

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

In the Matter of Instream Lease Application) DETERMINATION and FINAL ORDER ON
IL-1992, Marion 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

Santiam Water Control District
284 E. Water Street
Stayton, Oregon 97383

Findings of Fact

1. On June 26, 2023, Santiam Water Control District filed an application to lease a portion of Certificate 68665 and the entirety of Certificate 68666 for instream use. The Department assigned the application number IL-1992.
2. The portion of the first right to be leased is as follows:

Certificate: 68665 in the name of Santiam Water Control District (confirmed by decree for Marion County and recorded in Volume 18, Page 437)
Use: Irrigation of 486.26 acres
Priority Date: May 14, 1909
Source: North Santiam River, tributary to Santiam River
Authorized Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	1 W	WM	11	SW SE	1800 FEET SOUTH AND 2830 FEET EAST FROM THE WEST 1/4 CORNER OF SECTION 11; Lot 2

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres	Additional Information from Application (Water Right Holder)
8 S	2 W	WM	18	NE SE	1.14	R327911
8 S	2 W	WM	18	SE NE	9.18	
8 S	2 W	WM	17	NW SW	11.20	
8 S	2 W	WM	17	NW NW	10.00	

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.

Twp	Rng	Mer	Sec	Q-Q	Acres	Additional Information from Application (Water Right Holder)
8 S	2 W	WM	17	SW NW	38.27	R327911
8 S	2 W	WM	5	SW NE	5.55	R327904
8 S	2 W	WM	5	NE SE	16.00	
8 S	2 W	WM	5	NW SE	35.32	
8 S	2 W	WM	5	NE SW	2.71	
8 S	2 W	WM	5	SE SE	0.03	
8 S	2 W	WM	5	SW SE	31.80	
8 S	2 W	WM	5	SE SW	26.13	
8 S	2 W	WM	8	NE NW	10.25	
8 S	2 W	WM	8	SE NW	1.73	
8 S	2 W	WM	8	SE NE	6.30	
8 S	2 W	WM	8	NW NE	35.34	
8 S	2 W	WM	8	NE NE	1.00	
8 S	2 W	WM	8	SW NE	23.36	
8 S	2 W	WM	7	SE SE	29.27	
8 S	2 W	WM	7	SW SE	14.88	
8 S	2 W	WM	18	NE NE	4.82	
8 S	2 W	WM	18	NW NE	22.66	
8 S	2 W	WM	8	SW NE	3.24	R327908
8 S	2 W	WM	8	NE NW	1.00	
8 S	2 W	WM	8	SE NW	19.00	
8 S	2 W	WM	8	SW NW	6.70	
8 S	2 W	WM	8	NW SE	15.00	
8 S	2 W	WM	8	NE SW	21.75	
8 S	2 W	WM	8	NW SW	0.24	
8 S	2 W	WM	8	SE SW	0.04	
8 S	2 W	WM	8	NE SW	15.85	R327901
8 S	2 W	WM	8	SW NW	3.47	
8 S	2 W	WM	8	NW SW	29.79	
8 S	2 W	WM	8	SE SW	8.69	
9 S	2 W	WM	23	SE NE	0.30	R35566
9 S	2 W	WM	24	SW NW	0.20	
8 S	2 W	WM	5	SE SW	4.58	R335306
8 S	2 W	WM	5	SW SW	3.38	
8 S	2 W	WM	8	NW NW	1.19	
8 S	2 W	WM	8	NE NW	2.50	
8 S	2 W	WM	5	SE SW	2.30	R30035
8 S	2 W	WM	8	NE NW	10.00	
8 S	2 W	WM	8	NW NE	0.10	
Total Acres					486.26	

3. The second right to be leased is as follows:

Certificate: 68666 in the name of State of Oregon Division of Correction (confirmed by decree for Marion County and recorded in Volume 18, Page 437)

Use: Irrigation of 2.7 acres

Priority Date: May 14, 1909

Source: North Santiam River, tributary to Santiam River

Authorized Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	1 W	WM	11	SW SE	1800 FEET SOUTH AND 2830 FEET EAST FROM THE WEST 1/4 CORNER OF SECTION 11; Lot 2

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres	Additional Information from Application (Water Right Holder)
8 S	2 W	WM	17	NE NW	0.60	R327911
8 S	2 W	WM	17	SE NW	2.10	
Total Acres					2.70	

4. Certificates 68665 and 68666 do not specify a rate and duty limit per acre; however, the North Santiam River Decree specifies the rate limit as 1/80 cfs per acre and the duty limit as 2.5 acre feet per acre.

5. Certificates 68665 and 68666 do not specify the irrigation season; however, the North Santiam River Decree establishes the irrigation season for the area as May 1 through September 30.

6. 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.

7. At the full instream rate and volume for Certificate 68665, water may only be protected instream over a 100 day period. At the full instream rate and volume for Certificate 68666, water may only be protected instream over a 113 day period. To maximize the instream use, the Department has reduced the instream rate to protect water instream over the full irrigation season.

8. The instream use is as follows:
North Santiam River, tributary to Santiam River

Instream Point: At the POD (as described in Findings of Fact No. 2 and 3)

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
68665	5/14/1909	4.01	1215.65	May 1 through September 30
68666	5/14/1909	0.02	6.75	

9. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water rights.

10. The protection of flows at the authorized point of diversion 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 no 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.
11. The total monthly quantities of water to be protected under the existing and proposed instream rights at the point will provide for a beneficial purpose.
12. The total monthly quantities of water to be protected instream under existing and proposed instream rights at the point do not exceed the estimated average natural flow.
13. 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.
14. 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.
15. 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.
16. The Lessor has requested that the lease terminate on September 30, 2023. The lease may commence on the date this final order is signed.
17. The Lessor has requested the option of terminating the lease early with written notice to the Department.

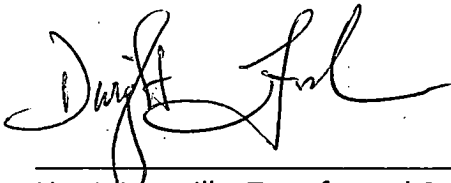
Conclusions of Law

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 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 September 30, 2023.

Dated at Salem, Oregon this day SEP / 8 2023



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
Douglas E. Woodcock, Acting Director
Oregon Water Resources Department

Mailing date: SEP 11 2023

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