

STATE OF OREGON

COUNTY OF MARION

CERTIFICATE OF WATER RIGHT
FOR PARTIAL PERFECTION

THIS CERTIFICATE ISSUED TO

CITY OF JEFFERSON
PO BOX 83
JEFFERSON OR 97352

confirms the right to the use of the waters of SANTIAM RIVER, a tributary of WILLAMETTE RIVER for MUNICIPAL USE.

This right was perfected under the terms of Permit S-47330. The date of priority is DECEMBER 1, 1982. The amount of water used to which this right is entitled is limited to the amount used beneficially, and shall not exceed 1.89 cubic feet per second, or its equivalent in the case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

| Twp | Rng | Mer | Sec | Q-Q | DLC | Measured Distances |
|------|-----|-----|-----|-------|-----|--|
| 10 S | 3 W | WM | 11 | NE NE | 63 | 690 FEET SOUTH AND 1530 FEET WEST FROM NORTH-NORTHWEST CORNER, JACOB CONSER DLC 63 |

A description of the place of use is as follows:

| Twp | Rng | Mer | Sec | Q-Q |
|------|-----|-----|-----|-------|
| 10 S | 3 W | WM | 1 | SW NW |
| 10 S | 3 W | WM | 1 | NE SW |
| 10 S | 3 W | WM | 1 | NW SW |
| 10 S | 3 W | WM | 1 | SW SW |
| 10 S | 3 W | WM | 1 | SE SW |
| 10 S | 3 W | WM | 2 | SW NE |
| 10 S | 3 W | WM | 2 | SE NE |
| 10 S | 3 W | WM | 2 | NE SE |
| 10 S | 3 W | WM | 2 | NW SE |
| 10 S | 3 W | WM | 2 | SE SE |
| 10 S | 3 W | WM | 11 | NE NE |
| 10 S | 3 W | WM | 11 | SE NE |
| 10 S | 3 W | WM | 11 | NE SE |
| 10 S | 3 W | WM | 11 | SE SE |

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.

| Twp | Rng | Mer | Sec | Q-Q |
|------|-----|-----|-----|-------|
| 10 S | 3 W | WM | 12 | SW NE |
| 10 S | 3 W | WM | 12 | SE NE |
| 10 S | 3 W | WM | 12 | NE NW |
| 10 S | 3 W | WM | 12 | NW NW |
| 10 S | 3 W | WM | 12 | SW NW |
| 10 S | 3 W | WM | 12 | SE NW |
| 10 S | 3 W | WM | 12 | NE SW |
| 10 S | 3 W | WM | 12 | NW SW |
| 10 S | 3 W | WM | 12 | SW SW |
| 10 S | 3 W | WM | 12 | SE SW |
| 10 S | 3 W | WM | 12 | NE SE |
| 10 S | 3 W | WM | 12 | NW SE |
| 10 S | 3 W | WM | 13 | NE NW |
| 10 S | 3 W | WM | 13 | NW NW |
| 10 S | 3 W | WM | 14 | NE NE |

Conditions to Maintain the Persistence of Listed Fish

These conditions apply to any use under this right beyond 0.36 cfs.

The "conditioned portion" under this right is 1.53 cfs.

A. Minimum Fish Flows Needs

Minimum fish flow needs in the Santiam River as recommended by ODFW are in Table 1, below; flows are to be measured in the Santiam River at Jefferson, Oregon (USGS Gage Number 14189000, or its equivalent).

Table 1

| ODFW'S RECOMMENDED MINIMUM FISH FLOW NEEDS IN THE SANTIAM RIVER MEASURED AT USGS GAGE 14189000, SANTIAM RIVER AT JEFFERSON, OREGON | |
|---|--------------------------|
| Month | Cubic Feet per Second |
| October – May | 1500 |
| June – August | 1000 |
| September 1 – September 15 | 1000 |
| September 16 – September 30 | 1500 |

B. Determining Water Use Reductions – Generally

The maximum amount of the conditioned portion, being 1.53 cfs, that can be diverted as a result of this fish persistence condition is determined in proportion to the amount by which the flows shown in Table 1 are missed based on a seven day rolling average of mean daily flows measured in the Santiam River at Jefferson (USGS Gage Number 14189000, or its equivalent). The percent of missed target flows is defined as:

$$(1 - (QA - E / QT)) \times 100\%,$$

where QA is the actual flow measured at the designated gage based on the seven day rolling average, E is the conditioned portion of the right, and QT is the target flow (from Table 1).

