

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

In the Matter of Instream Lease Application ) DETERMINATION and FINAL ORDER ON  
IL-1874, Deschutes County ) PROPOSED INSTREAM LEASE

**Authority**

Oregon Revised Statute (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. Oregon Administrative Rule (OAR) Chapter 690, Division 077 implements the statutes and provides the Department's procedures and criteria for evaluating instream lease applications.

**Lessor**

Pinnacle Utilities, LLC &  
Central Land & Cattle Company, LLC  
2447 NW Canyon Drive  
Redmond, Oregon 97756

**Findings of Fact**

1. On May 18, 2021, Pinnacle Utilities, LLC and Central Land & Cattle Company, LLC filed an application to lease a portion of Certificate 90239 for instream use. The Department assigned the application number IL-1874.

2. The portion of the right to be leased is as follows:

**Certificate:** 90239 in the name of La Pine Cooperative Water Association (confirmed by the Deschutes River Decree, of record at Salem, in the Order Record of the Water Resources Director in Volume 16, Page 185)

**Use:** Irrigation of 50.0 acres

**Season of Use:** April 1 to November 1

**Priority Dates:** April 30, 1902

**Quantity:** **Rate/Volume:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of 1/40<sup>th</sup> of one cubic foot per second, or its equivalent for each acre irrigation, from May 23 to August 20, and 1/80<sup>th</sup> of one cubic foot per second, or its equivalent for each acre irrigated, from April 1 to May 23 and from August 20 to November 1, and shall be further limited to a diversion of not to exceed 4.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** LITTLE DESCHUTES RIVER, tributary to the DESCHUTES RIVER

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.

**Authorized Point of Diversion (POD):**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	9 E	WM	34	SW SW	550 FEET NORTH AND 1150 FEET EAST FROM THE SW CORNER OF SECTION 34

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
22 S	10 E	WM	34	NW NE	2803	16.9
22 S	10 E	WM	34	NE NW	2803	10.5
22 S	10 E	WM	34	SE NW	2803	16.7
22 S	10 E	WM	34	NE SW	2803	5.9
<b>Total</b>						<b>50.0</b>

3. The lease application includes the information required under OAR 690-077-0076(3). The Department provided notice of the lease application pursuant to OAR 690-077-0077(1). No comments were received.
4. The instream use is as follows:  
Little Deschutes River, tributary to the Deschutes River

**Instream Point:** At the POD (as described in Finding of Fact No. 2)

Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
April 30, 1902	0.625	200.0	April 1 through May 22
	1.250		May 23 through August 19
	0.625		August 20 through October 31

5. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water right.
6. The protection of flows within the proposed reach is appropriate, considering:
  - a. The instream water use begins at the recorded point of diversion;
  - b. The location of confluences with other streams downstream of the point of diversion.
  - c. There are known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
  - d. Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the point of the instream water right.
7. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach will provide for a beneficial purpose.
8. The total monthly quantities of water to be protected instream under existing and proposed instream rights in the reach do not exceed the estimated average natural flow.

9. If approved, this instream lease is not reasonably expected to significantly affect land use as prescribed by ORS 197.180, OAR Chapter 660, Divisions 30 and 31, and OAR Chapter 690, Division 5.
10. Based upon review of the application, information provided by the Department's Watermaster, and other available information, the Department finds that the lease will not result in injury or enlargement. The order approving this instream 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.
11. If a right which has been leased is later proposed to be leased again, transferred and/or reviewed under an allocation of conserved water, a new injury review shall be required. For example, instream 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 any future transactions.
12. The Lessor has requested that the lease terminate on October 31, 2026, however the five-year period allowed would terminate the lease on October 31, 2025. The lease may commence on the date this final order is signed.
13. The Lessor has requested the option of terminating the lease early with written notice to the Department.

#### **Conclusions of Law**

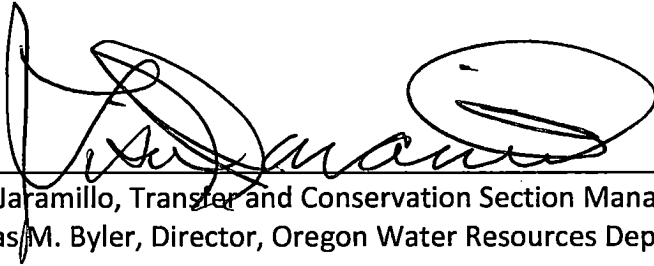
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

#### **Now, therefore it is ORDERED:**

1. The Lease as described herein is APPROVED.
2. During each year of the term of the lease, the former place of use will no longer receive water as part of these rights, any supplemental rights, or any other layered irrigation water rights, including ground water registrations and permits.
3. The term of the lease will commence upon approval of the instream lease and terminate on October 31, 2025. For multiyear leases, the Lessor and Lessee shall have the option of terminating the lease with written notice to the Department provided to both the Salem office and Watermaster office. Written notice of termination of a lease must be provided by all Lessors and the Lessee. The lease may be terminated at any time during a calendar year. However, if the termination request is received less than 30-days prior to the instream use period (April 1 to October 31) or after the water rights' original period of allowed use has begun, the Department may issue an order terminating the lease but use of

water may allowed until the following calendar year, unless the Director determines that enlargement would not occur.

Dated at Salem, Oregon this day JUN 30 2021.



A handwritten signature in black ink, appearing to read 'Lisa J. Jaramillo', written over a horizontal line.

Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
Thomas M. Byler, Director, Oregon Water Resources Department

Mailing date: JUL 02 2021

*This document was prepared by Sarah  
Henderson. If you have any questions,  
please call 503-979-9872.*