

STATE OF OREGON

COUNTIES OF CLACKAMAS, MULTNOMAH, AND WASHINGTON

CERTIFICATE OF WATER RIGHT
FOR PARTIAL PERFECTION

THIS CERTIFICATE ISSUED TO

CITY OF LAKE OSWEGO
PO BOX 369
LAKE OSWEGO OR 97034

confirms the right to the use of water perfected under the terms of Permit S-37839. 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-50819

SOURCE OF WATER: CLACKAMAS RIVER, A TRIBUTARY OF WILLAMETTE RIVER

PURPOSE OR USE: MUNICIPAL USE

MAXIMUM RATE: 7.7 CUBIC FEET PER SECOND

DATE OF PRIORITY: JULY 5, 1973

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	2 E	WM	20	SE SW	NORTH 60 DEGREES 20 MINUTES EAST, 2200 FEET FROM SW CORNER, SECTION 20

A description of the place of use is as follows:

Twp	Rng	Mer	Sec	Q-Q
1 S	1 W	WM	27	SE SE
1 S	1 W	WM	33	SE 1/4
1 S	1 W	WM	33	S 1/2 OF NE 1/4
1 S	1 W	WM	33	SE NW
1 S	1 W	WM	33	E 1/2 OF SW 1/4
1 S	1 W	WM	33	SW SW
1 S	1 W	WM	34	FULL SECTION
1 S	1 W	WM	35	W 1/2 OF NW 1/4
1 S	1 W	WM	35	SW 1/4
1 S	1 W	WM	35	W 1/2 OF SE 1/4
1 S	1 W	WM	35	SE SE
1 S	1 W	WM	36	SW SW
2 S	1 E	WM	19	S 1/2 OF NE 1/4
2 S	1 E	WM	19	S 1/2 OF NW 1/4

Twp	Rng	Mer	Sec	Q-Q
2 S	1 E	WM	19	NE SE
2 S	1 W	WM	1	SW NE
2 S	1 W	WM	1	NW 1/4
2 S	1 W	WM	1	S 1/2
2 S	1 W	WM	2	FULL SECTION
2 S	1 W	WM	3	FULL SECTION
2 S	1 W	WM	4	FULL SECTION
2 S	1 W	WM	5	NE NE
2 S	1 W	WM	5	S 1/2 OF NE 1/4
2 S	1 W	WM	5	S 1/2 OF NW 1/4
2 S	1 W	WM	5	S 1/2
2 S	1 W	WM	6	S 1/2 OF NE 1/4
2 S	1 W	WM	6	E 1/2 OF SE 1/4
2 S	1 W	WM	6	NW SE
2 S	1 W	WM	7	E 1/2 OF NE 1/4
2 S	1 W	WM	7	E 1/2 OF SE 1/4
2 S	1 W	WM	8	FULL SECTION
2 S	1 W	WM	9	FULL SECTION
2 S	1 W	WM	10	FULL SECTION
2 S	1 W	WM	11	FULL SECTION
2 S	1 W	WM	12	FULL SECTION
2 S	1 W	WM	13	FULL SECTION
2 S	1 W	WM	14	N 1/2
2 S	1 W	WM	14	NE SW
2 S	1 W	WM	14	SE 1/4
2 S	1 W	WM	15	N 1/2
2 S	1 W	WM	15	N 1/2 OF SW 1/4
2 S	1 W	WM	15	SW SW
2 S	1 W	WM	15	NW SE
2 S	1 W	WM	16	NE 1/4
2 S	1 W	WM	16	N 1/2 OF NW 1/4
2 S	1 W	WM	16	SE NW
2 S	1 W	WM	16	E 1/2 OF SW 1/4
2 S	1 W	WM	16	SE ¼
2 S	1 W	WM	17	N 1/2 OF NE 1/4
2 S	1 W	WM	17	NW ¼
2 S	1 W	WM	18	E 1/2 OF NE 1/4
2 S	1 W	WM	21	N 1/2 OF NE 1/4
2 S	1 W	WM	24	NE 1/4
2 S	1 W	WM	24	N 1/2 NW 1/4
2 S	1 W	WM	24	SE NW

Conditions to Maintain the Persistence of Listed Fish

These conditions apply to any use under this right up to 7.7 cfs. The "conditioned portion" under this certificate and permit S-37839 is 9.0 cfs.

