

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

CITY OF PORTLAND WATER BUREAU
1900 N. INTERSTATE AVENUE
PORTLAND, OR 97227

is issued this permit to use the waters of the Mount Tabor 411 distribution zone reservoirs for the HYDROELECTRIC PRODUCTION of up to 59.1 THEORETICAL HORSEPOWER (Thp).

This permit is issued under application S- 87565 (PC 892). The date of priority is OCTOBER 7, 2009. The maximum amount of water to be diverted is 10 CUBIC FEET PER SECOND (cfs).

The point of diversion is located: NW $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 5, TOWNSHIP 1 SOUTH, RANGE 2 EAST, W.M.

The authorized place of use is located: Tax lot 6400 of the NE $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 23, TOWNSHIP1 NORTH, RANGE 1 EAST, W.M.

Project Description

The project proposes to use up to 10 cfs of water from its Mount Tabor 411 distribution zone reservoirs to generate electricity within its existing underground water system pipeline at a site several miles to the Northwest of the reservoirs. There is approximately 52 feet of head loss available at the pressure relief valves where drinking water enters the distribution system. A turbine generator will be installed in parallel with the existing pressure reducing valves that are located on a distribution pipe housed within an underground vault at 1907 NE Skidmore Street, Portland, Oregon. The hydroelectric project (Project) proposes to generate up to 59.1 thp.

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.

After the water has been used to generate electricity it will continue in the pipeline to the municipal customers.

The Applicant intends to sell the power generated to a private utility.

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.

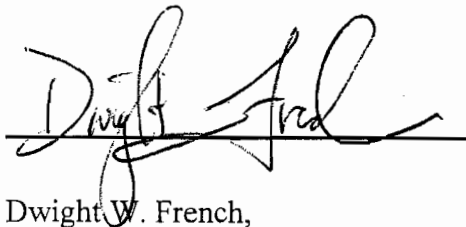
1. The right to the use of water is limited to the amount that the generation facilities can utilize efficiently and shall not exceed the specifications noted in the water right. This right is vested in the permittee while the permit or any lawful extension is in force and is inferior in right and subsequent in time to any future appropriation of water upstream for beneficial consumptive use OAR 690-051-0380.
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. 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.
4. All Oregon hydroelectric Projects must comply with 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 uses, and not degrade existing water quality. Since this

hydroelectric Project will be integrated into the existing municipal conveyance system used for drinking water, the ODEQ has contacted and is cooperating with the Oregon Department of Human Services Drinking Water Program, which regulates municipal drinking water. The following conditions apply to this water right:

- A. Any materials in contact with potable water will be certified under the National Sanitation Foundation Standard 61 or equivalent;
 - B. Any lubricants used in the turbine are to be made of materials that are safe for human and animal consumption, or are food-grade.
 - C. Plans for modification to the public water supply system shall be reviewed and approved by the Oregon Department of Human Services Drinking Water Program.
5. The Project will be housed almost entirely in a subsurface vault in an urban setting, so it is unlikely to disturb fragile or unstable soils or to cause erosion that would impair other water uses. If this were to occur during operation after construction is complete, the Applicant is responsible for remedying the situation in consultation with, and to the satisfaction of the City of Portland and ODEQ. The Applicant must obtain and comply with all necessary construction permits. The Project shall comply with noise ordinances.
 6. 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 543.017).
 7. The Project shall be designed to minimize visual, aesthetic, and noise impacts.
 8. 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).
 9. 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.
 10. 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.

11. 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.
12. The Applicant shall pay, upon receiving an invoice from the Department, pay an annual fee to the Department (see ORS 543.078(2)(b) or subsequent statute). This amount shall be due by the date specified on the invoice.
13. 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 April 13, 2010

A handwritten signature in black ink, appearing to read "Dwight French", written over a horizontal line.

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