

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

In the Matter of the Proposed Short-Term ) Lease of Existing Water Rights for Instream ) Use, Certificate 42442, Union County )	DETERMINATION and FINAL ORDER ON PROPOSED INSTREAM LEASE
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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 short-term instream lease applications.

**Lessor**

Martin Tromp Van Holst  
 Joan, Frances, & Mark Tromp Van Holst  
 65858 McKennon Lane  
 Cove, Oregon 97824

**Findings of Fact**

1. Martin, Joan, Frances, & Mark Tromp Van Holst filed an application to lease a portion of Certificate 42442 to instream use. The Department assigned the application number L-658.
2. The rights to be leased are as follows:

**Certificate 42442**

Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	39 E	WM	35	NE NE	2.30
1 S	39 E	WM	35	NE SE	2.90
1 S	39 E	WM	36	NE NW	7.10
1 S	39 E	WM	36	NW NW	24.30
1 S	39 E	WM	36	SW NW	22.30
1 S	39 E	WM	36	SE NW	20.00
1 S	39 E	WM	36	NE SW	24.00
1 S	39 E	WM	36	NW SW	28.60

**Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 N	39 E	WM	36	NE NW	POD #3: 2970 FT N & 1700 FT E FM SW COR, NWSW, S36
1 N	39 E	WM	36	NE SW	POD #2: 1050 FT N & 2340 FT E FM SW COR, NWSW, S36
1 S	39 E	WM	12	NE SE	POD #1: 300 FT S & 2950 FT E FM NW COR, NESW, S12

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.

3. 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.
4. The instream use is clarified from the lease application to prevent injury and enlargement and is as follows:  
Indian Creek  
Tributary to Grande Ronde River in the Grande Ronde Basin

**Instream Reach:** Reach 1 is from POD #1 to POD #2 (as described in Finding of Fact #2);  
Reach 2 is from POD #2 to Mouth of Indian Cr

Certificate	Priority Date	Reach	Instream Rate	Period Protected Instream
42442	May 3, 1966	1	0.376 cfs	July 1 through October 31
		2	1.6 cfs	

5. 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.
6. 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.
7. The lease will terminate on October 31, 2009.
8. 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 agreement conforms to the applicable provisions of OAR 690-077-0015.

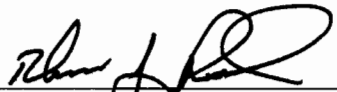
### ORDER

Therefore, it is ORDERED:

1. That the Short-Term Lease as described herein is APPROVED.
2. The former place of use shall no longer receive water as part of these rights during the term of the lease.

3. The lease shall terminate on October 31, 2009. The lessor shall have the option of terminating the lease each year, with notification to the Department by June 1 of each year, and before any irrigation has occurred on the property.

Dated at Salem, Oregon this 22<sup>nd</sup> day of June 2005.

  
Phillip C. Ward, Director

Mailing date: JUN 24 2005