

STATE OF OREGON
COUNTY OF DESCHUTES
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO:

THREE SISTERS IRRIGATION DISTRICT
P.O. BOX 2230
SISTERS, OR 97759

confirms the right to use up to 35 CUBIC FEET PER SECOND (cfs) of the waters of WHYCHUS CREEK, tributary to the DESCHUTES RIVER, with 124 feet of head to develop HYDROELECTRIC CAPACITY of 493 THEORETICAL HORSEPOWER (THP).

The use of water for hydroelectric purposes shall be in conjunction with water diverted under the rights of the Three Sisters Irrigation District (District) for purposes, as evidenced by certificates 31339 and 74135 and as delivered through the Watson McKenzie Main Canal. Use of water shall be limited to periods when the water right holder's water right under certificates 31339 and 74135 are put to beneficial use without waste. The amount of water used shall not be greater than the quantity of water diverted to satisfy the authorized specific use under certificates 31339 and 74135. The use of water shall be limited by rate, duty, season and any other limitations of certificates 31339 and 74135. ORS 543.765(5)(c) and (d).

The water user shall measure and report the quantity of water diverted. ORS 543.765(5)(e).

This right was filed under application PC 911.

The point of diversion is located:
998 FEET NORTH AND 1211 FEET EAST FROM SW CORNER OF SECTION 21, being within the SW¼ SW¼, SECTION 21, TOWNSHIP 15 SOUTH, RANGE 10 EAST, W.M.

The authorized place of use is located:
Tax Lot 500, NE¼ SW¼, SECTION 33, TOWNSHIP 14 SOUTH, RANGE 11 EAST, 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.

PROJECT DESCRIPTION

Water will be diverted from Whychus Creek through the existing fish screen, then into the District's Main Canal Pipeline. Water is then conveyed to Watson Reservoir, approximately three miles from the diversion, and may pass through hydroelectric turbines authorized under water certificates 87798 (up to 56 cfs) or 92035 (up to 20 cfs). Water is diverted from Watson Reservoir under Certificates 31339 and 74135 through the North pipe of the District's Watson McKenzie Main Canal pipeline to the new McKenzie Reservoir Hydroelectric Facility. A 30'x 30' building will house a turbine with installed capacity of 300 kilowatts (kW). The turbine will use up to 35 cubic feet per second (cfs) of water for hydroelectric generation with an operating head of 124 feet. This will provide approximately 493 theoretical horsepower (thp) of capacity. After the water flows through the turbine it will discharge to McKenzie Reservoir for later delivery to the District's Lower District pipelines and water users. Fish screening and passage are provided at the Whychus Creek diversion.


WATER RIGHT CONDITIONS

Upon review of the application, Oregon Water Resources Department (OWRD) finds that the McKenzie Reservoir Hydroelectric Facility (Project), with the conditions set forth below is consistent with the public interest. The Project is well adapted to the development and utilization of the water power involved.

1. The water right holder shall comply with all statutes and rules applicable to the Project.
2. The water right holder shall construct and build the Project according to the maps, plans and specifications filed with the application within five years of issuance of this water right certificate. ORS 543.765(13).
3. The water right holder shall operate and maintain all fish screens, by-pass devices and fish passages as required by the Oregon Department of Fish and Wildlife (ODFW). ORS 543.765(5)(a).
4. The water right holder shall allow the OWRD Director and authorized agents and employees of the Oregon Department of Environmental Quality, ODFW, 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.
5. The restrictions established in ORS 543.660 shall apply as conditions of use.
6. This certificate shall be invalidated upon a change in the point of diversion authorized for the existing right under Certificates 31339 and 74135. ORS 543.765(5)(g).
7. The OWRD shall conduct a review of this certificate upon approval of any changes or adjustments made to the water user's existing water right to determine if a revised certificate should be issued. ORS 543.765(6).

8. The right to use water under this certificate is invalidated if the Federal Energy Regulatory Commission exemption related to this certificate is canceled or invalidated. ORS 543.765(5)(h).
9. This certificate does not have its own priority date. The OWRD shall not regulate for or against this certificate. This certificate does not grant a right to divert water for hydroelectric purposes other than in conjunction with the water right as used under Certificate 31339 and 74135. ORS 543.765(9) and (10).
10. This certificate is subject to review by the Department 50 years after the date of issuance pursuant to ORS 543.765. ORS 543.765(12).
11. The water right holder shall pay, upon receiving an invoice from OWRD, an annual fee to OWRD under ORS 543.078. This amount shall be due by the date specified on the invoice. Failure to pay the required fee will invalidate this certificate. ORS 543.765(16) and (17).
12. If at any time, unanticipated circumstances or emergency situations arise in which fish or wildlife are being killed, harmed or endangered by any of the project facilities including the fish passage and screening facilities, the District shall immediately take appropriate action to prevent further loss. The District shall notify the nearest ODFW office within 24 hours and shall comply with measures required by ODFW to prevent additional injury or mortality.
13. Failure to comply with any of the provisions of this water right may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the water right.

Issued JUL 31 2020


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

Recorded in State Record of Water Right Certificates numbered 95164.