



State of Oregon
Water Resources Department
 725 Summer Street NE, Suite A
 Salem, Oregon 97301-1266
 (503) 986-0900

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September 1, 2009

Application for Instream Lease Renewal

A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/OWRD/PUBS/forms.shtml.

The undersigned entered into Instream Lease Number L-108 involving Water Right Certificate(s) 4120 (pc-47) on 7-28-2005, which terminated on Dec 31, 2009

The undersigned Lessor and Lessee, parties to the original lease, hereby request that Lease Number L-108 be renewed. Lessor and Lessee warrant that, to the best of their knowledge, circumstances have not changed and all matters involved with or affected by the instream lease and the subject water right(s) remain as they were when the lease was first entered into, including but not limited to water right holder interest, the acres from which the right is leased, and the public instream benefit provided as a result of this instream lease.

The terms and conditions of instream lease L-108 are hereby incorporated by reference in their entirety, with the following exception(s):

- The term of the lease shall commence on 1-1-2010 (not before execution by the parties) and continue through 12-31-2011.

CREP. Are some or all of the lands being leased part of a Conservation Reserve Enhancement Program?

- Yes
 No

Fees. Pursuant to ORS 536.050, the following fee is included:

- \$100 for an instream lease renewal application.

Lessor: *M.A. Bell* Date: December 28, 2009
 Email address: edlp@usa.com

Lessor: _____ Date: _____
 Email address: _____

For additional Lessors, type in space for signature and date

Lessee: _____ Date: _____
 Email address: _____

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DEC 29 2009

WATER RESOURCES DEPT
 SALEM, OREGON

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**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

DEC 29 2009

WATER RESOURCES DEPT
SALEM, OREGON

In the Matter of the Proposed Short-Term)
Lease of Existing Water Rights for Instream)
Use, Certificate 4120, Baker County)

DETERMINATION and
FINAL ORDER ON PROPOSED
INSTREAM LEASE

ORS 537.348 establishes the process in which a water right holder may submit a request to lease an existing water right for instream purposes. OAR Chapter 690, Division 077 implements the statutes and provides the Department's procedures and criteria for evaluating short-term instream lease applications.

Lessor

Eastern Oregon Light & Power
P.O. Box 247
Haines, Oregon 97833-0247

Findings of Fact

1. Eastern Oregon Light & Power filed an application to renew L-108, involving all of Certificate 4120 to instream use. The Department assigned the application number L-108. The water right was previously leased by the Oregon Trail Electric Consumers Cooperative, Inc. Eastern Oregon Light & Power provided information showing that they are now the owners of the property to which the water right is appurtenant.

2. The rights to be leased are as follows:

Certificate 4120

POWER DEVELOPMENT			
Twp	Rng	Mer	Sec
7 S	38 E	WM	32
7 S	38 E	WM	33

Point of Diversion

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
8 S	38 E	WM	5	SW SW	CHASE MILL D

3. The lease application includes the information required under OAR 690-077-0077(3). The Department provided notice of the lease application pursuant to OAR 690-077-0077(6). No comments were received.
4. On July 22, 2005, Doug Henderson of Eastern Oregon Light & Power verbally amended the application to begin in 2005 and continue through 2009. He also requested the option of terminating the lease early with written notice to the Department.

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or 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 was filed, the petition shall be deemed denied.

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5. The instream use is as described in the lease application:

Rock Creek

Tributary to Powder River in the Powder Basin

Instream Reach: From POD (as described in Finding of Fact #2) to the site of the former powerhouse and tailrace in the SW ¼, Section 33, T 7 S, R 38 E, W.M.

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
4120	April 11, 1902	13.0	January 1 through December 31

6. Based upon review of the application, comments received, information provided by the Department's Watermaster, and other available information, the Department finds that the lease will not result in injury or enlargement. This finding is made through an abbreviated review recognizing that the lease may be modified or revoked under OAR 690-077-0077 if the Department later finds that the lease is causing injury to any existing water right or enlargement of the original right.
7. If a right which has been leased is later proposed to be leased again or transferred to an instream use under ORS 537.348 and OAR 690-077-0070 or OAR 690-077-0075 a new injury review shall be required. Transfers will be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380 and Division 077. Approval of this lease does not establish a precedent for approval of future leases or transfers.
8. The lease will terminate on December 31, 2009.
9. The lessor has requested the option of terminating the lease early with written notice to the Department.

CONCLUSIONS OF LAW

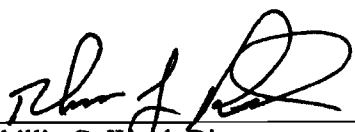
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease agreement conforms to the applicable provisions of OAR 690-077-0015.

ORDER

Therefore, it is ORDERED:

1. That the Short-Term Lease as described herein is APPROVED.
2. The former place of use shall no longer receive water as part of these rights during the term of the lease.
3. The lease shall terminate on December 31, 2009. The lessor shall have the option of terminating the lease each year, with notification to the Department by December 1 of the preceding year.

Dated at Salem, Oregon this 28th day of July 2005.


 Phillip C. Ward, Director

Mailing date: ~~AUG 01 2005~~