

STATE OF OREGON
COUNTY OF JOSEPHINE
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO:

R. DONALD AND ELIZABETH. ALLAIRE
2001 ROCK CREEK,
WILLIAMS, OREGON, 97544

541-846-6631

confirms the right to use the waters of RIGHT HAND FORK ROCK CREEK, TRIBUTARY OF ROCK CREEK, AND ROCK CREEK, TRIBUTARY OF EAST FORK WILLIAMS CREEK, IN THE APPLGATE RIVER BASIN, for HYDROELECTRIC PRODUCTION of 99 THEORETICAL HORSEPOWER.

This time-limited certificate is issued under application HE 546. The date of priority is JUNE 24, 1994, for 0.74 CUBIC FOOT PER SECOND (cfs) AND JANUARY 10, 2000 FOR 0.66 CFS from RIGHT HAND FORK ROCK CREEK, AND JANUARY 10, 2000 FOR 1.4 CFS from ROCK CREEK.

The points of diversion are located: NE $\frac{1}{4}$ NE $\frac{1}{4}$, 700 FEET SOUTH AND 1300 FEET WEST; and NE $\frac{1}{4}$ SE $\frac{1}{4}$, 3850 FEET SOUTH AND 1200 FEET WEST; both from the NE CORNER of SECTION 28, TOWNSHIP 39 SOUTH, RANGE 5 WEST, W.M.

The powerhouses are located: NE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 28, TOWNSHIP 39 SOUTH, RANGE 5 WEST, W.M.

This water right is inferior in right and subsequent in time to any future appropriation of water upstream for beneficial consumptive uses. The use of water is limited to the amount that the generation facilities can utilize efficiently, and shall not exceed the specifications noted in the water right.

Appeal Rights

This is a final order in other than 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.

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law.

The project consists of a standpipe submerged in the stream and enclosed by a metal box allowing an inverted flow into the pipe. The pipeline is approximately 1,320 feet of 10-inch and 6-inch PVC pipeline serving as the penstock. The penstock reduces to a 2-inch pipe into the turbine unit. The tail water discharges into Right Hand Fork Rock Creek. If the project diverts up to 1.4 cfs, with 160 feet of head it has potential to produce 25 theoretical horsepower. Power is generated by a 17-inch Pelton wheel turbine attached to a 25-KW generator.

Rock Creek Project #2: Water will be diverted from a clap board diversion dam approximately 2-foot high by 8-foot wide. Fish passage shall be provided at the diversion structure according to ODFW guidelines. The certificate holder shall maintain at least 3/32 inch mesh screening over the diversion intakes at all times for fish protection. If the intake(s) are moved or altered, the licensee shall consult with the Oregon Department of Fish and Wildlife Upper Rogue District Fish Biologist to ensure proper mitigation measures are in effect. The pipeline will be approximately 2000 feet long and consist of a 10-inch PVC pipeline 200 feet long reduced to a 6-inch PVC pipeline 1,600 feet long serving as the penstock and providing approximately 450 feet of head to a Pelton Wheel connected to a generator. The project would divert up to 1.4 cfs, have a maximum 450 feet of head and a maximum potential of 74 theoretical horsepower.

WATER RIGHT CONDITIONS

Upon a review of the application and input received from state and federal agencies and private citizens, OWRD finds that the Project, with the conditions set forth below, will not violate the standards expressed in Oregon Administrative Rules (OAR) 690-051-0160 through 0270, and is consistent with the public interest. No other application has been filed in competition with this application. The Project is well adapted to the development and utilization of the water power involved.

The use of water is subject to the following express conditions:

1. The Owner shall comply with all statutes and rules applicable to the Project.
2. The Applicant shall pay, upon receiving an invoice from OWRD, an annual fee in the amount of \$39.80, (under ORS 543.300 and OAR 690-51-0400(6)), or as may be modified by statute. This amount shall be due by the date specified on the invoice.
3. This certificate is effective from the date of issuance through December 31, 2027, and may be reauthorized under laws existing at that time.
4. Upon a decision to terminate the hydroelectric use for more than five years, the Owner shall comply with the decommissioning standards under OAR 690-52. On termination of the water right, the right to use water shall revert to the public.
5. The Owner shall construct and build the Project according to the maps, plans and

specifications filed with and approved by the OWRD, within 2 years or by any lawful extension thereof. The Project map will be incorporated into the water right certificate.

