

**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) 37067, Benton County,	)	PROPOSED INSTREAM
Oregon	)	LEASE

**FINDINGS OF FACT**

1. A Short-Term Lease Application, which proposed to lease all of certificate 37067 for instream purposes was submitted to the Department by:

Lessor

Andrew M. Martin as Trustee of the Residuary Trust A created by the Joseph N. Martin Revocable Trust  
5 Red Ridge Circle  
Barrington, IL 60010

2. The instream lease application included the required fees. The Department assigned this lease agreement number L-587.
3. The original lease application requested to lease certificate S 39968, and listed a priority date of November 16, 1970. On July 13, 2004, Mr. Trimmer, agent for the lessor, verbally clarified that the appropriate certificate number is 37067, which has a priority date of June 16, 1964. Mr. Trimmer also requested that the instream reach identified on the original application be modified from being the point of diversion (POD) to a reach beginning at the Mary's River POD to the mouth of the Mary's River.
4. On July 23, 2004, Mr. Trimmer supplied the Department with information on the beneficial use of the water right within the last five years.
5. 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.
6. Based upon review of the application, comments received, and information provided by the Department's Watermaster, the Department finds that the lease, as modified, will not result in injury or enlargement.
7. The lease will terminate on December 31, 2007.

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.

## CONCLUSIONS OF LAW

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

### ORDER

Therefore, it is ORDERED:

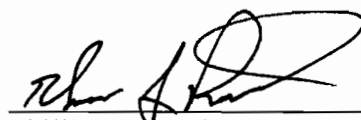
1. That the Short-Term Lease described herein is APPROVED.
2. During the period of the lease, use of water at the original place of use shall be suspended.
3. Water is leased instream as follows:

Reach: Mary's River POD (SW  $\frac{1}{4}$  NE  $\frac{1}{4}$ , as projected within the Hartless DLC 51, Section 13, Township 12 S, Range 6 W, W.M.) to the mouth of the Mary's River.

Certificate	Priority Date	Rate Instream (cfs)	Period Protected Instream	Source
37067	June 16, 1964	0.5	January 1 – December 31	Mary's River

4. The lease will terminate on December 31, 2007. The lessor shall have the option of terminating the lease each year, prior to the lease being exercised (January 1), with 30 days written notice to the Department.

Dated at Salem, Oregon this 16<sup>th</sup> day of August, 2004.

  
Phillip C. Ward  
Acting Director