

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

THIS CERTIFICATE ISSUED TO

OREGON DEPARTMENT OF FISHERIES AND WILDLIFE
2040 S.E MARINE SCIENCE DRIVE
NEWPORT, OR 97365

confirms the right to use the waters of MILL CREEK, TRIBUTARY TO THE YAQUINA RIVER, for
HYDROELECTRIC PRODUCTION of 0.34 THEORETICAL HORSEPOWER

The date of priority is JANUARY 11, 2005. The amount of water to be diverted is 0.06 CUBIC
FOOT PER SECOND (cfs).

The point of diversion is located as follows:

The point of diversion is the MILL CREEK FISH LADDER - SW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 33, TOWNSHIP
11 SOUTH, RANGE 10 WEST, 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
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:

SW $\frac{1}{4}$ NE $\frac{1}{4}$
SECTION 33
TOWNSHIP 11 SOUTH, RANGE 10 WEST, W.M.

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.

WATER RIGHT CERTIFICATE CONDITIONS

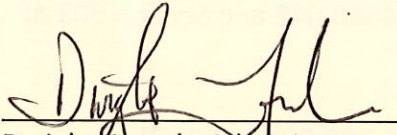
1. The Owner shall comply with all statutes and rules applicable to the project.
2. The Owner shall pay, upon receiving an invoice from the Department, an annual fee in the amount of \$15.00,(ORS 543.078 (2)(c)). This amount shall be due by the date specified in the invoice.
3. This certificate is effective from the date of issuance through December 31, 2054, and may be reauthorized under laws existing at that time.
4. Upon a decision to terminate the hydroelectric use for more than five years, the Owner shall comply with the decommissioning standards under OAR 690-052. On termination of the water right, the right to use water shall revert to the public and be converted instream per ORS 543A.305 and OAR 690-054.
5. The Owner will maintain the project 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 Water Resource Commission consistent with Oregon Revised Statutes (ORS) 543.010 to 543.610.
6. 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 Department. 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 Department 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 there-under. 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. 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.
7. The Project must meet the water quality standards 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 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.

8. 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.
9. The Project shall be maintained to minimize visual, aesthetic, and noise impacts.
10. 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).
11. The Owner shall allow the Director and authorized agents and employees of the ODEQ, Oregon Department of Fish and Wildlife (ODFW), and the Department 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.
12. 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 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).
13. A Project site visit shall be performed every five years to review the project features and operation. The Department shall coordinate the five-year reviews with the water right holder and the Hydroelectric Application Review Team (HART).
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.

Issued AUG 30 2024

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

Dwight French, Administrator
Water Right Services Division, for
Ivan Gall, Director
Oregon Water Resources Department

Recorded in State Record of Water Right Certificates Number 97745