

STATE OF OREGON  
WATER RESOURCES DEPARTMENT  
LICENSE FOR HYDROELECTRIC PROJECT 507  
A MAJOR PROJECT OF  
1521.3 THEORETICAL HORSEPOWER

WHEREAS, by act of the Legislature of the State of Oregon, ORS 543.010 to 543.620 and 543.990, as amended, hereinafter called the Hydroelectric Act, the Water Resources Commission is authorized to issue licenses to acquire and hold the right to the use of the waters within the state, and for the construction, operation and maintenance of facilities for the generation and utilization of hydroelectric energy; and

WHEREAS, Gregory B. and Pernina P. Ryan, hereinafter called the licensees, whose address is 438 Washington Street, Red Bluff, California 96080, made application in due and proper form to the Commission for a license for a power project designated as Project HE 507 in the records of the Commission; and known as the Nichols Gap Hydroelectric Project, and for authority to construct, maintain and operate in the County of Jackson, State of Oregon, certain project works necessary or convenient for the development, transmission and utilization of hydroelectric energy, and for use of the waters of an unnamed tributary to Nichols Gap for generation of such electric energy; and

WHEREAS, the project is a major project for development of 1521.3 theoretical horsepower with proposed installed plant capacity of 800 kilowatts; the licensees have paid to the Director all fees required prior to issuance of this license in accordance with the provisions of the Hydroelectric Act and the rules and regulations of the Commission; and no application for said project, or in conflict therewith, has been filed by any municipal corporation or public utility district; and

WHEREAS, the licensee has filed maps, plans and specifications as required by ORS 543.290, and the Commission finds the project will be well adapted to the utilization of the water power involved and hereby approves same; and

WHEREAS, the licensee on the 7<sup>th</sup> day of April, 1986, accepted in writing the terms and conditions of the Hydroelectric Act and of this license for Project 507;

NOW, THEREFORE, the Commission hereby issues this license to the licensees for the purpose of constructing, operating and maintaining the project works hereinafter described as necessary or convenient for the development, transmission and utilization of hydroelectric energy, and to appropriate, acquire, and hold the right to use the waters of the unnamed tributary to Nichols Gap to the extent hereinafter set forth. This license is issued on condition that licensees shall comply with all the terms and conditions of the Hydroelectric Act and Laws of Oregon relating thereto, with the Rules and Regulations of the Commission pursuant thereto as fully set forth herein, and shall be subject also to the following express conditions, limitations and exceptions:

## ARTICLE 1.

### Definition of Project

The word "project" as used in this license means the complete unit, improvement, and development, including among other things, powerhouses, waterwheels, conduits or pipes, dams and appurtenant works and structures, storage, diverting or forebay reservoirs connected therewith, and primary lines transmitting power to the point of junction with a distributing system, or with any interconnected primary system, miscellaneous works and structures used in connection with said unit or any part thereof, right of way, lands, flowage rights and all other properties, rights and structures necessary or appropriate in the use, operation, and maintenance of any such unit.

## ARTICLE 2.

### Description of Project

A concise, general description of Project 507 is as follows:

The Nichols Gap Power Project proposes the use of 85.0 cubic feet per second, measured at the point of diversion from said stream, to develop 1521.3 theoretical horsepower utilizing a gross head of 157.5 feet. A reinforced concrete dam 14 feet in height located in the SW 1/4 NW 1/4, Section 19, Township 35 South, Range 1 East, WM, will divert up to 85 cubic feet per second of water from an unnamed tributary of Nichols Gap through 3450 feet of buried 48-inch penstock to a powerhouse located adjacent to the unnamed tributary in the NE 1/4 NE 1/4, Section 30, Township 35 South, Range 1 East, WM. A horizontal shaft Francis turbine will drive an 800 kilowatt synchronous generator. 700 feet of new transmission line will connect the project to existing Pacific Power and Light facilities. 3 1/2 miles of existing power line will be upgraded.

### Exhibits

The location and character of the project are more specifically shown and described among the following designated exhibits filed to accompany the application and hereby made part of this license.

