

STATE OF OREGON  
 COUNTY OF UMATILLA  
 CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

CITY OF WALLA WALLA  
 PO BOX 478  
 WALLA WALLA WA 99362

confirms the right to use the waters of MILL CREEK tributary to the WALLA WALLA RIVER for MUNICIPAL WATER USE.

This right was partially perfected under Permit S-54483. The date of priority is MARCH 2, 2001. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 10.0 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the point of diversion.

Diversion of water under this certificate in combination with Certificates 5076 and 13276 shall not exceed 38.0 cfs.

The period of allowed use is November 1 through April 15.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	38 E	WM	22	NE NW	470 FEET SOUTH AND 200 FEET WEST FROM THE NORTH ¼ CORNER, SECTION 22

A description of the place of use is as follows: Within the Service Area of the City of Walla Walla, Washington

**Bypass Flow Condition:**

Flows equal to those described below must be satisfied at the KoosKooskie gauge when water under this permit is diverted.

<b>November</b> 100 cfs	<b>December</b> 110 cfs	<b>January</b> 110 cfs	<b>February</b> 125 cfs	<b>March</b> 150 cfs	<b>April 1-15</b> 150 cfs
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**Peak flow Condition:**

The water user shall not divert water when the flows at the KoosKooskie gauge are higher than 525.0 CFS.

**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 and ORS 536.075. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 183.484, ORS 536.075 and OAR 137-004-0080, you may petition for judicial review and 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 within three months after issuance of the certificate.

Measurement, recording and reporting conditions:

- A. The water user shall maintain the totalizing flow meter or other suitable measuring device approved by the Director at the point of diversion in good working order, shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director.
- B. The water user shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
- C. The water user shall provide OWRD notice of any use authorized by Washington Permit No. 13121 five days prior to any use. The annual reports required under paragraph A above shall also indicate the amount of water diverted, if any, authorized by Washington Permit No. 13121.

If the existing gauge at KoosKooskie as now operated and maintained by the USGS ceases to be maintained then the water user shall establish, operate and maintain a substitute gauge which provides for equivalent measurement ability, to the satisfaction of OWRD.

Use of this right is prohibited at any time the water right evidenced by Washington Permit No. 13121 is exercised. Furthermore, upon determination by the Washington State Department of Ecology, after consultation with the water user (City of Walla Walla) and the Oregon Water Resources Department, that the water storage and withdrawal works and facilities of an aquifer storage and recovery (ASR) program of the water user (as approved by a permit issued by the Department of Ecology pursuant to RCW 90.03.370), are in an operable condition (i.e. the aforementioned works and facilities have been constructed completely and in an initial working condition that are capable of withdrawing sufficient water up to the amounts authorized by this right for municipal use), the water user shall terminate Permit No. 13121. The City's intention, based upon present projections, is to have said works in an operable condition by the end of December 2015. The water user shall terminate Permit No. 13121 by the end of the year the ASR becomes operational by submitting to the Washington Department of Ecology a written relinquishment document, and providing a copy of said document to the Oregon Water Resources Department.

If the City of Walla Walla does not cause Washington Permit No. 13121 to be cancelled prior to December 31, 2017, the OWRD will issue an order cancelling this right after providing 90 days prior written notice.

As a condition of water use under this right, the City of Walla Walla is prohibited, except as provided in the sentence that follows, from exercising 2.5 CFS of its 1866 Oregon water right (certificate number 13276) between August 1<sup>st</sup> and September 30<sup>th</sup> (or during a different period of not less than two months agreed to by OWRD, ODFW, WDFW and the City). Notwithstanding the prohibition of the preceding sentence, if the City is not able to withdraw aquifer stored water, due to its unavailability or a breakdown of the ASR delivery system, then the City may exercise the aforementioned 2.5 CFS on a limited necessity basis, (in the context of implementing the emergency shortage provisions of a Washington State Department of Health approved water conservation plan applicable to the City's public water supply system), in order to satisfy its minimal municipal water use needs. Exercise of the aforementioned 2.5 cfs shall be restricted to any period when the ASR water is unavailable or the ASR system is inoperable. To comply with this condition, the City of Walla Walla shall protect the 2.5 CFS of certificate 13276 by obtaining a split-season instream lease for the two months as aforementioned in this paragraph of each year for the maximum allowed lease period(s). The City of Walla Walla shall renew the split-season instream lease for additional period up to the maximum duration allowed. If the City of Walla Walla needs to exercise this 2.5 CFS, as described above, the City shall submit a request to terminate the lease in accordance with the conditions of the Final Order approving the split-season instream lease. In the event that the split-season instream lease is terminated, the City shall, within 30 days of termination, seek to renew the split-season instream lease for additional periods up to the maximum duration allowed. This condition can also be satisfied by the City choosing to file a permanent or time-limited instream transfer (for the duration of the use of this certificate) for 2.5 CFS for the two months as aforementioned in this paragraph. If, at some date in the future, the "split-season instream lease" program no longer exists, the City shall choose and implement another available

program that provides the same, or greater, level of instream protection for the 2.5 CFS portion of its 1866 Oregon water right (certificate 13276).

For the purpose of this right, Certificate 87647, "Municipal Water Use" is defined as the delivery and use of water through the water service system of a municipal corporation for all water uses usual and ordinary to such systems. Examples of these water uses shall include but are not limited to domestic water use, irrigation of lawns and gardens, commercial water use, industrial water use, fire protection, irrigation and other water uses in park and recreation facilities, and street washing. Said defined use shall not include use for hydroelectric power generation. Any use of water for hydroelectric power generation requires additional approval(s) by OWRD.

Failure to comply with any of the provisions of this right may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the right.

This right is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

The diversion of water authorized herein may be made only at times when sufficient water is available to satisfy all prior rights, including those pertaining to instream flows, as aforementioned herein.

Any underground storage of water diverted under this permit can only be stored by the City in compliance with the Washington Aquifer Storage and Recovery (ASR) Program, see RCW 90.03.370 and Chapter 173-157 WAC.

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

This certificate is issued for a partial perfection of Permit S-54483 as described in OAR 690-320-0040 and by an order of the Water Resources Director entered at Special Order Volume 87, Page 819 on June 21, 2012.

Issued June 21, 2012.



Dwight W. French  
Water Right Services Administrator, for  
Phillip C. Ward, Director  
Water Resources Department