

STATE OF OREGON, |
 County of Marion, |ss.

This superseding permit is issued to describe an amendment for a change in point of diversion proposed under Permit Amendment Application T-11450 and approved by Special Order Vol. 28, Page 144, entered NOV 19, 2012, and to describe extensions of time for complete application of water approved May 24, 1978, August 27, 1981, March 21, 1986, and May 14, 2012, an assignment to a new permittee approved September 18, 1998, and a Water Management and Conservation Plan approved October 1, 2012. This permit supersedes Permit S-36881.

This is to certify that I have examined the foregoing application and do hereby grant the same, SUBJECT TO EXISTING RIGHTS and the following limitations and conditions:

The right herein granted is limited to the amount of water which can be applied to beneficial use and shall not exceed 2.0 cubic feet per second measured at the point of diversion from the stream, or its equivalent in case of rotation with other water users, from Horn Creek.....

The use to which water is to be applied is quasi-municipal.....

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	10 W	WM	20	NE SW	2445 FEET NORTH AND 2514 FEET EAST FROM THE SE CORNER OF SECTION 19
4 S	10 W	WM	20	NE SW	2450 FEET NORTH AND 2575 FEET EAST FROM THE SW CORNER OF SECTION 20

Authorized Place of Use:

QUASI-MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
4 S	10 W	WM	18	SE SW
4 S	10 W	WM	18	SW SE
4 S	10 W	WM	19	NW NE
4 S	10 W	WM	19	SW NE
4 S	10 W	WM	19	SE NE
4 S	10 W	WM	19	NE NW
4 S	10 W	WM	19	SW NW
4 S	10 W	WM	19	SE NW
4 S	10 W	WM	19	NE SW
4 S	10 W	WM	19	NW SW
4 S	10 W	WM	19	SW SW
4 S	10 W	WM	19	SE SW
4 S	10 W	WM	19	NE SE
4 S	10 W	WM	19	NW SE
4 S	10 W	WM	19	SW SE
4 S	10 W	WM	19	SE SE
4 S	10 W	WM	30	NE NE

QUASI-MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
4 S	10 W	WM	30	NW NE
4 S	10 W	WM	30	SW NE
4 S	10 W	WM	30	SE NE
4 S	10 W	WM	30	NE NW
4 S	10 W	WM	30	NW NW
4 S	10 W	WM	30	SW NW
4 S	10 W	WM	30	SE NW
4 S	10 W	WM	30	NE SW
4 S	10 W	WM	30	NW SW
4 S	10 W	WM	30	NE SE
4 S	10 W	WM	30	NW SE
4 S	10 W	WM	30	SW SE
4 S	10 W	WM	30	SE SE
4 S	10 W	WM	31	NW NE
4 S	10 W	WM	31	SW NE
4 S	11 W	WM	13	NE SE
4 S	11 W	WM	13	SW SE
4 S	11 W	WM	13	SE SE
4 S	11 W	WM	24	NE NE
4 S	11 W	WM	24	NW NE
4 S	11 W	WM	24	SW NE
4 S	11 W	WM	24	SE NE
4 S	11 W	WM	24	NE SE
4 S	11 W	WM	24	NW SE
4 S	11 W	WM	24	SE SE
4 S	11 W	WM	25	NE NE
4 S	11 W	WM	25	SE NE
4 S	11 W	WM	25	NE SE

Permit Amendment T-11450 Conditions

The combined quantity of water diverted at the new additional point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.

The water user shall operate and maintain an approved fish screen at the new point of diversion. If Oregon Department of Fish and Wildlife (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.

Water shall be acquired from the same surface water source (Horn Creek) as the original point of diversion.

Extension of Time Conditions1. Development Limitations

Diversion of any water beyond 1.35 cfs under Permit S-36881 (superseded by Permit S-54783) 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 S-54783 must be consistent with this and subsequent WMCP's approved under OAR Chapter 690, Division 86 on file with the Department.

The deadline established by the Extension of Time Final Order for submittal of a WMCP shall not relieve a permit holder of any existing or future requirement for submittal of a WMCP at an earlier date as established through other orders of the Department. A WMCP submitted to meet the requirements of the Extension of Time Final Order may also meet the WMCP requirements of other Department orders.

