

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

KLAMATH IRRIGATION DISTRICT
6640 K.I.D. LANE
KLAMATH FALLS, OR 97603

is issued this permit to use up to 700 CUBIC FEET PER SECOND (cfs) of the A-CANAL waters from UPPER KLAMATH LAKE with 22.5 feet of head at the C-DROP location for 1790 THEORETICAL HORSEPOWER (THP) of HYDROELECTRIC CAPACITY.

This permit is issued under application S-87750 (PC 889). The date of priority is JUNE 3, 2009, for 550 cfs and AUGUST 25, 2011, for 150 cfs. The maximum amount of water to be diverted is 700 CUBIC FEET PER SECOND (cfs).

The point of diversion is located: SW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 19, TOWNSHIP 39 SOUTH, RANGE 10 EAST, W.M.

The authorized place of use is located: SW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 19, TOWNSHIP 39 SOUTH, RANGE 10 EAST, W.M.

The use of water is limited to the amount that the generation facilities can use 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 order is subject to judicial review under ORS 183.482. To appeal you must file a petition for judicial review with the Court of Appeals within 60 days from the day this Order was served on you. If this Order was personally delivered to you, the date of service is the day you received the Order. If this Order was mailed to you, the date of service is the day it was mailed, not the day you received it. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

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 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 ORS 537.230 or by any lawful extension thereof.
2. 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.
3. 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.
4. Due to the importance of the fish screen at the A-Canal headgate to prevent entrainment of fish into the C-canal, the hydroelectric use shall be conditioned to require continued operational proficiency of the fish screen at the head of the A-Canal. Maintenance of the A-Canal screen to meet Oregon Department of Fish and Wildlife fish screening criteria is essential to fish protection and restoration of native fish populations in the basin. If the fish screen is not operating proficiently based on ODFW criteria, the C-Drop hydroelectric facilities shall immediately cease operations until such time as screening is provided to criteria standards.

5. 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).
6. The Project shall be designed to minimize visual, aesthetic, and noise impacts.
7. 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).
8. 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.
9. 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.
10. 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.
11. 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.
12. The Applicant shall pay, upon receiving an invoice from the Department, an annual fee to the Department according to ORS 543.078(2)(a) or subsequent statute. This amount shall be due by the date specified on the invoice.

13. To receive a water right certificate under ORS 537.250 the permittee must submit to the Department a Claim of Beneficial Use which includes a map and report prepared by a Certified Water Rights Examiner.

Issued June 21, 2012



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