

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

THIS CERTIFICATE ISSUED TO

Kyle McBride & Venus McBride & Paul Walchli
P.O. Box 976
Yachats, OR 97498

confirms the right to use the waters of AN UNNAMED STREAM, TRIBUTARY TO TENMILE CREEK,
for HYDROELECTRIC PRODUCTION of 5.45 THEORETICAL HORSEPOWER.

The date of priority is December 2, 1994. The amount of water to which this right is entitled is limited to the amount that the generation facilities can utilize efficiently and shall not exceed 0.3 CUBIC FEET PER SECOND (CFS) measured past the domestic use penstock-diversion at the place of use with a flow meter, or install a flow restrictor limited to 0.3 CFS.

The point of diversion is located as follows:

The points of diversion are UNNAMED STREAM located at SW $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 30, TOWNSHIP 15 SOUTH, RANGE 11 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 (OWRD) all fees required prior to the issuance of this certificate.

This water right is inferior in right and subsequent in time to any appropriation of water upstream for beneficial uses that were issued before this use was initiated.

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

NW $\frac{1}{4}$ NW $\frac{1}{4}$
SECTION 31
TOWNSHIP 15 SOUTH, RANGE 11 WEST, W.M. in Lane County, Oregon

Project Description: The Project, located in Lane County, Oregon, diverts 0.3 cfs of water from an unnamed stream, tributary to Tenmile Creek. The Project uses 160 feet of hydraulic head and generates 5.45 theoretical horsepower for onsite domestic use.

The Project involves a diversion dam and small reservoir (holding tank). The dam is a concrete

structure, approximately 12.2 feet long by 4.1 feet high. Two sheets of ½ inch plywood are on top of the dam structure, containing a screen in the center of the plywood to help keep debris from entering the holding tank and clogging the pipe screen. A pipe extends from the reservoir to the turbine. The pipe is made of PVC and consists of 600 feet of 6-inch pipe and 1000 feet of 4-inch pipe. The stream is not fish-bearing due to its low flow, lack of suitable habitat, and steep gradient.

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, (comprised of \$3.60 under OAR 690-051-0400(6) and \$11.40 under ORS 543A.415). 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, 2056. On termination of this certificate, such right to the use of water shall convert to an instream water right, unless the Project owner applies to the OWRD to reauthorize the Project. Upon termination of this certificate, the owner shall comply with any decommissioning statutes and rules in effect at that time.
4. If the Owner fails to operate Project facilities for power generation 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 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 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 Commission 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 Commission 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 Commission. 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 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 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 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 waterway infrastructure. Waterway infrastructures include, but are not necessarily limited to: bypass reaches, siltation/forebay ponds, open-channel diversions, and above ground pipes.
9. 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.
10. The Project shall be designed to minimize visual, aesthetic, and noise impacts.
11. 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).
12. 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.

13. The Owner shall be liable for all damages to any person or property by the construction, operation, or maintenance of the Project facilities, and in no event will the State of Oregon be liable.
14. 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 pertaining to construction, or maintenance of equipment necessary to develop or operate hydroelectric equipment or systems.
15. 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).
16. 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).
17. 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 Tenmile Creek, and tributaries is July 1-September 15, and any instream maintenance activities should be completed during that time.
18. The water right holder shall maintain the project tailrace as necessary to reduce erosion and scour.
19. Diversion for hydroelectric generation shall not completely dewater the bypass reach of the stream between the diversion dam and the powerhouse return, in order to maintain and provide continued wildlife benefits.
20. A site visit is required every five years by members of the HART to ensure Project is operating under the certificate conditions.

Issued: June 8, 2026

Katherine Ratcliffe

Katherine Ratcliffe, Administrator
Water Right Services Division, for
Ivan Gall, Director
Oregon Water Resources Department

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