

STATE OF OREGON
COUNTY OF JACKSON
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO:

LISA BUTTREY & DAVID B. COTHRAN
1211 COLESTIN ROAD
ASHLAND, OR 97520

confirms the right to use the waters of the EAST FORK COTTONWOOD CREEK to develop 162 feet of gross head for HYDROELECTRIC USE of 1.65 theoretical horsepower.

This time-limited certificate is issued under application HE 540.

The date of priority is MARCH 9, 1992.

The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.09 CUBIC FEET PER SECOND (cfs) measured at the point of diversion from the source.

The point of diversion is located:

South 29 Degrees 34 Minutes West 113 feet from NE Corner of the SE ¼ SE ¼ Section 19, being within the SE ¼ SE ¼, Section 19, Township 40 South, Range 2 East, W.M.

The authorized place of use is:

SE ¼ SE ¼, Section 19
Township 40 South, Range 2 East, 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. 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.

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 the 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.

WATER RIGHT CERTIFICATE CONDITIONS

1. The total net vegetation adjacent to project waterways that provides shading to the waterways and/or streambank soil stability shall not be degraded or lessened. The water right holder shall consult with the Oregon Department of Environmental Quality (ODEQ) before undertaking any activity that directly or indirectly results in removal of vegetation adjacent to project waterway(s) that provides shade to the waterway(s) and/or provides stream-bank soil stability. (Waterways include, but are not necessarily limited to: bypass stream reaches, siltation/forebay ponds, open-channel diversions, and aboveground pipes.)
2. 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.
3. Neither a fish screen nor fish passage is required as there are no native migratory fish at the project due to the small channel size and inadequate flow at the project (~6 inches wetted width at low flow and ~3 feet bank full width) and lack of suitable substrate or channel morphology needed for spawning.
4. OWRD may alter conditions of the certificate on a clear showing of a significant threat to the public health or safety or the environment that was not identified and addressed during the most recent project authorization proceeding, and that requires modification of the certificate. ORS 543A.145(5). Such changes could include, but are not limited to, the following:
 - a. New federal listing or a change in status or recovery plan of a threatened or endangered species that may be affected by the project.
 - b. Change in a water quality standard for a water quality parameter that may be affected by the project.
 - c. Development of a Total Maximum Daily Load for a water quality parameter that may be affected by the project.

If OWRD proposes to alter conditions, the order shall be in writing and shall consist of a concise statement of the underlying facts supporting the proposed order. Any appeal of the order shall be according to procedures outlined in ORS Chapter 183.

5. The owner must obtain OWRD review and approval before undertaking any repair, maintenance activity, or any change to the project that might significantly and adversely affect water quality, fish and wildlife or public health and safety, including changes to project operation and flows. ORS 543A.025.
6. 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 543A.025.
7. Upon permanent cessation of power generation, the owner shall remove or modify project facilities to meet decommissioning standards adopted by the Department.
8. The owner shall pay to OWRD in accordance with the provisions of ORS 543.078 (2)(b) an annual fee of \$50 on or before the first day of January of each year after issuance of this certificate.
9. The owner shall allow the Director and authorized agents and employees of the OWRD, ODEQ, and ODFW 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 the said project.
10. The project facilities are more particularly described and shown on the map filed with the application and designated as Exhibit A. Said exhibit is hereby approved by the Director and made a part of this certificate. No substantial change to the project shall be made unless approved by the Director and incorporated into this certificate by appropriate amendment or special order.
11. Failure to comply with any of the provisions of this certificate may result in action including, but not limited to, civil penalties, restrictions on the use or cancellation of the certificate.
12. The land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan. ORS 197.180.
13. Any transfer or sale of this water right or property associated with a project must comply with the requirements of ORS 543.440 regarding prior approval of the OWRD and rights and responsibilities transferred. These laws require that prior to any transfer, the owner shall notify OWRD of the name of the new owner and complete forms provided by the

OWRD assigning the hydroelectric project to the new owner. Any successor or assignee shall be subject to all terms and conditions of this certificate. Any mortgage, deed of trust, or other lien is subject and subordinate to the terms and conditions of hydroelectric program law. ORS 543.440.

14. This certificate is issued for the period effective as of the date of issuance through December 31, 2043, and may be reauthorized under laws existing at that time.
15. The right to the use of water for power generation is restricted to beneficial use at the place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights issued before this use was initiated, including rights for maintaining instream flows.

Dated in Salem, Oregon on June 29, 2018



Dwight French, Administrator
Water Right Services Division, for
Thomas M. Byler, Director
Oregon Water Resources Department

Recorded in State of Water Right Certificates numbered 93850