

STATE OF OREGON

COUNTY OF LANE

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

DAVID & KATRINA RADTKE TRUST
6975 SW LARKSPUR PL
BEAVERTON, OR 97008

541-547-3087

for the right to use the waters of an UNNAMED STREAM, tributary of TENMILE CREEK, for hydroelectric development of 20 theoretical horsepower for onsite use.

The date of priority is APRIL 20, 1981 for 0.27 CUBIC FEET PER SECOND (CFS) AND FEBRUARY 23, 1999, for 0.23 CFS. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.50 CFS measured at the point of diversion from the source.

The use of water for power generation is limited to the period of NOVEMBER 1 TO JUNE 30 of each year.

The point of diversion is located as follows:

SW 1/4 SE 1/4, SECTION 25, TOWNSHIP 15 SOUTH, RANGE 12 WEST, W.M.;
700 FEET EAST AND 400 FEET NORTH of the S 1/4 CORNER OF SECTION 25.

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 Water Resources Department all fees required prior to the issuance of this certificate.

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 536.075 and ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified in ORS 183.484(2). Pursuant to OAR 137-004-080 you may 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 is filed, the petition shall be deemed denied.

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CERTIFICATE 95010

A description of the place of use to which this right is appurtenant is as follows:

TAX LOT 601, NW 1/4 NE 1/4
SECTION 36
TOWNSHIP 15 SOUTH, RANGE 12 WEST, W.M.

Project Description: Water is diverted at the lower end of a large galvanized culvert pipe that passes under Tenmile Creek Road. The water exits the culvert pipe and drops into a galvanized half-pipe with a debris screen (1/4 inch holes). Water passes through the debris screen and enters a water collection chamber, which is connected to a 6-inch above ground PVC pipe that runs about 1000 feet to the powerhouse. There is a short section of 6-inch PVC pipe coming out of the collection chamber that is connected to a valve so water to the powerhouse may be shut-off. The powerhouse is located in a ravine, approximately 240 feet of head is developed down an extremely steep gradient from Tenmile Creek Road. The entire facility is situated such that it blends well with the surroundings and does not seem to detract or harm wildlife. The sheer gradient of the stream and available habitat are not conducive to fish use and there is a significant waterfall just above the powerhouse that would be a fish passage barrier were fish present. The entire area between the point of diversion and the powerhouse is well shaded and banks are well vegetated. As the penstock nears the powerhouse there is in quick succession are a water pressure gauge, a valve, and another water pressure gauge. This allows the operator to know the water pressure in the pipe with the valve closed and when opened and provides operational and maintenance flexibility. To power the project, a Magnaplas synchronous 8 kilowatt generator sits atop a 10-inch shrouded Pelton wheel. Tailwater exits the powerhouse beneath the floor through a 12-inch pipe and into a vegetated bypass channel that reconnects with the unnamed stream just prior to where the unnamed stream confluent with Tenmile Creek.

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. Any future maintenance of the project shall avoid or minimize vegetation removal within the riparian corridor to prevent solar gain. Any future maintenance requiring land disturbance shall employ best management practices to avoid sedimentation, loss of vegetation, and placement of rocks or soil into the stream.
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. The Department 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 state or 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 (TMDL) for a water quality parameter that may be affected by the project.

If the department 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.

4. The water right holder must obtain Water Resources Department 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).
5. If at any time an unanticipated situation arises where the operator 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 operator shall subsequently restore any damaged fish and wildlife protection features of the project consistent with direction provided by ODFW (ORS 543A.025).
6. All the fish and wildlife mitigation features shall be properly maintained for the duration of the project (ORS 543A.025 (2)(a) and (5)(d)).
7. Upon permanent cessation of power generation, the owner/operator shall remove or modify project facilities to meet decommissioning standards adopted by the Department.
8. The water right holder shall pay to the Department in accordance with the provisions of ORS 543.078 (2)(b), or subsequent statute, an annual fee of \$50 on or before the first day of January of each year after issuance of this certificate.

9. The right granted herein is expressly made inferior in right and subsequent in time to any appropriation of water from this source for domestic, municipal, irrigation or any other beneficial consumptive use.
10. The water right holder shall allow the Director and authorized agents and employees of the Department of Environmental Quality and the Department of Fish and Wildlife 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.
11. The project facilities are more particularly described and shown on the map filed to accompany 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.
12. 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.
13. 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).
14. Any transfer or sale of a license, rights under a license, or property associated with a project must comply with the requirements of ORS 543.440 regarding prior approval of the Water Resources Department and rights and responsibilities transferred. These laws require that prior to any transfer, the water right holder shall notify the Department of the name of the new owner and complete forms provided by the Department 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 are subject and subordinate to the terms and conditions of hydroelectric program law (ORS 543.440).
15. This certificate is issued for the period which is effective as of the date of issuance through December 31, 2061. On termination of this certificate, such right to the use of water shall revert to an instream water right, unless the project owner applies to the Department to reauthorize the project.

16. 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.

Issued: JUL 31 2020



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

Recorded in State Record of Water Right Certificates numbered 95010

