

STATE OF OREGON
COUNTIES OF MORROW AND UMATILLA
PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

PORT OF MORROW
TWO MARINE DRIVE
PO BOX 200
BOARDMAN, OR 97818

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

APPLICATION FILE NUMBER: S-88288

SOURCE OF WATER: COLUMBIA RIVER, A TRIBUTARY TO PACIFIC OCEAN

PURPOSE OR USE: IRRIGATION OF 123,452.0 ACRES

MAXIMUM RATE: 23.0 CUBIC FEET PER SECOND

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31

DATE OF PRIORITY: SEPTEMBER 12, 2016

POINTS OF DIVERSION:

POD A: GOV'T LOT 7 (NENW), SECTION 2, T4N, R25E, W.M.; 150 FEET SOUTH AND 2990 FEET WEST FROM NE CORNER, SECTION 2

POD B: GOV'T LOT 7 (NENW), SECTION 2, T4N, R25E, W.M.; 150 FEET SOUTH AND 2990 FEET WEST FROM NE CORNER, SECTION 2

POD C: GOV'T LOT 3 (SWSE), SECTION 35, T5N, R25E, W.M.; 80 FEET NORTH AND 2480 FEET WEST FROM SE CORNER, SECTION 35

POD D: GOV'T LOT 4 (NWSW), SECTION 13, T5N, R27E, W.M.; 2400 FEET NORTH AND 330 FEET EAST FROM SW CORNER, SECTION 13

PLACE OF USE:

- TOWNSHIP 2 NORTH, RANGE 26 EAST: SECTIONS 1, 12, AND 13
- TOWNSHIP 2 NORTH, RANGE 27 EAST: SECTIONS 1 THROUGH 13
- TOWNSHIP 2 NORTH, RANGE 28 EAST: SECTIONS 1, THROUGH 13
- TOWNSHIP 3 NORTH, RANGE 26 EAST: EAST HALF OF SECTION 14, SECTIONS 13, 24, 25, AND 36
- TOWNSHIP 3 NORTH, RANGE 28 EAST: SECTIONS 1 THROUGH 36
- TOWNSHIP 3 NORTH, RANGE 29 EAST: SECTIONS 6, 7, 17, 18, 19, 20, 29, 30, 31, AND 32; NORTHWEST QUARTER, SOUTHWEST QUARTER, AND SOUTHEAST QUARTER OF SECTION 5, EXCEPTING THEREFROM ALL LANDS LYING NORTH AND EAST OF THE CENTERLINE OF THE UMATILLA RIVER; WEST HALF, SOUTHEAST QUARTER OF SECTION 8, EXCEPTING THEREFROM ALL LANDS LYING EAST OF THE CENTERLINE OF THE UMATILLA RIVER; WEST HALF OF SECTION 16, EXCEPTING THEREFROM ALL LANDS LYING EAST OF THE CENTERLINE OF THE UMATILLA RIVER, WEST HALF OF SECTIONS 21, 28, AND 33
- TOWNSHIP 4 NORTH, RANGE 26 EAST: EAST HALF OF SECTIONS 1, 12, AND 13 AND NORTHEAST QUARTER OF SECTION 24
- TOWNSHIP 4 NORTH, RANGE 27 EAST: SECTIONS 1 THROUGH 36
- TOWNSHIP 4 NORTH, RANGE 28 EAST: SECTIONS 5, 6, 7, 18, 31, 32; WEST HALF AND NORTHEAST QUARTER OF SECTION 4, EXCEPTING THEREFROM ALL LANDS LYING EAST OF THE CENTERLINE OF THE UMATILLA RIVER; WEST HALF AND EAST HALF OF SECTION 8, EXCEPTING THEREFROM ALL LANDS LYING EAST OF THE CENTERLINE OF THE UMATILLA RIVER; NORTHWEST QUARTER OF SECTION 9, EXCEPTING THEREFROM ALL LANDS LYING EAST AND SOUTH OF THE CENTERLINE OF THE UMATILLA RIVER; EAST HALF OF SECTION 16, EXCEPTING THEREFROM ALL LANDS LYING EAST OF THE CENTERLINE OF THE UMATILLA RIVER; SECTION 17, EXCEPTING THEREFROM ALL LANDS LYING SOUTH AND EAST OF THE CENTERLINE OF THE UMATILLA RIVER; SECTION 19, EXCEPTING THEREFROM ALL LANDS LYING SOUTH OF THE CENTERLINE OF THE UMATILLA RIVER; WEST HALF OF SECTION 20, EXCEPTING THEREFROM ALL LANDS LYING SOUTH AND EAST OF THE CENTERLINE OF THE UMATILLA RIVER; SOUTHEAST QUARTER OF SECTION 28, EXCEPTING THEREFROM ALL LANDS LYING NORTH AND EAST OF THE CENTERLINE OF THE UMATILLA RIVER; SOUTH HALF AND NORTHWEST QUARTER OF SECTION 29, EXCEPTING THEREFROM ALL LANDS LYING NORTH AND EAST OF THE UMATILLA RIVER; SECTION 30, EXCEPTING THEREFROM ALL LANDS LYING NORTH AND EAST OF THE CENTERLINE OF THE UMATILLA RIVER; SECTIONS 33, 34, 35 AND 36, EXCEPTING THEREFROM ALL LANDS LYING NORTH OF THE CENTERLINE OF THE UMATILLA RIVER

