

**BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE  
STATE OF OREGON**

In the Matter of the Wallowa Lake County Service District's )	FINAL ORDER APPROVING
Application to use its existing water right for )	PC 905
hydroelectric purposes, Wallowa County )	

**Authority:**

ORS 543.765 (1) Notwithstanding ORS 537.145 and ORS Chapter 543, the holder of a water right may apply to the Oregon Water Resources Department (Department) for a certificate to use water for hydroelectric purposes within an artificial delivery system under the applicant's existing water right. ORS 543.765 (3) (b). The Department may issue a final order and certificate to use water for hydroelectric purposes upon making a final determination that the proposed hydroelectric use does not impair, or is not detrimental to, the public interest in a manner provided in ORS 537.170 (8).

**Application History:**

The Wallowa Lake County Service District's (District's) application for use of its existing water right for hydroelectric purposes was received by the Department on November 16, 2017. Upon receipt of the application the Department assigned an application number of PC 905. The project is also known by its Federal Energy Regulatory Commission (FERC) docket number CD17-16. On December 5, 2017, the Department placed the application on its weekly public notice for a 30 day comment period, closing on January 5, 2018, and provided notice to the Oregon Department of Fish & Wildlife (ODFW). ODFW provided comments on the application that no fish were present in State Park Spring, the source of water, thus neither fish passage nor screening was needed.

On September 13, 2017, FERC issued a determination the Wallowa Lake County Service District Hydro Station Project meets the qualifying conduit hydropower facility criteria under federal law. The project therefore meets the requirements of ORS 543.765(1).

**Project Description:**

The District's existing water right, Certificate 93617 is for 0.5 cubic feet per second from the waters of an Unnamed Creek, tributary to the Wallowa Lake, for municipal uses. This application would use water under this certificated water right prior to it being used for municipal uses. No additional water shall be diverted for hydroelectric purposes.

The project will be constructed within the District's existing municipal water system. Water from the unnamed creek is collected in a spring box on the Wallowa-Whitman National Forest. It is then diverted into a 4" PVP pipe for approximately 2,400 feet, which has 645 feet of vertical drop, before it will enter the proposed powerhouse at Wallowa Lake State Park. The

Project will have a capacity of 37 theoretical horsepower. The powerhouse is proposed to be 14' x 14' and will contain an impulse turbine and induction generator with 20 kW of installed capacity. After passing through the turbine, the water will discharge into the municipal water line. There will be a 50' transmission line from the powerhouse to the Pacific Power powerline.

The Oregon Parks and Recreation Department has given it approval for the District to develop the hydroelectric powerhouse on its property. (per letter of J.R. Collier, Park Manager Wallowa Lake State Park)

**Findings of Fact:**

The Department has reviewed the Project under standards of 543.765 (3)(b) for determining that the proposed use does not impair, or is not detrimental to, the public interest in the manner provided in ORS 537.170 (8).

a) Conserving the highest use of water for all purposes.

Water used for this Project has already been allocated for municipal purposes under water right Certificate 93617. No additional water shall be allocated for hydroelectric purposes. After passing through the turbine, the water will discharge into the District's existing water supply system. No loss of water is expected from the Project.

b) Maximum economic development of the water

This Project allows for water to be used for multi-purposes including municipal use and hydroelectric power generation. The economic benefits of the water are increased by this Project.

c) Control of water for beneficial purposes

The Project provides for the control of water for beneficial purposes utilizing the existing diversion facility and pipelines. No changes are expected to any of these existing project features. After being used for hydroelectric purposes the water reenters the existing District pipeline.

d) Amount of water available for appropriation for beneficial use.

Annual water use reporting records since 2005 on file with the Department demonstrate that up to 0.5 cfs of water has been available for diversion under water right Certificate 93617. No additional water will be diverted for this Project. A maximum of 0.5 cfs is expected to be available for the Project.

e) Prevention of wasteful, uneconomic, impracticable, or unreasonable use of the water.

The Project's operation increases the economic benefits of the water by providing a new source of hydroelectric power and revenues while maintaining municipal use benefits. It prevents wasteful, uneconomic, impracticable, or unreasonable uses of water

f) Vested and inchoate rights to use of the water and means to protect those rights.

Since the Project will not divert any additional water than is allowed under the existing municipal use water right, all other vested and inchoate rights are protected and will not be affected by the issuance of this water right.

g) State water resources policy under ORS 536.295 - .350, 537.505 - .534.

ORS 536.295 - .350 govern classification of waters of the state such has been done in the Grande Ronde Basin Program (OAR 690-508). The classifications apply to new allocations of water and are intended to protect existing rights, established duties of water, and relative priorities of rights. Because this Project does not require any new allocation of water and is allowed to be added to an existing use under ORS 543.765, the use is consistent with the existing basin Program.

ORS 537.505 - .534 govern the appropriation of groundwater and aquifer storage. Since the Project will only be issued a water right for surface water, there are no water resources policies enacted under these statutes that need to be considered.

The Department finds that the project will not impair or be detrimental to the public interest based on the standards of 537.170(8).

#### **Conclusions of Law:**

Taking into account the following factors of ORS 537.170(8):

(a) Conserving the highest use of the water for all purposes, including irrigation, domestic use, municipal water supply, power development, public recreation, protection of commercial and game fishing and wildlife, fire protection, mining, industrial purposes, navigation, scenic attraction or any other beneficial use to which the water may be applied for which it may have a special value to the public.

(b) The maximum economic development of the waters involved.

(c) The control of the waters of this state for all beneficial purposes, including drainage, sanitation and flood control.

(d) The amount of waters available for appropriation for beneficial use.

(e) The prevention of wasteful, uneconomic, impracticable or unreasonable use of the waters involved.


(f) All vested and inchoate rights to the waters of this state or to the use of the waters of this state, and the means necessary to protect such rights.

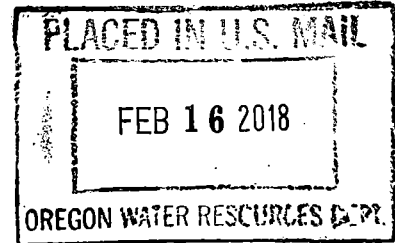
(g) The state water resources policy formulated under ORS 536.295 to 536.350 and 537.505 to 537.534.

The project is well adapted to the development and utilization of the water power involved. The proposed hydroelectric use does not impair, or is not detrimental to, the public interest in a manner provided in ORS 537.170 (8).

The Department shall issue the attached certificate.

DATED: February 13, 2018

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



Attachment 1 Certificate