

BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE STATE OF OREGON

IN THE MATTER OF THE CONVERSION OF	}	
HYDROELECTRIC WATER RIGHT CERTIFICATE	}	
78316 IN THE NAME OF MISSION MILL MUSEUM	}	PROPOSED FINAL ORDER
TO AN INSTREAM WATER RIGHT OAR 690-054	}	

**Summary of Recommendation:**

The Department recommends that Water Right Certificate 78316 in the name of Mission Mill Museum be converted to an instream right for 50 cubic feet per second (cfs) in Mill Creek Race, Tributary to Willamette River.

**Findings of Fact:**

Mission Mill Museum perfected the use of 50 cubic feet per second (cfs) of water from Mill Creek Race, tributary to Willamette River, for hydroelectric power purposes as evidenced by water right certificate 78316.

The priority date of this right is December 7, 1977.

The location of the diversion was SW ¼ NE 1/4 of Section 26, Township 7 South, Range 3 West, W.M., Marion County .

The hydroelectric water right was subordinated to all other authorized appropriations of water for beneficial consumptive uses and storage purposes made prior to October 29, 2001.

The Mission Mill Museum hydroelectric project has not operated for more than five years, which makes this project eligible for conversion from a hydroelectric right to an instream right Oregon Administrative Rules 690-054-0020(1)(a).

Notice for consideration was posted on the Department's public notice February 20, 2024. Comments were submitted by Waterwatch during the 30-day comment period ending March 22, 2024.

**Authorities:**

OAR 690-054-0040(6):

“The Director shall determine whether conversion of a Hydroelectric Water Right to an Instream Water Right will result in Injury.” In making this determination, the Director shall consider:

(a) The Actual Use of the Project: To determine the Actual Use of the Project, the

### **Requests for Standing and Protests:**

Requests for standing, or protests to this Proposed Order must be received by the Oregon Water Resources Department by 5:00 PM on **Friday, July 12, 2024**, and must be in writing.

Protests must state facts, which support the allegation that the proposed conversion of hydroelectric use to an instream use may result in injury to other existing water rights or cause impacts on actual use by other water rights existing as of October 23, 1999. Commenters may suggest mitigation measures as conditions of the instream water right to avoid injury and to ensure the continuation of authorized water uses by other existing water rights.

Protests must include the following:

1. Your name, address, and telephone number;
2. A description of your interest in the Proposed Final Order, and, if you claim to represent the public interest, a precise statement of the public interest represented;
3. A detailed description of how the action proposed in this Proposed Final Order would impair or be detrimental to your interest;
4. A detailed description of how the Proposed Final Order is in error or deficient, and how to correct the alleged error or deficiency;
5. Any citation of legal authority to support your protest, if known.

A protest must be accompanied by a \$950 fee as required under ORS 536.050(1)(j).

### **Requests for Standing**

Any person who supports a Proposed Final Order can request standing for purposes of participating in any contested case proceeding on the Proposed Final Order or for judicial review of a Final Order. Requests for standing must be received in the Water Resources Department no later than **July 12, 2024**.

Requests for standing must be in writing, and must include the following:

- The requester's name, mailing address and telephone number;
- If the requester is representing a group, association or other organization, the name, address, and telephone number of the represented group;
- A statement that the requester supports the Proposed Final Order as issued;
- A detailed statement of how the requester would be harmed if the Proposed Final Order is modified; and
- A standing fee of \$270. If a hearing is scheduled, an additional fee of \$680 must be submitted along with a petition for party status.

Persons may mail or deliver comments or protests to:

Craig Kohanek  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301

The proposed final order and supporting documents can be viewed at the Water Resources Department, 725 Summer Street NE, Salem, Oregon 97301. For Further Information Contact: Craig Kohanek, [Ron.c.kohanek@water.oregon.gov](mailto:Ron.c.kohanek@water.oregon.gov)

After the protest period has ended, the Director will either issue a Final Order or schedule a contested case hearing. The contested case hearing will be scheduled only if upon review of the issues, the director finds that there are significant disputes related to the proposed conversion.

