

STATE OF OREGON
YAMHILL COUNTY
WATER RESOURCES DEPARTMENT
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO:

CROWN HILL FARM,
MOCHETTAZ & GUNDERMAN
18155 SW BAKER CREEK ROAD
MCMINNVILLE, OR 97128

confirms the right to use up to 4 CUBIC FEET PER SECOND (CFS) of water with 160 feet of head to produce up to 72.7 THEORETICAL HORSEPOWER (THP) of HYDROELECTRIC ENERGY for onsite use and sale to a municipal utility.

This right was originally filed under applications HE 549, 558, and 584 and are combined by this certificate into one project. Henceforth, for invoicing purposes this project will be referred to as HE 549.

HE 549, 4 CFS from unnamed springs and rain runoff into Big Lake, Little Lake, and Little Lake #2 reservoirs with priority date April 12, 2001.

Big Lake Reservoir constructed under water right application R-27295 and certificate 22434 is located:

1590 Feet North and 2490 feet West of the SE corner Section 16, being within Tax Lot 1900, NE $\frac{1}{4}$ SW $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 16 and,

Little Lake Reservoir constructed under water right application P-74778 and Little Lake Reservoir #2 located 2080 feet North and 1790 feet West of SE Corner Section 16 are both within NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 16,

All in Township 4 South, Range 5 West, W.M.

Water for HE 549 may be used November 1 through April 30 of each year without encumbrance and between May 1 and October 31, when Big Lake reservoir temperature is less than the temperature in Baker Creek.

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.

HE 558, 2 CFS from an unnamed stream, two unnamed springs and rain runoff tributary to Baker Creek with priority date March 23, 2004. Water is diverted from a non-storage reservoir to a turbine pump so that a portion of the water is pumped up into Big Lake and Little Lake reservoirs;
Reservoir located in Tax Lot 1900, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and turbine pump located in NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 16, Township 4 South, Range 5 West, W.M. Water from this source may be diverted from NOVEMBER 1 through JUNE 14.

HE 584, 1 CFS of an unnamed stream and reservoir, tributary to Snake Creek that is piped to Little Lake #2 reservoir with priority date January 16, 2008. Reservoir is located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, of Section 22, Township 4 South, Range 5 West, W.M. Water from this source may be diverted from NOVEMBER 1 through APRIL 30.

The maximum amount of water that may be diverted under HE's 549, 558 and 584 is 4 CFS.

The powerhouse is located:

NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 16, Township 4 South, Range 5 West, 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. This right is inferior in right and subsequent in time to any appropriation of water for beneficial consumptive use.

Project Description

Water from Big Lake is diverted through a 10 inch, 1,850 foot-long penstock with 170 feet of head to the large turbine. Water from Little Lake is diverted through an 8 inch, 950 foot-long penstock with 85 feet of head to the small turbine. Water from Little Lake #2 is diverted through an 8 inch, 3,600 foot long penstock with 85 feet of head also to the small turbine. The turbines may operate independently or in unison, via a synchronized belt drive to a single generator. The small turbine can operate with as little as 65 gallons per minute (GPM) while in tandem the two turbines handle up to 1,850 GPM. Big Lake and Little Lake have monitoring systems to measure lake levels and water temperature. If water levels get too low or too warm, the turbines are shut down. Project output ranges from 0.5 KW to 30 KW. Tailrace water exits the powerhouse in a concrete baffled sluice that diminishes false attraction of anadromous fish and turbulence and erosion as it enters Baker Creek.

The power generated will be used onsite for domestic and agricultural purposes, and excess power will be sold under agreement to McMinnville Power and Light.

All of the works are located on the applicant's property.

CERTIFICATE CONDITIONS

1. The licensee shall comply with all statutes and rules applicable to the Project.
2. 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.
3. Upon a decision to terminate the hydroelectric use for more than five years, the licensee shall comply with any decommissioning statutes and rules in effect at that time. On termination of the water right, the right to use water shall revert to the public.
4. If, after completing construction of the Project, the licensee fails to use or operate the Project facilities for any period of five consecutive years, the water right shall be subject to termination by the OWRD.
5. 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.
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. A minimum flow of 0.5 CFS, or inflow if less than 0.5 CFS shall remain in the unnamed stream, in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, between November 1 and November 30; and 1 CFS shall remain in this stream between December 1 and June 30 to meet the life-stage needs of adult and juvenile cutthroat trout (I.e. spawning, incubation, rearing, etc.).
8. The reservoir in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, shall not store water for later use but must allow the water to flow through the 8" outflow pipe to meet minimum flow requirements. This is a non-storage reservoir, otherwise known as a "bulge in the system." The water right holder shall not excavate the reservoir to deepen it, as such excavation would require a new water right. The dam shall not exceed 8 feet in height.
9. Best management practices shall be used for the reservoir constructed in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 22 to minimize land disturbances and soil erosion. The banks of this reservoir shall remain contoured to provide safe access and egress to wildlife and will be planted with a native seed mix to prevent erosion and to provide habitat for wildlife. The overflow pipe from this reservoir will avoid or minimize erosion and impacts to downstream riparian habitat. Water from this

reservoir may be used only between November 1 and April 30. The pipe at the bottom of the reservoir shall ensure that the creek below the reservoir does not go dry when water is in the reservoir. This pipe is designed to minimize the erosion at its outfall.

