

STATE OF OREGON

COUNTY OF LINCOLN

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

KERVILLE-GLENEDEN BEACH
LINCOLN BEACH WATER DISTRICT
PO BOX 96
GLENEDEN BEACH OR 97388

confirms the right to use the waters of DRIFT CREEK for MUNICIPAL USE.

This right was perfected under Permit S-54187. The date of priority is APRIL 30, 1970. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 2.5 CUBIC FEET PER SECOND (cfs) or its equivalent in case of rotation, measured at the point of diversion.

The right herein granted is limited to the amount of water which can be applied to beneficial use and shall not exceed 2.5 cubic feet per second measured at the point of diversion from the stream, or its equivalent in case of rotation with other water users, from Drift Creek.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Measured Distances
8 S	11 W	WM	12	NE NE			131 FEET SOUTH & 545 FEET WEST FROM NE CORNER, SECTION 12

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

Twp	Rng	Mer	Sec	Q-Q
8 S	11 W	WM	2	SW 1/4 SW 1/4
8 S	11 W	WM	3	W 1/2 W 1/2
8 S	11 W	WM	4	ALL
8 S	11 W	WM	9	ALL
8 S	11 W	WM	10	NE 1/4
8 S	11 W	WM	10	NE 1/4 NW 1/4
8 S	11 W	WM	10	S 1/2 NW 1/4
8 S	11 W	WM	10	N 1/2 SW 1/4

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. 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.

Twp	Rng	Mer	Sec	Q-Q
8 S	11 W	WM	10	SW 1/4 SW 1/4
8 S	11 W	WM	11	NW 1/4 NE 1/4
8 S	11 W	WM	11	SW 1/4 NE 1/4
8 S	11 W	WM	11	N 1/2 NW 1/4
8 S	11 W	WM	15	NW 1/4 NW 1/4
8 S	11 W	WM	15	SW 1/4 SW 1/4
8 S	11 W	WM	16	ALL
8 S	11 W	WM	21	N 1/2
8 S	11 W	WM	21	SW 1/4
8 S	11 W	WM	21	W 1/2 SE 1/4
8 S	11 W	WM	21	NE 1/4 SE 1/4
8 S	11 W	WM	28	NW 1/4
8 S	11 W	WM	28	N 1/2 SW 1/4
8 S	11 W	WM	28	SW 1/4 SW 1/4
8 S	11 W	WM	29	ALL

The following are additional terms and conditions which result from a Final Order on Extension of Permit S-54186 and related Settlement Agreement dated August 19, 2004 and Supplemental Settlement Agreement dated September 8, 2005. The Order and agreements provide for use of a portion of the water authorized under the permit by the City of Lincoln City ("City") pursuant to an Intergovernmental Agreement entered into between the City of Lincoln City and the Kernville-Glenden Beach-Lincoln Beach Water District ("District").

1. There exists an 11 cfs daily average minimum by-pass flow in Drift Creek, measured by a mechanical/electronic stream gauge (with a staff gauge back-up) at a point approximately 240 feet downstream of the City of Lincoln City's additional point of diversion, during the period of July 1 through October 15 of each year. No diversions from Drift Creek by any user may occur under this right when daily average flows are at or below 11 cfs except for up to five days during the period of July 1 through October 15 of each year when the daily average flow downstream of the additional point of diversion could fall to 7 cfs with the water user still able to withdraw water under this right. No diversions under this right from Drift Creek are allowed during this five-day period if the daily average flow downstream of the City's intake falls below 7 cfs. The provisions of this condition do not apply to the water user's ability to withdraw up to 1.6 cfs from Drift Creek under this right, but do apply to any additional use of water by the water user above 1.6 cfs under this right. Although the City's water use is subject to the restrictions described in this paragraph, the City is not required to release stored water into Drift Creek, or otherwise augment flows in Drift Creek, to artificially create an 11 cfs flow rate.
2. The following additional conditions apply specifically to the City's use of 1.5 cfs for Emergency Municipal Use Under Permit S-54187 ("Emergency Use Right") as described in the intergovernmental agreement between the City and the District.
 - a) For the purpose of this condition "Emergency" is defined as follows: a need by Lincoln City for the use of water from Drift Creek occasioned because of abnormal conditions such as drought, significant damage to its municipal water system, or catastrophic problem with its normal water supply caused by conditions such as storm, slide or flood.
 - b) If the City experiences a temporary Emergency need for water, then the City may utilize, during the Emergency period, water from the District's Permit S-54187 (the "Emergency Use Right"), as provided under the IGA between the City and the District dated July 23, 2001.

- c) If minimum perennial streamflows on Drift Creek as provided at Table 1, OAR chapter 690 division 518 (below) are unmet for any reason during the City's usage of the Emergency Use Right, then the City shall implement a city-wide ban on lawn watering for the entire duration of the time it withdraws Drift Creek water. The City will also implement, to the greatest extent practicable, the "Municipal Water Curtailment Element" of its WMCP.

Table 1 of OAR Chapter 690 Division 518 provides minimum perennial stream flows (cfs) as follows:

Drift Creek – to be maintained from its confluence with Gordey Creek (NE ¼, Sec. 1, T 8 S, R 11 W) to the mouth of Drift Creek (Note: where two flow levels are shown, the first flow level is for the 1st through the 15th of each month and the second flow level is for the 16th through the last day of the month.)

Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sep
30/80	100	100	100	100	100	100	100	100	25/22	22	22

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 DEC 18 2009


 Phillip Ward, Director
 Water Resources Department