

STATE OF OREGON  
COUNTY OF UMATILLA  
LICENSE FOR A MAJOR HYDROELECTRIC PROJECT

THIS HYDROELECTRIC LICENSE ISSUED TO:

MADISON RANCHES LAND 3, LLC  
29299 MADISON ROAD  
ECHO, OR 97826

confirms the right to use ground water allocated for an Aquifer Storage and Recovery project within the Butter Creek basin, tributary to the Umatilla River for the HYDROELECTRIC PRODUCTION of up to 696 Theoretical Horsepower (thp).

This right was filed under application HE 599. The date of priority is NOVEMBER 26, 2012. The maximum amount of water to be diverted is 10 Cubic Feet per Second (cfs).

The source wells are located: Taxlot 8500 in SE $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 31, TOWNSHIP 3 NORTH, RANGE 28 EAST, W.M.

The authorized places of use are two basalt wells located: Tax Lot 5900 of the SE  $\frac{1}{4}$  SE  $\frac{1}{4}$ , SECTION 25, TOWNSHIP 3 NORTH, RANGE 27 EAST, W.M., and Tax Lot 8500 in SE $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 31, TOWNSHIP 3 NORTH, RANGE 28 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. This right is inferior in right and subsequent in time to any future appropriation of water for beneficial consumptive use. Operation of the hydroelectric Project is contingent upon being in possession of a valid Aquifer Storage and Recovery (ASR) Limited License or Permit authorizing use of the source well and two injection wells. All terms, limitations and conditions of a valid ASR Limited License or Permit must be met with compliance to the satisfaction of the Oregon Water Resources Department.

**Appeal Rights**

**This order is subject to judicial review under ORS 183.482. To appeal you must file a petition for judicial review with the Court of Appeals within 60 days from the day this Order was served on you. If this Order was personally delivered to you, the date of service is the day you received the Order. If this Order was mailed to you, the date of service is the day it was mailed, not the day you received it. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.**

## Project Description

The hydroelectric project (Project) will use up to 10 cubic feet per second (cfs) of ground water allocated for an Aquifer Storage and Recovery project within the Butter Creek basin, tributary to the Umatilla River. The Project is expected to use up to 613 feet of gross head from two pressure relief regeneration units to provide up to 696 theoretical horsepower (THP).

During the late winter and early spring, water will be pumped from a shallow alluvial well and injected into two deep basalt wells and stored until the water is recovered for irrigation during the irrigation season. The Project takes advantage of the energy released when the water is being injected into the deep wells. In addition, during the irrigation season, excess water from the alluvial well not needed for irrigation is injected into the basalt wells for later use, thus also allowing for operation of the Project during the irrigation season. Power generated during the injection phase of the ASR project will be net metered and supplied to Umatilla Electric Coop in order of offset the Madison Ranch's farm operations electrical costs during periods of peak power use.

The source of water is from an alluvial well ["Madison Collector Well"] located in Tax Lot 8500 in the SE¼ NW¼, Section 31, Township 3 North, Range 28 East, W.M. Water pumped from the source well through an 8 inch mainline will be injected into two deep basalt wells. Energy is captured for hydroelectric use as water is injected down the deep basalt wells. A regenerating pump and line shaft turbine will be installed in each of the two basalt wells. One existing basalt well ["Madison ARS Well"] is located in Tax Lot 5900 in the SE¼ SE¼, Section 25, Township 3 North, Range 27 East, W.M. The second proposed basalt well ["Proposed ASR Well"] will be located near the source well in Tax Lot 8500 in the SE¼ NW¼, Section 31, Township 3 North, Range 28 East, W.M. The water will be stored in the two basalt wells until such time as it is recovered for irrigation use on the Madison Farms. A powerhouse (15 feet x 20 feet) will be located near the existing basalt well in Tax Lot 5900.

The primary transmission line already exists. Power generated from the Project will be net metered at the powerhouse and placed on the "grid" with Umatilla Electric Coop.<sup>1</sup>

The Department has approved an ASR Limited License Application #020 for the ASR project. The Limited License is valid for five years until April 25, 2018. The license is renewable, or the ASR project may be eligible for a permanent ASR permit at the completion of this term. The ASR Limited License #020 defines the well construction standards for the proposed well, conditions for measuring the water use, and conditions for sampling and ensuring water quality for this project. ASR Limited License # 020 is incorporated here as if set forth fully herein. (See Attachment A.)

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<sup>1</sup> On May 4, 2010, FERC issued an Order Ruling on Declaration of Intention and Finding Licensing Not Required. See FERC Docket No. D110-4-000.

## WATER RIGHT CONDITIONS

1. The Licensee shall comply with all statutes and rules applicable to the Project.
2. The License is effective from the date of issuance through December 31, 2034. It is to be exercised consistent with the conditions contained in the water right and Oregon Revised Statute 540.610. This may be reauthorized under laws existing at that time.
3. The Licensee shall construct and build the Project according to the maps, plans and specifications filed with and approved by the Oregon Water Resources Department (OWRD) within two years of issuance of the water right or within any lawful extension thereof. [ORS 543.300(2)]
4. The Licensee 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 (Water Resources Commission) WRC not inconsistent with ORS 543.010 to 543.610. [ORS 543.300(4)]
5. 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 Licensee, 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 Licensee. 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. (ORS 543.440)
6. The Project must meet the water quality standards stated in OAR Chapter 340, Division 41, ORS 468B.048, and Section 303 of the Clean Water Act. The Project must meet water quality requirements including numeric and narrative standards, protect beneficial uses, and not degrade existing water quality.
7. The Project shall be designed to minimize visual, aesthetic and noise impacts.
8. 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


misdeemeanor to impact an archaeological site (ORS 358.905-955) and a Class C felony to impact Indian Burials (ORS 97-740-990).