Initial Statement:	Affidavit of Citizenship. Jackson County Conditional Use Permit. Power Purchase Agreement with Pacific Power and Light Company. Waiver of preference by Eagle Point Irrigation District.
Exhibit A:	Project description.
Exhibit B:	Project operation.
Exhibit C:	Construction and maintenance schedule.
Exhibit D:	Cost estimate.
Exhibit E:	Hydrology and water use.
Exhibit F:	Design drawings and specifications. Sheet 1 - Intake structure site plan. Sheet 2 - Intake structure plan. Sheet 3 - Intake structure sections. Sheet 4 - Plan and profile. Sheet 5 - Plan and profile. Sheet 6 - Powerhouse site plan. Sheet 7 - Powerhouse plan and elevations.

Sheet 8 - Powerhouse sections.  
Sheet 9 - Foundation plan and sections.  
Sheet 10 - Roof framing plan and details.  
Sheet 11 - Standard details.  
Technical specifications.  
Exhibit G: General and detail project location maps.  
  
Additional Exhibits: 1. Supplemental information for OAR 690-74-035.  
2. FERC exemption application.

No substantial changes shall be made in the maps, plans, specifications and statements described and designated as exhibits herein until such changes have been approved by order of the Director. To the extent any changes in maps, plans or specifications are hereafter approved by the Director, the approval of such change shall be deemed to amend the description of the license accordingly.

### ARTICLE 3.

The licensee shall comply fully with the provisions of the order of the Water Resources Commission dated December 2, 1985. The order provides that all of the conditions of the Jackson County decision of March 21, 1984 shall be met. Copies of the order and agreement are attached for reference.

### ARTICLE 4.

The licensees shall furnish the Director with a monthly progress report of construction of Project 507. Included in this report shall be a statement of the claimed cost covering each of the accounts involved.

### ARTICLE 5.

#### Period of License

This license is effective as of APRIL 10, 1986, and shall terminate December 31, 2021.

### ARTICLE 6.

#### Jurisdiction

In consideration of this license and the benefits and advantages accruing thereunder to the licensees, it is expressly agreed by the licensees that the entire project, project area and project works hereinafter designated and described whether or not on the lands of the United States, shall be subject to all provisions, terms and conditions of this license. Should the licensees be prevented from compliance with any provisions of this license or of the Hydroelectric Act by the operation of any valid Federal law, or the lawful order, rule or regulation of any Federal governmental agency exercising exclusive jurisdiction in the premises, it shall not be deemed to be in default, or under any liability to the State of Oregon for failure to perform the same during the period of such disability.

## ARTICLE 7.

The licensees shall begin construction of the project facilities within one year of the date of issuance of this license; shall complete construction of the project facilities within three years of the date of issuance of this license; and thereafter shall maintain the project facilities in good working order. If the licensees fail to begin or complete construction of the project facilities within the time limits fixed in this license or any lawful extension thereof; or if, after completing construction, fail to use or operate the project facilities for any period of five consecutive years, the Director shall, after due notice, terminate this license by written order. If at any time after two years nonuse of water for this project, there shall be any conflicting application for or claim to the use of this water, then the licensees may be required by the Director to show cause why the conflicting application should not be granted and this license terminated.

## ARTICLE 8.

### Water Right Granted

Subject to the provisions of Article 3 and prior appropriations, this license grants the licensees the right to use 85.0 cubic feet per second of water from an unnamed tributary of Nichols Gap provided that the right to the use of water will be limited to the amount which the generation facilities will utilize efficiently. The priority of the right hereby granted is March 11, 1985. On termination of this license, such right to the use of water shall revert to the public. The right granted herein is expressly made inferior in right and subsequent in time to any appropriation of water from this source which may hereafter be made for domestic, municipal, irrigation, or any other beneficial consumptive use.

## ARTICLE 9.

### Period of Water Right

The right to the use of the waters in connection with the development of this project shall be vested with the licensees during the time this license or any lawful renewal or extension thereof is in force.