2. Settlement Conditions

The following three conditions are added pursuant to the Settlement Agreement:

2.a. Total surface water withdrawals from any of the points of diversion authorized under Certificates 86807 and 86808, under Transfer T-11126 and Permit S-54783 and any subsequent certificates issued thereunder, will be limited to a combined rate of 2.7 cfs.

2.b. Withdrawal of surface water from Horn Creek will not be allowed when stream flow is less than 2.0 cfs; however, for as long as Condition 3 of the Biological Opinion or the Corps Permit is in effect, the withdrawal of surface water will not be allowed when stream flow is less than 2.5 cfs. Condition 3 of Biological Opinion is copied below:

3. To implement reasonable and prudent #3 (instream flows) the Corps shall ensure that water withdrawals at the Horn Creek intake do not exceed 2.7 cfs, and minimum instream flows do not drop below 2.5 cfs.
 - a. When water withdrawals on Horn Creek reach 2.0 cfs, instream flows shall be measure[d] concurrently at two locations until water withdrawals drop below 2.0 cfs. The first location shall be located approximately 250 feet from the confluence of Horn Creek and the Nestucca River. The second location shall be located approximately 250 feet above the head of tide.

Biological Opinion, Attachment 1, p. 31.

For as long as the Biological Opinion is in effect, stream flow measurements will be taken in accordance with Paragraph 3.a. of Attachment 1 (as shown above), except that if the requirements of Paragraph 3.a. are amended by agreement of NOAA and Pacific City, requirements as amended shall apply. Thereafter, stream flow measurement for purposes of complying with Condition 2.b. shall be taken below the lowest PCJWSA point of diversion on Horn Creek. The permit holder shall be responsible for maintaining and operating a stream gage at such location.

2.c. The water right permit holder will provide copies to Oregon Water Resources Department ("OWRD") of all reports prepared pursuant to Conditions 4(d)-(g) of the Biological Opinion for as long as such reports are required under the Corps Permit. At such time as reports are no longer required under the Corps Permit, the water right permit holder will provide annual reports to the OWRD, or more frequently if requested by OWRD, of daily stream flow measurements and daily surface water withdrawals. Conditions 4(d)-(g) of the Biological Opinion are copied below:

4. To implement reasonable and prudent #4 (monitoring) the Corps shall:

- d. Annually, submit a report that details Pacific City's operation plan, including peak demand, Horn Creek withdrawals, and duration of peak withdrawals.
- e. Annually, for a period of 5 years, submit a report to NMFS that summarizes the results of the post-construction instream temperature monitoring, low flow habitat analysis, and the effectiveness of the installation of the large wood debris structures in creating pools and providing habitat and riparian planting survival.
- f. As required by term and condition #2[3], submit a monitoring report detailing instream flow measures collected during periods of peak withdrawals exceeding 2.0 cfs.

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Biological Opinion, Attachment 1, p. 32

Water Management and Conservation Plan Conditions

The Pacific City Joint Water-Sanitary Authority Water Management and Conservation Plan shall remain in effect until October 1, 2022, unless approval is rescinded pursuant to OAR 690-086-0920.

The limitation of the diversion of water under Permit S-36881 (superseded by Permit S-54783) established in Condition #1 (Developmental Limitations) in the Final Order Incorporating Settlement Agreement (Page 6 of 9) issued by the Oregon Water Resources Department on May 14, 2012, approving an extension of time for Permit S-36881 (superseded by Permit S-54783) is removed.

Subject to other limitations and/or conditions of the permit, as well as the Settlement Conditions set forth in the Extension of Time Final Order Incorporating Settlement Agreement issued by the Oregon Water Resources Department on May 14, 2012, the Pacific City Joint Water-Sanitary Authority is authorized to divert up to 2.0 cfs under Permit S-54783.

The Pacific City Joint Water-Sanitary Authority shall submit an updated plan meeting the requirements of OAR Chapter 690, Division 086 within 10 years (of the plan approval date) and no later than April 1, 2022.

The Pacific City Joint Water-Sanitary Authority shall submit a progress report containing the information required under OAR 690-086-0120(4) by October 1, 2017.

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 Pacific City Joint Water-Sanitary Authority 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.

The priority date of this permit is May 3, 1971.....

Actual construction work shall begin on or before July 27, 1974..... and shall thereafter be prosecuted with reasonable diligence and be completed on or before October 1, 2025.....

Complete application of the water to the proposed use shall be made on or before October 1, 2025.....

WITNESS my hand this.....¹⁹.....day of November, 2012.


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Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR