



# Oregon

John A. Kitzhaber, MD, Governor

**Water Resources Department**  
North Mall Office Building  
725 Summer St. NE, Suite A  
Salem, OR 97301  
Phone 503-986-0900  
FAX 503-986-0904  
www.wrd.state.or.us

November 27, 2012

Andres Garcia  
10440 HWY 101 S  
Tillamook, OR 97141

**RE: WATER MEASURING DEVICE NOTICE**

This notice is to inform you of the need to install a measuring device at the point of diversion on Simmons Creek. Your point of diversion, as identified below, does not have an adequate measuring device to allow for proper regulation of water use. Oregon Revised Statutes (ORS) 540.045(1)(a), and OAR 690-250-050, authorize the watermaster to regulate the distribution of water among users in accordance with existing water rights of record. A workable measuring device is necessary for water management and to ensure compliance with your water right.

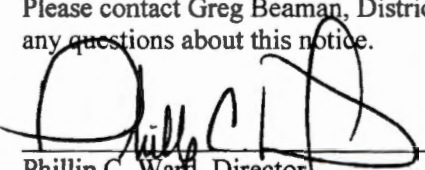
The point of diversion is from Simmons Creek, authorized by Certificate 2458, and is located in SWSE of Section 21, T2S, R9W, W.M.

ORS 540.310 and OAR 690-250-060, provides the authority for the Department to require the measuring device. **After December 7, 2012, the watermaster may regulate off your use of water and prohibit you from diverting water until an approved and workable measuring device is installed and operating properly** (ORS 540.320). The measuring device will need to be in place prior to the diversion of water authorized by Certificate 2458.

Prior to installation, you are required to get approval from the watermaster for the type and configuration of the measuring device. The watermaster may approve an alternate plan or construction schedule under certain circumstances. The watermaster should be contacted if other arrangements are needed.

ORS 540.710 provides that no person shall willfully open, close, change or interfere with any lawfully established headgate or water box or willfully use water or divert water into or through the ditch of the person which has been lawfully denied water by a watermaster or other competent authority. Violation of ORS 540.710 is punishable, upon conviction, by a fine or by imprisonment in the county jail for not more than six months or both, and may also be subject to assessment of civil penalties under ORS 536.900.

Please contact Greg Beaman, District 1 Watermaster (503-815-1967) for more information or if you have any questions about this notice.

  
Phillip C. Ward, Director  
Oregon Water Resources Department

**CERTIFIED - RETURN RECEIPT REQUESTED  
FIRST CLASS MAIL**

8/1/2006

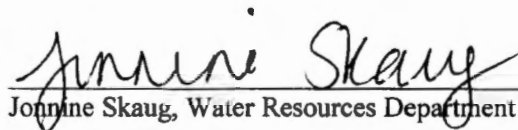
This is a Final Order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.



**CERTIFICATE OF SERVICE**

I hereby certify that on November 27, 2012, I served a true certified copy of this Notice by depositing the same in the U.S. Post Office, with first class postage prepaid thereon, and by Certified Mail to the following:

Andres Garcia  
10440 HWY 101 S  
Tillamook, OR 97141

  
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Jonnie Skaug, Water Resources Department