## ARTICLE 10.

### Annual License Fee

An annual license fee of \$304.40 shall be paid by the licensees on or before January 1 of each calendar year for each calendar year from the first calendar year after the project is completed to 2021; inclusive, being 20 cents for each of the 1521.3 theoretical horsepower authorized herein for Project 507.

Should the terms and conditions of the license be extended at its expiration, the licensees shall pay such annual fees as the Director, or his successor having jurisdiction in the matter at the time, shall fix.

## ARTICLE 11.

### Depreciation

The amount of the annual charges for depreciation expenses to be included in the cost of operation shall be determined on a sinking fund basis computed by the use of service lives subject to approval of the Director; provided, that, for the purpose of depreciation, the services lives of the original units of property shall not exceed the unexpired period of this license; provided further, that the Director may upon further determination and in his discretion, extend the depreciation period of the original units of the project beyond the life of the license. In determining the amount of the annual charges for depreciation expenses to be included in the cost of operation prior to the time of final action of the Director in fixing the actual legitimate cost of the original project as provided for in ARTICLE 12 of the License, the original legitimate cost of the items in each account number as set forth in the "Initial Cost Statement" to be filed by the licensees, as provided for in said Article, shall be used.

## ARTICLE 12.

### Determination of cost of project

- (a) Initial Cost Statements: The licensees shall file within one year after the time the project is ready for service, an initial statement, under oath, with one additional conformed copy thereof showing the amount claimed by the licensees as the actual legitimate cost of the project, as defined in subsection 2 of ORS 543.010, on forms as prescribed or otherwise approved by the Director.

Similar statements with respect to net additions and betterments to the project shall be filed in the same manner before April 1 of each and every succeeding year during the term of this license or any lawful extension thereof, unless the Director shall otherwise direct.

- (b) Substance: Each statement so filed shall give full, adequate and complete information with respect to the cost of the project or additions and betterments thereto as the case may be. Any statement which does not contain sufficient information will be returned to the licensees for such additional information as the Director may deem necessary.
- (c) Report on Project: When a satisfactory statement shall have been filed with the Director, the Director's representatives will make an audit on the accounts, will analyze the books, cost records, engineering reports and other records supporting such statements or pertaining to the project, will inspect the project works, and will prepare a report setting forth their finding and recommendations with respect to the cost as claimed.
- (d) Service of Report: Copies of such report and of the final report provided for in subsection (g) of this ARTICLE 12, will be served by registered mail upon the licensees at its principal place of business in Oregon and copies will be sent to such other parties as the Director may prescribe.
- (e) Time of Filing of Protests: Thirty days after service thereof will be allowed to the licensees within which to file a protest to such report. If no protest is filed within the time allowed, the Director will issue such orders as may be appropriate. If a protest is filed, a hearing will be ordered, such hearing to be held within ninety days from filing of the protest with the Director.

- (f) Burden of Proof: The burden of proof to sustain each item of the statement of claimed costs as filed shall be upon the licensees and only such items as are in the opinion of the Director supported by satisfactory proof may be entered in the project accounts of the licensees.
- (g) Finding and Final Statement: Final action by the Director will be in the form of a finding and order entered in the records of the Water Resources Department and served upon the licensees and such other parties as the Director may prescribe. The licensees shall thereafter file a final statement, under oath, in duplicate, showing the net investment revised in conformity with the order of the Director, together with a statement showing that its records have been revised in conformity with such order.

#### ARTICLE 13.

##### Reasonable rate of return

A reasonable rate of return on the net investment in the project shall be that established by The Public Utility Commissioner for Electric Utilities, subject to the approval of the Director.

#### ARTICLE 14.

##### Amoratzation reserve

Any earnings in excess of said reasonable rate of return shall be set up in a Miscellaneous Reserve Account, as credit to the Amortization Reserve, pursuant to ORS 543.510 of the Hydroelectric Act, to be disposed of in accordance with order of the Director.

