

STATE OF OREGON

COUNTY OF HOOD RIVER

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON
6040 DEE HWY
PARKDALE, OR 97041

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: S-87269

SOURCE OF WATER: WEST FORK HOOD RIVER, A TRIBUTARY OF HOOD RIVER

PURPOSE OR USE: ANADROMOUS AND RESIDENT FISH REARING

MAXIMUM RATE: 5.0 CUBIC FEET PER SECOND

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: SEPTEMBER 19, 2008

POINT OF DIVERSION LOCATION: SW ¼ NE ¼ , SECTION 14, T1N, R9E, W.M.; 1840 FEET
SOUTH AND 2105 FEET WEST FROM NE CORNER, SECTION 14

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SW ¼ NE ¼
SECTION 14
TOWNSHIP 1 NORTH, RANGE 9 EAST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of diversion. The permittee shall maintain the meter or measuring device in good working order.
- B. The permittee shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the

Director may require the permittee to report general water-use information, including the place and nature of use of water under the permit.

- C. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where any meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.

Use of water under this permit is contingent upon the facility not increasing the heat load to the stream. During May through the end of November, the permittee must continuously measure (by recording hourly data) the water temperature as near as possible to the intake and approximately 100 feet downstream of the outfall. Should the water temperature measured below the outfall exceed the intake water temperature by 0.2 degree centigrade, the permittee shall notify Oregon Department of Fish and Wildlife, and shall either: 1) discontinue diversion, or 2) cool return flows to prevent return flows from warming the receiving stream. The permittee shall maintain the thermistors in good working order, and allow state officials access for inspection of the thermistors and records of temperature measurements upon reasonable notice. An alternative to the temperature measurement requirement above is for the permittee to provide a volume of water as mitigation sufficient to offset the effects of the facility's potential temperature impact on the West Fork Hood River and Hood River. Permittee is responsible for providing OWRD with evidence that the mitigation water is sufficient to offset the effects of the facility's potential temperature impact to the satisfaction of ODFW.

Before any water is diverted during the period June 1 through October 31, the permittee shall either install a pump-back system capable of returning all diverted flow to the source stream within 50 feet of the diversion point or obtain a waiver from either ODFW or OWRD as described below. Proof of the installation of the pump-back system or a copy of the waiver must be provided to the Water Resources Department and the local Watermaster before water is diverted during the period June 1 through October 31.

Waiver Opportunities:

ODFW may waive the requirement to install and operate a pump-back system if it is determined by ODFW that the permittee's operation of the facility, in conjunction with any mitigation in the stream basin, provides a net benefit to fish. ODFW may allow a partial waiver to reduce the amount that must be returned to within 50 feet of the diversion point if it determines that the mitigation provides a net benefit for less than the total amount diverted under this water right. If temporary mitigation is provided and approved, the temporary mitigation shall be maintained. If the temporary mitigation is not maintained the waiver will not remain in effect.

OWRD may waive the requirement to install and operate a pump-back system if the permittee causes an equal or greater amount of flow to be protected instream by way of a conserved water project or an instream transfer. The equal amount of flow will be determined by comparing the rate of water, measured in cubic feet per second, the permittee diverts during the June 1 - October 31 period, with the flow in cubic feet per second protected instream. The protected instream flow must be made at or above the point of diversion described in this water right. OWRD may allow a partial waiver to reduce the amount that has to be returned to within 50 feet of the diversion point if the protected instream flow is for less than the total amount diverted under this water right. If temporary mitigation is provided and approved, the temporary mitigation shall be maintained. If the temporary mitigation is not maintained the waiver will not remain in effect.

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream without providing a fishway to ensure adequate upstream and downstream passage for fish, unless the permittee has requested and been granted a fish passage waiver by the Oregon Fish and Wildlife Commission. The permittee is hereby directed to contact an Oregon Department of Fish and Wildlife Fish Passage Coordinator, before beginning construction of any in-channel obstruction.

STANDARD CONDITIONS

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

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

The use may be restricted if the quality of the source stream or downstream waters decreases to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

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.

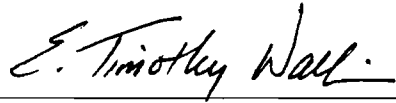
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

Completion of construction and application of the water shall be made within five years of the date of permit issuance. If beneficial use of permitted water has not been made before this date, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after making beneficial use of water, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

Issued December 6 , 2012



for Phillip C. Ward, Director
Water Resources Department