

STATE OF OREGON

WATER RESOURCES DEPARTMENT

WATER RIGHT CERTIFICATE

A. PROJECT DESCRIPTION

On March 3, 2002, William Blacklaw (Owner) applied for a minor hydroelectric water right to divert one cubic foot per second (cfs) of water from an existing on-channel reservoir named Singing Hills Reservoir on an unnamed drainage, tributary to Parrott Creek in Clackamas County, for power generation.

The Project will divert up to one cfs of water from the Singing Hills Reservoir, which sits behind a diversion dam. The dam has a maximum height of twelve feet, a crest width of twenty-five feet, an upstream slope of three feet horizontal to one foot vertical and a downstream slope of two feet horizontal to one foot vertical. The dam is constructed with metal sheet piles driven approximately fifteen to twenty feet below original ground surface. The remainder of the dam is earthfill with a concrete cast in place spillway and regulating structure. When full, the Singing Hill Reservoir has a surface area of 0.8 acres and a total storage capacity of 8.5 acre-feet. Water will be diverted from the Singing Hills Reservoir through a 980-foot pipeline that has a diameter of 14 inches. The pipe connects to a centrifugal pump with impellar sized for the head of 150 feet and volume of one cfs at the power plant. After going through the power plant, water is returned to an unnamed natural stream channel, tributary to Parrot Creek. The Project will use 150-foot gross head to generate up to 17.1 theoretical horsepower (thp). Overflow water from the Reservoir flows down a concrete raceway, and then into two buried metal pipes. These pipes emerge in the form of pond culvert outlets located a short distance above the powerhouse. Water from the pond culvert outlets returns to the natural stream channel.

The power to be developed is for on-site domestic and agricultural purposes, including use in the house and horse facilities (for equestrian purposes) located within the property boundaries.

The estimated cost of the Project is \$50,000.

The Owner's Project map is attached to, and expressly incorporated into this water right certificate.

APPEAL RIGHTS

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review of the order must be filed within 60 days of the date of service.

B. LOCATION

The point of diversion (spillway on dam on Singing Hills Reservoir) is located approximately 290 feet north and 450 feet west of east $\frac{1}{4}$ section line being within the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 30, Township 3 South, Range 2 East, W.M., Clackamas County, Oregon. Singing Hills Reservoir is authorized under a separate existing water right.

The power plant will be located in the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 30, Township 3 South, Range 2 East, W.M., in Clackamas County.

After passing through the power plant, the water will be returned to an unnamed stream in the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 30, Township 3 South, Range 2 East, Willamette Meridian.

C. WATER RIGHT GRANTED

This water right certificate grants the right to divert one cfs of water from the Singing Hills Reservoir, an on-channel reservoir on an unnamed drainage, tributary to Parrott Creek in Clackamas County, to generate up to 17.1 thp. The priority date for the water right is March 3, 2002. The proposed use of water is limited to the amount that the generation facilities can utilize efficiently, and shall not exceed the specifications noted in the water right. Use of water for hydroelectric purposes as specified in this water right certificate is limited as a result of fish and wildlife concerns, to between November 1 and April 31 of each year during the period of this water right. This water right expires 20 years after the water right certificate is issued, and may be reauthorized under laws existing at that time. This water right is inferior in right and subsequent in time to any future appropriation of water upstream for beneficial consumptive uses.

D. WATER RIGHT CONDITIONS

Upon a review of the application and input received from state and federal agencies and private citizens, OWRD finds that the proposed Project, with the conditions set forth below, will not violate the standards expressed in Oregon Administrative Rules (OAR) 690-051-0160 through -0270, and is consistent with the public interest. No other application has been filed in competition with this application. The proposed Project is well adapted to the development and utilization of the water power involved.

The proposed use of water is subject to the following express conditions:

1. The Owner shall comply with all statutes and rules applicable to the resources impacted by the Project.
2. The Owner shall pay, upon receiving an invoice from OWRD, an annual fee to OWRD in the amount of \$17.10. This amount shall be due by the date specified in the invoice.
3. The Owner shall inform OWRD of any proposed modifications to the Project and must obtain approval from OWRD prior to initiating any such modifications.