The percent missed target flows applied to the conditioned portion of the right provides the maximum amount of conditioned water that can be diverted as a result of this fish persistence condition, and is defined as:

$$E - (E \times \% \text{ missed target flows}),$$

where E is the conditioned portion, being 1.53 cfs.

The maximum amount of conditioned water that can be diverted as a result of this fish persistence condition may be adjusted by a Consumptive Use Percentage, when applicable, as per Item 2.C., below.

When $Q_A - E \geq Q_T$, the conditioned portion of the right that can be diverted would not need to be reduced as a result of this fish persistence condition.

C. Consumptive Use Percentages

a. Initial Consumptive Use Percentages

The City of Jefferson has not identified any Consumptive Use Percentages based on the return of flows to the Santiam River through effluent discharge. Thus, at this time the City may not utilize Consumptive Use Percentages for the purpose of calculating the maximum amount of the conditioned portion that can be diverted as a result of this fish persistence condition.

b. First Time Utilization of Consumptive Use Percentages

First time utilization of Consumptive Use Percentages is contingent upon the City (1) providing evidence in writing that ODFW has determined that withdrawal points and effluent discharges are within reasonable proximity to each other, such that fish habitat between the two points is not impacted significantly, and (2) submitting monthly Consumptive Use Percentages and receiving the Water Resources Director's concurrence with the proposed Consumptive Use Percentages. Utilization of Consumptive Use Percentages is subject to an approval period described in 2.C.f., below.

Consumptive Use Percentages submitted to the Department for review must (1) be specified as a percentage (may be to the nearest 1/10 percent) for each month of the year and (2) include a description and justification of the methods utilized to determine the percentages. The proposed Consumptive Use Percentages should be submitted on the *Consumptive Use Percentages Update Form* provided with the Final Order for the Extension of Time for Permit S-47330, dated August 4, 2011.

c. Consumptive Use Percentages Updates

Continuing the utilization of Consumptive Use Percentages for the purpose of calculating the maximum amount of the conditioned portion that can be diverted as a result of this fish persistence condition beyond an approval period (as described in 2.C.f., below) is contingent upon the City submitting updated Consumptive Use Percentages and receiving the Water Resources Director's concurrence with the Consumptive Use Percentages Updates. Utilization of Consumptive Use Percentages Updates is subject to an approval period described in 2.C.f., below.

The updates to the Consumptive Use Percentages must (1) be specified as a percentage (may be to the nearest 1/10 percent) for each month of the year and (2) include a description and justification of the methods utilized to determine the percentages. The updates should be submitted on the *Consumptive Use Percentages Update Form* provided with the Final Order for the Extension of Time for Permit S-47330, dated August 4, 2011.

d. Changes to Wastewater Technology and/or Wastewater Treatment Plant Practices

If there are changes to either wastewater technology or the practices at the City's waste water treatment facility resulting in 25% or more reductions in average monthly return flows to the Santiam River, then the Consumptive Use Percentages in effect at that time may no longer be utilized for the purposes of calculating the maximum amount of the conditioned portion that can be diverted as a result of this fish persistence condition. The 25% reduction is based on a 10-year rolling average of monthly wastewater return flows to the Santiam River as compared to the average monthly wastewater return flows from the 10 year period just prior to date of the first approval period described in 2.C.f., below.

If such changes to either wastewater technology or the practices at the City's waste water treatment facility occur resulting in 25% reductions, further utilization of Consumptive Use Percentages is contingent upon the City submitting Consumptive Use Percentages Updates as per 2.C.c., above, and receiving the Water Resources Director's concurrence with the updated Consumptive Use Percentages.

e. Relocation of the Point(s) of Diversion(s) and/or Return Flows

If the point(s) of diversion(s) and/or return flows are relocated, Consumptive Use Percentages in effect at that time may no longer be utilized for the purposes of calculating the maximum amount of the conditioned portion that can be diverted as a result of this fish persistence condition.

After relocation of the point(s) of diversion(s) and/or return flows, further utilization of Consumptive Use Percentages is contingent upon the City (1) providing evidence in writing that ODFW has determined that any relocated withdrawal points and effluent discharge points are within reasonable proximity to each other, such that fish habitat between the two points is not impacted significantly, and (2) submitting Consumptive Use Percentages Updates as per 2.C.c., above, and receiving the Water Resources Director's concurrence with the updated Consumptive Use Percentages.

f. Approval Periods for Utilization of Consumptive Use Percentages

The utilization of Consumptive Use Percentages for the purpose of calculating the maximum amount of the conditioned portion that can be diverted as a result of this fish persistence condition may continue for a 10 year approval period that begins 10 years from the Water Resources Director's most recent date of concurrence with Consumptive Use Percentages Updates as evidenced by the record, unless sections 2.C.d., or 2.C.e. (above) are applicable.

