

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

In the Matter of the Proposed Short-Term)	DETERMINATION and
Lease of Existing Water Rights for Instream)	FINAL ORDER ON
Use, Certificate(s) 61789 and 56475, Grant)	PROPOSED INSTREAM
County, Oregon)	LEASE

FINDINGS OF FACT

1. A Short-Term Lease Application, which proposed to lease all or a portion of certificate(s) 61789 and 56475 for instream purposes was submitted to the Department by:

Lessor	Lessee
Grafton Pauls and La Vonne Pauls	Bureau of Reclamation, Pacific NW Region
47003 Highway 26	1150 North Curtis Road, Suite 100
Portland, Oregon 97204	Boise, ID 83706-1234

2. The instream lease application included the required fees. The Department assigned this lease agreement number L-583.
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 lease application proposed that water be protected from the points of diversions (PODs) to the Service Creek Gaging Station, with the full rate protected at the POD. Immediately below the POD, the rate was proposed to be reduced by 48 percent to mitigate for return flows, and an additional 1 percent per mile flow reduction factor over the entire reach. The Department finds that with return flows and loss factors accounted for, the water can be protected past the Service Creek Gaging Station to McDonald's Ferry at River Mile (RM) 22.
5. Based upon review of the application, including information provided by the Department's Watermasters and other available information, the Department finds that the lease, as proposed and modified above, will not result in injury or enlargement.
6. The lease will terminate on September 30, 2008. The lessor shall have the option of terminating the lease each year, prior to the lease being exercised (April 1), with 30 days written notice to the Department.

CONCLUSIONS OF LAW

The Department concludes that the lease, as modified above, will not result in injury or enlargement, OAR 690-077-0077.

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 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

ORDER

Therefore, it is ORDERED:

1. That the Short-Term Lease described herein is APPROVED.
2. The authorized place of use described in the instream lease application shall not be irrigated under certificates 61789 and 56475 during the term of this lease.
3. Water is leased instream as follows:

Reaches: The PODs listed on the certificates (approximately RM 217 of the John Day R) to McDonald's Ferry (approximately RM 22).

Priority Date and Period Protected Instream

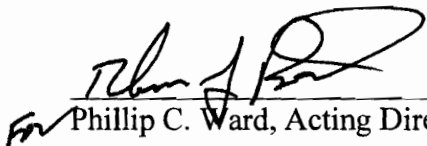
Certificate	Priority Date	Period Protected Instream	Source
61789	10/27/1973	June 22 – September 30	John Day R
56475 Tract 1	1902	April 6 – September 30	John Day R
56475 Tract 2	1906	April 6 – September 30	John Day R

Instream Rates

Certificate	Rate Before June 30 (CFS)			Rate After June 30 (CFS)		
	POD (RM 217)	Immediately Below POD	McDonald Ferry (RM 22)	POD (RM 217)	Immediately Below POD	McDonald Ferry (RM 22)
61789	0.38	0.198	0.028	0.38	0.198	0.028
56475, Tract 1	0.33	0.172	0.024	0.25	0.130	0.018
56475, Tract 2	0.31	0.161	0.022	0.23	0.120	0.017
Total	1.02	0.53	0.07	0.86	0.45	0.06

4. The lease will terminate on September 30, 2008. The lessor shall have the option of terminating the lease each year, prior to the lease being exercised (April 1), with 30 days written notice to the Department.

Dated at Salem, Oregon this 16th day of August 2004.


Phillip C. Ward, Acting Director