

STATE OF OREGON

COUNTY OF POLK

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

CITY OF INDEPENDENCE  
PO BOX 7  
INDEPENDENCE, OREGON 97351

**This superseding permit is issued to describe an amendment for a change in points of appropriation proposed under Permit Amendment Application T-12511 and approved by Special Order Vol. 165, Page 991, entered OCT 13 2017, and to describe an extension of time for complete application of water approved May 13, 2011, and a Water Management and Conservation Plan approved on September 15, 2016. This permit supersedes Permit G-13015.**

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: G-13871

SOURCE OF WATER: THREE WELLS WITHIN THE WILLAMETTE BASIN

PURPOSE OR USE: MUNICIPAL

MAXIMUM RATE: 1.0 CUBIC FEET PER SECOND (CFS), BEING 0.33 CFS FROM EACH WELL

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: NOVEMBER 7, 1994

POINT OF DIVERSION LOCATIONS:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	4 W	WM	33	NW NE	Willamette Wellfield 1 (WWF1) – 349 FEET SOUTH AND 2071 FEET WEST FROM THE NE CORNER OF SECTION 33
8 S	4 W	WM	28	SW SE	Willamette Wellfield 2 (WWF2) – 189 FEET NORTH AND 2088 FEET WEST FROM THE SE CORNER OF SECTION 28
8 S	4 W	WM	28	SW SE	Willamette Wellfield 3 (WWF3) – 714 FEET NORTH AND 2163 FEET WEST FROM THE SE CORNER OF SECTION 28

THE PLACE OF USE IS LOCATED AS FOLLOWS:

WITHIN THE CITY OF INDEPENDENCE SERVICE AREA

Permit Amendment T-12511 conditions:

The combined quantity of water diverted at the new points of appropriation (Wells WWF1, WWF2, and WWF3), shall not exceed the quantity of water lawfully available at the original points of appropriation (Wells 4 and 5 in the NESW, Section 28, Township 8 South, Range 4 West, WM).

Water shall be acquired from the same aquifer as the original points of appropriation (Wells 4 and 5).

Extension of Time conditions:

1. **Development Limitations**

Diversion of any water beyond 0.46 cfs under Permit G-17868 shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan (WMCP) under OAR Chapter 690, Division 86. The required WMCP shall be submitted to the Department within 3 years of an approved extension of time application. Use of water under Permit G-17868 must be consistent with this and subsequent WMCP's approved under OAR Chapter 690, Division 86 that is on file with the Department.

2. **Conditions to Maintain the Persistence of Listed Fish**

A. **Minimum Fish Flow Needs**

Minimum fish flow needs on the Willamette River as recommended by ODFW are in Table 1, below; flows are to be measured on the Willamette River at Salem, Oregon (USGS Gage Number 14191000, or its equivalent).

Table 1

MINIMUM FISH FLOW NEEDS ON THE WILLAMETTE RIVER MEASURED AT USGS GAGE 14191000 SALEM, OREGON	
Month	Cubic Feet per Second
July 1– October 31	5,630
November 1 – March 31	6,000
April 1 – April 15	15,000
April 16 –April 30	17,000
May 1 – May 31	15,000
June 1 – 15	12,600
June 16 – 30	8,500

B. Determining Water Use Reductions - Generally

The undeveloped portion of Permit G-17868 having PSI with the Willamette River is 0.35 cfs. The maximum amount of the undeveloped portion of Permit G-17868 having PSI with the Willamette River that can be appropriated 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 on the Willamette River at Salem (USGS Gage Number 14191000, or its equivalent). The percent of missed target flows is defined as

$$(1 - (Q_A / Q_T)) \times 100\%$$

where  $Q_A$  is the actual flow measured at the designated gage based on the seven day rolling average, and  $Q_T$  is the target flow (from Table 1).

The percent missed target flows applied to the undeveloped portion of this permit having PSI with the Willamette River provides the maximum amount of water that could be appropriated under this permit as a result of this fish persistence condition, and is defined as:

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

where  $E_{PSI}$  is undeveloped portion of the permit having PSI with the Willamette River as of this extension, expressed in cfs.

The maximum amount of water that can be appropriated under this permit to maintain the persistence of fish may be adjusted by a Consumptive Use Percentage, when applicable, as per Item 2.C., below. The overall reduction to the amount of the undeveloped portion having PSI with the Willamette River of the permit will not exceed 20%.

C. Consumptive Use Percentages

a. Initial Consumptive Use Percentages

The City of Independence has not identified any Consumptive Use Percentages based on the return of flows to the Willamette 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 undeveloped portion of Permit G-17868 that can be appropriated as a result of this fish persistence condition.

b. First Time Utilization of Consumptive Use Percentages

Utilization of Consumptive Use Percentages for the purpose of calculating the maximum amount of the undeveloped portion of Permit G-17868 that can be appropriated as a result of this fish persistence condition may begin after the issuance of the Final Order for this extension of time.

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 this extension of time.

c. Consumptive Use Percentages Updates

Continuing the utilization of Consumptive Use Percentages for the purpose of calculating the maximum amount of the undeveloped portion of Permit G-17868 that can be appropriated 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 this extension of time.

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 Willamette 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 undeveloped portion of Permit G-17868 that can be appropriated as result of this fish persistence condition. The 25% reduction is based on a 10-year rolling average of monthly wastewater return flows to the Willamette 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 undeveloped portion of Permit G-17868 that can be appropriated as 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 undeveloped portion of Permit G-17868 that can be appropriated 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.

