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STATE OF OREGON
COUNTY OF CLACKAMAS
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO:

DAVID & MARY ANN BUGNI
30265 SE KOWALL ROAD
ESTACADA, OR 97023

confirms the right to use the waters of SUTER CREEK, A TRIBUTARY TO NORTH FORK EAGLE CREEK, A TRIBUTARY TO EAGLE CREEK, for HYDROELECTRIC PRODUCTION of 12 THEORETICAL HORSEPOWER.

This time-limited certificate is issued under application HE 576. The date of priority is JANUARY 18, 2007. The amount of water to be diverted is 0.75 CUBIC FOOT PER SECOND (CFS) from MAY 1 through OCTOBER 31 and 2.75 CFS from NOVEMBER 1 through APRIL 30 of each year. The right to divert 0.75 cfs from May 1 through October 31 is not in addition to the 1 cfs the applicant is permitted under application 71156, permit 51200. A total of 3 CFS may be diverted for hydroelectric use under this right and fish rearing purposes under permit 51200 from November 1 through April 30.

The project will divert water through a 10 inch diameter, Schedule 40 PVC pipe from Suter Creek. The pipeline will be approximately 750 feet long, providing approximately 38.4 feet of head from the point that the water is diverted to the place where the water is discharged. The pipeline will roughly parallel the creek, terminating at two pumps as turbines (I.e. PATs) that will operate concomitantly during high flows and with one PAT operating during low flows. In addition, a single-phase brushless induction motor will be employed to create electricity that will be sent, via a buried transmission line, into the residence's current electrical system.

Appeal Rights

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified in ORS 183.484(2) Pursuant to ORS 536.075 and OAR 137-044-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

This statement of judicial review rights does not create a right to judicial review of this order, is judicial review is otherwise precluded by law.

This project should allow for the development of up to 12 theoretical horsepower of hydroelectricity.

The point of diversion is SUTER CREEK, located at:

TAX LOT 1301, SW $\frac{1}{4}$ SW $\frac{1}{4}$,
SECTION 18,
TOWNSHIP 3 SOUTH, RANGE 5 EAST, W.M.

The authorized place of use is located at:

TAX LOT 1100, SW $\frac{1}{4}$ SW $\frac{1}{4}$,
SECTION 18
TOWNSHIP 3 SOUTH, RANGE 5 EAST, W.M.,

The use of water is limited to the amount that the generation facilities can utilize efficiently, and shall not exceed the specifications noted in the water right.

WATER RIGHT CONDITIONS

Upon a review of the application and input received from state and federal agencies and private citizens, OWRD finds that the Project, with the conditions set forth below, will not violate the standards expressed in Oregon Administrative Rules (OAR) 690-051-0160 through 0270, and is consistent with the public interest. No other application has been filed in competition with this application. The Project is well adapted to the development and utilization of the water power involved.

The use of water is subject to the following express conditions:

1. The priority date for the proposed water right is January 18, 2007.
2. The proposed use of water is limited to the amount that the generation facilities can utilize efficiently and shall not exceed the specifications noted in the water right.
3. The Applicant shall comply with all statutes and rules applicable to the Project.
4. 0.75 cfs of water may be used between May 1 and October 31 and 2.75 cfs of water may be used November 1 through April 30 annually.
5. The water right expires December 31, 2027 and may be reauthorized under laws existing at that time.

6. This water right is inferior in right and subsequent in time to any future appropriation of water upstream for beneficial consumptive uses.
7. The Applicant shall pay, upon receiving an invoice from OWRD, an annual fee to OWRD in the amount of \$15.00, (OAR 690-051-0400(6) and ORS 543A.415). This amount shall be due by the date specified on the invoice.
8. Upon a decision to terminate the hydroelectric use for more than five years, the Applicant shall comply with any decommissioning statutes and rules in effect at that time. On termination of the water right, the right to use water shall revert to the public.
9. If, after completing construction of the Project, the Applicant fails to use or operate the Project facilities for any period of five consecutive years, the water right shall be subject to termination by the OWRD.
10. The Applicant shall construct and build the Project according to the maps, plans and specifications filed with and approved by the Department and within the time fixed by the water right or by any lawful extension thereof. The Project map will be incorporated into the water right certificate.
11. Use of water is governed by this water right. However, the operations of the Project by the Applicant so far as those operations affect the use, storage and discharge from storage of waters affected by the Applicant, shall at all times be controlled by such reasonable rules as the WRC may prescribe for the protection of life, health and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses.
12. The Applicant will maintain the Project, and each part thereof, in good order and repair and in efficient operation, for the development and transmission of electricity to its reasonable capacity; shall make all necessary renewals and replacements as required; and shall maintain and operate the Project, and all parts thereof, conformably to the rules of the WRC not inconsistent with Oregon Revised Statutes (ORS) 543.010 to 543.610.
13. The Applicant shall complete construction of the Project within two years of the date the water right is issued.
14. No voluntary transfer of the water right or of any property acquired, constructed or operated pursuant to the water right issued under ORS 543.010 to 543.610 shall be made without written approval of the WRC. Any successor or assignee of any water right under any project acquired, constructed or operated by the Applicant, whether by voluntary transfer approved by the WRC or sale upon foreclosure, execution or otherwise, shall be subject to all the terms and conditions of the water right and of the provisions of ORS 543.010 to 543.610 to the same extent as though the successor or assignee was the

original Applicant. Any mortgage, deed of trust, or other lien suffered or created upon any such project shall be subject and subordinate to all the terms and conditions of ORS 543.010 to 543.610. However, the provisions of this section shall not apply to any transfer, voluntary or involuntary, to the state or any municipal corporation thereof, and upon such transfer the water right shall terminate.

