

STATE OF OREGON
WATER RESOURCES DEPARTMENT
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO:

CROWN HILL FARM
MOCHETTAZ & GUNDERMAN
18155 SW BAKER CREEK ROAD
MCMINNVILLE, OR 97128

confirms the right to use up to 1 CUBIC FOOT PER SECOND (cfs) of the waters of AN UNNAMED STREAM and RESERVOIR, tributary to SNAKE CREEK to SUPPLEMENT HYDROELECTRIC PRODUCTION of 9.6 THEORETICAL HORSEPOWER (thp).

This right was filed under applications HE 584. The date of priority is JANUARY 16, 2008. The maximum amount of water to be diverted at any time under HES 549, 558 and 584 is 4 CUBIC FEET PER SECOND (cfs). Water from this source may be diverted from NOVEMBER 1 through APRIL 30 of each year.

The points of diversion are located: SW ¼ SW ¼, SECTION 15, TOWNSHIP 4 SOUTH, RANGE 5 WEST, W.M.

The authorized place of use is located: NE ¼ SE ¼, SECTION 16, TOWNSHIP 4 SOUTH, RANGE 5 WEST, W.M.

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. This right is inferior in right and subsequent in time to any future appropriation of water for beneficial consumptive use.

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 project proposes to divert up to 1.0 cfs of water from an unnamed intermittent stream into a small reservoir (approximately 50' wide by 75' long with a depth of 4' to 6') and to use the stored water for hydroelectric generation. The reservoir will be an earthen structure. An 8-inch PVC pipe, extending through the bottom of the dam and buried for 3,600 feet will transport the water to the existing turbine. The Project has 85 feet of head. The outfall from the turbine will discharge into Baker Creek. This 1.0 cfs water source is not additive to the 4 cfs allowed by hydroelectric water right HE 549 and the total hydroelectric water usage for the projects (HE 549, HE 558 and HE 584) shall remain limited to 4.0 cfs, which is also the hydraulic turbine capacity of these projects. The waters of the unnamed intermittent stream may be diverted into Little Lake Reservoir #2 for hydroelectric purposes annually from November 1 through April 30.

The power generated will be used onsite for domestic and agricultural purposes, and excess power will be sold under agreement to McMinnville Power and Light.

All of the works are located on the applicant's property.

This water right expires DECEMBER 31, 2022, and may be reauthorized with HE 549 and HE 558 under laws existing at that time.

WATER RIGHT CONDITIONS

Upon review of the application and input received from state and federal agencies and private citizens, Oregon Water Resources Department (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. The project is well adapted to the development and utilization of the water power involved.

1. The Applicants 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 to OWRD in the amount of \$15 (*comprised of \$9.60 under OAR 690-051-0400(6) and \$5.40 under ORS 543A.415*). This amount shall be due by the date specified on the invoice.
3. Upon a decision to terminate the hydroelectric use for more than five years, the Applicants shall comply with any decommissioning statutes and rules in effect at that time. On termination of the water right, the right to use water shall revert to the public.
4. If, after completing construction of the Project, the Applicants fail to use or operate the Project facilities for any period of five consecutive years, the water right shall be subject to termination by the OWRD.

5. The Applicants shall construct and build the Project according to the maps, plans and specifications filed with and approved by the Water Resources Commission (WRC), and within the time fixed by the water right or by any lawful extension thereof. The Project map will be incorporated into the water right certificate.
6. Reservoir construction shall occur during an extended dry period and best management practices shall be employed to minimize soil erosion and land disturbance. The banks of the reservoir shall be contoured to provide safe access and egress to wildlife and will be planted with a native seed mix to prevent erosion and to provide habitat for wildlife. The overflow pipe from the reservoir will be constructed to avoid and minimize erosion and impacts to downstream riparian habitat. The reservoir will be utilized during the high flow times of the year (Nov 1 through April 1) a pipe needs to be installed at the bottom of the reservoir to ensure that creek does not go dry when water is present in the reservoir. The pipe will be designed to minimize erosion at its outfall and be installed at an elevation that ensures that the riparian area downstream of the reservoir will not go dry when water is present above the reservoir.
7. Use of water is governed by this water right. However, the operations of the Project by the Applicants so far as those operations affect the use, storage and discharge from storage of waters affected by the Applicants, shall at all times be controlled by such reasonable rules as the WRC may prescribe for the protection of life, health and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes. The Applicants shall release water from the Project reservoir at such rate in cfs, or such volume in acre-feet per specified period of time, as the WRC may prescribe.
8. The Applicants 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.
9. 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 WRC. Any successor or assignee of any water right under any project acquired, constructed or operated by the Applicants, whether by voluntary transfer approved by the WRC 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 Applicants. 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.

10. The following requirements of Oregon Revised Statutes (ORS) 543 are hereby waived, under authority of OAR 690-051-0350:
 - ORS 543.530 which relates to the issuance of bonds or other evidence of indebtedness and the control thereof by the WRC.
 - ORS 543.550 relating to liens against the Project and providing that any sale shall be of the whole property embraced in the Project unless a partial sale is approved by the OWRD Director.
 - ORS 543.560 which requires the Applicants to execute to the State of Oregon a bond to the effect that the applicants shall promptly make payment to all persons supplying labor, material, machinery, etc...
11. The Project must meet the water quality standards stated in OAR Chapter 340, Division 41. See water quality requirements in the existing hydroelectric water right, HE 549, and any amendments thereto, which are incorporated by reference and shall apply to this water right as though set forth fully herein.
12. To protect from any significant future temperature-related adverse impacts to aquatic organisms, any future modifications of vegetation surrounding Project waters should be carefully evaluated. The water right holder shall consult with Oregon Department of Environmental Quality (ODEQ) prior to undertaking any activity that directly or indirectly results in removal of 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.

The project shall be completed using best management practices, which minimize soil disturbance and erosion. Disturbed areas shall be replanted with a native plant mix to stabilize the soils from future erosion. Vegetative canopy provides shade which reduces the potential for temperature related impacts.
13. 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.
14. The Project shall be designed to minimize visual, aesthetic, and noise impacts.

15. 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).
16. The Applicants shall allow the OWRD Director and authorized agents and employees of the OWRD free and unrestricted access in, through, and across the Project in the performance of their official duties, including but not limited to monitoring of instream flow requirements, and shall allow free access to all reports, accounts, records, and other data relating to said Project.
17. The Applicants 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.
18. Issuance of the water right does not absolve the Applicants from compliance with the requirements and enforcement of the requirements under other applicable local, state, and federal laws. The Applicants are informed that wetland removal/fill permits may be required by appropriate state or federal agencies. The OWRD recommends that the Applicants consult with the Oregon Division of State Lands and the United States Army Corps of Engineers for clarification on this issue. If the activity will involve the clearing of forestland for conversion to any non-forest use (water development) then the landowner, operator or timber owner is required to notify the State Forester 15 days prior to commencement of the operation (ORS 527.670). If the forest operation takes place within 100 feet of a "Fish Bearing Stream" the Applicants are required to submit a written plan (OAR 629-605-0170) addressing stream protection measures.

Issued October 31, 2008



Dwight French, Administrator Water Rights and Adjudications, for
Phillip C. Ward, Director
Oregon Water Resources Department