

STATE OF OREGON

COUNTY OF UMATILLA

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

CITY OF PENDLETON
500 SW DORION AVENUE
PENDLETON OR 97801

confirms the right to use the waters of THREE SIMONS SPRINGS, TRIBUTARIES OF UMATILLA RIVER, for MUNICIPAL USE.

This right was perfected under Permit 9007. The date of priority is APRIL 22, 1929. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 2.7 CUBIC FEET PER SECOND (CFS), or its equivalent in case of rotation, measured at the point of diversion. In addition, this right, in combination with CERTIFICATES 85850, 85851, AND 85852, is limited to a total diversion of not to exceed 3.8 CFS.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Survey Coordinates
2 N	32 E	WM	12	NW NE			297 FEET SOUTH & 679 FEET EAST OF THE N¼ CORNER OF SECTION 12

A description of the place of use to which this right is appurtenant is as follows:

MUNICIPAL USE						
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC
2 N	32 E	WM	1	S½		
2 N	32 E	WM	2	SW¼ NW¼		
2 N	32 E	WM	2	NW¼ SW¼		
2 N	32 E	WM	2	S½ SW¼		
2 N	32 E	WM	2	NE¼ SE¼		
2 N	32 E	WM	2	S½ SE¼		
2 N	32 E	WM	3	S½ NE¼		
2 N	32 E	WM	3	SE¼ NW¼		
2 N	32 E	WM	3	S½		
2 N	32 E	WM	10	ALL		
2 N	32 E	WM	11	N½		
2 N	32 E	WM	11	SW¼		
2 N	32 E	WM	11	W½ SE¼		
2 N	32 E	WM	12	N½ N½		

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an 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.

As the result of a settlement agreement, dated April 28, 2009, the following condition has been added to this right:

When the Umatilla River flows are less than 250 cfs measured at the Umatilla River at Pendleton gage, (PDTO, Gage # 14021000), or an equivalent gage approved by the OWRD, the City will forgo use of its surface water rights with priority dates of 1910 and junior and allow this water to remain instream.

The City shall maintain a headgate and in-line flow meter or other suitable device for measuring and recording the quantity of water diverted. By December 31 of each year, the City will file with the District 5 watermaster a copy of its annual water use report for the previous water year and shall provide daily diversion information and access to the measuring device at the request of the watermaster. The report will identify those days during which the flow was 250 cfs or below and the daily maximum rate diverted on each of those days.

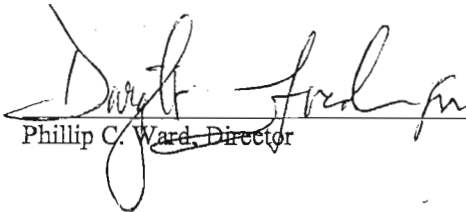
The City shall maintain and operate fish screening and by-pass devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the point of diversion.

This certificate is issued to confirm a change in PLACE OF USE, POINT OF APPROPRIATION AND CHARACTER OF USE approved by an order of the Water Resources Director entered MAY 4, 2004, at Special Order Volume 60, Page 1, approving Transfer Application 8761, supercedes Certificate 8052, State record of Water Right Certificates.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

Water may be applied to lands which are not specifically described above, provided the holder of this right complies with ORS 540.510(3).

Issued OCT 02 2009 .


Phillip C. Ward, Director