

**STATE OF OREGON  
COUNTY OF DOUGLAS  
CERTIFICATE OF WATER RIGHT**

THIS CERTIFICATE ISSUED TO

Richard D. Jones  
Patti Vest & Timothy Carter  
623 Azalea Glen Rd.  
Azalea OR 97410

for the right to use the waters of Unnamed Stream, tributary of Cow Creek, for development of 3.6 theoretical horsepower for Domestic use.

The date of priority is March 21, 2003. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.1333 CUBIC FEET PER SECOND measured at the point of diversion from the source.

The point of diversion is located as follows:

The point of diversion is located 654 feet North and 2666 feet West from the North  $\frac{1}{4}$  corner in the SW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 11, Township 32 South, Range 5 West, W.M.

The Director finds that the project is 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 Water Resources Department (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:

NE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 14, Township 32 South, Range 5 West, W.M.

**WATER RIGHT CERTIFICATE CONDITIONS**

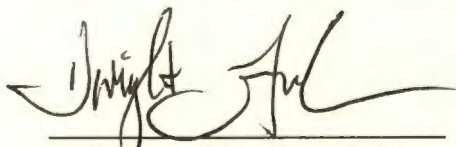
1. The Owner shall comply with all statutes and rules applicable to the Project.
2. The Owner shall pay, upon receiving an invoice from OWRD, an annual fee to OWRD in the amount of \$15.00,(ORS 543.078 (2)(c)). This amount shall be due by the date specified in the invoice.

3. Upon a decision to terminate the hydroelectric use for more than five years, the Owner 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 the Owner 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. Use of water is governed by this water right. However, the operations of the Project by the Owner so far as those operations affect the use, storage and discharge from storage of waters affected by the Owner, shall at all times be controlled by such reasonable rules as the WRC 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 Owner shall release water from the Project reservoir at such rate in cfs, or such volume in acre-feet per specified period of time, as the WRC may prescribe.
6. The Owner 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 WRC not inconsistent with Oregon Revised Statutes (ORS) 543.010 to 543.610.
7. 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 WRC. Any successor or assignee of any water right under any project acquired, constructed, or operated by the Owner, whether by voluntary transfer approved by the WRC 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 Owner thereunder. 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.
8. The following requirements of ORS 543 are hereby waived, under authority of OAR 690-051-0350:
  - ORS 543.510 which requires the Owner to establish and maintain amortization reserves to be applied in reduction of the net investment.
  - ORS 543.530 which relates to the issuance of bonds or other evidence of indebtedness and the control thereof by the WRC.

- ORS 543.520 which provides that on amortization of the net investment the Project shall become the property of the State of Oregon.
  - ORS 543.550 relating to liens against the Project and providing that any sale shall be of the whole property embraced in the Project unless a partial sale is approved by the OWRD Director.
  - ORS 543.560 which requires the Owner to execute to the State of Oregon a bond to the effect that the Owner shall promptly make payment to all persons supplying labor, material, machinery, etc.
9. The Project must meet the water quality standards stated in OAR Chapter 340, Division 41. No significant temperature-related problems have been identified nor are they expected given the existing Project facilities, operations, and management. However, 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 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.
  10. 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.
  11. The Project shall be designed to minimize visual, aesthetic, and noise impacts.
  12. 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 shall be 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).
  13. The Owner shall allow the OWRD Director and authorized agents and employees of the ODEQ, 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.
  14. The Owner shall be liable for all damages occasioned to the persons or property of others by the construction, operation, or maintenance of the Project facilities, and in no event will the State of Oregon be liable.

15. Issuance of the water right does not absolve the Owner from compliance with the requirements and enforcement of the requirements under other applicable local, state, and federal laws. The Owner is made aware that permits may be required from the United State Army Corps of Engineers under Section 404 of the Clean Water Act, or from the Division of State Lands for removal and fill of material.
16. The Owner shall comply with conditions identified below by Oregon Department of Fish and Wildlife
- The unnamed stream used by the project is not fish-bearing due to the steepness of its gradient and lack of livable space for fish. Continued use meets the minimum standards in ORS 543A.025(2).
  - If at any time an unanticipated situation arises in which 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).
  - 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).
  - All maintenance activities shall be completed using best management practices to minimize soil and ground disturbance. All areas where soil is disturbed shall be planted with native vegetation, monitored, and maintained over the course of the permit. ODFW's recommended in-water work period for the South Umpqua River and tributaries is July 1-September 15, and any instream maintenance activities should be completed during that time period.
  - The water right holder shall maintain the project tailrace as necessary to reduce erosion and scour.
  - Diversions for hydroelectric generation shall not completely dewater the stream, particularly in bypass reaches.

Issued FEB 09 2024



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