

STATE OF OREGON
COUNTY OF KLAMATH
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

KLAMATH IRRIGATION DISTRICT
6640 K.I.D. LANE
KLAMATH FALLS, OR 97603

confirms the right to use up to 700 CUBIC FEET PER SECOND (cfs) of the A-CANAL waters from UPPER KLAMATH LAKE with 22.5 feet of head at the C-DROP location for 1790 THEORETICAL HORSEPOWER (THP) of HYDROELECTRIC CAPACITY.

This right was perfected under Permit S-54765 (PC 889).

The date of priority is JUNE 3, 2009, for 550 cfs and AUGUST 25, 2011, for 150 cfs.

The maximum amount of water to be diverted is 700 CUBIC FEET PER SECOND (cfs).

The point of diversion is located:
SW ¼ NE ¼, SECTION 19, TOWNSHIP 39 SOUTH, RANGE 10 EAST, W.M.

The authorized place of use is located:
SW ¼ NE ¼, SECTION 19, TOWNSHIP 39 SOUTH, RANGE 10 EAST, W.M.

The use of water is limited to the amount that the generation facilities can use 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.

Notice of Right to Petition for Reconsideration or Judicial Review

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 petition for judicial review and 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. In addition, under ORS 537.260, any person owning an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of this certificate within three months after issuance of the certificate.

CERTIFICATE CONDITIONS

Upon review of the application and input received from state and federal agencies and private citizens, Oregon Water Resources Department (Department) 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 Owner shall comply with all statutes and rules applicable to the Project.

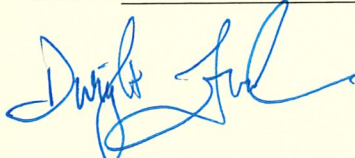
1. No voluntary transfer of this certificate or of any property acquired, constructed or operated pursuant to the certificate issued under ORS 537.292 shall be made to any non-municipal entity so as to result in a loss of ownership of the certificate by a municipal corporation or district. The holder of this certificate must remain qualified as a municipal applicant under ORS 537.285 and 537.287. If the municipal corporation or district proposes to generate hydroelectric power jointly with a non-municipal entity, any proposed changes in the agreement between the municipal corporation and the non-municipal entity must be reviewed by the Department to determine whether the certificate holder remains qualified as a municipal applicant. If the department determines that a certificate holder no longer qualifies as a municipal applicant, the department shall notify the certificate holder and any non-municipal entity that the parties have 90 days to amend their joint relationship to continue qualifying as a municipal corporation or district. If the certificate holder fails, after receiving notice under ORS 537.289(2), to amend the joint agreement so the certificate holder continues to qualify as a municipal applicant, or if the certificate holder has assigned ownership of the certificate to an entity other than a municipal corporation or district, the Department shall initiate proceedings to cancel the certificate.
2. The Project must meet the water quality standards stated in OAR Chapter 340, Division 41, ORS 468B.048, and Section 303 of the Clean Water Act. The Project must meet water quality requirements including numeric and narrative standards, protect beneficial use, and not degrade existing water quality.
3. Due to the importance of the fish screen at the A-Canal headgate to prevent entrainment of fish into the C-canal, the hydroelectric use shall be conditioned to require continued operational proficiency of the fish screen at the head of the A-Canal. Maintenance of the A-Canal screen to meet Oregon Department of Fish and Wildlife fish screening criteria is essential to fish protection and restoration of native fish populations in the basin. If the fish screen is not operating proficiently based on ODFW criteria, the C-Drop hydroelectric facilities shall immediately cease operations until such time as screening is provided to criteria standards.
4. 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 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).

5. The Owner shall allow the Department Director and authorized agents and employees of the Oregon Department of Environmental Quality, Oregon Department of Fish and Wildlife, and the 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.
6. 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 certificates 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.
7. 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.
8. The Applicant shall pay, upon receiving an invoice from the Department, an annual fee to the Department according to ORS 543.078(2)(a) or subsequent statute. This amount shall be due by the date specified on the invoice.

Issued

December 10, 2019



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

