

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

DESCHUTES COUNTY

IN THE MATTER OF PARTIAL PERFECTION OF)
WATER RIGHT PERMIT S-49823 IN THE NAME) **ORDER**
OF THE CITY OF BEND)

STATEMENT

On June 25, 2009, The Water Resources Department received a request from the City of Bend to partially perfect the use of water under water right permit S-49823.

FINDINGS OF FACT

Permit S-49823 allows for the use of 15.0 cubic feet per second (cfs) from BRIDGE CREEK when available with any deficiency in the available supply from Bridge Creek to made up by appropriation from an UNNAMED TRIBUTARY TO MIDDLE FORK OF TUMALO CREEK, tributaries of TUMALO CREEK for municipal use.

The City has requested partial perfection of permit S-49823 and issuance of a water right certificate. The request was accompanied by the survey required under ORS 537.230(3). The survey shows, to the satisfaction of the Director, that the appropriation has been partially perfected in accordance with the provision of the Water Rights Act.

ORS 537.260 allows, without loss of priority or cancellation to the permit, the incremental perfection of the water right permit in an amount of not less than 25 percent, pursuant to ORS 537.260 and OAR 690-320-0040, without loss of priority or cancellation of the permit.

The Department finds that the City has perfected 12.2 cfs. The quantity of water is equal or greater than the 25 percent of the original quantity of water allowed under permit S-49823.

OAR 690-320-0040(5) allows municipal suppliers that incrementally perfect less than the full quantity of water to request further extension of time to complete construction and apply water to beneficial use for the remaining, unperfected quantity of water.

NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW OR RECONSIDERATION

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may either petition for judicial review or 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.

ULTIMATE FINDING OF FACT

The City is now entitled to a certificate in the amount of 12.2 cfs. The Director has determined the permittee has complied with the requirements to partially perfect permit S-49823 pursuant to ORS 537.260.

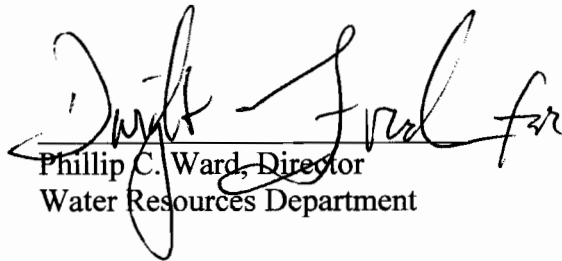
ORDER

The Department finds that there is 2.8 cfs remaining to be perfected and that a certificate in the amount of 12.2 cfs be issued to the City of Bend.

Upon perfecting a subsequent portion of Permit S-49823, Certificate 85713 shall be cancelled and superceded with a certificate that authorizes a maximum rate of diversion that is the lesser of:

- a) The full amount of water authorized under Permit S-49823, being 15.0 cfs;
- b) The maximum rate at which water can be diverted for beneficial use; or
- c) The amount of actual beneficial use.

Dated SEP 10 2009


Phillip C. Ward, Director
Water Resources Department