Consumptive Use Percentages (first time utilization or updates) which are submitted and receive the Director's concurrence will begin a new 10 year approval period. The approval period begins on the date of the Water Resources Director's concurrence with Consumptive Use Percentages Updates, as evidenced by the record. The City at its discretion may submit updates prior to the end of an approval period.

D. Examples

Example 1: Target flow met.

On July 15, the last seven mean daily flows were 1100, 1150, 1190, 1200, 1200, 1180 and 1170 cfs. The seven day rolling average is (QA) 1170 cfs. Given that the conditioned portion of this right (E) is 1.53 cfs, then the 7 day average of mean daily flows minus the conditioned portion is greater than the 1000 cfs target flow (QT) for July 15. In this example, $QA - E \geq QT$.

$$1170 - 1.53 \geq 1000$$

The amount of the conditioned portion of the right that can be diverted would not be reduced because the target flow is considered met.

Example 2: Target flow missed.

Step 1: Given that the conditioned portion of this right (E) is 1.53 cfs, if on July 15, the average of the last seven mean daily flows (QA) was 850 cfs, and the target flow (Qr) is 1000, then the target flow would be missed by 15.1%.

$$(1 - [(850 - 1.53) / 1000]) \times 100\% = 15.1\%$$

Step 2: Assuming the Consumptive Use Percentage is 78.7%¹ during the month of July and the utilization of this percentage is authorized, and the target flow is missed by 15.1% (from Step 1), then the amount of the conditioned portion of the right that could be diverted would be reduced by 11.9%.

$$(78.7\% \times 15.1\%) / 100 = 11.9\%$$

(If adjustments are not to be made by a Consumptive Use Percentage, then the conditioned portion of the right would only be reduced by the % by which the target flow is missed – 15.1% in this example).

Step 3: The conditioned portion of the right (E) is 1.53 cfs. Therefore, in this example, the maximum amount of the conditioned portion of the right that can be diverted as a result of this fish persistence condition is 1.35 cfs.

$$1.53 - ((1.53 \times 11.9\%) / 100) = 1.35$$

Step 4: Given that the total combined quantity under this right and Certificate 87497 is 3.09 cfs, and the conditioned portion is 1.53 cfs, if the amount of water legally authorized for a diversion at a given point in time (for example, authorization provided through a WMCP) is 2.0 cfs, then only 0.44 cfs of conditioned water would be used to satisfy the 2.0 cfs.

$$2.0 - (3.09 - 1.53) = 0.44$$

Note: (3.09 – 1.53) equals the portion of the this right and Certificate 87497 that is not conditioned for fish persistence.

In this example, the 0.44 cfs of conditioned water is less than the 1.35 cfs maximum undeveloped portion (from Step 3) that can be diverted as a result of this fish persistence condition. Therefore, there would be no required reduction in water use of the conditioned portion under the right.

Step 5: If the amount of water legally authorized for a diversion at a given point in time is 2.95 cfs, then 1.39 cfs of conditioned water would be used to satisfy the 2.95 cfs.

$$2.95 - (3.09 - 1.53) = 1.39$$

In this example, the 1.39 cfs of conditioned water is greater than the 1.35 cfs maximum conditioned portion (from Step 3) that can be diverted as a result of this fish persistence condition. Therefore, the amount of conditioned water diverted by the water right holder would need to be reduced by 0.04 cfs.

$$1.39 - 1.35 = 0.04$$

¹ Currently, the City of Jefferson may not utilize Consumptive Use Percentages for the purpose of calculating the amount of the conditioned portion that can be diverted as a result of this fish persistence condition. The utilization of the Consumptive Use Percentage 78.7% is only for illustrative purposes in this example.

In this example, the maximum amount of water that could be appropriated is 2.91 cfs.

$$2.95 - 0.04 = 2.91$$

End of Conditions to Maintain the Persistence of Listed Fish

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.

This right is subject to existing rights including the existing minimum flow policies established by the Water Policy Review Board.

The right to the use of 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 partial perfection of Permit S-47330 as described in OAR 690-320-0040 and by any order of the Water Resources Director entered April 4th, 2025 at Special Order Volume 134, Page 231.

Issued APR 04 2025.



Katherine Ratcliffe
Water Right Services Division Administrator, for
Ivan Gall, Director
Oregon Water Resources Department