

STATE OF OREGON  
COUNTY OF HOOD RIVER  
PERMIT TO APPROPRIATE THE PUBLIC WATERS

MIDDLE FORK IRRIGATION DISTRICT  
8235 CLEAR CREEK ROAD  
MT HOOD, OR 97041

is issued this permit to use the waters of LAURANCE LAKE, a tributary of CLEAR CREEK, tributary to MIDDLE FORK of HOOD RIVER, with 100 feet of head for HYDROELECTRIC development of 1 THEORETICAL HORSEPOWER (THP) capacity.

This permit is issued under application PC 909. The date of priority is NOVEMBER 18, 2019. The amount of water to be diverted is 0.1 CUBIC FEET PER SECOND (cfs).

The project will divert water from the reservoir through a screened 36 inch outlet pipe for 70 feet, then a 2 inch line for approximately 30 feet. The project uses a small Pelton wheel and 100 feet of head to drive a 24 volt generator to charge two car batteries to operate instream flow telemetry and safety monitoring equipment. Return flows are released to Clear Branch Creek at the base of Clear Branch Dam for additional instream flows or other water uses.

The point of diversion is located:  
NW ¼ NE ¼, SECTION 27, TOWNSHIP 1 SOUTH, RANGE 9 EAST, W.M.

The authorized place of use is located:  
NW ¼ NE ¼, SECTION 27, TOWNSHIP 1 SOUTH, RANGE 9 EAST, W.M.

The use of water under this permit is inferior in right and subsequent in time to any future appropriation of water upstream for beneficial consumptive uses. Water use for hydroelectric purposes as specified in this permit may be made on a year-round basis, when water is available.

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

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.



The use of water is limited to the amount that the generation facilities can utilize efficiently, and shall not exceed the specifications noted in this permit.

## **PERMIT CONDITIONS**

Upon a review of the application and input received from state and federal agencies and private citizens, Oregon Water Resources Department (OWRD) 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. No other application has been filed in competition with this application. The Project is well adapted to the development and utilization of the waterpower involved.

The use of water is subject to the following express conditions:

### **H. PERMIT CONDITIONS**

1. The priority date for the proposed water right is November 18, 2019.
2. The proposed use of water is limited to the amount that the generation facilities can utilize efficiently, and shall not exceed the specifications noted in the permit.
3. The Applicant shall comply with all statutes and rules applicable to the Project.
4. Water may be used on a year-round basis when water is present
5. This water right is inferior in right and subsequent in time to any future appropriation of water upstream for beneficial consumptive uses.
6. The permittee shall pay, upon receiving an invoice from OWRD, an annual fee to OWRD under ORS 543.078(2)(b) or subsequent statute. This amount shall be due by the date specified on the invoice. The permittee shall submit an annual claim statement as provided in ORS 543.720
7. Upon a decision to terminate the hydroelectric use for more than five years, the Applicant shall comply with any decommissioning statutes and rules in effect at that time. On termination of the permit, the right to use water shall revert to the public.
8. If, after completing construction of the Project, the Applicant fails to use or operate the Project facilities for any period of five consecutive years, the permit shall be subject to termination by the OWRD.
9. The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee may submit evidence that the Oregon Department of Fish and Wildlife (ODFW) has determined screens are not necessary. The



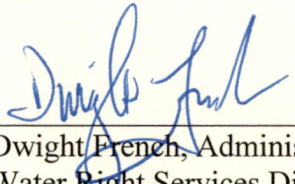
required screens and are to be in place, functional, and approved by ODFW before diversion of any water.

10. The Applicant shall construct and build the Project according to the maps, plans and specifications filed with and approved by the WRC, and within the time fixed by the permit or by any lawful extension thereof. The Project map will be incorporated into the permit.
11. Use of water is governed by this permit. However, the operations of the Project by the Applicant so far as those operations affect the use, storage and discharge from storage of waters affected by the Applicant, shall at all times be 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 other beneficial public uses.
13. The applicant shall complete construction of the Project within two years of the date the permit is issued.
14. No voluntary transfer of the 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 right 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 Water Resources Commission 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 owner continues to qualify as a municipal applicant, or if the permittee has assigned ownership of the right to an entity other than a municipal corporation or district, the Water Resources Commission shall initiate proceedings to cancel the permit.
15. The Project must meet the water quality standards stated in OAR Chapter 340, Division 41. No significant temperature-related problems have been identified nor are they expected given the existing Project facilities, operations and management. However, to protect from any significant future temperature-related adverse impacts to aquatic organisms, any future modifications of vegetation surrounding Project waters should be carefully evaluated. The applicant shall consult with ODEQ prior to undertaking any activity that directly or indirectly results in removal of vegetation adjacent to Project waterways. Waterways include, but are not necessarily limited to bypass reaches, siltation/forebay ponds, open-channel diversions, and above ground pipes.



16. Notwithstanding any specific conditions established by this permit, the applicant must comply with all water quality standards adopted by the Environmental Quality Commission pursuant to state and federal law, ORS 468B.048 and Section 303 of the Clean Water Act.
17. The Project shall be designed to minimize visual, aesthetic, and noise impacts.
18. 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).
19. The Applicant shall allow the OWRD Director and authorized agents and employees of the 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.
20. The Applicant 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.
21. Issuance of the permit does not absolve the Applicant from compliance with the requirements and enforcement of the requirements under other applicable local, state, and federal laws.
22. Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued OCT 27 2020

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