

STATE OF OREGON

WATER RESOURCES DEPARTMENT

LICENSE FOR HYDROELECTRIC PROJECT HE 545

WHEREAS, by act of the Legislature of the State of Oregon, ORS 543.010 to 543.620 and 543.990, as amended, herein called the Hydroelectric Act, the Water Resources Director is authorized to issue licenses to acquire and hold the right to the use of the waters within the state, and for the construction, operation and maintenance of facilities for the generation and utilization of hydroelectric energy; and

WHEREAS, Jack A. Erickson, a citizen of the United States, herein referred to as the LICENSEE, whose address is P.O. Box 3247, Central Point, Oregon 97502, made application to the Director for a license for a minor hydroelectric project on an unnamed tributary of Cronin Creek approximately 1/2 mile east of the confluence of Cronin Creek and the Nehalem River with the point of diversion located in the NE 1/4 of the NE 1/4 of Section 2, Township 3 N, Range 8 W WM, in Tillamook County and designated as Project HE 545 in the records of the Director; and

WHEREAS, the Director finds that the proposed project is well adapted to the development and utilization of the water power 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 LICENSEE has paid to the Water Resources Department all fees required prior to the issuance of this license; and

WHEREAS, the project has been visited by Water Resources Department staff, with the applicant and there are no known resource conflicts within the parameters of the construction or operation of the project witnessed by staff, and the Hydro Task Force has not identified any resource or land use issues relevant to this project which would restrict operation or alter the project design; and

WHEREAS, the LICENSEE on the 14<sup>TH</sup> day of July, 1995 accepted in writing the terms and conditions of the Hydroelectric Act and of this license;

NOW, THEREFORE, the Director hereby issues this license to the LICENSEE to acquire and hold the right to the use of the water of an unnamed spring fed stream, a tributary to Cronin Creek, a tributary to the Nehalem River, and to construct, operate, and maintain the project facilities herein described for the generation and utilization of hydroelectric energy, subject to the following express conditions:

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#### Article 1.

The project consist of a one and a half foot diversion dam on an unnamed tributary to Cronin Creek. The dam allows seepage to provide flow immediately downstream. The surface area of the forebay is approximately five feet in diameter, and, at the time of the site visit April 22, 1994, it was about eight inches deep. A three inch PVC pipe carries the water to a stilling well and then approximately 1200 feet to the powerhouse. The tailwater discharges into the same unnamed tributary via a buried three inch pipe approximately 60 feet from the powerhouse.

The project provides power to two residences when there is sufficient flow to operate the turbine. It normally does not operate from July until the fall rains. The project has 143 feet of head and proposes to divert .32 cubic feet per second for the purpose of generating 5.2 theoretical horsepower.

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 license. The project facilities will be constructed in substantial conformance with this license. No substantial change shall be made unless approved by the Director and incorporated into this license by appropriate amendment.

#### Article 2.

This license is issued for the period which is effective as of the date of issuance and will terminate December 31, 2034. This license grants the right to appropriate not to exceed .32 cfs of water for the purpose of generating 5.2 theoretical horsepower. The diversion dam must bypass a minimum of .02 cfs to supply water to two residences on the property with pending water right application S73818. Provided further that the use of the water right will be limited to the amount which the generation facilities will utilize efficiently. The priority of the right hereby granted is December 27, 1993. On termination of this license, such right to the use of water shall revert to the public. The right granted herein is expressly made inferior in right and subsequent in time to any appropriation of water for this source which may hereafter be made for domestic, municipal, irrigation or any other beneficial consumptive use.

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Article 3.

The project is existing. The LICENSEE shall maintain the project facilities in sufficiently good working order to make use of the water without waste. If, after completing construction, the LICENSEE fails to use or operate the project facilities for any period of five consecutive years, the Director shall, after due notice, terminate this license by written order. If at any time after two years nonuse of water for this project, there shall be any conflicting application or claim to the use of this water, then the licensee may be required by the Director to show cause why the conflicting application should not be granted and this license terminated.

Article 4.

The LICENSEE shall pay to the Water Resources Department in accordance with the provisions of ORS 543.300 (5), on or before the first day of January of each year after issuance of this license, and during the period of this license, an annual fee of \$1.00.

Article 5.

The LICENSEE shall maintain an account of the actual cost of the construction of the project facilities and any additions thereto, and shall, under oath, provide such accounting to the Director upon request.

Article 6.

In the event of an emergency causing an imminent threat to human safety or the environment, or a complaint that the project is not operating according to Oregon law or license specifications, the Director and the Director's authorized agents and employees may have free and unrestricted access in, through and across the project in the performance of their official duties in response to said emergency. In the absence of such emergency, or complaint, said access shall be subject to reasonable advanced prior notice. Subject to said prior notice, LICENSEE shall grant such access to LICENSEE's reports, accounts, records and other data relating to said project.

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Article 7.

The LICENSEE 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 therefore.

Article 8.

This project being a complete project of less than 100 theoretical horsepower capacity, the following provisions of the hydroelectric Act, and none other, in accordance with provisions of ORS 543.300(7), are specifically waived:

ORS 543.510  
ORS 543.520

ORS 543.530

ORS 543.550  
ORS 543.560

Article 9.

With the written consent of the LICENSEE, the Director may alter, enlarge, or omit any of the conditions of this license.

IN TESTIMONY OF ACCEPTANCE of all the terms and conditions of this license, ORS 543.010 to 543.620 and 543.990, and the rules and the regulations on the Director pursuant thereto, the LICENSEE has affixed his signature this 14<sup>th</sup> day of July, 1995.

Jack A. Erickson  
LICENSEE

IN WITNESS HEREOF, the Director of the Water Resources Department of Oregon has signed her name at Salem, Oregon this 25<sup>th</sup> day of July, 1995.

Martha D. Pagel  
Martha Pagel, Director