

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

In the Matter of Instream Lease Application ) DETERMINATION and  
IL-1779, Union County ) FINAL ORDER ON PROPOSED INSTREAM  
 ) LEASE

**Authority**

Oregon Revised Statute (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. Oregon Administrative Rule (OAR) Chapter 690, Division 077 implements the statutes and provides the Department's procedures and criteria for evaluating instream lease applications.

**Lessor**

Ascension School Camp and Conference Center  
Attn: Patrick Bell  
PO Box 278  
Cove, OR 97824

**Findings of Fact**

1. On December 26, 2019, Ascension School Camp and Conference Center filed an application to lease a portion of Certificate 373 for instream use. The Department assigned the application number IL-1779.

2. The portion of the right to be leased is as follows:

**Certificate:** 373 in the name of Robert L. Paddock (confirmed by Mill Creek Decree)  
**Use:** Irrigation of 40.0 acres  
**Season of Use:** May 1 to September 1  
**Priority Date:** 1870  
**Quantity:** 0.50 Cubic Foot per Second (CFS)  
**Source:** Mill Creek, tributary of Catherine Creek and the Grande Ronde River

**Authorized Point of Diversion (POD):** None Listed

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	40 E	WM	16	NW SE	40.0

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 Mill Creek Decree defines the source of water as Mill Creek, Hulick Branch. For purposes of this instream lease, the source of water will be listed as Hulick Branch of Mill Creek.
4. Certificate 373 does not specify the location of the point of diversion; however, the applicant has provided information on the location. For purposes of this instream lease, the location of the point of diversion shall be:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	40 E	WM	16	NW SE	LATITUDE: 45.30195; LONGITUDE: -117.81847 1900 FEET NORTH AND 2500 FEET WEST FROM THE SE CORNER OF SECTION 16

5. Certificate 373 does not specify a rate and duty limit per acre. However, the Mill Creek Decree specifies the rate limit as 1/80 CFS per acre. Based upon other water rights in the area and additional information provided by the Watermaster, an appropriate duty limit per acre for purposes of this instream lease is 3.0 acre-feet, considering the quantity of water that could be used beneficially without waste.
6. There are other primary irrigation water rights, Certificates 6438, 6250, 323, and 7218, appurtenant to all or a portion of the lands described in Finding of Fact No. 2. The Lessor has requested these water rights not be included as part of this lease application. During the term of the lease, water use under these rights will also be suspended.
7. The lease application includes the information required under OAR 690-077-0076(3). The Department provided notice of the lease application pursuant to OAR 690-077-0077(1). No comments were received.
8. The instream use has been modified from the lease application to prevent injury and enlargement and is as follows:  
Hulick Branch of Mill Creek, tributary to Catherine Creek and Grande Ronde River

**Instream Reach:** At the POD (as described in Finding of Fact No. 4)

Certificate	Priority Date	Instream Rate (CFS)	Period Protected Instream
373	1870	0.50	May 1 to August 29

9. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water right.
10. The protection of flows at the authorized point of diversion is appropriate, considering:
  - a. The instream water use begins at the recorded point of diversion;
  - b. The location of confluences with other streams downstream of the point of diversion.
  - c. There are no known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and

- d. Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the point of the instream water right.
11. The total monthly quantities of water to be protected under the existing and proposed instream rights at the point will provide for a beneficial purpose.
  12. The total monthly quantities of water to be protected instream under existing and proposed instream rights at the point do not exceed the estimated average natural flow.
  13. 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.
  14. Based upon review of the application information provided by the Department's Watermaster, and other available information, the Department finds that the lease will not result in injury or enlargement. The order approving this instream 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.
  15. If a right which has been leased is later proposed to be leased again, transferred and/or reviewed under an allocation of conserved water, a new injury review shall be required. For example, instream 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 any future transactions.
  16. The Lessor has requested that the lease terminate on December 31, 2024. However, the irrigation season ends on September 1. Therefore, for purposes of the lease, the lease will terminate on September 1, 2024.
  17. The lease has been submitted prior to the first day of the irrigation season. The lease may commence on May 1, being the first day of the irrigation season.
  18. The Lessor has requested that there not be an option to terminate the lease.

### **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.

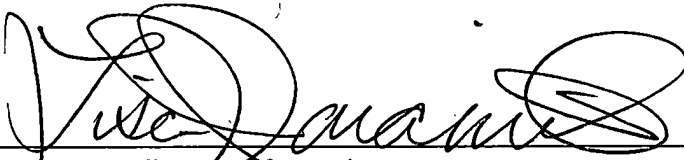
### **Now, therefore it is ORDERED:**

1. The Lease as described herein is APPROVED.
2. During each year of the term of the lease, the former place of use will no longer receive water as part of this right, any supplemental rights, or any other layered irrigation water

rights (Certificates 6438, 6250, 323, and 7218), including ground water registrations and permits.

3. The term of the lease will commence on May 1, 2020, and terminate on September 1, 2024. The lease may not be terminated by any party to the lease prior to the specified termination date.

Dated at Salem, Oregon this day FEB 25 2020.



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
Thomas M. Byler, Director, Oregon Water Resources Department

Mailing date: FEB 26 2020

*This document was prepared by Teri Hranac.  
If you have any questions, please call  
503-986-0881.*