#### ARTICLE 15.

##### Accounting

For the purpose of this license and the accounting to be followed by the licensees, the Director adopts a system of accounts in conformity with the Uniform System of Accounts for class A and B Electric Utilities as established by the National Association of Regulatory Utility Commissioners and reserves the right to approve any revisions or modifications thereof.

#### ARTICLE 16.

##### Bond of License to Protect Laborers and Materialmen

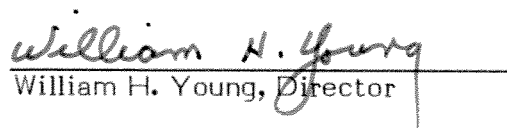
Before entering into the construction of this project, the licensees shall execute a bond as required by ORS 543.560 to be approved by the Director, and by the Attorney General of Oregon as to form, which bond shall be in addition to and not in lieu of any other liability of the licensees principal.

IN TESTIMONY OF ACCEPTANCE of all the terms and conditions of this license, ORS 543.010 to 543.620 and 543.990, and the rules and regulations of the Commission pursuant thereto, the licensee has affixed his signature this 7 day of April, 1986.

  
\_\_\_\_\_  
Gregory B. Ryan, Licensee

  
\_\_\_\_\_  
Pernina P. Ryan, Licensee

IN WITNESS WHEREOF, the Director of the Water Resources Department of Oregon has signed his name at Salem, Oregon this 10<sup>th</sup> day of April, 1986.

  
\_\_\_\_\_  
William H. Young, Director

1724C  
3483D

BEFORE THE WATER RESOURCES COMMISSION

OF THE

STATE OF OREGON

In the Matter of the Consideration of )	
Hydroelectric License Application HE )	
507 Involving Use of Water from an )	PROJECT BACKGROUND,
Unnamed Tributary of Nichols Branch )	FINDINGS OF FACT,
for Hydroelectric Power )	CONCLUSION AND ORDER

Hydroelectric License Application HE 507 proposes construction and operation of a hydroelectric facility in excess of 100 theoretical horsepower on an unnamed tributary of Nichols Branch in Jackson County.

A hearing on the matter was held in Eagle Point, Oregon on August 8, 1985. Residents of two adjacent properties were granted party status in the proceedings.

PROJECT DESCRIPTION

The proposed project would be located in Jackson County near the community of Eagle Point on an unnamed tributary to Nichols Branch, tributary to Little Butte Creek. The run-of-river project would operate seasonally between the months of October and April. Proposed diversions would range from 17 to 85 cfs. The project would have an installed capacity of 800 KW and produce an estimated 2.66 million kilowatt hours of electricity annually. Project facilities will consist of an intake structure at an existing dam owned by the Eagle Point Irrigation District, 3450 feet of buried, 48" pipe, a powerhouse and approximately 700 feet of new transmission line. Portions of an existing power line would also be upgraded. At the powerhouse, water will be discharged back into the stream.

The upper portions of the project would be located on lands owned by Pacific Power and Light Company. The intake structure will be located at an existing diversion dam owned by Eagle Point Irrigation District under an easement with PP&L. All other lands needed for the project are owned by the applicant. Immediately adjacent lands are privately owned. Surrounding lands are managed by the Bureau of Land Management. The predominant use in the area appears to be agriculture.

The Eagle Point hydroelectric facility, owned and operated by PP&L, is located just upstream from the existing irrigation diversion dam. A small irrigation diversion dam is located downstream from the proposed powerhouse.



Existing water uses in the area include power generation and irrigation. Virtually all flow is diverted from the stream during the May to September period for irrigation. The upstream and downstream diversion structures, along with the seasonal nature of streamflow, generally preclude resident and anadromous fish from the project reach.

Wildlife in the area include deer, elk, smaller animals and birds. In addition to plans for a buried pipeline, raptor consideration in the design of the transmission lines, construction scheduling, and maintenance of a two cfs flow in the stream channel during project operations to maintain a riparian zone are proposed to minimize possible impacts on area wildlife.

Lack of access, private ownership and the absence of developed facilities are factors which appear to limit recreational use in the project area.

