

**Oregon Water Resources Department
Water Rights Division**

**Hydroelectric Reauthorization
Project HE 556**

Final Order

NOTE: *This is a Final Order issued pursuant to Oregon Revised Statutes (ORS) 543A.130.*

Application History

On March 21, 2003, Richard D. Jones (Applicant) applied for a minor hydroelectric water right to divert 0.1333 cubic feet per second (cfs) of water from an unnamed stream, tributary to Cow Creek. The Project uses 240 feet of hydraulic head and a Harris Turbine system to generate 3.6 theoretical horsepower for domestic use.

On April 8, 2003, notice of the application was included in Department weekly public notice publication that was distributed to local governments, state and federal agencies, public interest groups and interested citizens.

As part of the original application review process, twenty-one state and federal agencies were consulted.¹ On or about July 27, 2003, OWRD sent a copy of the application and a questionnaire to those twenty-one state and federal agencies for a thirty-day review and comment period seeking input on how the proposed Project would affect various resources.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is a Final Order in other than a contested case. This order is subject to judicial review under ORS 536.075 and ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified in ORS 183.484(2). Pursuant to OAR 137-004-080 you may 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 is filed, the petition shall be deemed denied.

¹ The twenty-one federal and state agencies consulted include the Bureau of Land Management, Bureau of Indian Affairs, Bureau of Reclamation, Department of Geological and Mineral Industries, Division of State Lands, Legislative Commission on Indian Services, National Marine Fisheries Service, National Park Service, Northwest Power and Conservation Council, Oregon Department of Agriculture, Oregon Department of Environmental Quality, Oregon Department of Fish and Wildlife, Oregon Department of Forestry, Oregon Natural Heritage Advisory Council, Oregon Parks and Recreation Department, Oregon Water Resources Department, State Historic Preservation Office, United States Army Corps of Engineers, United States Fish and Wildlife Service, United States Forest Service, and the United States Geological Survey.

Timely comments were received and considered by the Department in making its findings of fact.

The application to reauthorize HE 556 was submitted June 2, 2023, and on June 6, 2023, notice of the HE 556 reauthorization application appeared in Department's public notice for a 45-day public comment. Persons interested in the application could request future notices about the state project and submit written comments to the Department.

On August 8, 2023, the Department provided public notice of the Draft Proposed Final Order in its weekly notice. The public notice included a request for written comments within 60 days of publication of the notice. No comments were received.

On October 24, 2023, the Department provided public notice of the Proposed Final Order in its weekly notice. The public notice included a request for comments, requests for standing, and protests, along with the corresponding fee within 45 days of publication of the notice.

Findings of Fact

1. Site Visit:

On June 2, 2023, Hydroelectric Application Review Team (HART) members Martin Sanchez & Craig Kohanek of the Department, and Jason Brandt & John Zauner of ODFW visited the site and conferred with the Project owner/operator. The powerhouse is located just above a pond that serves as a "bulge in the system" for the irrigation operation. Power generated is used on-site. There is a small generator just above the reservoir connected to the Harris Turbine with tailwater discharging into the reservoir.

2. Location

The point of diversion is located 654 feet North and 2,666 feet West from the North $\frac{1}{4}$ corner in the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 11, Township 32 South, Range 5 West, W.M. The power plant is located in the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 14, Township 32 South, Range 5 West, W.M. There are no neighbors within 300 feet of the powerhouse.

3. Water Rights

Water use for hydroelectric purposes is non-consumptive and may be made on a year-round basis when water is available. As conditioned, the proposed use will not interfere with any existing water rights or permits for the use of water. OAR 690-518, the Umpqua Basin Program, classifies the waters of Cow Creek for power development. The Project is not located within a state designated scenic waterway.

4. Fish and Wildlife Resources:

The Project is located on a tributary to Cow Creek with no fish presence. The only concerns for fish and wildlife are in the summer months where flow of the diverted stream is typically at its lowest flow for the year. The project has storage tanks that should be filled in the wet season to reduce impact to wildlife.

5. Basin Plan:

The Project is consistent with the Water Resources Commission's (WRC's) Umpqua Basin Program; OAR Chapter 690 Division 516.

6. Water Quality:

DEQ had no comments on water quality and only request was to add the standard water quality conditions.

All proposed new minor (under 100 theoretical horsepower) hydroelectric projects in Oregon, such as this Project, must meet the resource protection standards contain in OAR 690-051-0190 to -0260.

7. Public Land Safety:

The Department previously notified the Oregon Department of Geology and Mineral Industries (DOGAMI), the agency responsible for seismic and geologic hazards, of the request for authorization. DOGAMI concluded and the Department concurs, that this small project does not to pose a significant risk to public health and safety from geologic and seismic hazards.

8. Wetland Resources:

The Department previously notified the Division of State Lands (DSL), the agency responsible for management of wetlands, of the request for authorization. The DSL did not identify any wetlands impacts. The Department concurs with that assessment and finds no impacts to wetlands.

9. Other Resources:

a. Recreation: The Department previously notified the State Parks and Recreation Department, the agency responsible for recreational opportunities within the state, of the request for authorization. The Parks Department identified no recreation impacts. The Department concurs with that assessment.

b. Historic, Cultural and Archaeological: The Department previously notified the State Historic and Preservation Office, the agency responsible for historic, cultural, and archaeological resources, of the request for authorization and received no feedback

Conclusions of Law

Project HE 556

Based upon the findings, the Department concludes that the use will not impair or be detrimental to the public interest under ORS 543A.025 (1). In addition, the project satisfies the minimum requirements set forth in ORS 543A.025 (2).


No preference for this use is granted under the provisions of ORS 536.310(12).

The proposed use complies with the State Agency Agreement for land use.

Recommendation

The HART recommends reauthorization of the Project and further recommends that the draft water right certificate attached be issued for a period of 20 years as conditioned therein.

Issued FEB 09 2024



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