Partnership 500 Tausick Way Walla Walla, WA 99362 Attn: Cathy Schaeffer Tel: 509-524-5216 Fax: 509-524-5209 Email: cathy.schaeffer@wwcc.edu</p>
<p>Ecology: WA State Department of Ecology PO Box 47600 Olympia, WA 98504 Attn: Hedia Adelsman Tel: 360-407-6222 Fax: 360-407-6989 Email: hade461@ecy.wa.gov</p>	

Part D - Local Water Plan Approval

1. APPROVAL SIGNATURES

- a. The Local Water Plan is a contract among the Partnership Board, Director of WA State Department of Ecology, and by all participating water users constituting the Local Group; by signing below all parties agree to abide by all terms and conditions of the Local Water Plan.

b. The individuals signing below have the authority to execute this Local Water Plan on behalf of their respective Local Group and bind the Local Group, its successors and assigns to the terms of the Local Water Plan. By Resolution attached hereto, the Partnership Board has approved the execution of this Local Water Plan by the Executive Director.

	5-12-11
Mark Wagoner, Chairman, Gardena Farms Irrigation District #13	Date
	05-16-2011
Cathy Schaeffer, Executive Director, Walla Walla Watershed Management Partnership	Date
	5-16-11
Ted Sturdevant, Director, WA State Department of Ecology	Date

Appendix A

Document	Note	Appendix
Current Water Use Authorizations	Authorizations involved in the Gardena Farms Irrigation District #13 Local Water Plan	A
http://www.wallawallawatershed.org/downloads/Partnership/LWP/10-01/10-01_Water-Rights.pdf		