- TOWNSHIP 4 NORTH, RANGE 29 EAST: SOUTHWEST QUARTER, NORTHWEST QUARTER AND SOUTHEAST QUARTER OF SECTION 31, EXCEPTING THEREFROM ALL LANDS LYING EAST AND NORTH OF THE CENTERLINE OF THE UMATILLA RIVER
- TOWNSHIP 5 NORTH, RANGE 27 EAST: SECTIONS 25, AND 32 THROUGH 36; SOUTHWEST QUARTER, SOUTHEAST QUARTER, SOUTH HALF AND NORTHEAST QUARTER OF NORTHEAST QUARTER OF SECTION 31
- TOWNSHIP 5 NORTH, RANGE 28 EAST: SECTIONS 29, 30, 31, 32; WEST HALF OF SECTION 28, EXCEPTING THEREFROM ALL LANDS LYING EAST OF THE CENTERLINE OF THE UMATILLA RIVER; WEST HALF OF SECTION 33, EXCEPTING THEREFROM ALL LANDS LYING EAST OF THE CENTERLINE OF THE UMATILLA RIVER

1. Measurement Devices and Recording/Reporting of Annual Water Use Conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter with telemetry at each point of diversion from the Columbia River and any other location as directed by the Watermaster. The totalizing flowmeter may measure the flow associated with this and other permits using the point of diversion, provided the other water rights from the same point of diversion are identified and reported to the Watermaster. In addition, each water user is required to install a totalizing flowmeter at each re-diversion point from the common delivery system and at other locations as may be required by the Watermaster. The measuring devices need to be approved by the Watermaster prior to installation. The permittee and individual landowners shall maintain the required devices in good working order.
- B. The permittee shall allow the Watermaster access to the measuring devices; provided however, where any device is located within a private structure, the Watermaster shall request access upon reasonable notice.
- C. The permittee shall keep a complete record of the rate of flow and volume of water diverted and shall submit a report, which includes water-use measurements, to the Department annually and no later than February 14 of each year, or more frequently as may be required by the Director (the Annual Report). Further, as part of the Annual Report, the Director shall require the permittee to report general water-use information, including the place and nature of use of water under this permit and documentary evidence that use of this water in conjunction with other existing water rights for said lands did not exceed 3.5 acre-feet per acre. The documentary evidence shall include a listing of all the other existing water rights, how many acre-feet for each water right the water user used, along with the associated number of acres irrigated.

The permittee shall also make raw data/information (the rate of flow and total volume of water diverted) from the telemetered measuring devices at the PODs available to the Department in near-real time.

2. In the interest of preserving the groundwater supplies, water use described under this permit as supplemental to a groundwater right, may be used as the primary supply when surface water is available for use under this permit. If water under this permit is supplemental to a primary groundwater right, and the water under the permit is used as the primary supply, then the primary groundwater right cannot be transferred separately from the supplemental water under this permit to another place or character of use.
3. If water from this permit is used for supplemental irrigation, the pre-existing primary rights for the same place of use cannot be transferred to another place or character of use.
4. Once water from this permit is used on any lands for irrigation, those lands will be included in the claim of beneficial use. The claim of beneficial use must show all lands that received water under this permit.
5. Before water use begins, the permittee will certify to the Department, the existence of fish screens at each point of diversion on the Columbia River that meet Oregon Department of Fish and Wildlife (ODFW) and National Oceanic and Atmospheric Administration specifications for adequate protection of aquatic life, and to maintain fish screens to the specification of ODFW for the life of the water right.
6. The amount of water used for primary or supplemental irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of not to exceed ONE-SIXTIETH of one cubic foot per second and 3.5 acre-feet for each acre irrigated during the irrigation season of each year.
7. When submitting a claim of beneficial use, the permittee may request that water under this permit that is identified as supplemental in the permit be certificated as primary irrigation, if the underlying primary water rights have been diminished to supplemental, canceled, or are deficient (i.e., where the underlying pre-existing primary water rights are deficient up to ONE-SIXTIETH of one cubic foot per second and/or deficient up to 3.5 acre-feet for each acre irrigated during the irrigation season).
8. As an irrigation right issued to a municipal corporation (defined in OAR 690-300-0010(28)), this permit is not eligible for municipal preferences found in ORS 537.190(2), 537.230(1), 537.410(2), and 540.510(3).

Mitigation Conditions Required for the Permit and Subsequent Certificate:

9. Mitigation water must provide full bucket-for-bucket replacement water at or above point of impact for the maximum instantaneous rate approved by the permit, April 15 through September 30 of each year.