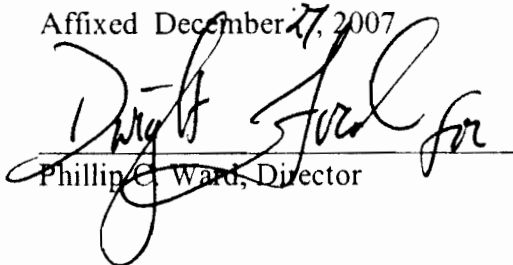
6. The Owner will maintain the Project, and each part thereof, in good order and repair and in efficient operation, for the development and transmission of electricity to its reasonable capacity; shall make all necessary renewals and replacements as required; and shall maintain and operate the Project, and all parts thereof, conformably to the rules of the WRC not inconsistent with Oregon Revised Statutes (ORS) 543.010 to 543.610.
7. The Owner shall complete construction of the Project within two years of the date the water right is issued.
8. No voluntary transfer of the water right or of any property acquired, constructed or operated pursuant to the water right issued under ORS 543.010 to 543.610 shall be made without written approval of the Water Resources Department. Any successor or assignee of any water right under any project acquired, constructed or operated by the Owner, whether by voluntary transfer approved by the Department or sale upon foreclosure, execution or otherwise, shall be subject to all the terms and conditions of the water right and of the provisions of ORS 543.010 to 543.610 to the same extent as though the successor or assignee was the original Owner there-under. Any mortgage, deed of trust, or other lien suffered or created upon any such project shall be subject and subordinate to all the terms and conditions of ORS 543.010 to 543.610. However, the provisions of this section shall not apply to any transfer, voluntary or involuntary, to the state or any municipal corporation thereof, and upon such transfer the water right shall terminate.
9. The Project must meet the water quality standards stated in OAR Chapter 340, Division 41. The water right holder shall consult with ODEQ prior to undertaking any activity that directly or indirectly results in removal of canopy vegetation adjacent to Project waterways. Waterways include, but are not necessarily limited to bypass reaches, siltation/forebay ponds, open-channel diversions, and above ground pipes. Return flows, from the turbine, will be discharged on a spillway prior to returning to the stream to prevent erosion and other potential water quality impacts.
10. Notwithstanding any specific conditions established by this water right, the water right holder must comply with all water quality standards adopted by the Environmental Quality Commission pursuant to state and federal law, ORS 468B.048 and Section 303 of the Clean Water Act.
11. A screen that conforms to Oregon Department of Fish and Wildlife criteria shall be placed on the intake pipe prior to the project becoming operable. This screen shall be maintained or replaced by the owners as necessary to ensure it operates as it is intended throughout the projects operation. Screens may be constructed of any rigid corrosion resistant material (I.e. perforated, woven or barlike) that presents a smooth uniform

surface. At the diversion intake the screen face shall be parallel to the water flow aligned with the adjacent bankline.

12. The Project shall be designed to minimize visual, aesthetic, and noise impacts.
13. Although there are no known cultural sites within the Project area, if any cultural material is discovered during Project construction, all activities should stop and an archaeologist contacted to assess the discovery. It is a Class B misdemeanor to impact an archaeological site (ORS 358.905-955) and a Class C felony to impact Indian Burials (ORS 97-740-990).
14. The Owner shall allow the OWRD Director and authorized agents and employees of the Oregon Department of Environmental Quality, Oregon Department of Fish and Wildlife, and Oregon Water Resources Department free and unrestricted access in, through, and across the Project in the performance of their official duties, and shall allow free access to all reports, accounts, records, and other data relating to said Project.
15. The Owner shall be liable for all damages occasioned to the persons or property of others by the construction, operation, or maintenance of the Project facilities, and in no event will the State of Oregon be liable therefore.
16. Issuance of the water right does not absolve the Owner from compliance with the requirements and enforcement of the requirements under other applicable local, state, and federal laws. The Owner is made aware that permits may be required from the United State Army Corps of Engineers under Section 404 of the Clean Water Act, or from the Division of State Lands for removal and fill of material.

WITNESS signature of the Water Resources Director,

Affixed December 27, 2007


Phillip C. Ward, Director

Recorded in State Record of Water Right Certificates number 83691 .