

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

**Hydroelectric Reauthorization
Project HE 555**

Final Order

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

Application History

On September 16, 2002, Todd Zeutzius (Owner) applied for a minor hydroelectric water right to divert 0.11 cubic feet per second (cfs) of water from an unnamed stream, tributary to Jackson Creek, tributary to the Applegate River, in Josephine County. The Project uses 250 feet of hydraulic head to generate 3.1 theoretical horsepower (thp) for onsite use.

On January 14, 2003, 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
Josephine 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 are consulted. On or about July 28, 2003, WRD 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 555 was submitted May 6, 2024. On June 23, 2024, notice of the HE 555 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 May 6, 2025, notice of the Draft Proposed Final Order appeared in OWRD's weekly public notice for a 60-day public comment. No comments were received.

On March 24, 2026, notice of the Proposed Final Order appeared in WRD's weekly public notice for a 45-day protest and public comment period. No comments or protests were received.

Findings of Fact

1. Project Description:

The Project, located in Josephine County, Oregon, diverts 0.11 cfs of water from an unnamed stream, tributary to Jackson Creek, tributary to the Applegate River. The Project uses 250 feet of hydraulic head and generates 3.1 theoretical horsepower for onsite domestic use.

Water from the unnamed stream is diverted into a 3-inch diameter PVC pipe on the westside of the stream. There is no dam or other diversion structure associated with the point of diversion. From the intake, approximately 1,700' of pipeline runs to the Project turbine, which at the time of this reauthorization, is a Pelton Wheel type turbine.

2. Site Visit:

On August 7, 2024, members of the Hydroelectric Application Review Team (HART) met the applicant at the entrance of the property to carpool to the Project site. HART members included Martin Sanchez OWRD, Valerie Thompson ODEQ, and Jason Brandt ODFW. HART members hiked to the top of the property, to the point of diversion, and followed the PVC pipe to the turbine located near the house. The reach of unnamed stream impacted by the Project is small, steep in gradient, and is not fish-bearing. No fish or wildlife concerns were found at the point of diversion, but concerns were raised in the water delivery system as the flow exited the hydroelectric project without a tailrace. Flow went to a nearby house without a water right for domestic use instead of being returned to the stream. The Watermaster for District 14 followed-up with the applicant who opted to drill a domestic well for domestic use.

3. Location

The point of diversion is 380' south and 30' west of the E ¼ corner of Section 28, NE ¼ of the SE ¼ of Section 28, Township 37 south, Range 6 west, W.M., in Josephine County.

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

4. Water Rights

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

Water is not available year-round from Jackson Creek at a 50% exceedance level in OWRD's Water Availability Reporting System. Water use for hydroelectric purposes is non-consumptive, and may be made on a year-round basis, when it is available. As conditioned, since the Project uses water from a spring source that feeds into Jackson Creek, the proposed use will not interfere with any existing water rights or permits for the use of water. OAR 690-518, the Rogue Basin Program, classifies the waters of Jackson Creek for power development. The Project is not located within a state designated scenic waterway. No other uses are permitted other than for power generation.

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; Rogue Basin, identifies power development as an allowed use and is deemed in the public interest.

7. Water Quality:

DEQ had no comments on water quality and requested the standard water quality conditions and a return flow to the waterway via a tailrace after the flow has been used at the turbine be included.

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.

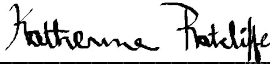
Recommendation

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 555 is approved, and Certificate 99129 is issued.

Issued: June 8, 2026



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