Determining Water Use Reductions

- a. Target flows needed to maintain the persistence of listed fish species in the Lower Clackamas River as recommended by ODFW are in Table 1, below. Target flows are to be met at the mouth of the Clackamas River.
- (1) To determine if target flows are met, the actual flows are to be determined or measured by the water user at USGS Gage Number 14211010 on the Clackamas River near Oregon City, Oregon, and must be adjusted for municipal diversions that occur below the gage (D_{BG})¹ as shown in the following equation:

$$Q_A - D_{BG} = Q_{ADJ},$$

where Q_A is the mean daily flow as measured at the gage, D_{BG} is the amount of municipal water being diverted below the gage, and Q_{ADJ} equals the resulting adjusted mean daily flow at the mouth.

- (2) The maximum amount of the conditioned portion of the right that can be diverted as a result of this fish persistence condition is determined in proportion to the amount by which the target flows shown in Table 1 are missed based on the adjusted mean daily flow (Q_{ADJ}) as described in a.(1) above. The percent of missed target flows is defined as:

$$(1 - [Q_{ADJ} / Q_T]) \times 100 \%$$

where Q_{ADJ} is the adjusted mean daily flow at the mouth, and Q_T is the target flow (from Table 1).

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

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

where E is the conditioned portion of the right, being 9.0 cfs.

When $Q_{ADJ} \geq Q_T$, the amount of the conditioned portion of the right that can be diverted would not need to be reduced as a result of this fish persistence condition.

- (3) From the day after the first Monday in September through June 30, and when $Q_{ADJ} < Q_T$, the maximum amount of the conditioned portion that may be diverted under this fish persistence condition must be re-calculated daily.

Proportional Reductions from the day after the first Monday in September through June 30

- b. From the day after the first Monday in September through June 30 the maximum total amount of the conditioned portion of the right that can legally be diverted shall be reduced as described in Section a. above.

Example 1: Target Flow Met

If on June 15, the mean daily flow as measured at USGS Gage Number 14211010 was 700 cfs, and the amount being diverted below the gage (D_{BG}) was 34 cfs, then the adjusted flow (Q_{ADJ}) would be 666 cfs ($700 - 34 = 666$). The maximum total amount of the conditioned portion of the right that could legally be diverted under this right would not be reduced because the adjusted mean daily flow on that day is greater than the 650 target flow for June 15. In this example, $Q_{ADJ} \geq Q_T$.

Example 2: Target Flow Missed

- Step 1: If on September 20, the mean daily flow (Q_A) at the gage was 700 cfs, and 59 cfs was being diverted below the gage ($D_{BG} = 59$), then the adjusted flow (Q_{ADJ}) would be 641 cfs.

$$700 - 59 = 641$$

- Step 2: Given that the adjusted mean daily flow (Q_{ADJ}) was 641 cfs (from Step 1), and the target flow (Q_T) is 800 cfs, then the target flow would be missed by 19.9%.

$$(1 - [641 / 800]) \times 100\% = 19.9\%$$

- Step 3: Given that the conditioned portion of this right (E) is 9.0 cfs, and the conditioned portion of the right needs to be reduced by 19.9% (from Step 2), or 1.79 cfs, then the maximum amount of the conditioned portion of the right that could be diverted as a result of this fish persistence condition would be 7.2 cfs. (This maximum amount may be limited as illustrated in Step 4, below.)

$$(9.0 \times 19.9) / 100\% = 1.79$$

$$9.0 - 1.79 = 7.2$$

- Step 4: The calculated maximum amount of water that could be diverted under the right due to the fish persistence condition may not exceed the amount of water to which the water user is legally entitled to divert. In this example, if the amount of water legally authorized for diversion under the conditioned portion of this right is 5.0 cfs (for example, authorization provided through a WMCP), then 5.0 cfs would be the maximum amount of diversion allowed under the right, rather than 7.2 cfs from Step 3.

(Conversely, if the amount of water legally authorized for diversion under this right is 7.5 cfs, then 7.2 cfs (from Step 3) would be the maximum amount of diversion allowed under this right.)

