



# Oregon

Kate Brown, Governor

## Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

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www.wrd.state.or.us

March 27, 2015

Douglas and Janice Burgess  
2725 Mule Springs Rd.  
Homedale, ID 83628

RE: HEADGATE AND MEASURING DEVICE

This notice is to inform you of the need to install headgates and measuring devices at your points of diversion from Cow Creek. Two points of diversion from Cow Creek identified below do not have adequate headgates and measuring devices to allow for proper regulation of water use. Oregon Revised Statute (ORS) 540.045(1)(a) and Oregon Administrative Rule (OAR) 690-250-0050 authorize the watermaster to regulate the distribution of water among users in accordance with existing water rights of record. A workable headgate and measuring device is necessary for water management and to ensure compliance with your water right.

One of your points of diversion from Cow Creek, authorized by Certificate 8392 is located in Idaho just across the State line. If you wish to irrigate the land described below, you are required to install a headgate and measuring device in Oregon. The land is located as follows: 18 acres in Lot 1, NW $\frac{1}{4}$  NW $\frac{1}{4}$ ; 0.9 acres in Lot 2, SW $\frac{1}{4}$  NW $\frac{1}{4}$ , sec. 18; 0.7 acres in SE $\frac{1}{4}$  SE $\frac{1}{4}$ , sec. 12, T. 28 S., R. 47 E., of the W.M. 17 acres in NE $\frac{1}{4}$  NE $\frac{1}{4}$ , sec. 13, T. 28 S., R. 46 E. Your other point of diversion is located at lat 43.12921 N., long -117.03719 W., within the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , sec. 13, T. 28 S., R. 46 E., of the W.M., Malheur County, Oregon. This point of diversion irrigates 3.1 acres in NW $\frac{1}{4}$  SE $\frac{1}{4}$ ; 5.8 acres in SW $\frac{1}{4}$  NE $\frac{1}{4}$ ; 5.4 acres in SE $\frac{1}{4}$  NW $\frac{1}{4}$ , sec. 13, T. 28 S., R. 46 E., of the W.M., Malheur County, Oregon.

ORS 540.310 and OAR 690-250-0060 provide authority for the Department to require the headgate and measuring device. Pursuant to ORS 540.320, the headgate and measuring device must be installed within ten (10) days from the mailing of this notice. After April 7, 2015 the watermaster may regulate off your use of water and prohibit you from diverting water until an approved, workable, headgate and measuring device is installed and operating properly.

Prior to installation, you are required to get approval from the watermaster for the type and configuration of the headgate and measuring device. Facilities shall be of such construction that it can be kept locked and closed by the watermaster. 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 a person that 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 Watermaster Ron Jacobs at 541-473-5130 or by email at [Ronald.K.Jacobs@wrd.state.or.us](mailto:Ronald.K.Jacobs@wrd.state.or.us) for more information or if you have any questions about this notice.

Thomas M. Byler, Director  
Oregon Water Resources Department

CERTIFIED – RETURN RECEIPT REQUESTED  
FIRST CLASS MAIL

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.



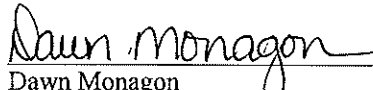
**CERTIFICATE OF SERVICE**

I hereby certify that on March 27, 2015, I mailed a true certified copy of the attached **HEADGATE AND MEASURING DEVICE NOTICE**, by first class mail and certified mail, by depositing the same in the US Post Office, with prepaid postage thereon, addressed to the following:

Douglas and Janice Burgess  
2725 Mule Springs Rd.  
Homedale, ID 83628

and by regular mail to:

Jason Spriet  
OWRD Region Manager  
Baker County Courthouse  
1995 3rd St., Ste 180  
Baker City, OR 97814

  
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Dawn Monagon  
Water Resources Department