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BEFORE THE HEARINGS OFFICER

KLAMATH COUNTY, OREGON

In the Matter of Request for  
 Conditional Use Permit No. 51-84  
 for Frederick D. Ehlers, Applicant. ) Klamath County Planning  
 ) Findings of Fact and Order  
 )

A hearing was held on this matter on November 15, 1984,  
 pursuant to notice given in conformity with Ordinance No. 45.2,  
 Klamath County, before the Klamath County Hearings Officer,  
 Jim Spindor. The applicant was present. The Klamath County  
 Planning Department was represented by Jonathan Chudnoff. The  
 Hearings Reporter was Judy Whitaker.

Evidence was presented on behalf of the Department and  
 on behalf of the applicant. There were no adjacent property  
 owners present.

The following exhibits were offered, received, and made  
 a part of the record:

Klamath County Exhibit A, Staff Report  
 Klamath County Exhibit B, Assessor's Map  
 Klamath County Exhibit C, Project Plan  
 Klamath County Exhibit D, Corps of Engineers Notice  
 Klamath County Exhibit E, D.E.Q. Notice  
 Klamath County Exhibit F, Weyerhaeuser Letter  
 Klamath County Exhibit G, Water Resources Department Letter  
 Klamath County Exhibit H, Application for Preliminary  
 Permit  
 Klamath County Exhibit I, Preliminary Permit, Water  
 Resources

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1 Klamath County Exhibit J, Agreement with Fish and  
2 Wildlife Department

3 Klamath County Exhibit K, Letter from Parks and  
4 Recreation

5 Klamath County Exhibit L, Photographs

6 Klamath County Exhibit M, Letter from Fred Ehlers dated  
7 October 26, 1984

8 Klamath County Exhibit N, Letter from Allan J. Cook  
9 dated August 31, 1983

10 Klamath County Exhibit O, Letter from John E. Lilly  
11 dated September 20, 1982

12 Klamath County Exhibit P, Letter from James B. Webb  
13 dated June 27, 1984

14 Klamath County Exhibit Q, Letter from Allan J. Cook  
15 dated December 4, 1984

16 The hearing was then closed, and based upon the evidence  
17 submitted at the hearing, the Hearings Officer made the following  
18 Conclusions of Law:

19 CONCLUSIONS OF LAW:

20 1. The proposed use is conditionally permitted in the  
21 zone within which it is proposed to be located.

22 2. The location, size, design, and operating characteris-  
23 tics of the proposed use are in conformance with the Klamath  
24 County Comprehensive Plan.

25 3. The location, size, design, and operating characteris-  
26 tics of the proposed use will be compatible with and will not  
27 have a significant adverse effect on the appropriate development  
28 and use of the abutting property and the surrounding neighbor-  
hood.

4. The granting of this conditional use permit is  
consistent with the goals of the L.C.D.C.

1 5. This conditional use permit is granted subject to  
2 the following conditions:

3 a. The applicant shall obtain all necessary state and  
4 federal permits and shall follow all conditions which are a part  
5 of said permit. The applicant shall provide the Klamath County  
6 Planning Department with copies of all state and federal permits  
7 which are obtained.

8 b. The diversion pipeline and penstock shall be buried  
9 to minimize visual and physical effects on the area.

10 c. The power line from the project shall be buried  
11 and, to the extent feasible, shall follow the existing road  
12 rights of way.

13 d. Existing roads shall be used to reach the site,  
14 and no new roads shall be constructed because of the applicant's  
15 use.

16 FINDINGS OF FACT:

17 The requested use has been granted with conditions based  
18 on the following findings of fact:

19 1. This application is for a conditional use permit for  
20 a power generating plant in the forestry zone. The project  
21 would be on Weyerhaeuser Company land in the canyon of the north  
22 fork of the Sprague River about 11 miles northeast of Bly. The  
23 project will consist of a rock and concrete diversion structure  
24 built into the river, a 4,800-foot buried pipeline, 256-foot  
25 buried penstock, a powerhouse on the riverbank, and a buried  
26 electrical line connecting with an existing Pacific Power and  
27 Light powerline on Campbell Road. All water used will be  
28 returned to the river at the powerhouse. The project is more

1 fully described in Exhibits C, D, H, and I, which are a part  
2 of the record.

