

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

In the Matter of the Proposed Lease of) DETERMINATION and
Existing Water Rights for Instream Use,) FINAL ORDER ON PROPOSED
Permit 25915, Jackson County) 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 instream lease applications.

Lessor #1
Crystal Springs Development Group
1014 N Riverside
Medford, Oregon 97501

Lessor #2
Talent Irrigation District (TID)
P.O. Box 467
Talent, OR 97540

Lessor #3
Bureau of Reclamation (BOR)
1150 North Curtis Road, Suite 100
Boise, Idaho 83706-1234

Lessee
Oregon Water Trust (OWT)
522 SW Fifth Avenue, Suite 825
Portland, Oregon 97204

Findings of Fact

1. Crystal Springs Development Group, TID, BOR and OWT filed an application to lease a portion of Permit 25915 to instream use. The Department assigned the application number IL-860.
2. The right to be leased is as follows:

Permit: 25915
Use: PRIMARY IRRIGATION of 104.2 ACRES
Priority Date: SEPTEMBER 6, 1915
Rate: 2.60 CFS for Primary Irrigation
Limit/Duty: ONE-FORTIETH cfs per acre, not to exceed 4.5 af per acre per year
Source: EMIGRANT CREEK/RESERVOIR, tributary to BEAR CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
39 S	2 E	WM	20	SE SE	TOE OF EMIGRANT DAM

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 Place of Use:

IRRIGATION					
37 S	1 W	WM	27	NE SE	13.9
37 S	1 W	WM	27	NW SE	28.8
37 S	1 W	WM	27	SW SE	37.4
37 S	1 W	WM	33	SE SE	24.1

3. The final proof for Permit 25915 has been submitted and has been approved by the Director under ORS 537.250 for the acres described in Finding of Fact #2.
4. 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.
5. The instream use is as follows:
EMIGRANT CR/RES tributary to BEAR CR, then to BEAR CR, tributary to ROGUE R

Instream Reach: From POD (as described in Finding of Fact #2) to mouth of Emigrant Creek, where Emigrant Creek and Walker Creek join to form Bear Creek (approximately 3.5 downstream of POD); then from River Mile 27 on Bear Creek to the mouth of Bear Creek

Permit	Priority Date	Instream Rate (cfs)	Period Protected Instream
Permit 25915	September 6, 1915	1.04	June 20 through October 31

6. Other conditions to prevent injury and enlargement are:
The portion of water protected instream under this lease shall be based on the same percentage diversion and delivery rate that TID is diverting to rights of the same priority within the District. The instream rate listed is based upon a 1/100th cfs per acre rate. In cases of shortage of supply, where the general allotment in the District has been reduced, TID may deliver less than 2.65 AF/ac in accordance with TID policy governing Instream Leases. In the event that TID stops delivery of irrigation water prior to October 31, the watermaster shall be notified, and the delivery for instream use shall also stop. Any additional reporting to the watermaster shall be consistent with any required reporting of District operations.
7. The lease application requests to protect water instream from Emigrant Creek into Bear Creek. An instream reach is generally from the point of diversion to the mouth of the source stream (Emigrant Creek) but may be protected further if measurable in the receiving stream (Bear Creek) (OAR 690-077-0015 (8)). The quantity that may be leased instream from Emigrant Creek is measurable into Bear Creek and may be protected instream in Bear Creek.
8. 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.
9. 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.

10. 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.
11. The lease will terminate on October 31, 2007.

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, 2007.

Dated at Salem, Oregon this 28th day of August 2007.


Phillip C. Ward, Director

Mailing date: SEP 07 2007

