

**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, Certificates 75488 and 75486, Crook) PROPOSED INSTREAM
County, Oregon) LEASE

FINDINGS OF FACT

1. On April 19, 2004, a Short-Term Lease Application, which proposed to lease a portion of certificates 75488 and 75486 for instream purposes was submitted to the Department by:

Lessor
City of Prineville
400 NE Third Street
Prineville, OR 97754

2. The Department assigned this lease agreement number L-541.
3. The lease is intended to provide mitigation for Limited License application LL-765.
4. The lease application includes the required information 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.
5. The right to be leased, as requested by the applicant, is as follows:

Certificate: 75488
Priority Date: March 28, 1935
Use: Irrigation
Acres: 17.0
Season of Use: February 1 to December 1
Quantity: Rate (limited to 1/80th Cubic Foot per Second (CFS) per acre): 0.21 CFS
Duty (limited to 4.0 Acre-Feet (AF) per acre): 68.0 AF
Source: Crooked River, tributary to the Deschutes River

The applicant is requesting to lease the entire right instream.

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.

Authorized Point of Diversion (POD):

Township		Range		Meridian	Sec	¼ ¼		Location
14	S	15	E	W.M.	26	SE	SE	at the SE Corner of Section 26

Authorized Place of Use:

Township		Range		Meridian	Sec	1/4 1/4		Priority Date	Acres
14	S	15	E	W.M.	35	NE	NE	3/28/1935	17.0

Certificate: 75486

Priority Date: September 11, 1934

Use: Irrigation

Acres: 20.0 acres

Season of Use: February 1 to December 1

Quantity: Rate (limited to 1/80th Cubic Foot per Second (CFS) per acre): 0.25 CFS

Duty (limited to 4.0 Acre-Feet (AF) per acre): 80.0 AF

Source: Crooked River, tributary to the Deschutes River

The applicant is requesting to lease the entire right instream.

Authorized Point of Diversion (POD):

Township		Range		Meridian	Sec	¼ ¼		Location
14	S	15	E	W.M.	26	SE	SE	at the SE Corner of Section 26

Authorized Place of Use:

Township		Range		Meridian	Sec	1/4 1/4		Priority Date	Acres
14	S	15	E	W.M.	26	NE	SW	9/11/1934	20.0

6. The application proposes to lease water for instream as follows:

Reach: From the POD (SE SE, Section 26, T14S, R15E, W.M., at the SE Corner of Section 26 on the Crooked River to Lake Billy Chinook.

Certificate	Priority Date	Rate Instream	Period Protected Instream	Days Instream	Volume Instream
75488	3/28/1935	0.21 CFS	March 1 through August 9	162	68.0 AF
75486	9/11/1934	0.25 CFS	March 1 through August 9	162	80.0 AF
Totals		0.46 CFS			148.0 AF

7. The Department finds that water may be protected instream at the rate and volume requested for Certificate 75488 for a period of 163 days, which is one day longer than the original time period requested. Terry Sprecher, agent for the applicant, has requested that the period that water may be protected instream be lengthened by one day to March 1 through August 10.

8. The Department finds that water may be protected instream at the rate and volume requested for Certificate 75486 for a period of 161 days, which is one day shorter than the original time

period requested. Terry Sprecher, agent for the applicant, has requested that the period that water may be protected instream be shortened by one day to March 1 through August 8.

9. Based on the above findings, the Department finds that the application water may be leased instream as follows (changes shown in bold text):

Reach: From the POD (SE SE, Section 26, T14S, R15E, W.M., at the SE Corner of Section 26 on the Crooked River to Lake Billy Chinook.

Certificate	Priority Date	Rate Instream	Period Protected Instream	Days Instream	Volume Instream
75488	3/28/1935	0.21 CFS	March 1 through August 10	163	68.0 AF
75486	9/11/1934	0.25 CFS	March 1 through August 8	161	80.0 AF
Totals		0.46 CFS			148.0 AF

10. Based upon review of the application and information provided by the Department's Watermaster, the Department finds that the lease, as proposed and modified above, will not result in injury or enlargement.
11. The lease will terminate on November 30, 2008. 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, 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. The authorized place of use shall not be irrigated during the term of this lease.
3. Water is leased instream as follows:

Reach: From the POD (SE SE, Section 26, T14S, R15E, W.M., at the SE Corner of Section 26 on the Crooked River to Lake Billy Chinook.

Certificate	Priority Date	Rate Instream	Period Protected Instream	Days Instream	Volume Instream
75488	3/28/1935	0.21 CFS	March 1 through August 10	163	68.0 AF
75486	9/11/1934	0.25 CFS	March 1 through August 8	161	80.0 AF
Totals		0.46 CFS			148.0 AF

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

Dated at Salem, Oregon this 2nd day of June, 2004.



For Phillip C. Ward
Acting Director