

STATE OF OREGON
COUNTY OF CLATSOP
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO:

CITY OF ASTORIA
1095 DUANE STREET
ASTORIA, OR 97103

confirms the right to use up to 6.0 CUBIC FEET PER SECOND (cfs) of the waters of BEAR CREEK and BEAR CREEK RESERVOIR for HYDROELECTRIC PRODUCTION of 68.2 THEORETICAL HORSEPOWER (THP).

The use of water for hydroelectric purposes shall be in conjunction with water used under the right of the City of Astoria for municipal purposes, as evidenced by Certificate 82236. Use of water shall be limited to periods when the water user's water right under Certificate 82236 is put to beneficial use without waste. The amount of water used shall not be greater than the quantity of water diverted to satisfy the authorized specific use under Certificate 82236. The use of water shall be limited by rate, duty, season and any other limitations of Certificate 82236. ORS 543.765(5)(b) and (c).

The applicant shall measure and report the quantity of water diverted. ORS 543.765(5)(d).

This right was filed under application PC 898.

The point of diversion is located: 1160 FEET NORTH AND 2340 FEET WEST FROM SE CORNER OF SECTION 2, being within the SW¹/₄ SE¹/₄, SECTION 2, TOWNSHIP 7 NORTH, RANGE 8 WEST, W.M.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484 and ORS 536.075. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 183.484, ORS 536.075 and OAR 137-004-0080, you may petition for judicial review and 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 was filed, the petition shall be deemed denied. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate within three months after issuance of the certificate.

This statement of judicial review rights does not create a right to judicial review of this order if judicial review is otherwise precluded by law.

The authorized place of use is located: Tax Lot 200, SW¼ SE¼, SECTION 2, TOWNSHIP 7 NORTH, RANGE 8 WEST, W.M.

PROJECT DESCRIPTION

Water diverted from the Bear Creek Watershed travels to the water treatment plant. After treatment, the water is discharged into a 21 inch diameter steel pipe at the top of the Bear Creek Dam and descends approximately 100 feet in elevation to where a hydroelectric turbine is housed. Having passed through the turbine the water continues to the City of Astoria for distribution. The hydroelectric works, located on the downstream face of the dam include: a vault to house the turbine, an alternator, a power conversion system, and other accessory equipment.

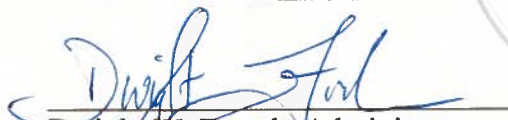
WATER RIGHT CONDITIONS

Upon review of the application, the Oregon Water Resources Department (Department or OWRD) finds that the Bear Creek Watershed Hydroelectric Project (Project), with the conditions set forth below is consistent with the public interest. The Project is well adapted to the development and utilization of the water power involved.

1. The water right holder shall comply with all statutes and rules applicable to the Project.
2. The water right holder shall construct and build the Project according to the maps, plans and specifications filed with the application within five years of issuance of this water right certificate or by any lawful extension thereof. ORS 543.765 (10)
3. The water right holder shall construct, operate and maintain all fish screens, bypass devices and fish passages as required by the Oregon Department of Fish and Wildlife (ODFW). ORS 543.765(5)(a). The City has chosen to pay the annual Fish Passage Restoration fee identified in Oregon Laws 2013, Chapter 674 in lieu of providing fish passage.
4. The water right holder shall allow the OWRD Director and authorized agents and employees of the Oregon Department of Environmental Quality (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.
5. This certificate shall be invalidated upon a change in the point of diversion authorized under Certificate 82236. ORS 543.765(5)(g).
6. The Oregon Water Resources Department shall conduct a review of this certificate upon approval of any changes or adjustments made to the water user's existing water right to determine if a revised certificate should be issued. ORS 543.765(5) (h).
7. The right to use water under this certificate is invalidated if the Federal Energy Regulatory Commission exemption related to the certificate is canceled or invalidated. ORS 543.765 (i).

8. This certificate does not have its own priority date. The Department shall not regulate for or against this certificate. This certificate does not grant a right to divert water for hydroelectric purposes other than in conjunction with the water right as used under Certificate 82236. ORS 543.765 (6) and (7).
9. This certificate is subject to review by the Department 50 years after the date of issuance pursuant to ORS 543.765(9).
10. The water right holder shall pay, upon receiving an invoice from OWRD, an annual fee to OWRD under ORS 543.078. This amount shall be due by the date specified on the invoice. ORS 543.765 (11) and (12).
11. The water right holder shall pay, upon receiving an invoice from OWRD, an annual Fish Passage Restoration fee to OWRD under Oregon Laws 2013, Chapter 674. This amount shall be due by the date specified on the invoice. ORS 543.765 (11) and (12). Pursuant to Oregon Laws 2013, Chapter 674, this annual Fish Passage Restoration fee may be terminated after the project commences operation if the project provides fish passages, or there is an agreement between the water right holder and ODFW providing for fish passages associated with the project, or a waiver or exemption has been issued under ORS 509.585 for the project.
12. If at any time, unanticipated circumstances or emergency situations arise in which fish or wildlife are being killed, harmed or endangered by any of the project facilities the City of Astoria shall immediately take appropriate action to prevent further loss. The City of Astoria shall notify the nearest ODFW office within 24 hours and shall comply with measures required by ODFW to prevent additional injury or mortality.
13. Failure to comply with any of the provisions of this water right may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the water right.

Issued December 11, 2013


Dwight W. French, Administrator
Water Right Services Division, for
Phillip C. Ward, Director
Oregon Water Resources Department

Recorded in State Record of Water Right Certificates numbered 89004