

Bill Brown
Procurement Services Manager
Oregon Department of Fish and Wildlife
3406 Cherry Ave NE
Salem OR 97303-4924

Re: *Determination Whether Project is Subject to Prevailing Wage Rate*
Project: Columbia River – Potlatch Pump
Requested by: Oregon Department of Fish and Wildlife

Dear Mr. Brown:

On November 14, 2007, you submitted a request on behalf of the Oregon Department of Fish and Wildlife (“ODFW”) asking whether a proposed project is subject to the Prevailing Wage Rate law. Sufficient information to make a determination was received by November 27, 2007, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. For several years, ODFW has administered the “Fish Screening and Passage, Cost Share Grant Program,” which promotes the installation of fish screens or fishways by sharing the cost of the installation with water users.
2. On February 13, 2007, Potlatch Forest Holdings, Inc. (“Potlatch”) submitted a “Cost Share Grant Program Application” to ODFW to receive grant funds for the replacement of intake pipes and fish screens at an existing pump facility that the company owns and uses for irrigation purposes. The cost of installing the pipes, screens, and air-burst cleaning system is expected to be \$1.3 million.
3. Upon review of Potlatch’s application, ODFW approved the company’s request for funds and awarded \$150,000 to the project on April 16, 2007. To date, ODFW and Potlatch have not entered into a grant agreement for the funds.
4. ODFW represents that, with the exception of its cost share grant, no public funds will be used for the project.
5. It is not anticipated that any public agency will use or occupy any part of the completed project.

CONCLUSIONS OF LAW

1. The construction project is intended to be privately owned. Less than \$750,000 in funds of a public agency will support the project, and no public agency will occupy or use the completed structure. Therefore, the definitions of a “public works” under ORS 279C.800(6)(a)(B) and (C) do not apply to this project.
2. If the project is a public works under ORS 279C.800(6)(a)(A), the exemption applies for privately owned projects for which less than \$750,000 of funds of a public agency are used and less than 25 percent of the square footage will be occupied or used by a public agency. ORS 279C.810(2)(c).

DETERMINATION

Based on the foregoing, the Prevailing Wage Rate laws, ORS 279C.800 to ORS 279C.870, and OAR Chapter 839, Division 025, do not apply to the Columbia River – Potlatch Pump project.

This determination is based on the agency’s file as of the date of this determination. The commissioner may make a different determination if any of the project information is incorrect, or if the project or project documents are modified or supplemented after the date of this determination.

RIGHT TO A HEARING

The requestor and any person adversely affected or aggrieved by this determination are entitled to a hearing as provided by the Administrative Procedures Act (ORS 183.413 to 183.470) and HB 2140 Section 43 (Enrolled) OR Laws 2007. If you want a hearing, the Bureau of Labor and Industries, Wage and Hour Division must receive your written request for hearing within 21 days from the date this notice was mailed. Hearing requests should be addressed and delivered to:

Administrator
Wage and Hour Division
Bureau of Labor and Industries
800 NE Oregon St., Suite 1045
Portland, Oregon 97232

If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

If you request a hearing, you will be notified of the date, time and place of the hearing. You have the right to be represented by legal counsel at a hearing. However, if you are a government agency, corporation, partnership, or unincorporated association, you must be represented by either legal counsel or an authorized representative. If you request a hearing, you will receive information on Contested Case Rights and Procedures before the hearing. After the

hearing, an order confirming, modifying, or reversing this determination will be issued. This determination shall remain in effect until the final order is issued.

If you request a hearing, but fail to appear at any scheduled hearing, you will have waived your right to hearing, and the commissioner may issue a final order by default. If the commissioner issues a final order by default, the agency file on this matter shall serve as the record for purposes of proving a prima facie case. You are not entitled to judicial review of this determination order unless you have made a timely request for a hearing.

Date: November 30, 2007

Dan Gardner, Commissioner
Bureau of Labor and Industries

A handwritten signature in cursive script that reads "Christine N. Hammond". The signature is written in black ink and is positioned above a solid horizontal line.

Christine N. Hammond, Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On November 30, 2007, I mailed, by certified mail, the Prevailing Wage Rate Determination for the Columbia River – Potlatch Pump Project to the requestor and any public agencies identified by requestor as being associated with this project, as follows:

Bill Brown
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Oregon Department of Fish and Wildlife
3406 Cherry Ave NE
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Gerhard Taeubel, Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries