

STATE OF OREGON
COUNTY OF Malheur

CERTIFICATE OF WATER RIGHT (HB - 2153)

THIS CERTIFICATE ISSUED TO

U.S. BUREAU OF LAND MANAGEMENT; VALE DISTRICT
100 OREGON ST
VALE, OR 97918

confirms the right to store the waters of MUD CREEK, A TRIBUTARY OF OWYHEE RIVER IN AN ENLARGEMENT OF MUD CREEK 68-0731 RESERVOIR ORIGINALLY CONSTRUCTED UNDER APPLICATION R-36721, PERMIT R-4285, for LIVESTOCK AND WILDLIFE.

The right to store and use these waters was perfected under Reservoir Application R-79533. The date of priority is January 1, 1993. The amount of water entitled to be stored and used each year under this right is not more than 118.98 ACRE-FEET.

Located as follows:

SW 1/4 SE 1/4 SECTION 21, TOWNSHIP 28 SOUTH, RANGE 42 EAST, WM.

The outlet gate shall be cycled at least once each year and shall be fully operational at all times.

Routine maintenance of the dam, spillway and appurtenant structures shall be performed as necessary to remove trees, brush and debris, and to repair slumps, areas of erosion, or defective equipment.

The completed structure shall not be enlarged, modified, or otherwise changed without the prior written approval of the Director of the Water Resources Department or the Director's authorized representative. Except for routine maintenance, plans and specifications prepared by an Oregon licensed engineer are required for any modification to the dam, spillway or appurtenant structures.

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137.004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

R-79533.GC

Certificate Number 71482

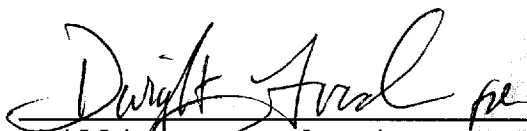
ORS 498.351 and ORS 509.605 through 509.625 provides that no person shall construct an artificial obstruction across a waterway in which anadromous, game or food fish exist unless that person provides a fishway deemed adequate by the Oregon Department of Fish and Wildlife (ODFW). If the subject pond is in-channel and fish are present, the certificate holder is directed to contact an ODFW Fish Passage Program Coordinator. 97207. If fish presence is in question, the certificate holder should contact the nearest ODFW Fish District office for a determination.

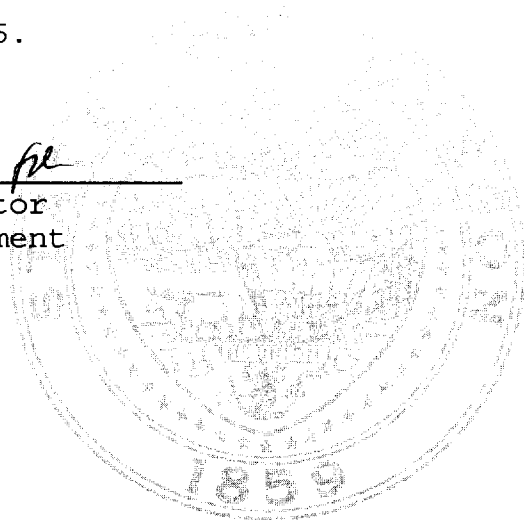
If water is to be diverted from an in-channel pond where fish are present, the certificate holder shall install, maintain and operate fish screening and by-pass devices as required by ORS 498.306 through ORS 498.346 and approved by ODFW. The certificate holder is directed to contact an ODFW Fish Screening Program Coordinator. If fish presence is in question, the certificate holder should contact the nearest ODFW Fish District office for a determination.

The storage of water allowed herein is subject to the installation and maintenance of an outlet pipe, with a minimum diameter of 8", or the provision of other means to evacuate water when determined necessary for public safety or to satisfy prior downstream rights as determined by the Water Resources Director.

The right to store and use the water for the above purpose is restricted to beneficial use at the place of use listed above.

Issued January 27, 2005.


Phillip C. Ward, Director
Water Resources Department



Recorded in State Record of Water Right Certificates Number 71482.

R-79533.GC