

STATE OF OREGON
COUNTY OF MULTNOMAH
PERMIT TO APPROPRIATE THE PUBLIC WATERS

CITY OF GRESHAM
1333 NW EASTMAN PARKWAY
GRESHAM, OR 97030

is issued this permit to use up to 29 CUBIC FOOT PER SECOND (cfs) of the wastewaters treated by the City of Gresham and discharged to the Columbia River for the HYDROELECTRIC PRODUCTION of 99 THEORETICAL HORSEPOWER (Thp).

This permit is issued under application S-87548 (PC 891). The date of priority is July 13, 2009. The maximum amount of water to be diverted is 29 CUBIC FEET PER SECOND (cfs).

The point of diversion is located: NE ¼ NE ¼, SECTION 29, TOWNSHIP 1 NORTH, RANGE 3 EAST, Willamette Meridian W.M.

The authorized place of use is located: Tax lot 200 of the SE ¼ NE ¼, SECTION 20, TOWNSHIP 1 NORTH, RANGE 3 EAST, W.M.

Project Description

The project proposes to use up to 29 cfs of treated wastewater that discharges into a flow metering structure that is located at 44 feet mean sea level (MSL). The flow metering structure feeds, either independently or concurrently, three screened 3,650 foot-long parallel pipelines that are 48, 42 and 27 inches in diameter. Only the 48 inch pipe, which is the Applicant's primary discharge pipe, will be used for generating power.

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 of 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.

are large rain events. These pipelines are completely buried from where they exit the wastewater treatment plant (WTP), pass under a field and NE Interlachen Lane and run through a levee on which NE Marine Drive is built. The powerhouse will be located just north of Marine Drive at a point before the three pipes merge into a single 150 foot-long, 54 inch in diameter outfall diffuser pipe that discharges into the Columbia River at approximately 5.5 feet MSL. There is approximately 30 feet of hydraulic head from the WTP metering structure to the Applicant's powerhouse.

The power generated will be sold to Portland General Electric.

PERMIT CONDITIONS

Upon review of the application and input received from state and federal agencies and private citizens, Oregon Water Resources Department (Department) finds that the 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. The Project is well adapted to the development and utilization of the water power involved.

The Owner shall comply with all statutes and rules applicable to the Project.

1. 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..
2. The Owner shall construct and build the Project according to the maps, plans and specifications filed with the application within two years of issuance of this permit OAR 690-051-0390(2) or by any lawful extension thereof.
3. The Owner shall construct and build the Project according to the maps, plans and specifications filed with the application within two years of issuance of this permit OAR 690-051-0390(2) or by any lawful extension thereof.
4. No voluntary transfer of this permit or of any property acquired, constructed or operated pursuant to the permit issued under ORS 537.289 shall be made to any nonmunicipal entity so as to result in a loss of ownership of the permit by a municipal corporation or district. The holder of this permit must remain qualified as a municipal applicant under ORS 537.285 and 537.287. If the municipal corporation or district proposes to generate hydroelectric power jointly with a nonmunicipal entity, any proposed changes in the agreement between the municipal corporation and the nonmunicipal entity must be reviewed by the Department to determine whether the permittee remains qualified as a municipal applicant. If the department determines that a permittee no longer qualifies as a municipal applicant, the department shall notify the permittee and any nonmunicipal entity that the parties have 90 days to amend their joint relationship

to continue qualifying as a municipal corporation or district. If the permittee fails, after receiving notice under ORS 537.289(2), to amend the joint agreement so the permittee continues to qualify as a municipal applicant, or if the permittee has assigned ownership of the permit to an entity other than a municipal corporation or district, the Department shall initiate proceedings to cancel the permit.

5. 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. No significant temperature-related problems have been identified nor are they expected given the proposed Project facilities, proposed operations and management.

6. Water shall be returned to the Columbia River in a manner that minimizes instream and stream bank erosion and sediment mobilization. In accordance with OAR 340-041-0036, operation of the Project may not increase cumulative turbidity by more than ten percent relative to conditions immediately upstream of the Project.

This Project shall be completed using management practices that minimize soil disturbance. For soils that are disturbed, the water right holder shall employ best management practices to minimize erosion of the disturbed soils during construction. After construction is completed, the disturbed areas should be planted to stabilize the soils from future erosion.

7. If at any time an unanticipated situation arises in which the owner 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 ODFW; in no case shall such contact occur later than the next business day. The owner shall subsequently restore any damaged fish and wildlife protection features of the project consistent with direction provided by ODFW (ORS Chapter 543A.025).

8. The Project shall be designed to minimize visual, aesthetic, and noise impacts.

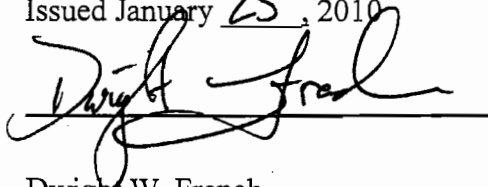
9. Although there are no known cultural sites within the Project area, if any cultural material is discovered during Project construction, all activities should stop and an archaeologist contacted to assess the discovery. It is a Class B misdemeanor to impact an archaeological site (ORS 358.905-955) and a Class C felony to impact Indian Burials (ORS 97-740-990).

10. The Owner shall allow the Department Director and authorized agents and employees of the Oregon Department of Environmental Quality, Oregon Department of Fish and Wildlife, and the Department 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.

11. 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. The Owner 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 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.
13. Use of water is governed by this water right. However, the operation 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 be at all times 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 power purposes and for other beneficial public uses.
14. The Applicant shall pay, upon receiving an invoice from the Department, pay an annual fee to the Department in the amount of \$50.00, (see ORS 543.078(2)(b) 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 Owner fails to operate the Project facilities for more than five consecutive years, the water right shall be subject to termination by the Department. The Owner shall comply with the decommissioning standards under OAR 690-52, and upon termination of the water right, the right to use water shall revert to the public.

Issued January 25, 2010



Dwight W. French,
Administrator Water Rights and Adjudications, for
Phillip C. Ward, Director
Oregon Water Resources Department