

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 Washington Park distribution zone reservoirs for the HYDROELECTRIC PRODUCTION of up to 38 THEORETICAL HORSEPOWER (Thp).

This permit is issued under application S-89299 (PC 914). The date of priority is MAY 31, 2022. The maximum amount of water to be diverted is 6 CUBIC FEET PER SECOND (cfs).

The point of diversion is located: Tax lot 100 NW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 4, TOWNSHIP 1 SOUTH, RANGE 1 EAST, W.M.

The authorized place of use is located: Tax lot 100 of the NW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 4, TOWNSHIP 1 SOUTH, RANGE 1 EAST, W.M.

Project Description

The Project is located in Multnomah County. The Project will utilize 6 cfs of water within the City of Portland's water distribution infrastructure and will be housed in a concrete underground vault. Water will descend 55 feet through an existing pipe, then split-off to a 28-inch diameter steel pipe where it will pass through the turbine and generate 38 theoretical horsepower of electricity for onsite use. Discharge from the tailrace enters another pipe and is distributed to the Applicant's customers.

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 use the power generated.

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 waterpower involved.

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

H. PERMIT CONDITIONS

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

1. The priority date for the proposed water right is May 31, 2022.
2. 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. This water right is inferior in right and subsequent in time to any future appropriation of water upstream for beneficial consumptive uses.
3. The Owner shall construct and build the Project according to the maps, plans and specifications filed with and approved by the Department and within the time fixed by the water right or by any lawful extension thereof. The Project map will be incorporated into the water right permit.
4. The Owner shall complete construction of the Project within two years of issuance of this permit OAR 690-051-0390(2) or by any lawful extension.
5. 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.

6. 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.
- D. The Project shall comply with noise ordinances.
- E. 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 Bureau of Development Services and ODEQ. The Applicant must obtain and comply with all necessary construction permits.

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. It is the policy of the Oregon Department of Fish and Wildlife (ODFW) to prevent the injury or loss of any game fish or non-game fish classified as sensitive, threatened, or endangered from any water body in the state, as a result of any diversion from the water body. Based on available fish resource information and project siting

information, ODFW has determined that no fish passage or screening of the diversion is required at this project.

10. 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).
11. The Applicant shall allow the Department Director and authorized agents and employees of the ODEQ, ODFW, 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.
12. 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.
13. Issuance of the water right does not absolve the Applicant from compliance with the requirements and enforcement of the requirements under other applicable local, state, and federal laws.
14. 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 water right shall be subject to termination by the Department.
15. 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 water right, the right to use water shall revert to the public.

Issued: **DEC 30 2022**



Dwight French, Administrator
Water Right Services Division, for
Douglas E. Woodcock, Acting Director
Oregon Water Resources Department