10. The tailrace will be maintained as necessary to prevent fish entry into the tailrace and powerhouse from Baker Creek, and to reduce erosion and scour in Baker Creek.
11. To avoid impacts to downstream anadromous salmonid habitat and achieve the “no loss” standard in ORS Chapter 543, the project shall be operated so that the natural amount of water flowing into the project equals the volume of water flowing out of the project at all times. When water is being diverted for other authorized beneficial purposes, the project shall not increase the water levels at any point in Baker Creek more than 1 inch per hour or decline by more than a ½ inch per hour. Project effects on stage or water surface elevation in Baker Creek shall be measured by staff gage at the most confined river transect immediately downstream of the project. This transect shall serve as the control point for measuring the ramp rate.
12. Use of water is governed by this water right. The operations of the licensee so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules as the Water Resources Commission may prescribe for the protection of life, health and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes. The licensee shall release water from the Project reservoir at such rate in cubic feet per second, or such volume in acre-feet per specified period of time, as the commission may prescribe. ORS 543.300(3)
13. The licensee will maintain the Project, and each part thereof, in good order and repair and in efficient operation, for the development and transmission of electricity to its reasonable capacity; shall make all necessary renewals and replacements as required; and shall maintain and operate the Project, and all parts thereof, conformably to the rules of the commission not inconsistent with ORS 543.010 to 543.610. ORS 543.300(4)
14. No voluntary transfer of the water right or of any property acquired, constructed or operated pursuant to the water right issued under ORS 543.010 to 543.610 shall be made without written approval of the Water Resources Commission. Any successor or assignee of any water right under any project acquired, constructed or operated by the licensee, whether by voluntary transfer approved by the commission or sale upon foreclosure, execution or otherwise, shall be subject to all the terms and conditions of the water right and of the provisions of ORS 543.010 to 543.610 to the same extent as though the successor or assignee was the

original licensee. Any mortgage, deed of trust, or other lien suffered or created upon any such project shall be subject and subordinate to all the terms and conditions of ORS 543.010 to 543.610. However, the provisions of this section shall not apply to any transfer, voluntary or involuntary, to the state or any municipal corporation thereof, and upon such transfer the water right shall terminate. (ORS 543.440)

15. The Project must meet the water quality standards stated in OAR Chapter 340, Division 41. See water quality requirements in the existing hydroelectric water right, HE 549, and any amendments thereto, which are incorporated by reference and shall apply to this water right as though set forth fully herein.
16. To protect from any significant future temperature-related adverse impacts to aquatic organisms, any future modifications of vegetation surrounding Project waters should be carefully evaluated. The water right holder shall consult with Oregon Department of Environmental Quality (ODEQ) prior to undertaking any activity that directly or indirectly results in removal of vegetation adjacent to Project waterways. Waterways include, but are not necessarily limited to bypass reaches, siltation/forebay ponds, open-channel diversions, and above ground pipes.

The project shall be completed using best management practices, which minimize soil disturbance and erosion. Disturbed areas shall be replanted with a native plant mix to stabilize the soils from future erosion. Vegetative canopy provides shade which reduces the potential for temperature related impacts.

17. 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.
18. Although there are no known cultural sites within the Project area, if any cultural material is discovered during Project construction, all activities should stop and an archaeologist contacted to assess the discovery. It is a Class B misdemeanor to impact an archaeological site (ORS 358.905-955) and a Class C felony to impact Indian Burials (ORS 97-740-990).
19. 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.

- 20. If at any time an unanticipated situation arises in which the licensee 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 licensee 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 licensee shall subsequently restore any damaged fish and wildlife protection features of the project consistent with direction provided by ODFW (ORS Chapter 543A.025).
- 21. 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.
- 22. 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.
- 23. The land use associated with this water use must comply with statewide land-use goals and any local acknowledged land-use plan (ORS 197.180).
- 24. This certificate is issued for the period which is effective from the date of issuance through December 31, 2042.

25. 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.

This certificate reauthorizes Project's HE 549, HE 558, HE 584 as one project (I.e. HE 549) and supersedes Water Right Certificate numbers 81154, 84947.

Issued: APR 20 2021



A handwritten signature in blue ink, appearing to read "Dwight French", is written over a horizontal line.

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