



any water right upstream of this instream water right with a priority date after October 23, 1999, is subject to regulation.

2. The priority date of the water right is April 11, 1902
3. The point of diversion for certificate 4120 is Township 8 South, Range 38 East, Section 5 SW ¼ SW 1/4.

Mitigation measures have been proposed to avoid injury and to ensure the continuation of other existing water rights as of October 23, 1999, therefore, the Director has determined that conversion of hydroelectric water right certificate 4120 will not result in injury as defined in OAR 690-054-0010(7).

4. The Director approves the conversion of hydroelectric water right certificate 4120, together with any recommended mitigation measures to avoid injury and to ensure the continuation of authorized uses is consistent with ORS 543A.305.

#### **FINDINGS OF FACT**

**Source:** ROCK CREEK, TRIBUTARY TO POWDER RIVER  
**Use:** HYDROELECTRIC USE TO INSTREAM USE  
**County:** BAKER COUNTY  
**Instream Location:** ROCK CREEK, TRIBUTARY TO POWDER RIVER Township 8 South, Range 38 East, Section 5 SW 1/4 SW 1/4.  
**Rate:** 13 CFS REQUESTED Year-round:

1. On March 29, 2022, the Department gave public notice of the initial review in its weekly notice. The public notice included a request for comments, and information for interested persons about obtaining future notices and a copy of the Proposed Final Order.
2. Several written comments favoring and opposing the application were received during the 30-day comment period.
3. To ensure conversion of the hydroelectric right to an instream right will not injure other water rights with a priority date of October 23, 1999, or earlier and consistent with ORS 543A.305(3), this right is made inferior in priority date to those rights.

**CONCLUSIONS OF LAW**

The proposed conversion of a hydroelectric water right to an instream water right includes mitigation measures to avoid injury and ensure the continuation of other existing water rights as of October 23, 1999.

**FINAL ORDER**

The Department recommends approval of and issuance of a certificate consistent with the attached certificate.

Issued: **JUN 19 2023**  
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A handwritten signature in blue ink, appearing to read "Dwight French", is written over a horizontal line.

DWIGHT FRENCH  
Water Right Services Division Administrator, for  
Douglas E. Woodcock, Acting Director  
Oregon Water Resources Department