

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

In the Matter of Instream Lease Application) DETERMINATION and
IL-1670, Hood River County) FINAL ORDER ON 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

Pooled Instream Lease for several water right holders (described in Finding of Facts No. 2 and No. 3)

Co-Lessor

Farmers Irrigation District
1985 Country Club Road
Hood River, OR 97031
les@fidhr.org

Findings of Fact

1. On April 5, 2018, Farmers Irrigation District, on behalf of several water right holders, filed an application to lease a portion of Certificates 74306 and 74607 for instream use. The Department assigned the application number IL-1670.
2. The portion of the first right to be leased is as follows:

Certificate: 74306 in the name of Farmers Irrigation District (confirmed by decree of the Circuit Court of the State of Oregon for Hood River County. The decree is on record at Salem, in the Order Record of the Water Resources Director, in Volume 17, at Page 333)

Use: Irrigation of 23.35 acres

Priority Date: May 7, 1906

Quantity: **Rate:** 0.29 Cubic Foot per Second (CFS)

Volume: 70.05 Acre-Feet (AF)

Limit: One-eightieth CFS per acre, not to exceed 3.0 AF per acre per year

Source: Hood River, tributary to the Columbia River

Authorized Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 N	10 E	WM	31	NW SW	2250 FEET NORTH AND 470 FEET EAST FROM THE SW CORNER OF SECTION 31

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:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water Right Holder (Lessor #1)
3 N	10 E	WM	34	NE NE	0500	7.50	Heritage Homes
3 N	10 E	WM	34	NW NE	0800	2.15	Wilbur O. Krutz
3 N	10 E	WM	34	SW NE	1902	0.50	Mike Ketler
3 N	10 E	WM	34	SE NE	2400	4.15	Carmel M. Cervetto
3 N	10 E	WM	34	SE SE	2103	0.90	Stephanie Adams
3 N	10 E	WM	35	NW SW	0400	0.80	Consolidated Land LLC
3 N	10 E	WM	35	NW SW	0500	0.60	Consolidated Land LLC
3 N	10 E	WM	35	NE SW	202	0.90	Franco Marchesi
3 N	10 E	WM	35	NW SW	202	1.25	Franco Marchesi
3 N	10 E	WM	35	SW SW	2200	0.90	Byron Roberts
3 N	10 E	WM	35	SE SW	2200	0.20	Byron Roberts
3 N	10 E	WM	36	NW SE	0700	1.20	Sieverkropp
3 N	10 E	WM	36	SW SE	0600	1.70	Sieverkropp
3 N	10 E	WM	36	SW SE	0700	0.60	Sieverkropp
Total						23.35	

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

Certificate: 74307 in the name of Farmers Irrigation District (confirmed by decree of the Circuit Court of the State of Oregon for Hood River County. The decree is on record at Salem, in the Order Record of the Water Resources Director, in Volume 17, at Page 333)

Use: Irrigation of 1.20 acres

Priority Date: May 7, 1906

Quantity: **Rate:** 0.015 Cubic Foot per Second (CFS)
Volume: 3.6 Acre-Feet (AF)
Limit: One-eightieth CFS per acre, not to exceed 3.0 AF per acre per year

Source: Hood River, tributary to the Columbia River

Authorized Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 N	10 E	WM	31	NW SW	2250 FEET NORTH AND 470 FEET EAST FROM THE SW CORNER OF SECTION 31

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water Right Holder (Lessor #1)
3 N	10 E	WM	35	SE SE	1004	1.20	H.R. Senior Center

4. Certificates 74306 and 74307 describe the authorized place of use by township, range, section, quarter quarter, and tax lots. The tax lots on which a portion of the rights to be leased have changed since Certificates 74306 and 74307 were issued. Some tax lot configurations no longer match those shown on the maps of the water rights and some of the original tax lots identified on the water rights of record have been partitioned or subdivided. The portion of the water rights to be leased is described in Finding of Facts No. 2 and 3 consistent with the water rights of record in so far as possible.
5. Certificates 74306 and 74307 do not specify the irrigation season. However, the Hood River Decree describes the irrigation season as April 15 through October 1.

6. There is a supplemental irrigation water right, Certificate 74312, appurtenant to all or a portion of the lands described in Finding of Facts No. 2 and 3. The Lessor and Lessee have requested that this water right not be included as part of this lease application. During the term of the lease, water use under this right will also be suspended.
7. 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.
8. The instream use has been modified from the lease application to prevent injury and enlargement and is as follows:
Hood River, tributary to Columbia River

Instream Reach: From the POD's (as described in Finding of Facts No. 2 and 3) to the mouth of Hood River

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
74306	5/7/1906	0.29	70.05	June 2 through September 29
74307	5/7/1906	.015	3.60	June 2 through September 29

9. Other conditions to prevent injury and enlargement are:

Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion. Stream channel losses and gains calculated based on the available data and the use of water by senior appropriators will determine the amount of water to which this right is entitled downstream from the original points of diversion within the specified stream reach.

10. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water rights.
11. 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 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 reach of the instream water right.
12. 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.
13. 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.

14. 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.
15. 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.
16. 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.
17. The Lessor has requested that the lease terminate on October 1, 2018. The lease may commence on the date this final order is signed.
18. The Lessor requested that there not be an option to terminate the lease.

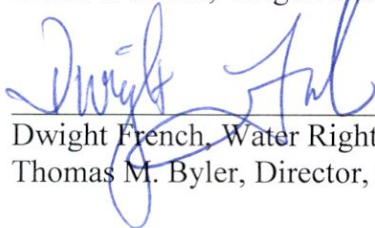
Conclusions of Law

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 issuance of this Final Order and terminate on October 1, 2018. The lease may not be terminated by any party to the lease prior to the specified termination date.

Dated at Salem, Oregon this day **MAY 08 2018** .



Dwight French, Water Right Services Division Administrator, for
Thomas M. Byler, Director, Oregon Water Resources Department

Mailing date: **MAY 08 2018**

This document was prepared by Kerri H. Cope. If you have any questions, please call 503-986-0919.