

STATE OF OREGON

COUNTY OF MARION

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

LEON BERNING
11123 BERNING LANE NE
MOUNT ANGEL OR 97362

confirms the right to store water perfected under the terms of Permit R-14414. The amount of water used to which this right is entitled is limited to the amount used beneficially, and shall not exceed the amount specified, or its equivalent in the case of rotation, measured at the point of diversion from the source. The specific limits and conditions of the use are listed below.

APPLICATION NUMBER: R-86475

SOURCE: RUNOFF, TRIBUTARY TO ZOLLNER CREEK, AND ZOLLNER CREEK, A TRIBUTARY OF PUDDING RIVER

STORAGE FACILITY: BERNING RESERVOIR

PURPOSE or USE: MULTIPLE PURPOSE

MAXIMUM STORAGE VOLUME: 39.7 ACRE FEET

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: NOVEMBER 1 THROUGH JUNE 30

DATE OF PRIORITY: JANUARY 24, 2006

DAM LOCATION:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	1 W	WM	2	SE NW	2570 FEET SOUTH AND 65 FEET WEST FROM N1/4 CORNER, SECTION 2

The points of diversion are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	1 W	WM	2	SE NW	RUNOFF - 2570 FEET SOUTH AND 65 FEET WEST FROM N1/4 CORNER, SECTION 2
6 S	1 W	WM	2	SE NW	ZOLLNER CREEK - 2635 FEET SOUTH AND 275 FEET WEST FROM N1/4 CORNER, SECTION 2

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.

The area submerged by this reservoir is as follows:

Twp	Rng	Mer	Sec	Q-Q
6 S	1 W	WM	2	SW NE
6 S	1 W	WM	2	SE NW
6 S	1 W	WM	2	NE SW
6 S	1 W	WM	2	NW SE

CONDITIONS OF USE

1. Measurement, recording and reporting:
 - A. The water user shall maintain the staff gage in good working order.
 - B. The Director may require the water user to keep and maintain a record of the amount (volume) of water used, and may require the water user to report water use on a periodic schedule as established by the Director. In addition, the Director may require the water user to report general water-use information, the periods of water use, and the place and nature of use of water under the right. The Director may provide an opportunity for the water user to submit alternative reporting procedures for review and approval.
2. The use may be restricted if the quality of the source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.
3. The water user shall maintain and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards.
4. The water user shall not construct, operate or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream without providing a fishway to ensure adequate upstream and downstream passage for fish, unless the water user has requested and been granted a fish passage waiver by the Oregon Fish and Wildlife Commission. The water user is hereby directed to contact an Oregon Department of Fish and Wildlife Fish Passage Coordinator, before beginning construction of any in-channel obstruction.
5. Routine maintenance or repair of the dam, its spillway and all appurtenant structures shall be performed to include, but not limited to, the removal of woody vegetation or debris, prompt restoration of areas of erosion or to replace defective equipment necessary for the continued safe operation of the project works.
6. Except for routine repair and maintenance, design plans and specifications must be prepared by an Oregon licensed professional engineer and approved by the Water Resources Dam Safety program prior to an enlargement, modification, or alternation of the dam, its spillway or any appurtenant structure.
7. Use under this right is limited to the reservoir area. This right does not provide for the appropriation of water for maintaining the water level or maintaining a suitable fresh water condition.
8. The storage of water allowed herein is subject to the maintenance of a fully functional conduit/gate assembly having a minimum diameter of 8 inches.
9. 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.
10. 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.
11. By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

12. The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

Issued July 17 2012

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