

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

In the Matter of the Instream Lease) DETERMINATION and
Renewal IL-830, Certificate 83400, Wasco) FINAL ORDER ON PROPOSED
County) INSTREAM LEASE

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 instream lease applications.

Lessor

Ted and Dolores Tidwell
6324 Eight Mile Road
The Dalles, Oregon 97058-8600

Findings of Fact

1. On May 22, 2012, Ted and Dolores Tidwell filed an application to renew Instream Lease IL-830 involving a portion of Certificate 5655 for instream use.
2. The rights to be leased are as follows:

Certificate: 83400 in the name of Ted Tidwell (confirmed by Fifteen Mile Creek decree)

Use: IRRIGATION of 3.3 ACRES

Priority Date: 1900

Rate: 0.04 CUBIC FEET PER SECOND

Limit/Duty: Not to exceed 3.0 acre-feet per acre per year

Source: EIGHT MILE CREEK, tributary to FIFTEEN MILE CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	13 E	WM	21	SW NW	800 FEET NORTH AND 1000 FEET EAST FROM W1/4 CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	13 E	WM	21	NE NW	1.4
1 S	13 E	WM	21	SW NW	0.7
1 S	13 E	WM	21	SE NW	1.2

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 as follows:
EIGHTMILE CREEK tributary to FIFTEENMILE CREEK

Instream Reach: From the POD at River Mile 15(as described in Finding of Fact #2) to the mouth of EIGHTMILE CREEK.

Certificate	Priority Date	Instream Rate (cfs)	Volume (af)	Period Protected Instream
83400	1900	0.04	9.9	June 1 through September 30

5. 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 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 point of diversion within the specified stream reach.
6. 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.
7. 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.
8. 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.
9. The lease will terminate on September 30, 2016.
10. The Lessor has requested the option of terminating the lease early.

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.

ORDER

Therefore, it is ORDERED:

1. That the Lease as described herein is APPROVED.
2. The former place of use will no longer receive water as part of these rights, any supplemental rights, or any other layered water rights for irrigation use, including ground water registrations during the term of the lease.
3. The lease will terminate on September 30, 2016. The Lessor *shall* have the option of terminating the lease each year with written notice to the Department. The lease may be terminated at any time during the calendar year by providing a written request. However, if the termination request is received less than 30-days prior to the period of allowed instream use (May 1) or after the period of allowed use has begun for the water right(s) being leased, water shall not be used under the right(s) leased until the following calendar year, unless the Director determines that enlargement would not occur.

Dated at Salem, Oregon this 31 day of July 2012.


Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

Mailing date: AUG 02 2012

Joan Smith prepared the order approving the renewal of this Instream Lease. If you have any questions about the information in this document, you may contact Joan Smith at 503-986-0898 or Joan.M.SMITH@wrд.state.or.us