Table 1

Fish Persistence Target Flows at the Mouth of the Lower Clackamas River	
Month	Cubic Feet per Second
June -August	650
September 1-15	650
September 16-30	800
October - May	800

Timothy Lake Releases June 1 through October 31

- c. In cooperation with the holders of Permits S-46120, S-35297, S-43170, S-22581, S-3778, S-9982, S-32410 and S-37839, the water users must meet with ODFW annually to devise a strategy to maximize fishery benefits from flow augmentation that may be available through the Water Storage Agreement² with Portland General Electric (PGE) for the release of stored water from Timothy Lake. The water users shall arrange a meeting with ODFW to develop a written flow augmentation strategy based on the current year's projected water availability. The strategy will include two flow augmentation periods, being from June 1st through the first Monday in September, and the day after the first Monday in September through October 31st. The June 1st through the first Monday in September period will determine whether flows are needed for steelhead spawning and incubation or can be used for flow augmentation later in the summer. The day after the first Monday in September through October 31st period will determine the timing for flow augmentation for chinook spawning. The water users must consult PGE to determine if and when water is available for flow augmentation. The water users must notify ODFW about the timing and the amount of flow that can be released. If the available water cannot meet the strategy targets then the water users and ODFW will modify the flow augmentation strategy to maximize fishery benefits. The water users must then submit a flow augmentation request to PGE.

It is OWRD's intent that ODFW and the water users reach agreement on the strategy. However, if after making a good faith effort ODFW and the water users are unable to reach agreement on a strategy ODFW shall devise the strategy. In either case, the strategy shall be documented in writing and the water users shall comply with the strategy. The annual meeting and resulting strategy and consultations may cover issues other than Timothy Lake releases that are relevant to both use under Permits S-46120, S-35297, S-43170, S-22581, S-3778, S-9982, S-32410 and S-37839, and to listed fish species; however, the strategy may include actions pertaining to such issues only upon mutual agreement by ODFW and the water users.

Water Management Conservation Plan (WMCP) Water Conservation Measures/Curtailment Actions from July 1 through the first Monday in September

d. From July 1st through the first Monday in September, when target flows are not met based on a seven day rolling average of mean daily flows, the water user must implement consistent with the water curtailment element of their WMCP, water conservation measures and/or curtailment actions as described in d.(2) and (3), below.

- (1) To determine if target flows are met, the actual flows are to be determined or measured by the water user at USGS Gage Number 14211010 on the Clackamas River near Oregon City, Oregon, and must be adjusted for municipal diversions that occur below the gage (D_{BG})³ as shown in the following equation:

$$Q_A - D_{BG} = Q_{ADJ}$$

where Q_A is the mean daily flow as measured at the gage, D_{BG} is the amount of municipal water being diverted below the gage, and Q_{ADJ} equals the resulting adjusted mean daily flow at the mouth.

- (2) Upon the first occurrence of the adjusted flow at the mouth (Q_{ADJ}) being less than the target flow (Q_T) in Table 1 (i.e., when $Q_{ADJ} < Q_T$), based on a seven day rolling average of mean daily flows, the water user must enact the first level or stage of alert in their water curtailment plan that includes mandatory water conservation measures and/or curtailment actions consistent with d.(3), below.
- (3) Once enacted, implementation of the water conservation measures and/or curtailment actions as described in d.(2), above, must continue through the first Monday in September.

Relationship to Instream Flows Established under ORS 537.346.

- d. Permit S-37839 is junior in relative priority to Certificate 59491 (priority date August 26, 1968) and thus may be subject to regulation when the instream flows established in the certificate are not met, except for domestic or livestock uses.

¹ D_{BG} stands for "Diversion Below the Gage" and is based on daily water use under Application S-43365 (up to 50 cfs, of which to date 25.0 cfs has been partially perfected under Certificate 78332 and 25.0 cfs under Certificate 98694), and under Application S-50819 (up to 9 cfs). [50 cfs + 9 cfs = 59 cfs = maximum value of D_{BG}]. The City of Lake Oswego holds these water rights and diverts water under these rights below USGS Gage Number 14211010. The actual daily average flow measured at the gage must be corrected for the amount actually being diverted below the gage under these specified water rights or their successive water rights so long as the points of diversion remain below the gaging station.

²Or any similar agreement intended to supersede the existing agreement.

³See fn 1

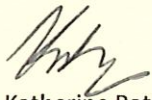
End of Conditions to Maintain the Persistence of Listed Fish

The use of water is subject to existing rights.

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 partial perfection of Permit S-37839 as described in OAR 690-320-0040 and by any order of the Water Resources Director entered September 26, 2025 at Special Order Volume 135, Page 680.

Issued SEP 26 2025.



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

