

STATE OF OREGON  
COUNTY OF WALLOWA  
HYDROELECTRIC LICENSE

THIS HYDROELECTRIC LICENSE ISSUED TO:

VERN SPAUR (Licensee)  
SPS OF OREGON  
68832 ALLEN CANYON LOOP  
WALLOWA, OR 97885

confirms the right to use of the waters of a STOCK POND, tributary to WEST SIDE DITCH, tributary to the WALLOWA RIVER, for the HYDROELECTRIC PRODUCTION of 30 THEORETICAL HORSEPOWER (THP).

This hydroelectric license was filed under application HE 612. The date of priority is April 27, 2015. The maximum amount of water to be diverted is 2.0 CUBIC FEET PER SECOND (CFS) in any combination with hydroelectric water right Certificate 87134. The period of use is from JANUARY through DECEMBER.

The point of diversion is located: Taxlot 8400, SE¼ SW¼ of SECTION 31, TOWNSHIP 1 NORTH, RANGE 43 EAST, W.M.

The authorized place of use is located: Taxlot 8400, NE¼ SW¼ of SECTION 31, TOWNSHIP 1 NORTH, RANGE 43 EAST, W.M.

The 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. This right is inferior in right and subsequent in time to any future appropriation of water for beneficial consumptive use.

**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 must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or 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.**

**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.**

## **Project Description**

Irrigation water diverted into the West Side Ditch from the Lostine River currently passes through an 11 kW pelton wheel turbine on the applicant's property, authorized under an existing hydroelectric water right Certificate 87134. Water from the tailrace of this existing hydroelectric project empties into an existing stock water pond. The water from the pond is currently discharged to the Clear Water Ditch/Spring Branch irrigation channel which drains into the Wallowa River. The proposed project would divert the water from the pond into a new 10 inch diameter PVC conveyance pipe, approximately 2500 feet long, to a new impulse turbine and generator with an installed capacity of 11 kW. The water will then be returned to the Clear Water Ditch/Spring Branch irrigation channel for irrigation use. No additional water is diverted from the Lostine River for the existing project under Certificate 87134, nor would be in this proposed project. The power from the Project will be net metered and connected to the interstate grid through Pacific Power at the powerhouse. There will be a 1300 feet buried transmission line to the interconnection point. The Project is all on privately owned lands and does not include any federal or tribal lands.

The West Side Ditch Company maintains a Fish Wheel at the diversion point from the Lostine River. An additional fish screen is located at the 15" pipe intake for the Spaur ranch. A 0.5 inch mesh screen will be constructed within the stock water pond to keep fish from entering the turbines.

## **LICENSE CONDITIONS**

1. The Licensee shall comply with all statutes and rules applicable to the Project.
2. This hydroelectric license is effective from the date of issuance through December 31, 2035, and is to be exercised consistent with the conditions contained in the water right license. This right may be reauthorized under laws existing at that time.
3. The Licensee shall construct and build the Project according to the maps, plans and specifications filed with and approved by Oregon Water Resources Department (OWRD) within two years of issuance of the license or within any lawful extension thereof. [ORS 543.300(2)]
4. The Licensee 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 Water Right Commission (Commission) not inconsistent with Oregon Revised Statutes (ORS) 543.010 to 543.610. [ORS 543.300(4)]

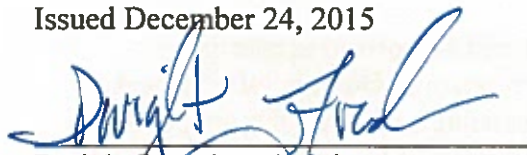
5. No voluntary transfer of the license or of any property acquired, constructed or operated pursuant to the license issued under ORS 543.010 to 543.611 shall be made without written approval of the Commission. Any successor or assignee of any license under any Project acquired, constructed or operated by the Licensee, 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 license and of the provisions of ORS 543.010 to 543.611 to the same extent as though the successor or assignee was the original Licensee 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 543.611. 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 license shall terminate. [ORS 543.440]
6. The Project must meet the water quality standards stated in OAR Chapter 340, Division 41, ORS 468B.048, and Section 303 of the Clean Water Act. The Project must meet water quality requirements including numeric and narrative standards, protect beneficial use, and not degrade existing water quality.
7. The Project shall be designed to minimize visual, aesthetic, and noise impacts.
8. 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).
9. If at any time an unanticipated situation arises in which the Licensee or 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 take appropriate action to prevent further loss. The operator shall, within 84 hours, notify the nearest office of the Oregon Department of Fish and Wildlife (ODFW) and comply with the measures required by ODFW to prevent additional injury or mortality. The Licensee shall subsequently restore any damaged fish and wildlife protection features of the project consistent with direction provided by ODFW.
10. The Licensee shall allow the OWRD Director and authorized agents and employees of the Oregon Department of Environmental Quality, ODFW, and OWRD free and unrestricted access upon reasonable notice, 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.
11. Issuance of the license does not absolve the Licensee from compliance with the requirements and enforcement of the requirements under other applicable local, state, and federal laws. The Licensee 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.

12. 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.
13. Use of water is governed by this license. However, the operations of the Project by the Licensee, so far as those operations affect the use, storage and discharge from storage of waters affected by the Licensee, shall be at all times be controlled by such reasonable rules as the 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. [ORS 543.300(3)]
14. The Owner shall pay, upon receiving an invoice from OWRD, an annual fee to OWRD in the amount of \$26.00. (OAR 690-051-0400(6) and ORS 543A.415 or subsequent statute). This amount shall be due by the date specified on the invoice.
15. Consistent with ORS 540.610, if after completing construction of the Project, the Licensee fails to use or operate the Project facilities for more than five consecutive years, the license shall be subject to termination by the OWRD. The Licensee shall comply with the decommissioning standards under OAR 690-52.
16. Upon a decision to terminate the hydroelectric use, the Applicant shall comply with any decommissioning statutes and rules in effect at that time. (OAR 690-052).

Upon review of the application and input received from state and federal agencies and private citizens, OWRD finds that the Project, with the conditions set forth above, will not violate the standards expressed in Oregon Administrative Rules (OAR) 690-051-0160 through -0270, and is consistent with the public interest. The Project is well adapted to the development and utilization of the water power involved.

Issued December 24, 2015

  
Dwight French, Administrator  
Water Right Services Division, for  
Thomas M. Byler, Director  
Oregon Water Resources Department