As a result of the hearing and based upon information submitted in the record, the Water Resources Commission makes the following:

#### FINDINGS OF FACT

Statements of fact presented in the project background discussion are incorporated herein:

1. License Application HE 507 proposes the construction and operation of a hydroelectric project on an unnamed tributary to Nichols Branch in Jackson County.
2. The project would involve the use of up to 85 cfs of water to develop 1449 theoretical horsepower.
3. Power development is an allowed use in the Nichols Branch drainage under provisions of the Water Resources Program for the Rogue Basin.
4. Project facilities would include an intake structure, pipeline, powerhouse and transmission lines.
5. The applicant owns or has access to all lands necessary for the project intake, pipeline and powerhouse.
6. There are no known topographic, geologic, climatic, or soil stability factors in the area which may adversely affect the project.
7. Although diversions are made both upstream and downstream from the project area, there are no known water uses within the project reach.
8. Planned operation would be seasonal and generally limited to the October to April period.
9. Streamflow appears to be sufficient to operate the project.

10. The project is not expected to impact water quality.
11. There are no known historical or archeological sites in the project area.
12. There are few, if any, resident trout or anadromous fish in the project reach.
13. Little recreational use occurs in the project reach.
14. Wildlife in the area include deer, elk, small mammals and birds.
15. Measures are proposed to minimize possible adverse impacts on wildlife.
16. Jackson County has issued a conditional use permit for the project.
17. Conditions in the county permit address aesthetics, noise and possible erosion.
18. PP&L has contracted to purchase the power produced by the project.
19. No measurable cumulative impacts associated with the project have been identified.

#### OFFICIAL NOTICE

The Water Resources Commission has taken official notice of the records of the Water Resources Department pertaining to water use in the Nichols Branch drainage.

#### ULTIMATE FINDINGS

The proposed project would not adversely affect any of the designated resource areas specified in OAR 690-74-020. The record demonstrates that the proposed use of water reasonably complies with the standards in OAR 690-74-050 Fish Resources; OAR 690-74-055 Wildlife; OAR 690-74-060 Land Resources; OAR 690-74-065 Economics; and OAR 690-74-070 Need for Power.

#### CONCLUSION

The location of the project and existing development minimize the potential for adverse impacts in the project reach. Measures proposed by the applicant or recommended by the Department of Fish and Wildlife will reduce possible effects on wildlife in the area.

Issues raised by parties in the proceedings about noise and aesthetics are addressed to some extent in the conditional use permit issued for the project. Concerns about health, safety or interference with radio and television reception are generally not supported by evidence in the record. The construction of a short distance of new transmission line will have a

visual impact. In view of other transmission lines in the area, however, the degree of the impact is difficult to assess.

The project proposed in the application represents an additional development of the water resources of the stream and appears to be reasonably consistent with plans for land and water use. It is therefore concluded that the project proposed under application HE 507 will not impair or be detrimental to the public interest.

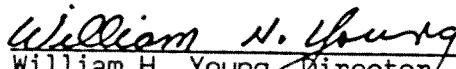
#### ORDER

It is hereby ordered that Hydroelectric License Application HE 507 be and hereby is approved with the following conditions:

1. All construction for the proposed project shall be scheduled to minimize impacts on area wildlife as approved by the Oregon Department of Fish and Wildlife.
2. The project, when operated, shall maintain a flow of two cfs in the stream channel.
3. Project facilities shall be designed to protect wildlife following the recommendations of the Oregon Department of Fish and Wildlife.
4. All the conditions of the Jackson County decision of March 21, 1984, shall be met.

Dated December 2, 1985

WATER RESOURCES COMMISSION

  
William H. Young, Director  
WATER RESOURCES DEPARTMENT

#### APPEALS AND JUDICIAL REVIEW

1985 Oregon Laws Chapter 673, Section 9, provides that any party affected by an order of the Water Resources Commission or Water Resources Director issued after a contested case hearing may appeal the order to the Court of Appeals. Refer to that statute for details as to appeal rights and procedures. Under 1985 Oregon Laws Chapter 673, Section 9, and ORS 183.482, a petition for judicial review must be filed within 60 days from the date an order is served, unless a petition for reconsideration or rehearing has been filed.

