

**Oregon Water Resources Department
Water Right Services Division**

**Hydroelectric Reauthorization
Project HE 576**

Final Order

NOTE: *This is a Final Order issued pursuant to Oregon Revised Statutes (ORS) 543A.130.*

Application History

On January 18, 2007, David & Mary Ann Bugni (Owners) applied for a minor hydroelectric water right to divert 2.75 cubic feet per second (cfs) of water from Suter Creek, tributary to Eagle Creek, in Clackamas County. The Project uses 38.4 feet of hydraulic head to generate 12 theoretical horsepower (thp) for onsite use.

On February 13, 2007, notice of the application was included in OWRD's weekly public notice that was distributed to local governments, state and federal agencies, public interest groups and interested citizens. Recipients of the public notice included:

Oregon Department of Fish and Wildlife (ODFW)
Oregon Department of Environmental Quality (ODEQ)
Oregon Division of State Lands
Clackamas County Planning Department
Oregon Department of Forestry
Oregon Department of Agriculture
Oregon State Historic Preservation Office
Legislative Commission on Indian Services

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is a Final Order in other than a contested case. This order is subject to judicial review under ORS 536.075 and 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 OAR 137-004-080 you may 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 is filed, the petition shall be deemed denied.

As part of the application review process, twenty-one state and federal agencies must be consulted. On or about February 14, 2007, OWRD sent a copy of the application and a questionnaire to those twenty-one state and federal agencies for a thirty-day review and comment period seeking input on how the proposed Project would affect various resources. Timely comments were received and considered by OWRD in making its findings of fact.

The application to reauthorize HE 576 was submitted February 10, 2025. On March 4, 2025, notice of the HE 576 reauthorization application appeared in OWRD's public notice for a 45-day public comment. Persons interested in the application could request future notices about the Hydroelectric Project and submit written comments to the OWRD.

On October 7, 2025, notice of the Draft Proposed Final Order to reauthorize HE 576 appeared in OWRD's public notice for a 60-day public comment. No comments were received.

On April 7, 2026, notice of the Proposed Final Order to reauthorize HE 576 appeared in OWRD's public notice for a 45-day protest period. The only comment received from the Applicant was to correct the county on the document to Clackamas County. No protests were received.

Findings of Fact

1. Project Description:

The Project, located in Clackamas County, Oregon, diverts up to 2.75 cfs of water from Suter Creek, tributary to North Fork Eagle Creek. Using 38.4 feet of hydraulic head, it generates 12 theoretical horsepower for onsite domestic use.

The Project involves a 750' penstock, made of 10" diameter schedule 40 PVC pipe, that follows the run of the creek on the right side and carries the flow to the powerhouse. Once the flow enters the powerhouse, the Applicant uses pump as turbine (PAT) assemblies in lieu of a conventional turbine. They use two Paco Pumps, one for high flows (2.75 CFS), and one for low flows (0.75 CFS). Flow returns into Suter Creek via tailrace.

2. Site Visit:

On May 9, 2025, members of the Hydroelectric Application Review Team (HART) (i.e., Martin Sanchez (OWRD), Jonathan Cox (ODFW), Valerie Thompson (ODEQ), and Shelly Tattam (ODEQ)) drove to the Applicant's address at 30265 SE Kowall Road near Estacada, OR. The HART members met Dave Bugni (Dave) and walked to the powerhouse near the residence.

Dave demonstrated how the hydroelectric system operates and walked the group through both systems, providing details on the emergency shut-off if pressure in the system falls below the 10 PSI mark. The group then followed the flow out of the powerhouse through the project tailrace to where it returns to Suter Creek. The bypassed part of the stream, from the intake to where the water returns to Suter Creek, is approximately 750 feet.

After demonstrating how the Project operates and returns flow back to Suter Creek, the group hiked upstream to the point of diversion on Suter Creek and examined the fish screen and the screen cleaning system. The HART then inspected the 10" PVC pipe that carries the flow to the hydroelectric project.

3. Location

The point of diversion is located at TAX LOT 1301, SW ¼ SW 1/4, SECTION 18, TOWNSHIP 3 SOUTH, RANGE 5 EAST, W.M., in Clackamas County.

There are no other property owners within 300 feet of the project.

4. Water Rights

Water use for hydroelectric purposes is non-consumptive and allowed year-round when water is available. As conditioned, the use will not interfere with any existing water rights or permits for the use of water. OAR 690-518, the Willamette Basin Program, does not classify the waters tributary to the Clackamas River for power development. However, a basin exception was granted in 2007. The Project is not located within a state designated scenic waterway. Power generation is the only permitted use.

Water Availability: OAR 690-051-0010(4)

Water is available from North Fork Eagle Creek at its confluence with Eagle Creek, at a 50% exceedance level in OWRD's Water Availability Reporting System from November through June; water is not available July through October for consumptive uses. Water use for hydroelectric purposes is non-consumptive, and the applicant intends to make use of the water for hydroelectric purposes from October through June, though at two different volumes during the months of the year. The applicant intends to use 0.75 cfs from May 1 through June 30 & October 1-October 31, and 2.75 cfs November 1 through April 30.

Existing water rights: As conditioned, the Project will not interfere with any existing rights or permits for the use of water. 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.

5. Fish and Wildlife Resources:

Based on a review of the facts contained in the file, the OWRD finds that the Project complies with the standards and requirements of ORS 543A.025 and OAR 690-051-0200.

6. Basin Plan:

OAR 690-518; Willamette Basin, does not classify the waters tributary of the Clackamas River for power development. However, a basin exception was granted in 2007.

7. Water Quality:

ODEQ requested that OWRD add the standard water quality conditions but provided no additional comments on water quality. The Project complies with the standards and requirements of ORS 543A.025.

8. Public Land Safety:

OWRD previously notified the Oregon Department of Geology and Mineral Industries (DOGAMI), the agency responsible for seismic and geologic hazards, of the request for the initial authorization. DOGAMI concluded and OWRD concurs, that this small Project does not to pose a significant risk to public health and safety from geologic and seismic hazards.

9. Wetland Resources:

OWRD previously notified the Department of State Lands (DSL), the agency responsible for management of wetlands, of the request for the initial authorization. The DSL did not identify any wetland impacts. OWRD concurs with that assessment and finds no impacts to wetlands.

10. Other Resources:

- a. Recreation:** OWRD previously notified the State Parks and Recreation Department, the agency responsible for recreational opportunities within the state, of the request for the initial authorization. The Parks Department identified no recreation impacts. OWRD concurs with that assessment.
- b. Historic, Cultural and Archaeological:** OWRD previously notified the State Historic and Preservation Office, the agency responsible for historic, cultural, and archaeological resources, of the request for initial authorization and received no feedback.

All proposed new minor (under 100 theoretical horsepower) hydroelectric projects in Oregon, such as this Project, must meet the resource protection standards contain in OAR 690-051-0190 to –0260.

Conclusions of Law

Based upon the findings, the OWRD concludes that the use will not impair or be detrimental to the public interest under ORS 543A.025(1). In addition, the Project satisfies the minimum requirements set forth in ORS 543A.025(2).

No preference for this use is granted under the provisions of ORS 536.310(12).

The Project complies with the State Agency Agreement for land use.

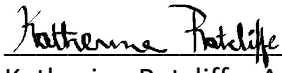
Recommendation

The HART recommends reauthorization of the Project and further recommends that the water right certificate attached be issued for a period of 20 Years as conditioned therein.

Order

Application to reauthorize HE 576 is approved, and Certificate 99153 is issued.

Issued June 5, 2026



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