If you do not request a hearing within 30 days after the close of the protest period, or if you withdraw a request for a hearing, notify the Department or the administrative law judge that you will not appear or fail to appear at a scheduled hearing, the Director may issue a Final Order by default. If the Director issues a Final Order by default, the Department designates the relevant portions of its files on this matter, including all materials that you have submitted relating to this matter, as the record for purpose of proving a *prima facie* case upon default.

You may be represented by an attorney at the hearing. Legal aid organizations may be able to assist a party with limited financial resources. Generally, partnerships, corporations, associations, governmental subdivisions or public or private organizations are represented by an attorney. However, consistent with OAR 690-002-0020 and OAR 137-003-0555, an agency representative may represent a partnership, corporation, association, governmental subdivision or public or private organization if the Department determines that appearance of a person by an authorized representative will not hinder the orderly and timely development of the record in this case.

Notice Regarding Service Members: Active-duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>.

*This document was prepared by R. Craig Kohanek. If you have any questions about any of the statements contained in this document, I can be reached at 503-979-3185.*

*If you have questions about how to file a protest or a request for standing, please refer to the respective sections in this Proposed Final Order entitled "Protests" and "Requests for Standing". If you have previously filed a protest and want to know its status, please contact Will Davidson at 503-507-2749.*

*If you have other questions about the Department or any of its programs, please contact our Customer Service Group at 503-986-0801. Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901*

STATE OF OREGON  
COUNTY OF MARION  
DRAFT CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

STATE OF OREGON  
WATER RESOURCES DEPARTMENT  
SALEM, OR 97301

confirms the right to use the waters of the MILL CREEK RACE, a tributary of WILLAMETTE RIVER, to maintain an instream flow for public use.

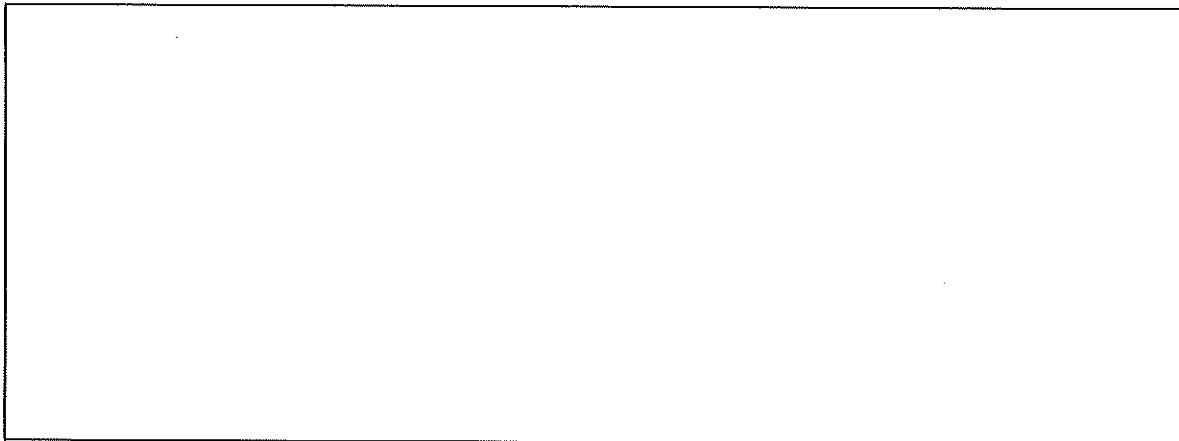
The right is established under Oregon Revised Statutes 543A.305 based on the conversion of Hydroelectric License HE 251 to an instream water right.

The date of priority is DECEMBER 7, 1977.

The instream water right is expressly made inferior in right and subsequent in time to any authorized appropriation of water from the same source made for domestic, municipal, irrigation, or any other beneficial consumptive use, or for storage for such purposes prior to October 29, 2001.

The right is limited to not more than 50 cubic feet per second.

This right is for flows to be maintained in the Mill Creek Race at the site of the former point of diversion under HE 251 located within the SW ¼ NE 1/4 of Section 26, Township 7 South, Range 3 West, W.M., Marion County.



Hydroelectric license HE 251 is terminated. This Water Right Certificate supersedes Hydroelectric License HE 251.

Issued

**DRAFT - THIS IS NOT A CERTIFICATE**

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

Recorded in State Record of Water Right Certificates Number