9. If at any time an unanticipated situation arises in which the Licensee observes or suspects that fish, wildlife, or their habitat may be harmed by any of the project facilities or as the result of project operation, the operator shall immediately notify and consult with the nearest office of the ODFW; in no case shall such contact occur later than the next business day. The Licensee shall subsequently restore any damaged fish and wildlife protection features of the project consistent with direction provided by ODFW (ORS Chapter 543.017).
10. The Licensee shall allow the OWRD Director and authorized agents and employees of the of the Oregon Department of Environmental Quality, Oregon Department of Fish and Wildlife, 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.
11. Issuance of the license does not absolve the Licensee from compliance with the requirements and enforcement of the requirements under other applicable local, state, and federal laws.
12. The Licensee 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.
13. Use of water is governed by this license. However, the operations of the Project by the Licensee, so far as those operations affect the use, storage and discharge from storage of waters affected by the Licensee, 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.
14. The Licensee shall pay, upon receiving an invoice from OWRD, an annual fee to OWRD according to ORS 543.300(5), OAR 690-051-0400(6) and ORS 543A.415 (or subsequent statute). The fee is calculated for (10 cfs \* 613 feet of head / 8.8) or 696 theoretical horsepower. This amount shall be due by the date specified on the invoice.
15. If, after completing construction of the Project, the Licensee fails to use or operate the Project facilities for any period of five consecutive years, the water right shall be subject to termination by OWRD. Upon a decision to terminate the hydroelectric use, the Licensee shall comply with any decommissioning statutes and rules in effect at that time. (OAR 690-052).

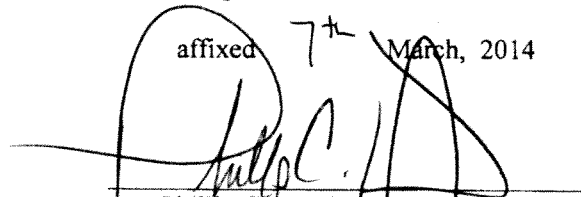
The Director finds that the proposed use of water described by this license as conditioned, will not violate the standards expressed in Oregon Administrative Rules (OAR) 690-051-0160 through -0270, and is consistent with the public interest. The Project is well adapted to the development and utilization of the water power involved.

IN TESTIMONY OF ACCEPTANCE of all the terms and conditions of this license, ORS 543.010 to 543.610, ORS 543.990, ORS 543A.415, and the rules and regulations of the Commission pursuant thereto, the Licensee has affixed its corporate name to be signed by Kent Madison, Member,

duly adopted on the 6 day of March, 2014

By   
Kent Madison, Member  
Madison Ranches Land 3, LLC

WITNESS the signature of the Water Resources Director,

affixed 7<sup>th</sup> March, 2014  
  
Phillip C. Ward, Director  
Oregon Water Resources Department

**BEFORE THE OREGON WATER RESOURCES DEPARTMENT**

In the Matter of the Proposed Final Order	)	<b>FINAL ORDER IN</b>
on the Public Interest Issues of the	)	<b>CONTESTED CASE</b>
Madison Ranches Land 3 LLC,	)	
Hydroelectric Project (Applicant)	)	OAH Case No.: WR-13-007
	)	Agency Case No.: HE 599

**I. HISTORY OF THE CASE**

On July 9, 2013, the Oregon Water Resources Department (“OWRD”) issued a Proposed Order on the Public Interest Issues of the Madison Ranches Land 3, LLC Hydroelectric Project (“Proposed Order”). No protests were filed within the time allotted. Pursuant to OAR 690-051-0095(3)(g) and OAR 690-051-0130(1), the matter was set for a contested case hearing.

On October 22, 2013, the OWRD referred the Proposed Order to the Office of Administrative Hearings for a contested case hearing. Administrative Law Judge (“ALJ”) Rick Barber was assigned to preside at the hearing. The matter was heard on December 9, 2013, at the offices of the Director of the OWRD in Salem, Oregon. OWRD was represented by Senior Assistant Attorney General Renee Moulun and Mary Grainey, OWRD was present. Applicant was represented by Michael Schultz present and by Kent and Jake Madison who appeared by telephone. No members of the public were in attendance even though public notice of the hearing was provided.

On January 24, 2014, the ALJ issued a Proposed Order recommending the OWRD issue the Proposed Final Order on the Public Interest Issues HE 599 as a final order and provided notice of the 30-day period for filing exceptions to the OWRD. No exceptions were filed.

The OWRD herein adopts the ALJ’s Proposed Order and issues the January 24, 2014, Proposed Final Order on the Public Interest Issues as a final order approving HE 599.