1207D

BEFORE THE BOARD OF COUNTY COMMISSIONERS

STATE OF OREGON, COUNTY OF JACKSON

IN THE MATTER OF HEARINGS COUNCIL FILE 83-5-CUP)  
FOR A HYDROELECTRIC GENERATING PLANT IN THE )  
EXCLUSIVE FARM USE ZONE ON TAX LOT 7900 IN )  
SECTION 19, AND TAX LOT 200 IN SECTION 30 BOTH )  
OF WHICH ARE IN TOWNSHIP 35 SOUTH, RANGE 1 EAST)  
SUBMITTED BY GREGORY RYAN )

ORDER NO. 78-84

WHEREAS, this is an application for a conditional use permit to establish a commercial utility facility for the purpose of generating power for public use as set forth in Section 218.010(1) of the Jackson County Land Development Ordinance; and,

WHEREAS, an order, which made official the Hearings Council decision to approve this application subject to compliance with 13 conditions, was signed on July 27, 1983; and,

WHEREAS, the Hearings Council decision was appealed to the Board by letter dated August 26, 1983; and,

WHEREAS, the Board of Commissioners heard this matter on November 10, 1983.

Now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF JACKSON COUNTY ORDERS AS FOLLOWS:

SECTION 1. FINDINGS

1.1 The findings of fact as set forth in Exhibit A of the Hearings Council order dated July 27, 1983, are hereby considered a part of this order.

SECTION 2. LEGAL FINDINGS

To approve this application, the Jackson County Hearings Council was obligated to determine that findings demonstrate compliance with Sections 218.050, 218.060, and 260.040 of the Land Development Ordinance.

SECTION 3. CONCLUSORY FINDINGS

3.1 The proposed use is consistent with Section 218.050 of the Jackson County Land Development Ordinance which requires a finding that there is a public need for the proposed use and that if there is a public need, that it is reasonably well met at this location. The Board accepts the evidence as set forth within the application (Exhibit 2,

File 83-5-CUP) that there is a public need for this proposed use. The public need is reasonably well met at this location because the stream, Nichols Branch Creek, is a seasonal as opposed to a permanently flowing stream. Additionally, the facility will compliment the agricultural use of the property because the penstock will be buried and the turbine facility will be housed within a building approximately 400 square feet in size. Thus, little or no agricultural land will be taken out of production. There is no evidence to indicate this proposed use will adversely affect agricultural uses which exist on the subject property or adjacent properties. This seasonal stream will not require the diversion of natural creeks.

3.2 This proposed use is consistent with Section 218.060 of the Land Development Ordinance, including Section 218.060(1)(E) of the Land Development Ordinance which requires a determination that the proposed use will not adversely affect sensitive fish and wildlife. This proposed use was reviewed by biologists of the Oregon Department of Fish and Wildlife who indicated they would examine the proposal through the review process which will be conducted by the Federal Energy Regulatory Commission. This proposed use will have minimum impact on the fisheries resource because Nichols Branch Creek is a seasonal stream with the fisheries resource having minimal value. A more suitable location, in terms of having little or no impact on the fisheries or other resources, is not likely to be found in Jackson County.

3.3 This proposed use is consistent with Section 260.040 of the Jackson County Land Development Ordinance. Adherence to the conditions of approval as contained within this order will ensure that this proposed use will have no adverse impact on people who reside in this area, and thus will ensure conformance with Subsection 2 of Section 260.040 of the Land Development Ordinance. This operation may be audible within several hundred feet of the site however, condition number 13 below will ensure that no noise problem is created for people who reside in the area. It should also be noted that the power distribution system is already in place with the exception of several power poles which will need to be placed on the applicant's own land.

