

## STATE OF OREGON

## COUNTY OF WHEELER

## CERTIFICATE OF WATER RIGHT

## THIS CERTIFICATE ISSUED TO

WILLIAM POTTER  
40333 HWY 19  
FOSSIL OR 97830

confirms the right to store water perfected under the terms of Permit R-14850. 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-87239

SOURCE: SERVICE CREEK, A TRIBUTARY TO THE JOHN DAY RIVER

STORAGE FACILITY: BIG SARVICE CORRAL POND

PURPOSE or USE: FIRE PROTECTION, FISH CULTURE, LIVESTOCK, RECREATION, AND STORAGE FOR IRRIGATION

MAXIMUM STORAGE VOLUME: 4.44 ACRE FEET

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: DECEMBER 1 THROUGH THE END OF FEBRUARY

DATE OF PRIORITY: JULY 21, 2008

POINT OF DIVERSION LOCATION:

| Twp | Rng  | Mer | Sec | Q-Q   | DLC | Measured Distances                                           |
|-----|------|-----|-----|-------|-----|--------------------------------------------------------------|
| 8 S | 22 E | WM  | 25  | SW SE |     | 955 FEET NORTH AND 2575 FEET WEST FROM NE CORNER, SECTION 36 |

CENTER OF RESERVOIR LOCATION:

| Twp | Rng  | Mer | Sec | Q-Q   | Measured Distances                                            |
|-----|------|-----|-----|-------|---------------------------------------------------------------|
| 8 S | 22 E | WM  | 36  | NW NE | 1250 FEET SOUTH AND 1630 FEET WEST FROM NE CORNER, SECTION 36 |

The area submerged by this reservoir is as follows:

| Twp | Rng  | Mer | Sec | Q-Q   | DLC |
|-----|------|-----|-----|-------|-----|
| 8 S | 22 E | WM  | 36  | NW NE |     |
| 8 S | 22 E | WM  | 36  | SW NE |     |

**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.

## CONDITIONS OF USE

### Measurement, recording and reporting conditions:

- A. The Director may require the water user to install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of diversion. If the Director notifies the water user to install a meter or other measuring device, the water user shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the water user shall maintain the meter or measuring device in good working order, and shall allow the watermaster access to the device(s). The Director may provide an opportunity for the water user to submit alternative measuring procedures for review and approval.
- B. The Director may require the water user to keep and maintain a record of the amount (volume) of water diverted, and may require the water user to submit this record on a periodic schedule as established by the Director. The Director may provide an opportunity for the water user to submit alternative reporting procedures for review and approval.

Storage of water under this right is contingent on designated scenic waterway flows being met downstream. The user is required to monitor streamflow at John Day River at McDonald Ferry, Oregon, gage 1048000, and discontinue diversion and storage when the flows specified below are unmet. At the discretion of the Director, the location and nature of streamflow monitoring required to protect scenic waterway flows is subject to change. In addition, the Watermaster may regulate diversion and storage under this right if it is determined by the Department that the flows listed below are unmet.

| Month    | Minimum Bypass Flow (cfs) |
|----------|---------------------------|
| December | 500                       |
| January  | 500                       |
| February | 1000                      |

The storage of water allowed herein is subject to the installation and maintenance of an outlet pipe (with a minimum diameter of 8" for any in-channel reservoir). This requirement may be waived if the Department determines other means have been provided to evacuate water when necessary.

The water user shall pass all live flow outside the storage season described above.

The Director may require the user to measure inflow and outflow, above and below the reservoir respectively, to ensure that live flow is not impeded outside the storage season. Measurement devices and their implementation must be acceptable to the Director, and the Director may require that data be recorded on a specified periodic basis and reported to the Department annually or more frequently.

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.

This right allows an annual appropriation (not to exceed the specified volume). This right does not provide for the appropriation of water for out-of-reservoir uses, the maintenance of the water level or maintaining a suitable freshwater condition. If any water is to be used for out-of-reservoir purposes, a secondary water right is required. If any additional live flow is to be appropriated to maintain either the water level or a suitable freshwater condition, an additional water right is required.

The water user shall install, maintain, and operate fish-screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion, while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The water user may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.

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.

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.

The use may be restricted if the quality of downstream waters decreases to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

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 DEC 31 2013.

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