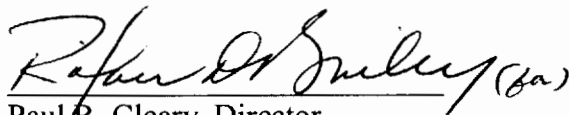
4. Upon a decision to terminate the hydroelectric use for more than five years, the Owner shall comply with any decommissioning statutes and rules in effect at that time. On termination of the water right, the right to use water shall revert to the public.
5. If, after completing construction of the Project, 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.
6. The Owner shall construct and build the Project according to the maps, plans and specifications filed with and approved by the Water Resources Commission (WRC), and within the time fixed by the water right or by any lawful extension thereof. A copy of the Project map has been attached to and incorporated into this water right certificate.
7. The use of water is governed by this water right certificate. However, the operations of the Project so far as they affect the use, storage and discharge from storage of waters affected by the Project, 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.
8. 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.
9. The Owner shall complete construction of the Project within two years of the date the water right is issued.
10. 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.

11. 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.
12. The Project must meet the water quality standards stated in OAR Chapter 340, Division 41. Although diversion of water at this Project may result in limited seasonal warming of instream temperatures, 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.
13. 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.
14. The Project must return the water that is diverted for hydroelectric use back into the unnamed stream, at a point above the intersection of that unnamed intermittent stream and Parrott Creek. This condition is required because the diversion stream is tributary to Parrott Creek, which contains fish habitat. The Project must not decrease flows in Parrott Creek.
15. The steep gradient steam channel between the pond culvert outlets and the powerhouse return pipe shall not be allowed to go dry as a result of Project operations, in order to maintain and provide continued wildlife benefits.

16. The salamander population in the Singing Hills Reservoir is not expected to be negatively impacted due to operations, but shall be visually monitored on an annual basis by the Owner to determine long-term trends. The Owner shall collect and retain records of these observations and shall contact the Oregon Department of Fish and Wildlife (ODFW) if the salamander population diminishes. If it is determined that the salamander population is declining over time, screening of the pond outlet to the penstock may be required. As an alternative to annual monitoring and record keeping, the Owner may voluntarily install such screen at any time.
17. The Owner shall monitor the powerhouse water return site and steep gradient channel between the pond culverts and powerhouse water return pipe to ensure that erosion is addressed when necessary with native vegetation and other appropriate measures, and that detrimental/excessive scouring/erosion of the stream channel below the powerhouse water return pipe does not occur.
18. The Owner shall maintain the outlet screen at the dam throughout the year to ensure that fish located in the Singing Hills Reservoir do not have access to the unnamed tributary.
19. The Owner shall comply with the ODFW stocking permit process for any future fish stocking of the Singing Hills Reservoir.
20. The Project shall be designed to minimize visual, aesthetic, and noise impacts.
21. 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).
22. All mitigation measures are in the Project vicinity and shall be implemented prior to first operation of the Project.
23. 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.
24. 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 therefore.
25. 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.

26. When outflow from the Singing Hills Reservoir does not otherwise exceed one cfs, the Project must be operated so that the rate of increase in flow attributable to hydroelectric generation does not exceed one cfs graduated over the course of any thirty-minute period. This condition is intended to ensure that the Project does not abruptly cause the release of one cfs. A control-type valve shall be employed that is calibrated to release water in a gradual manner under circumstances described above. The control-type valve and a guide with markings shall be used to provide a visual reference for increasing the flow. An easily visible and water-proof sign shall be posted by the valve. This sign shall include the title "WATER RIGHT CONDITION AND PROCEDURE," the text of this water right condition, and a simply stated procedure for turning the valve at least three times over the course of thirty minutes in a manner calibrated to comply with this condition.

Issued April 6, 2004.

A handwritten signature in cursive script, appearing to read "Paul R. Cleary", followed by the initials "(sa)" in parentheses.

Paul R. Cleary, Director
Water Resources Department

Recorded in State Record of Water Right Certificates Number 80676