### SECTION 3. DECISION

3.1 Based on the findings and conclusions noted herein, the Board of Commissioners upholds the Hearings Council decision to approve File 83-5-CUP and denies the appeal. This decision is based on the applicant adhering to the following conditions which replace all of the conditions of the Hearings Council order dated July 27, 1983:

- 1) The applicant shall remain in compliance with the requirements of all affected agencies, including the Water Resource Department, Federal Energy Regulatory Commission, and Oregon Department of Fish and Wildlife.

- 2) This approval is void after 18 months of the signing of the final order unless substantial construction has taken place. This approval may be extended for one year by action of the Hearings Council.
- 3) The proposed use shall be constructed and operated consistent with the submitted application unless altered by conditions contained herein.
- 4) A road approach permit shall be received from the Jackson County Department of Public Works prior to construction of any new driveways off Brophy Road.
- 5) Prior to operating the proposed use, the applicant shall comply with the recommendations of the county Senior Soil Scientist as set forth in his April 11, 1983, memorandum concerning erosion control, high shrink swell potential and other hazardous conditions. Also, the proposed development shall be consistent with the recommendations of the Soil Conservation Service pertaining to erosion control as specified in their June 10, 1983 letter to Ralph Bowman unless alternative development plans are approved by the Soil Conservation Service. In addition, the applicant shall have a qualified registered engineer inspect and certify that all recommendations have been satisfactorily completed.
- 6) The applicant shall not commence the installation of the proposed hydroelectric generating facility until all permits have been received from the Federal Energy Regulatory Commission (FERC), the State Water Policy Review Board and the County Building Division.
- 7) Maintenance and construction activity at the site shall be limited to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday, except during emergencies.
- 8) Prior to beginning construction of the proposed facility, the applicant shall receive approval of a floodplain permit from the Department of Planning and Development for development within the floodplain of Nichols Branch Creek. The application must be found consistent with Chapter 254 of the Jackson County Land Development Ordinance.
- 9) The declaration of restriction set forth in Section 218.060(2) of the Land Development Ordinance shall be recorded with the deed for the subject property prior to initiation of construction and a copy of said recorded declaration submitted to the Planning Department.
- 10) No blasting shall occur on the property.

11) The applicant shall provide vegetative screening around the proposed powerhouse facility from adjacent residential properties and Brophy Road. Also, the doors of the powerhouse shall face away from neighboring residences.

12) If the applicant decides to paint the proposed powerhouse building, only earth tone colors (i.e., green, brown, grey) shall be utilized.

13) A qualified Oregon licensed engineer shall conduct a study to determine:

a) What sound levels would be produced by the proposed facility and whether they comply with State Department of Environmental Quality noise standards as set forth in Table 9 of Oregon Administrative Rules, Chapter 340, Division 35.

b) If sound levels exceed the State Department of Environmental Quality (DEQ) regulations, as set forth in Table 9 of Oregon Administrative Rules, Chapter 340, Division 35, the engineer shall develop a plan that will ensure compliance with said regulations;

c) The plan shall be reviewed and approved by DEQ and the County Planning Department prior to any construction.

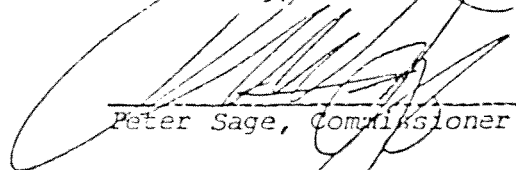
14) The operation of this hydroelectric generating facility shall be conducted such that it does not create electrical disturbance of radio, television, or other appliances.

APPROVED this 21st day of March, 1984, at Medford, Oregon.

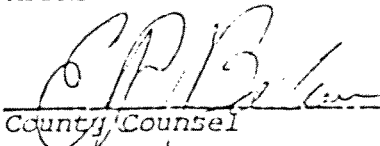
JACKSON COUNTY BOARD OF COMMISSIONERS

  
Jerry Barnes, Chairman

  
Hank Henry, Commissioner

  
Peter Sage, Commissioner

APPROVED AS TO FORM:

  
County Counsel

ATTEST:

  
By: Recording Secretary