

**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, TRIBUTARY TO THE NORTH FORK OF EAGLE CREEK, for HYDROELECTRIC PRODUCTION of 12 THEORETICAL HORSEPOWER for Domestic use.

The date of priority is January 18, 2007. The amount of water to be diverted shall not exceed 0.75 CUBIC FEET PER SECOND (CFS) from MAY 1 TO JUNE 30 and OCTOBER 1 TO OCTOBER 31, and 2.75 CFS from NOVEMBER 1 TO APRIL 30 of each year.

The use of water for power generation is not permitted from JULY 1 TO SEPTEMBER 30 due to low streamflow and the presence of coho salmon and coastal cutthroat trout.

The point of diversion is located as follows:

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

The Director finds that the Project is adapted to the development and utilization of the waterpower involved, that no application for this project or in conflict with this Project has been filed by any municipality or utility district, and that the water right holder has paid to the Water Resources Department (OWRD) all fees required prior to the issuance of this certificate.

This water right is inferior in right and subsequent in time to any appropriation of water upstream for beneficial uses that were issued before this use was initiated.

A description of the place of use to which this right is appurtenant is as follows:

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

Project Description: The Project, located in Clackamas County, Oregon, diverts 2.75 cfs of water from Suter Creek, tributary to The North Fork of Eagle Creek. The Project uses 38.4 feet of

hydraulic head and generates 12 theoretical horsepower for onsite domestic use.

WATER RIGHT CERTIFICATE CONDITIONS

1. The proposed use of water is limited to the amount that the generation facilities can utilize efficiently and shall not exceed the seasonal stipulations noted in the water right.
2. The water right holder shall comply with all statutes and rules applicable to the Project.
3. Water, in the maximum amount of 0.75 cfs may be used from May 1 to June 30 and October 1 to October 31, and a maximum of 2.75 cfs may be used from November 1 through April 30 for hydroelectric purposes. The use of water for power generation is not permitted from July 1 to September 30.
4. For the protection of aquatic species present, the Project shall divert no more than 20 percent of the average monthly streamflow of Suter Creek measured upstream of the point of diversion.
5. The water right holder 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.
6. Use of water is governed by this water right. However, the operations of the Project by the water right holder so far as those operations affect the use, storage and discharge from storage of waters affected by the water right holder, shall at all times be controlled by such reasonable rules as the Water Resources Commission (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.
7. The water right holder shall 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.
8. 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 thereunder. 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.

9. The water right holder shall construct and maintain the tailrace as necessary to reduce bank erosion and instream scour and prevent fish entry.
10. In-water Project construction shall occur from July 15 through August 31, the Oregon Department of Fish and Wildlife (ODFW) established in-water work period for the Clackamas River. 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.
11. 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, the Oregon Department of Environmental Quality (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 erodible” 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.
12. It is the policy of ODFW to prevent the injury or loss of any game fish or non-game fish classified as sensitive, threatened or endangered from any waterbody in the

state, due to 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 water right holder shall be responsible for all fish screen repair and maintenance necessary to keep the fish screen in proper working order.

13. The OWRD may alter conditions of the certificate on a clear showing of a significant threat to the public health or safety or the environment that was not identified and addressed during the most recent Project reauthorization proceeding, and that requires modification of the certificate (ORS 543A. 145 (5)). Such changes could include, but are not limited to, the following:
 - a) New state or federal listing, or a change status or recovery plan of a threatened or endangered species that may be affected by the Project.
 - b) Change in a water quality standard for a water quality parameter that may be affected by the Project.
 - c) Development of a Total Maximum Daily Load (TMDL) for a water quality parameter that may be affected by the Project.
 - d) Change in average monthly streamflow that may require new measurements to ensure the protection of aquatic species.

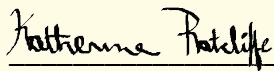
If the OWRD proposes to alter conditions, the order shall be in writing and shall consist of a concise statement of the underlying facts supporting the proposed order. Any appeal of the order shall be according to procedures outlined in ORS Chapter 183.

14. 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.
15. The Project shall be designed to minimize visual, aesthetic and noise impacts.
16. 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).
17. The water right holder shall allow the OWRD Director and authorized agents and employees of the ODEQ, ODFW, and OWRD free and unrestricted access in, through

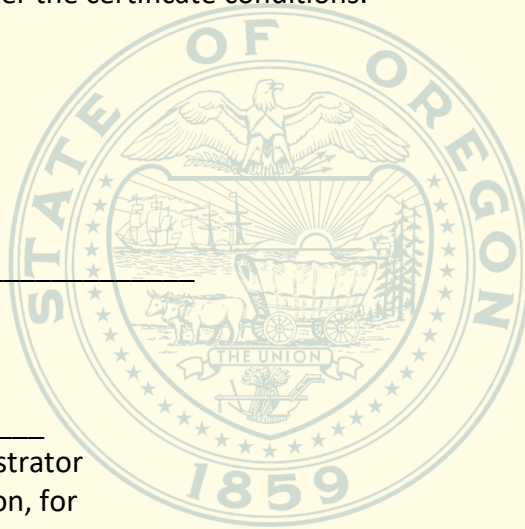
and across the Project in the performance of their official duties, and shall allow free access to all reports, accounts, records, and other data relating to said Project.

18. The water right holder 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.
19. Issuance of the water right does not absolve the water right holder from compliance with the requirements and enforcement of the requirements under other applicable local, state, and federal laws.
20. This certificate is effective from the date of issuance through December 31, 2046. On termination of this certificate, such right to the use of water shall convert to an instream water right, unless the water right holder applies to the OWRD to reauthorize the Project. Upon termination of this certificate, the water right holder shall comply with any decommissioning statutes and rules in effect at that time.
21. If the water right holder fails to operate Project facilities for power generation for any period of five consecutive years, the water right shall be subject to termination by the OWRD.
22. A site visit is required every five years by members of the HART to ensure the Project is operating under the certificate conditions.

Issued June 5, 2026



Katherine Ratcliffe, Administrator
Water Right Services Division, for
Ivan Gall, Director
Oregon Water Resources Department



Recorded in State Record of Water Right Certificates Number 99153