E. Examples

Example 1:

On July 15, the last seven mean daily flows were 7000, 6500, 6000, 5500, 5250, 5000 and 4750 cfs. The seven day rolling average is 5714 cfs. The amount of the undeveloped portion of the permit having PSI with the Willamette River that can be appropriated would not be reduced because the 7 day average of mean daily flows is greater than the 5,630 cfs target flows for July 15.

Example 2:

Step 1: If on July 15, the average of the last seven mean daily flows was 5011 cfs, and the target flow is 5630 cfs, then the target flow would be missed by 11%.

$$(1 - (5011 / 5630)) \times 100\% = 11\%$$

Step 2: Assuming the Consumptive Use Percentage is 78.7%<sup>1</sup> during the month of July and the utilization of this percentage is authorized, and the target flow is missed by 11% (from Step 1), then the amount of the undeveloped portion of the permit having PSI with the Willamette River that could be appropriated would be reduced by 8.6%.

$$(78.7\% \times 11\%) / 100 = 8.6\%$$

(If adjustments are not to be made by a Consumptive Use Percentage, then the undeveloped portion of the permit having PSI with the Willamette River would only be reduced by the % by which the target

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<sup>1</sup> Currently, the City of Independence may not utilize Consumptive Use Percentages for the purpose of calculating the amount of the undeveloped portion of Permit G-17868 that can be appropriated 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.

flow is missed – 11% in this example).

Step 3: The overall reduction of 8.6 % of the amount of the undeveloped portion of the permit having PSI with the Willamette River does not exceed 20%.

Step 4: The undeveloped portion of this permit having PSI with the Willamette River is 0.35 cfs. Therefore, in this example, the maximum amount of the undeveloped portion of Permit G-17868 having PSI with the Willamette River that can be appropriated as result of this fish persistence condition is 0.32 cfs.

$$0.35 - ((0.35 \times 8.6\%) / 100) = 0.32$$

Step 5: Given that the permitted quantity under this right is 1.0 cfs, the entire undeveloped portion is .54 cfs, and the undeveloped portion having PSI with the Willamette River is 0.35 cfs: If the amount of water legally authorized for appropriation at a given point in time is 0.7 cfs, then only 0.05 cfs of undeveloped water having PSI with the Willamette River would be used to satisfy the 0.7 cfs.

$$0.7 - ((1.0 - 0.54) + (0.54 - 0.35)) = 0.05$$

In this example, the 0.05 cfs of undeveloped water having PSI with the Willamette River is less than the 0.32 cfs maximum undeveloped portion the permit having PSI with the Willamette River (from Step 4) that can be appropriated as result of this fish persistence condition. Therefore, there would be no required reduction in water use of the undeveloped portion under the permit.

Step 6: If the amount of water legally authorized for appropriation at a given point in time is 1.0 cfs, then 0.35 cfs of undeveloped water having PSI with the Willamette River would be used to satisfy the 1.0 cfs.

$$1.0 - ((1.0 - 0.54) + (0.54 - 0.35)) = 0.35$$

In this example, the 0.35 cfs of undeveloped water is greater than the 0.32 cfs maximum undeveloped portion having PSI with the Willamette (from Step 4) that can be appropriated as result of this fish persistence condition. Therefore, the amount of undeveloped water having PSI with the Willamette River appropriated would need to be reduced by 0.03 cfs.

$$0.35 - 0.32 = 0.03$$

**Water Management and Conservation Plan**

**Duration of Plan Approval:**

The City of Independence Water Management and Conservation Plan is approved and shall remain in effect until **September 19, 2026**, unless this approval is rescinded pursuant to OAR 690-086-0920.

**Development Limitation:**

The limitation of the diversion of water under Permit G-17868 established in the Final Order approving an Extension of Time for Permit G-17868 remains unchanged. Subject to other limitations or conditions of the permit, therefore, the City of Independence remains authorized to divert **only up to 0.46 cfs** (*out of the total permitted 1.0 cfs*) of water under Permit G-17868.

**Plan Update Schedule:**

The City of Independence shall submit an updated plan meeting the requirements of OAR Chapter 690, Division 086 within 10 years and no later than **March 23, 2026**.

**Progress Report Schedule:**

The City of Independence shall submit a progress report containing the information required under OAR 690-086-0120(4) by **September 19, 2021**.

**Other Requirements for Plan Submittal:**

The deadline established herein for the submittal of an updated Water Management and Conservation Plan (consistent with OAR Chapter 690, Division 086) shall not relieve the City of Independence from any existing or future requirement(s) for submittal of a Water Management and Conservation Plan at an earlier date as established through other final orders of the Department.

**Original Permit G-13015 Conditions:**

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.



- C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the wells shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interference.

### STANDARD CONDITIONS

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

Failure to comply with any of the provision of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit 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.

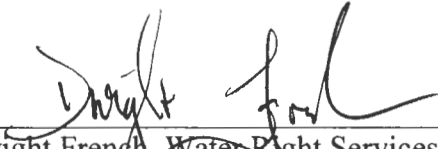
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

The original permit was issued November 27, 1996. Actual construction was to begin within one year from issuance of the original permit. Complete application of the water to the use was to be made on or before October 1, 1999. By Extension of Time Final Order dated May 13, 2011, the deadline of complete application of water was extended to October 1, 2020.

Issued           OCT 13 2017          , 2017



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