10. For this permit, withdrawals will be considered mitigated and at or above the point of impact if:
 - A. Withdrawals within the McNary Dam pool up to River Mile 302 are mitigated with maximum instantaneous rate approved by the permit above their points of withdrawal or anywhere between 2 miles below the McNary Dam at River Mile 290 up to River Mile 302.
 - B. Withdrawals within the upper John Day pool from River Mile 270 to McNary Dam are mitigated with maximum instantaneous rate approved by the permit above their points of withdrawal or within the upper John Day pool between River Mile 270 and the McNary Dam (about River Mile 292).
11. Mitigation water must be legally protected instream for instream use and must be maintained for the life of the permit and subsequent certificate(s).
12. Mitigation shall be in place prior to water use. Water use without mitigation in place is illegal use.
13. The Department will review and must approve all temporary and permanent mitigation associated with this permit and subsequent certificate. Mitigation must meet conditions 9, 10, 11, 12, and 16.
14. If the Department approved mitigation lapses for any reason, the permittee must immediately cease water use associated with failed mitigation. The Watermaster will regulate to reduce the diversion by the quantity **not** mitigated if the permittee fails to voluntarily reduce the diversion. Any reduction in mitigation will result in permanent diminishment of the permit by the amount that is equal to the reduction in mitigation unless the mitigation is replaced by WRD approved mitigation within three years. If the mitigation lapses in whole, the WRD will cancel the permit or subsequent certificate.
15. Replacement mitigation proposals shall be submitted to the Department in writing at least 60 days prior to the irrigation season. Replacement mitigation must meet the standards as laid out in conditions 9, 10, 11, 12, and 16.
16. Mitigation in accordance with condition #9 is required for the period March 1 through April 14. If mitigation is not provided for the periods March 1 through April 14, the permittee will only divert water when the 7-day rolling average of the mean daily gage height, or tailwater elevation, below Bonneville Dam is equal to or greater than the stage height set by the Action Agencies for that year (determined November and December). To monitor mean daily stage at this location the permittee will use the official project tailwater elevation gage - USGS gage station #14128870 Columbia River Below Bonneville Dam, OR. Real-time data from this station is available online at the United States Geological Survey (USGS) website: http://waterdata.usgs.gov/or/nwis/dv/?site_no=14128870&agency_cd=USGS&referred_moodle=sw. The permittee will maintain a spreadsheet of the 7-day rolling average of the mean daily gage height for the period when the permittee is withdrawing water, which will be available

to the Department upon request. Any mitigation provided for the period March 1 through April 14 needs to be protected instream at a point or reach above Bonneville Dam located at approximately River Mile 146).

17. The permittee or subsequent certificate holder shall provide an annual report to the Department by February 14 of each year. Items "A" and "B" must be submitted for the life of the permit and certificate. The report must be submitted to the Water Right Services Division and the Watermaster and include the following:
 - A. Activity from the previous irrigation season: The permittee or certificate holder must report the total volume of water used in acre-feet for each use allowed under the permit, the total number of acres irrigated by each use and the instantaneous maximum amount (in CFS) pumped at the point(s) of diversion. A map shall be submitted showing the location of the acres irrigated by quarter-quarter and whether the use was primary or supplemental. The Report shall include the total number of primary acres, supplemental acres and deficient water right acres that were served by the permit. The report shall also include documentary evidence¹ of mitigation water in place for the maximum instantaneous rate allowed by the permit for the previous year.
 - B. Planned activity for the next irrigation season: The permittee shall submit a map that indicates the location of acres to be irrigated by quarter-quarter. The map shall show underlying water rights and shall indicate which acres are going to be irrigated as primary and as supplemental irrigation and show the locations of any additional uses authorized by the permit. The report shall also include documentary evidence of mitigation water for the full instantaneous rate of the permit that will be in place for the next year. The irrigation season will be delayed by one day for every day that the annual report is submitted late to the Department.
 - C. Permanent mitigation is required within 30 years of permit issuance. Until permanent mitigation is in place, the permit holder shall include a report indicating the steps taken in the past year and planned for the next year to acquire permanent mitigation credits. This report is due annually on February 14 starting with the February 14 report that is between three and four years from the date of permit issuance.
18. In addition to existing enforcement mechanisms, if the Department determines that the permittee or certificate holder has exceeded the maximum authorized rate of diversion, the diversion of water will be reduced by an equal amount of water during the same time period as to when the infraction occurred the next year. Permanent mitigation is required to replace temporary mitigation within 30 years of permit issuance. This water right expires if permanent mitigation is not secured within 30 years of permit issuance.

¹ Documentary evidence could include, for example, a copy of the final order approving an instream lease or transfer.

19. Before proof can be made, permanent mitigation water must be legally protected. When the Department issues a certificate the rate will not exceed the amount of permanent mitigation that has been provided.

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.

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

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 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.

Construction of the water system shall begin within five years of the date of permit issuance. The deadline to begin construction may not be extended. This permit is subject to cancellation proceedings if the begin construction deadline is missed.

Complete 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 January 8, 2019



Dwight French, Water Right Services Division Administrator
for Thomas M. Byler, Director