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Lease Agreement Number: 108

WATER RESOURCES DEPT.
SALEM, OREGON

**Short-Term Water Right
Lease Agreement
for
Leasing Existing Water Rights for Instream Use**

This Lease Agreement is between:

Lessor:

Oregon Trail Electric Consumers Cooperative, Inc.
3275 Baker Street, P.O. Box 226
Baker City, OR 97814
(541) 523-3616 – Phone
(541) 523-6675 – Fax

The water right to be leased is located in Baker County.

Lessee:

State of Oregon

Trustee:

Oregon Water Resources Department
158 – 12th St. NE
Salem, OR 97301-4172
(503) 378-8455 – Phone
(503) 378-8130 – Fax

I.

- 1.1 Lessor is the owner, or authorized agent for owner (*Exhibit A*) of the property highlighted in *Exhibit B*.
- 1.2 Section 1.2 is not applicable.
- 1.3 *Exhibit C* contains a copy of the certificated, decreed, or permitted rights attached to the property in *Exhibit B*. The right is listed below as follows:

Certificate No. 4120, Power Claim No. 47

- 1.4 **Subject Water Rights.** Lessor proposes to lease a portion of the water right listed in 1.3, above.

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The right to be leased is further described as follows:

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Water Right Certificate No.: 4120
Source: Rock Creek, tributary of Powder River
Priority date: April 11, 1902
Type of use: Power
Place of use: (map of the associated lands is in *Exhibit B.*)
T 7 S, R 38 E, S 32 and 33
Rate: 13 cfs
Duty: N/A
Season of use: Year round
Point of Diversion (POD): SW ¼ SW ¼, SECTION 5, T 8 S, R38 E, W.M
Conditions or other limitations, if any: None

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- 1.5 **Validity of Rights.** Lessor attests that the subject portion of the water right is legally valid by having been beneficially used according to the terms of the right or permit. If the right is for irrigation, beneficial use must have occurred in the past five years on all lands indicated in *Exhibit B.*
- 1.6 **Lease.** Lessor agrees to lease the subject portion of the water right listed in 1.4 for instream use for the term of this Agreement to Lessee and Trustee, the Oregon Water Resources Department, pursuant to the provisions of ORS 537.348(2) and OAR 690-77-0077.
- 1.7 **Suspension of original use.** During the period of the lease, the owner agrees to suspend use of water allowed under the subject portion of the water right and under any water right that is supplemental to the subject portion of the water right.
- 1.8 **Water use reporting.** The Trustee agrees to fulfill legal obligations related to water use reporting.

II.

- 2.1 **Public Use.** The public use served by the amount, timing and location of the instream use provided for under this lease is:

A specific use or need identified by DEQ, Parks or ODFW and further described in *Exhibit E.*

2.2 **Instream use created by lease.** The instream use to be created is described as follows:

Rock Creek, tributary of Powder River

Location: From the site of the former point of diversion in the SW ¼ SW ¼, Section 5, T 8 S, R 38 E, to the site of the former powerhouse and tailrace in the SW ¼, Section 33, T 7 S, R38 E.

Priority date: April 11, 1902

Use: Described in Section 2.1, above

Total volume: N/A

Rate in cfs: 13 cfs

Period of use: Year round

Conditions to prevent or mitigate injury, if any: None

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2.3 **Term of lease.** This Lease shall commence on January 1, 2000 (not before execution by the parties) and terminate on December 31, 2000.

2.4 **Compensation.** Lessor has agreed to lease the subject water right for the sum of \$1.00, or other valuable considerations and for the benefit of the people of the state of Oregon.

2.5 **Flow protection.** The Trustee will regulate use of water from the source, subject to prior appropriation and the agency enforcement guidance, to assure the water is delivered to the point of diversion, and through the reach past junior downstream users, so long as flow is sufficient to meet the demand under priority date of the new instream use (see Section 2.2). No party is required to continuously measure the flow of the waterway described in Section 2.2.

Optional Provisions

2.6 **Additional monitoring.** Lessee intends to manage and participate in the protection of the instream use by: monitoring streamflows and distributing consistent with the water rights of record.

2.7 **Modification or termination provisions.** None

III.

3.0 **Watermaster review.** By signature below, the watermaster for the district where the subject portion of the water right is located verifies that:

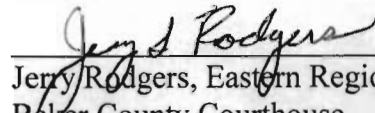
3.1 Lessor is currently entitled to appropriate water under the subject portion of the water right described in Section 1.4.

- 3.2 A suitable control is in place so that WRD staff may regulate use of water under the subject portion of the water right to ensure water is not diverted or applied on lands to which subject portion of right is attached.
- 3.3 Allocation of water to the new instream use described in Section 2.2 during the term of this lease is not reasonably expected to cause injury to other rights to use water from the same source.
- 3.4 Necessary conditions to the proposed instream use: None

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Region Manager*:


Jerry Rodgers, Eastern Region Manager
Baker County Courthouse
1995 3rd Street
Baker City, OR 97814
(541) 523-8224 – Phone
(541) 523-7866 – Fax

WATER RESOURCES DEPT.
SALEM, OREGON

Date: 2/1/2000

* The District 8 watermaster position currently is vacant.

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IV.

The Undersigned Lessor, Lessee and Trustee declare that, to the best of their knowledge and belief, the information contained in this lease is true, correct and complete.

Lessor: Clifford G. Staud

Date: 1/24/00

Lessee: Thomas J. Reed

Date: 2/24/2000

So ordered by Trustee:

Thomas J. Reed

Date: 2/24/2000

For Director
Oregon Water Resources Department

Exhibits:

- Exhibit A: Proof of property ownership
- Exhibit B: Map of the property on which Lessor holds water rights
- Exhibit C: Copy of the certificate attached to property shown in Exhibit B
- Exhibit D: Not required
- Exhibit E: Identification of public use to be served by instream use