

STATE OF OREGON
COUNTY OF JACKSON
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

L. JOHN PIERCE
99 PIERCE HEIGHTS
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Home (541) 772-4467
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for the right to use the waters of TWO UNNAMED STREAMS, TRIBUTARIES OF SQUAW CREEK, TRIBUTARY OF APPLGATE RIVER for Hydroelectric development of 31.8 theoretical horsepower for onsite use.

The date of priority is APRIL 4, 1975. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.8 CUBIC FEET PER SECOND measured at the point of diversion from the source.

The points of diversion are located as follows: Tax Lot 300
Stream #1: 180 FEET NORTH AND 20 FEET EAST FROM S1/4 CORNER SECTION 1, being within the SW 1/4 SE 1/4 SECTION 1, Township 41 South, Range 3 West, W.M.

Stream #2: 330 FEET NORTH AND 995 FEET WEST FROM S1/4 CORNER SECTION 1 being within the SE 1/4 SW 1/4 of Section 1, Township 41 South, Range 3 West, W.M.,

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.

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

TAX LOT 200, NW 1/4 SW 1/4
SECTION 1
TOWNSHIP 41 SOUTH, RANGE 3 WEST, W.M.

Water Delivery System: There are two diversions on unnamed tributaries to Squaw Creek, tributary to Applegate River (above Applegate Reservoir). Both diversions have a rock and plastic sheeting dam and a handcrafted wooden flume that supplies water to 55-gallon drums that are modified with a standpipe about 4-6 inches below the top of the drum. The drums are

covered with diamond screening to exclude wildlife and debris. The primary diversion is at elevation 3500 feet (estimated from USGS map) and uses approximately 3500 feet of 6-inch PVC pipe to deliver water to the powerhouse.

The secondary diversion, at elevation 3400 feet (estimated from USGS map) uses approximately 2500 feet of 3-inch PVC to deliver water to the powerhouse. Both diversions are on federal land and the applicant has a recorded easement. The turbine is connected to a generator and operates under a gross head of 350 feet. The tailwater flows into a small pond, which is authorized for fish and irrigation purposes under water right certificates 31251, 31252, and 37715. Overflow from the pond returns to Squaw Creek. The project capacity is estimated at $(0.8 \text{ cfs} * 350 \text{ feet of head} / 8.8) = 31.8$ Theoretical Horsepower.

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 (DEQ) before undertaking any activity that directly or indirectly results in removal of vegetation adjacent to project waterway(s), which provides shade to the waterway(s) and/or provides streambank soil stability. (Waterways include, but are not necessarily limited to: bypass stream reaches, siltation/forebay ponds, open-channel diversions, and above-ground pipes.)

During the consultation with DEQ, the water right holder shall provide a description of the activity that results in removal of vegetation and shall describe any mitigation or enhancement that is planned in exchange for the removal. Upon such consultation, the DEQ shall provide to the water right holder and to the Water Resources Department a written summary of the conclusions from the consultation, including any new requirements and/or allowable changes to the project.

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.

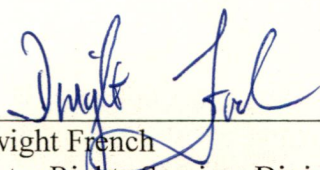
If the department proposes to alter conditions, the order shall be in writing and shall consist of a concise statement of the underlying facts supporting the proposed order. Any appeal of the order shall be according to procedures outlined in ORS Chapter 183.

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 (OAR 690-20-025, 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 Chapter 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 made for state, municipal, irrigation or domestic uses.
10. The water right holder shall allow the Director and authorized agents and employees of the DEQ and the 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 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 from the date of issuance through December 31, 2060. 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.

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