

STATE OF OREGON  
COUNTIES OF BAKER AND MALHEUR  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

DURBIN CREEK RANCH  
C/O MARY AGAR  
3292 GRASS CREEK RD  
THERMOPOLIS WY 82443

confirms the right to the use of water perfected under the terms of Permit S-54948. 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 FILE NUMBER: S-71071

SOURCE OF WATER: SNAKE RIVER, TRIBUTARY TO COLUMBIA RIVER

PURPOSE OR USE: IRRIGATION OF 59.2 ACRES, SUPPLEMENTAL IRRIGATION OF 60.0 ACRES AND STOCKWATER

MAXIMUM RATE: 2.23 CUBIC FEET PER SECOND (CFS), BEING 1.48 CFS FOR PRIMARY IRRIGATION AND 0.75 CFS FOR SUPPLEMENTAL IRRIGATION (TO BRING TO FULL RATE & DUTY)

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31 AND AS FURTHER LIMITED BELOW

FOR THE PERIOD APRIL 10 THROUGH AUGUST 31, WATER USE UNDER THIS RIGHT IS LIMITED TO THOSE TIMES THAT FLOW AUGMENTATION TARGET FLOWS FOR THE SNAKE AND COLUMBIA RIVER MAINSTEM, AS SET BY THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION FISHERIES (NOAA FISHERIES), ARE BEING MET FOR SNAKE RIVER SOCKEYE, SNAKE RIVER FALL CHINOOK AND SNAKE RIVER SPRING/SUMMER CHINOOK. TARGET FLOWS SHALL BE CONSIDERED MET WHEN THE NATIONAL WEATHER SERVICE NORTHWEST RIVER FORECAST CENTER'S FLOW FORECAST AND TREND AT BROWNLEE DAM FOR THAT WEEK (ISSUED THE PREVIOUS WEEK) PROJECT THE FLOW AUGMENTATION TARGET FLOWS WELL BE MET. THE NATIONAL WEATHER SERVICE NORTHWEST RIVER FORECAST CENTER CURRENTLY POSTS IS WEEKLY FLOW FORECAST AND TREND AT BROWNLEE DAM AT THE FOLLOWING WEB ADDRESS: <http://www.nwrfc.noaa.gov/river/station/flowplot/flowplt.cgi?BRN11>. IN THE EVENT THE WEEKLY RIVER FORECAST AND TREND AT BROWNLEE DAM IS NO LONGER AVAILABLE AT THIS WEB ADDRESS, THE WATER USER MAY DETERMINE WHETHER THE TARGET FLOWS WILL BE MET BASED ON ANY OTHER SITE THAT PROVIDES INSTREAM FLOW INFORMATION UPSTREAM FROM THE POINT OF DIVERSION.

**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.



DATE OF PRIORITY: DECEMBER 27, 1990

POINT OF DIVERSION LOCATION:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	45 E	WM	4	NW NW	POD 2 (NEW) - 1150 FEET SOUTH AND 580 FEET EAST FROM NW CORNER, SECTION 4

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second (or its equivalent) and 4.0 acre-feet for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

IRRIGATION AND STOCKWATER						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
14 S	45 E	WM	32	SE SW		6.0
14 S	45 E	WM	32	NW SE		0.8
14 S	45 E	WM	32	SW SE		16.0
14 S	45 E	WM	32	SE SE		3.2
15 S	45 E	WM	5	NE NE	1	22.4
15 S	45 E	WM	5	NW NE	2	10.8

SUPPLEMENTAL IRRIGATION AND STOCKWATER					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	45 E	WM	32	SE SW	2.0
14 S	45 E	WM	32	NE SE	8.0
14 S	45 E	WM	32	SW SE	20.0
14 S	45 E	WM	32	SE SE	30.0

Measurement, recording and reporting conditions:

- A. The water user shall maintain, in good working order as identified in OAR 690-507-645, a totalizing flow meter within 50 feet beyond the pump at the point of diversion from the Snake River.
- B. The water user shall allow the watermaster access to the meter; provided however, where the meter is located within a private structure, the watermaster shall request access upon reasonable notice.
- C. The water user shall keep a record of water use under this right between April 10 and August 31 of each season. The record shall include the rate at which water was diverted, the period of time stated by the date and hours of water use, and the place of use irrigated under this right.
- D. In addition to (C) above, when water use under this right occurs between April 10 and August 31, the water user shall keep documentary evidence of the National Weather Service Northwest River Forecast Center's flow forecast and trend at Brownlee Dam from the week prior to the water use (project for the week water was used).
- E. The records kept by the water user pursuant to conditions (C) and (D) above shall be submitted to the watermaster and the Department's Salem office by December 1 of each year.

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.



In the event of a request for a change in point of appropriation and additional point of appropriation or alteration of the appropriation facility associated with this authorized diversion, the quantity of water allowed herein, together with any other right, shall not exceed the portion of the right perfected at the time of the perfection of this right.

The quantity of water diverted at the new point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion as described as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	45 E	WM	9	NW NE	ORIGINAL POD - 196 FEET SOUTH AND 2772 FEET EAST FROM NW CORNER, SECTION 9

The water user shall maintain and operate fish screening to prevent fish from entering the diversion. The fish screen shall comply with 50 CFR 223.203 9(i)—(iii) of the *Endangered and Threatened Species; Final Rule Governing Take of 14 Threatened Salmon and Steelhead Evolutional Significant Units* issued by the National Marine Fishers Service (now NOAA Fisheries) on July 10, 2000.

The water user shall maintain and operate the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

The water user shall allow ODFW and NOAA Fisheries, or NOAA Fisheries designee, access to the diversion facility for the purposes of inspection and determination of compliance with the screen condition above.

Water shall be acquired by the same surface water source as the original point of diversion.

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.

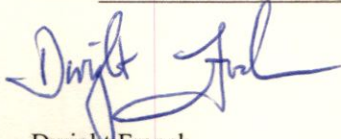
This right is for the beneficial use of water without waste. New regulations may require the use of best practical technologies or conservation practices to achieve beneficial use of water without waste.

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 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.

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

Issued JUN 17 2022



Dwight French  
Water Right Services Division Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

