



4. The instream use was modified from the original lease application to prevent injury and enlargement and is as follows:

North Fork Walla Walla River, tributary to Walla Walla River

**Instream Point #1:** At the POD (as described in Finding of Fact #2)

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream	Volume Instream (AF)
12787	1880	0.11 CFS	July 10 through August 31	11.8 AF

**Instream Reach #2:** From immediately below the POD to the confluence with the South Fork Walla Walla River

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream	Volume Instream (AF)
12787	1880	0.03 CFS, and further reduced by 2% per mile to account for seepage and evaporation	July 10 through August 31	---

5. 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.
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 Lessor has requested that the lease terminate on October 31, 2013.
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 conforms to the applicable provisions of OAR 690-077-0015.

## ORDER

Therefore, it is ORDERED:

1. That the Lease as described herein is APPROVED.
2. The former place of use will no longer receive water as part of these rights, any supplemental rights, or any other layered water rights for irrigation use, including ground water registrations during the term of the lease.
3. The lease will terminate on October 31, 2013. For multiyear leases, the lessor *shall* have the option of terminating the lease each year with written notice to the Department. The lease may be terminated at any time during the calendar year. However, if the termination request is received less than 30-days prior to the period of allowed instream use (July 10) or after the period of allowed use has begun for the water right(s) being leased, water shall not be used under the right(s) leased until the following calendar year, unless the Director determines that enlargement would not occur.

Dated at Salem, Oregon this 11<sup>th</sup> day of June, 2009.

  
Phillip C. Ward, Director *PCW*

Mailing date: JUN 22 2009