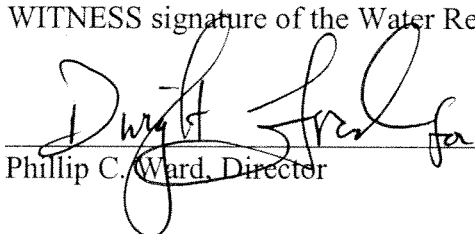
15. The following requirements of ORS 543 are hereby waived, under authority of OAR 690-051-0350:
 - ORS 543.530 which relates to the issuance of bonds or other evidence of indebtedness and the control thereof by the WRC.
 - ORS 543.550 relating to liens against the Project and providing that any sale shall be of the whole property embraced in the Project unless a partial sale is approved by the OWRD Director.
 - ORS 543.560 which requires the Applicant to execute to the State of Oregon a bond to the effect that the Applicant shall promptly make payment to all persons supplying labor, material, machinery, etc.
16. The Project area shall be surveyed to verify the absence of Winter Steelhead and Coho.
17. In-water Project construction shall occur from July 15 through August 31, ODFW's established in-water work period for the Clackamas River (I.e. Suter Creek). All construction and/or maintenance activities shall be completed using best management practices to minimize soil and ground disturbance. All areas where soil is disturbed shall be planted with native vegetation, monitored and maintained over the course of the license.
18. The Applicant shall construct and maintain the tailrace as necessary to reduce erosion and scour, and fish way entry.
19. The Project must meet the water quality standards stated in OAR Chapter 340, Division 41. No significant temperature-related problems have been identified nor are they expected given the existing Project facilities, operations and management. The intake is piped, and no storage of water occurs for this facility. As such ODEQ expects the temperature, dissolved oxygen and other water quality parameters are to be largely unchanged. As required by ODFW, potential stream-side erosion sites should be monitored and problems should be addressed promptly. In addition, it appears that soils at this location are "highly erodable" and that any construction for this project must be completed using management practices that minimize soil disturbance. For soils that are

disturbed, best management practices must be used to minimize erosion of the disturbed soils during construction. After construction is completed, the disturbed areas should be planted to stabilize the soils from future erosion. In addition, to protect from any significant future temperature-related adverse impacts to aquatic organisms, any future modifications of vegetation surrounding Project waters should be carefully evaluated. The water right holder shall consult with ODEQ prior to undertaking any activity that directly or indirectly results in removal of canopy vegetation adjacent to Project waterways. Waterways include, but are not necessarily limited to bypass reaches, siltation/forebay ponds, open-channel diversions, and above ground pipes. Finally, for water quality considerations, it appears that stream side disturbance will occur during construction of the project inflow structure. Though it is not anticipated, the applicant may need an Oregon State fill and removal permit for this project and a 404 permit from the Army Corps. If a 404 permit is needed, a 401 water quality certification may be required from ODEQ. Prior to commencing construction, the Applicant must obtain any necessary permits. The Applicant must also implement any requirements included in those permits. If the project is too small to require any of the above mentioned permits, construction and disturbance of the bank must still comply with Oregon's water quality turbidity standard (OAR 340-41-0036). The applicant shall contact the water quality division in ODEQ's Northwest Regional office for further assistance when planning the construction of the intake. ((503) 229-5263 or toll free at 1-800-452-4011).

20. It is the policy of the Oregon Department of Fish and Wildlife (ODFW) to prevent the injury or loss of any game fish, or nongame fish classified as sensitive, threatened, or endangered from any water body in the state, as a result of any diversion from the waterbody. Toward that end, a fish screen shall be constructed, installed, and maintained in compliance with ODFW Fish Screening Criteria. The Applicant shall be responsible for all fish screen repair and maintenance necessary to keep the fish screen in proper working order.
21. The fish screen effectiveness is expected to be 97% protective for most species. Approximately, 20 to 33% of the stream is diverted to hydroelectric use for a distance of about 750 feet. This may result in a net loss to native cutthroat trout, a wild game fish. In accordance to OAR 690-051-0180, mitigation shall be required by ODFW to prevent a net loss to native cutthroat trout, a wild game fish. ODFW shall determine the type and amount of mitigation required. Mitigation measures identified by ODFW will, to the extent ODFW deems necessary, be in place prior to the start of Project operation.
22. Notwithstanding any specific conditions established by this water right, the water right holder must comply with all water quality standards adopted by the Environmental Quality Commission pursuant to state and federal law, ORS 468B.048 and Section 303 of the Clean Water Act.
23. The Project shall be designed to minimize visual, aesthetic and noise impacts.

24. Although there are no known cultural sites within the Project area, if any cultural material is discovered during Project construction, all activities should stop and an archaeologist contacted to assess the discovery. It is a Class B misdemeanor to impact an archaeological site (ORS 358.905-955) and a Class C felony to impact Indian Burials (ORS 97-740-990).
25. The Applicant shall allow the OWRD Director and authorized agents and employees of the ODEQ, ODFW, and OWRD free and unrestricted access in, through, and across the Project in the performance of their official duties, and shall allow free access to all reports, accounts, records, and other data relating to said Project.
26. The Applicant shall be liable for all damages occasioned to the persons or property of others by the construction, operation, or maintenance of the Project facilities, and in no event will the State of Oregon be liable therefore.
27. Issuance of the water right does not absolve the Applicant from compliance with the requirements and enforcement of the requirements under other applicable local, state, and federal laws.

WITNESS signature of the Water Resources Director, Affixed



Phillip C. Ward, Director

Recorded in State Record of Water Right Certificates and numbered 83515