Permit to Appropriate the Public Waters of the State of Oregon

This superseding permit, in the name of

CITY OF AMITY
PO BOX 159
AMITY, OR 97101

is issued to describe an amendment for an additional point of diversion proposed under Permit Amendment Application T-13685 and approved by Special Order Vol. 122, Page 3̲8̲, entered **NOV 1 0 2021**, and to describe an extension of time for complete application of water approved February 16, 1990, April 12, 1994, and March 26, 2021 and a Water Management and Conservation Plan approved on June 19, 2014. This permit supersedes Permit S-39599.

This is to certify that I have examined the foregoing application and do hereby grant the same, SUBJECT TO EXISTING RIGHTS INCLUDING THE EXISTING MINIMUM FLOW POLICIES ESTABLISHED BY THE WATER POLICY REVIEW BOARD 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 1.0 cubic feet per second (cfs) measured at the point of diversion from the stream, or its

equivalent in case of rotation with other water users, from S. Yamhill River.

The use to which water is to be applied is municipal purposes.

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Measured Distances
5 S	5 W	WM	26	NE NE	1		POD 1 - 515 FEET SOUTH AND 425 FEET WEST FROM THE NE CORNER OF SECTION 26
5 S	5 W	WM	26	SE NE		69	POD 2 - 2560 FEET SOUTH AND 650 FEET WEST FROM THE NE CORNER OF SECTION 26

Authorized Place of Use:

MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
5 S	4 W	WM	19	S 1/2 S 1/2
5 S	4 W	WM	20	S 1/2 NE 1/4
5 S	4 W	WM	20	NE SW
5 S	4 W	WM	20	S 1/2 SW 1/4
5 S	4 W	WM	20	SE 1/4
5 S	4 W	WM	21	SW 1/4
5 S	4 W	WM	21	NW SE
5 S	4 W	WM	21	S 1/2 SE 1/4
5 S	4 W	WM	22	SW SW
5 S	4 W	WM	22	SE SE
5 S	4 W	WM	23	SW SW
5 S	4 W	WM	26	NW NW
5 S	4 W	WM	27	N 1/2
5 S	4 W	WM	28	N 1/2

MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
5 S	4 W	WM	29	NE 1/4
5 S	4 W	WM	29	N 1/2 NW 1/4
5 S	4 W	WM	30	N 1/2 N 1/2
5 S	5 W	WM	24	SE SE
5 S	5 W	WM	25	E 1/2 NE 1/4

Permit Amendment T-13685 Conditions

The combined quantity of water diverted at the additional point of diversion (POD 2), together with that diverted at the authorized point of diversion (POD 1), shall not exceed the quantity of water lawfully available at the authorized point of diversion (POD 1).

Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards.

Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.

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

Extension of Time Conditions

Development Limitations
A maximum diversion of **0.475** cfs of water is currently allowed under Permit S-39599. Any diversion of water beyond 0.475cfs (not to exceed the maximum amount authorized under the permit, being 1.00 cfs) shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan (WMCP) under OAR Chapter 690, Division 86 that authorizes access to a greater rate of diversion of water under the permit consistent with OAR 690-086-0130(7). The required WMCP shall be submitted to the Department within 3 years of this Final Order. The amount of water used under Permit S-39599 must be consistent with this and subsequent WMCP's approved under OAR Chapter 690, on file with the Department.

The Development Limitation established in the above paragraph supersedes any prior limitation of the diversion of water under Permit S-39599 that has been established under a prior WMCP or Extension final order issued by the Department.

The deadline established in the Extension 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 final order may also meet the WMCP submittal requirements of other Department orders.

Conditions to Maintain the Persistence of Listed Fish
The first 0.475 cfs of water under Permit S-39599 or any subsequent water right(s) originating from Permit S-39599 is not and will not be conditioned for maintaining fish persistence.

The portion of Permit S-39599 subject to these fish persistence conditions is established as 0.525 cfs in accordance with ORS 537.230(3)(d). The use of 0.525 cfs as authorized under this permit must be hereafter conditioned with these fish persistence conditions. Therefore, all subsequent water right(s) originating from this portion of Permit S-39599 implemented will include these Conditions to Maintain the Persistence of Listed Fish. If more than one resulting water right is subject to these Conditions to Maintain the Persistence of Listed Fish,

then legal use of the 0.525 cfs conditioned to maintain the persistence of listed fish species shall be determined among all the permit/water right holders of record; all the permit/water right holders of record subject to these Conditions to Maintain the Persistence of Listed Fish must ensure that these fish persistence conditions are met.

