

STATE OF OREGON
COUNTY OF MARION

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO:

PAUL AND PATRICIA JORDAN
3335 RIVERSIDE DRIVE S.
SALEM, OR 97306

confirms the right to use the waters of WILKERSON CREEK, a tributary to the WILLAMETTE RIVER for HYDROELECTRIC PRODUCTION of 2.21 theoretical horsepower.

This time-limited certificate is issued under application HE 582. The priority date is NOVEMBER 14, 2007. The amount to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 2.16 CUBIC FOOT PER SECOND (cfs) measured at the point of diversion from the source.

The point of diversion is located:

Tax Lot 201
NW ¼ NE ¼,
Section 6,
Township 9 South, Range 3 West W.M.

The authorized place of use is located:

Tax Lot 201
NW ¼ NE ¼,
Section 6
Township 9 South, Range 3 West, W.M.

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 Director finds that this hydroelectric project (Project) is well adapted to the development and utilization of the water power involved, that no application for this project or in conflict with this project has been filed by any municipality or utility district, and that the water right holder has paid to the Oregon Water Resources Department (OWRD) all fees required prior to the issuance of this certificate.

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. The right granted herein is expressly made inferior in right and subsequent in time to any authorized appropriation of water from this source for domestic, municipal, irrigation or any other beneficial consumptive use.

PROJECT DESCRIPTION

Paul and Patricia Jordan (Owners) propose to divert up to 2.16 cubic feet per second (cfs) of water from Wilkerson Creek, tributary to the Willamette River, through Jordan's Pond – Permit R-14565 –, and will use nine four inch PVC pipes, in any combination, and approximately 4/10^{ths} of a foot of hydraulic head to power a seven foot diameter over-shot waterwheel and return the water to the creek; approximately 200 feet downstream of the point of diversion. A small cinderblock structure, located next to the waterwheel, will house a 5000 watt generator alternating current power head that will be run by a v-belt pulley system, increasing the revolutions per minute to run the generator head. #6 wire will be piped underground from the generator to the meter at the house, approximately a distance of 400'. In addition, the generator head will have an ohm meter, amp meter and a hertz meter to ensure clean power is being transmitted to the power meter for acceptance to the grid. The estimated cost of the project is \$10,000.

WATER RIGHT CERTIFICATE 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 resources impacted by the Project.
2. This certificate is effective from the date of issuance through December 31, 2028, and

may be reauthorized under laws existing at that time.

3. This right is made inferior in right and subsequent in time to any future appropriation of water upstream for beneficial consumptive uses.
4. The Owner shall construct and build the Project according to the maps, plans and specifications filed with the application within two years of issuance of this time-limited water right certificate OAR 690-051-0390(2) or by any lawful extension thereof.
5. 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.
6. 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 .
7. The Project must meet the water quality standards stated in OAR Chapter 340, Division 41. No significant temperature-related problems have been identified nor are they expected. However, 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. Vegetation adjacent to Wilkerson Creek provides stream shading and soil stability. Total vegetation adjacent to Project waterways shall not be degraded or reduced. 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 impact.

Water shall be returned to Wilkerson Creek in a manner which minimizes sediment mobilization. The Applicant shall employ Best Management Practices (BMPs) such as

the placement of energy dissipation devices (e.g., boulders) near the base of the water wheel to reduce the potential for sediment mobilization. In accordance with OAR 340-041-0036, operation of the Project may not increase cumulative turbidity by more than ten percent relative to conditions immediately upstream of the Project.

This project shall be completed using management practices that minimize soil disturbance. For soils that are disturbed, the water right holder shall employ BMPs to minimize erosion of the disturbed soils during construction. After construction is completed, the disturbed areas should be planted to stabilize the soils from future erosion.

The Applicant agrees to modify the flume to allow the water to manually bypass the waterwheel if the Project is not operating. The bypass shall direct water back into Wilkerson Creek in a manner which minimizes streambed scour, erosion, and sediment mobilization.” Also: “For safety during maintenance and inspections, the Project shall include a mechanical disconnect to isolate operation of the water wheel drive shaft from auxiliary gearing.

8. 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.
9. An instream flow of 1.0 cfs shall remain in Wilkerson Creek at all times and the Project shall never divert more than 50% of the Wilkerson Creek flow.

Wilkerson Creeks flow shall be measured directly above the point of diversion by means of a calibrated sharp-crested weir (I.e. rectangular-notch, trapezoidal-notch or 90 degree V-notch) to be constructed, installed and maintained by the owner. In addition, a calibrated staff gage shall be installed in the bypassed section of Wilkerson Creek to evidence the 1.0 cfs minimum stream flow.

10. It is the policy of the Oregon Department of Fish and Wildlife (ODFW) to prevent the injury or loss of any game fish or non-game fish classified as sensitive, threatened or endangered from any waterbody in the state, as a result of any diversion from the waterbody. Toward that end, the Applicant shall construct, install and maintain a fish screen that complies with ODFW Fish Screening Criteria. The Applicant’s fish screen shall be installed prior to diverting water for Project operation and the Applicant is responsible for all fish screen repair and maintenance necessary to keep the fish screen in proper working order.
11. If at any time an unanticipated situation arises in which the owner observes or suspects that fish, wildlife, or their habitat may be harmed by any of the project facilities or as the result of project operation, the operator shall immediately notify and consult with the

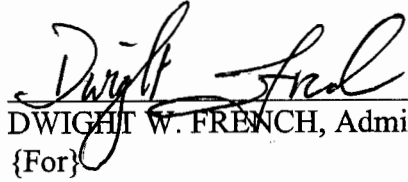
nearest office of the Oregon Department of Fish and Wildlife (ODFW); in no case shall such contact occur later than the next business day. The owner shall subsequently restore any damaged fish and wildlife protection features of the project consistent with direction provided by ODFW (ORS Chapter 543A.025).

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 OWRD 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. 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.
16. 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.
17. Use of water is governed by this water right. However, the operation of the Project by the Applicant, so far as those operations affect the use, storage and discharge from storage of waters affected by the Applicant, shall be at all times 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 power purposes and for other beneficial public uses.

The Owner shall pay, upon receiving an invoice from OWRD, an annual fee to OWRD in the amount of \$15.00, (OAR 690-051-0400(6) and ORS 543A.415). This amount shall be due by the date specified on the invoice for the term of this time-limited certificate.

18. 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.

Issued October 31, 2008



DWIGHT W. FRENCH, Administrator of Water Rights & Adjudications

{For}

Phil Ward, Director

Oregon Water Resources Department

Recorded in State Record of Water Right Certificates, numbered 85001

HE 582

Certificate 85001