3 2. The rated power capacity of the project would be  
4 600 kilowatts, and the project will operate unattended, with  
5 computer-operated automatic controls. Once the equipment is  
6 installed and properly running, visits to the site will be  
7 required less than once a month. The electricity will be  
8 purchased by Pacific Power and Light.

9 3. The project is located in a steep, rocky canyon with  
10 Class VII soils. There is no agricultural use of the area. The  
11 Obenchain Ranch uses water from the north fork, but this water  
12 source is below the project in question. Water flows below the  
13 project would not be reduced.

14 4. The project will be constructed in the river canyon  
15 and will require little tree cutting. Existing roads will be  
16 used to reach the site, and no new roads will be needed for  
17 construction. The power line from the site will be buried, and  
18 for the most part would follow established roads, avoiding the  
19 need for a cut-over power line corridor. Nearly all of the land  
20 in the project boundary would remain undisturbed, continuing  
21 in its present forest use.

22 5. The north fork is a Class I stream with significant  
23 trout habitat. The project would not impede stream flow, and  
24 the applicant has reached an agreement with the Oregon Depart-  
25 ment of Fish and Wildlife on habitat protection and minimum  
26 stream flow (see Exhibit J). The river is under consideration  
27 for a scenic designation by the Fremont National Forest. Except  
28 for the powerhouse, all parts of this project would be under

1 water or under ground. The scenic effects would be very small,  
2 except during the months of construction.

3 6. The only pollution from this project would be  
4 temporary siltation and erosion during construction. Once  
5 operating, the project would cause no air, water, or land  
6 pollution.

7 7. The area has a high fire hazard rating, but the  
8 proposed project does not increase the fire danger.

9 8. The north fork supports a native trout population  
10 and is used for fishing. The applicant has reached an agreement  
11 with the Oregon Department of Fish and Wildlife which would  
12 protect the fish by installing a screen over the diversion  
13 structure and maintaining a minimum flow in the river. By use  
14 of a diversion rather than a dam, the river will be kept open.

15 9. The project is estimated to cost \$2.8 million, much  
16 of which will be spent locally for labor and materials. On-  
17 going economic benefits will be provided through the sale of  
18 low-cost power to Pacific Power and Light.

19 10. Access to the site is over Weyerhaeuser and Forest  
20 Service logging roads; no additional road construction would  
21 be required by the project. Once operating, the project would  
22 require only sporadic traffic.

23 11. The only objection raised was set forth in Exhibit K;  
24 however, the concerns expressed in this letter by Mr. Cook of  
25 the Parks & Recreation Division of the Oregon State Department  
26 of Transportation have been satisfied, as can be seen by  
27 Exhibit Q.

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1 The Hearings Officer, based on the foregoing Findings of  
2 Fact, accordingly orders as follows:

3 That real property described as

4 "being generally located on the North Fork of  
5 Sprague River, about 9 miles northeast of Bly,  
6 and more particularly described as being  
7 located in the SE $\frac{1}{4}$  NW $\frac{1}{4}$  and the N $\frac{1}{4}$  SW $\frac{1}{4}$  of  
8 Section 29, N $\frac{1}{2}$  SE $\frac{1}{4}$  and SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 30,  
9 Township 35, Range 15,"

10 is hereby conditionally granted a conditional use permit in  
11 accordance with the terms of the Klamath County Zoning  
12 Ordinance No. 45.2, and, henceforth, will be allowed to establish  
13 a power generating plant in the forestry zone.

14 Entered at Klamath Falls, Oregon, this 9<sup>th</sup> day of  
15 January, 1985.

16 KLAMATH COUNTY HEARINGS DIVISION

17 *Jim Spindor*

18 Jim Spindor, Hearings Officer

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26 RETURN: Commissioners Journal

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28 C.U. #. 51-84  
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STATE OF OREGON: COUNTY OF KLAMATH:ss

I hereby certify that the within instrument was received and filed for  
record on the 15th day of January A.D., 1985 at 9:20 o'clock A M,  
and duly recorded in Vol M85, of Deeds on page 831.

Fee: \$ None

EVELYN BIEHN, COUNTY CLERK

by: *Ann Smith*, Deputy