A. Minimum Fish Flow Needs

Fish persistence target flows in the South Yamhill River as recommended by ODFW are in Table 2, below; flows are to be measured in the South Yamhill River near McMinnville, Oregon (USGS Gage Number 14194150, or its equivalent).

Table 2

ODFW'S RECOMMENDED FISH PERSISTENCE TARGET FLOWS IN THE SOUTH YAMHILL RIVER AT MCMINNVILLE, OREGON	
Month	Cubic Feet per Second
January	200
February	200
March	200
April	200
May	200
June 1 – 15	150
June 16 – 30	100
July	62
August	62
September	62
October	200
November	200
December	200

Alternate Streamflow Measurement Point
The location of a streamflow measurement point as established in these Conditions to Maintain the Persistence of Listed Fish may be revised if the permit or water right holder provides evidence in writing that ODFW has determined that flows may be measured at an alternate streamflow measurement point and the permit or water right holder provides an adequate description of the location of the alternate streamflow measurement point, and the Water Resources Director concurs in writing.

B. Determining Water Use Reductions – Generally
The maximum amount of the 0.525 cfs conditioned for fish persistence that can be appropriated is determined in proportion to the amount by which the target flows shown in Table 2 are missed based on a seven-day rolling average of mean daily flows as determined or measured by the water user in the South Yamhill River, near McMinnville (USGS Gage Number 14194150, or its equivalent). The fraction of target flow achievement is defined as:

$$T_a = (Q_g - P) / Q_t \qquad (EQ\ 1)$$

Q_g = gaged daily flow
P = amount of water conditioned for fish persistence (0.525 cfs)
Q_t = target flow
T_a = target flow achievement

When the fraction target flow achievement (T_a) is greater than 1, no curtailment is recommended. When the fraction target flow achievement is less than 1, curtailment of the amount of water conditioned for fish persistence is recommended. The curtailed permit rate is determined by scaling the amount of water conditioned for fish persistence by the fraction the flow target is not being met (*EQ 2*).

If $T_a \geq 1$, no curtailment necessary. Otherwise:

$$D_m = T_a * P \hspace{3cm} \textit{(EQ 2)}$$

$D_m =$ maximum amount of water conditioned for fish persistence that can be appropriated as a result of this fish persistence condition

C. Examples

Example 1: Target flow met.

On August 15, the gaged daily flow is (Q_g) 65 cfs. Given that the amount of water conditioned for fish persistence (**P**) is 0.525 cfs, then the gaged daily flow (Q_g) minus 0.525 is (**P**) greater than the 62 cfs target flow (Q_t) for August 15. In this example, $(Q_g - P)/Q_t \geq 1$.

$$(65 - 0.525)/62 \geq 1$$

The amount of water conditioned for fish persistence that can be diverted would not be reduced because the target flow is considered met.

Example 2: Target flow missed.

On August 15, the gaged daily flow (Q_g) is 55 cfs. Given that the amount of water conditioned for fish persistence (**P**) is 0.525 cfs, then the gaged daily flow (Q_g) minus 0.525 cfs (**P**) is less than the 62 cfs target flow (Q_t) for August 15.

Step 1: Given that the amount of water conditioned for fish persistence (**P**) is 0.525 cfs, if on August 15, the average of the gaged daily flow (Q_g) is 55 cfs and the target flow (Q_t) is 62 cfs, the fraction of target flow achievement (T_a) is less than 1.

$$(55 - 0.525) / 62 = 0.88$$

$$0.88 < 1$$

Step 2: Given the fraction of target flow achievement (T_a) is less than 1 (from Step 1), and amount of water conditioned for fish persistence (**P**) is 0.525 cfs; the maximum amount of water conditioned for fish persistence that can be appropriated as a result of this fish persistence condition (D_m) is 0.46 cfs.
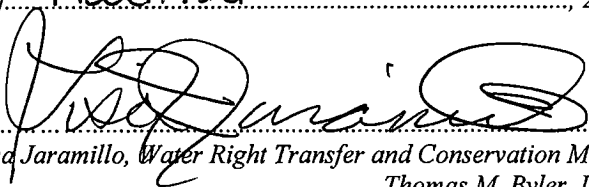
$$0.88 * 0.525 \text{ cfs} = 0.46 \text{ cfs}$$

The priority date of this permit is May 16, 1973.

Actual construction work was to begin on or before February 25, 1977 and was to be completed by October 1, 1978 by extension of time final order and shall thereafter be prosecuted with reasonable diligence and be completed on or before October 1, 2031.

Complete application of the water to the proposed use shall be made on or before October 1, 2031.

WITNESS my hand this 10th *day of* november *, 2021*

Lisa Jaramillo, Water Right Transfer and Conservation Manager, for
Thomas M. Byler, DIRECTOR