

STATE OF OREGON  
COUNTY OF MARION  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

BREITENBUSH HOT SPRINGS RETREAT CENTER  
53000 BREITENBUSH ROAD  
DETROIT OR 97342

(503) 854-3320

for the right to use the waters of Breitenbush River, tributary of NORTH SANTIAM RIVER,  
tributary of WILLAMETTE RIVER for DEVELOPMENT OF 67.6 THEORETICAL HORSEPOWER FOR  
THE RETREAT CENTER AND THE ADJACENT COMMUNITY.

The date of priority is DECEMBER 7, 1977. The amount of water to which this right is entitled is  
limited to an amount actually beneficially used and shall not exceed 35.0 CUBIC FEET PER  
SECOND measured at the point of diversion from the source.

The point of diversion is located as follows:

SW 1/4 NE 1/4, SECTION 20, T 9 S, R 7 E, W.M.; 1240 FEET NORTH AND 1290 FEET EAST FROM  
THE CENTER 1/4 CORNER OF SECTION 20.

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

SW 1/4 NE 1/4  
SECTION 20  
TOWNSHIP 9 SOUTH, RANGE 7 EAST, W.M.

The Director finds that the project is well adapted to the development and utilization of the  
waterpower 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

**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.

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

The project consists of a boulder berm that extends into the Breitenbush River and shunts a portion of the flow to the left bank looking downstream to the applicant's diversion. The shunted water is diverted through a steel trash rack and creates a small pond. The pond is approximately 4.5 feet deep and 35' wide and 38' long. The water passes through a fish screen that feeds into the domestic water supply and a penstock. Fish are bypassed back to the river. The fish bypass pipe is approximately 80 to 100 feet in length and buried the entire length. The fish screen system has an automated brush system to keeping them clean. The fish screen, completed in 2003, was constructed to Oregon Department of Fish and Wildlife (ODFW) fish screening criteria and appears well maintained. Once the flow passes through the fish screens, the water enters a 42" penstock that narrows to 30" prior to entering the powerhouse. The 42" penstock is about 700 feet in length and completely buried. The 30-inch penstock is about 25 feet long and is wedged to a Leffel vertical Samson turbine with an 1890's patent date. The vertical drop over the majority of the fall is inconsequential until the water enters the turbine with a 15-foot plunge. The water exits the tailrace and meanders approximately 180 feet where it confluences with the Breitenbush River. The tailrace provides very good fish habitat with a number of springs and seeps along its length that provide additional flow and instream fish habitat

#### **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 (ODEQ) before undertaking any activity which directly or indirectly results in removal of vegetation adjacent to project waterway(s) that 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, flumes, and above-ground pipes.)

During the consultation with ODEQ, 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 ODEQ shall provide to the water right holder and to WRD 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 listings 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 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 in which the owner or 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 owner shall immediately take appropriate action to prevent further loss. The operator shall, within 24 hours, notify the ODFW Corvallis Fish District Office and comply with the measures required by ODFW to prevent additional fish and wildlife injury or mortality. 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).
6. All the fish and wildlife mitigation features shall operate as intended and be properly maintained for the duration of the project (ORS 543A.025 (2)(a) and (5)(d)).
7. The fish screen must be functioning properly whenever water is being diverted water and the right holder shall maintain and operate the fish screen to ODFW fish screening

criteria (ORS 498.306 to 346). Project operation shall not delay or impeded upstream fish migration past the project.

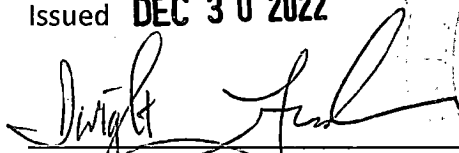
8. Prior to maintenance of the fish screen intake rock weir, the water right holder shall contact the ODFW Corvallis Fish District Biologist and Regional Hydropower Coordinator to coordinate maintenance and/or operational modifications to the fish screen intake rock weir. Coordination is required to ensure maintenance activities do not impair operation of the Fish Screen or delay or impede upstream fish passage. If maintenance of the Fish Screen intake rock weir is due to an emergency beyond the control of the permit holder, ODFW Corvallis Fish District Biologist and Regional Hydropower Coordinator shall be contacted as soon as possible and within 72 hours of the emergency to review and ensure the emergency maintenance activities do not impair Fish Screen operation or upstream fish passage. Future maintenance activities shall secure and comply with all appropriate permits.

OWRD will coordinate a HART Project site visit every 5 years to review the Project and its operation.

9. Upon permanent cessation of power generation, the owner/operator shall remove or modify project facilities to meet decommissioning standards adopted by the Department.
10. The water right holder shall pay to the Department in accordance with the provisions of ORS 543.078(2)(b), an annual fee of \$50 on or before the first day of January of each year after issuance of this certificate.
11. The right granted herein is expressly made inferior in right and subsequent in time to any authorized appropriation of water from this source for domestic, municipal, irrigation or any other beneficial consumptive use.
12. The water right holder shall allow the Director and authorized agents and employees of ODEQ and 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.
13. 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.

14. 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.
15. 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).
16. 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).
17. This certificate is issued for the period which is effective from the date of issuance through December 31, 2042. On expiration 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.
18. 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 **DEC 30 2022**

  
Dwight French, Administrator  
Water Right Services Division, for  
Douglas E. Woodcock, Acting Director  
Oregon Water Resources Department

