

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

In the Matter of the Proposed Lease of)
Existing Water Rights for Instream Use,)
Certificates 10927 and 10928, Klamath)
County) DETERMINATION and
FINAL ORDER ON PROPOSED
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

Sevenmile Creek Ranch / John von Schlegell
c/o Endeavour Capital
920 SW Sixth Avenue, Suite 1400
Portland, Oregon 97204

Lessee

Klamath Basin Rangeland Trust (KBRT)
340 A Street, #302
Ashland, Oregon 97520
shannon.peterson@kbrt.org

Findings of Fact

1. Sevenmile Creek Ranch / John von Schlegell and the KBRT filed an application to lease all of Certificate 10927 and a portion of Certificate 10928 to instream use. The Department assigned the application number IL-817.

2. The first right to be leased is as follows:

Certificate: 10927 in the name of LEONARD J WOODRUFF (confirmed by Wood River decree)

Use: IRRIGATION of 80.0 ACRES

Priority Date: 1900

Rate: 1.60 CUBIC FEET PER SECOND (cfs) prior to July 20th and 1.00 cfs thereafter

Limit/Duty: ONE-FIFTIETH cfs per acre prior to July 20th and ONE-EIGHTIETH cfs per acre thereafter, not to exceed 5 acre-feet per acre per year

Source: SEVEN MILE CREEK, tributary to UPPER KLAMATH LAKE

Authorized Point of Diversion: Not described on certificate

Authorized Place of Use:

| IRRIGATION | | | | | |
|------------|-----|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 33 S | 6 E | WM | 36 | NW NW | 40.0 |
| 33 S | 6 E | WM | 36 | SW NW | 40.0 |

3. The second right to be leased is as follows:

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.

Certificate: 10928 in the name of LEONARD J WOODRUFF (confirmed by Wood River decree)

Use: IRRIGATION of 140.0 ACRES

Priority Date: 1888 for 60.0 acres, 1890 for 20.0 acres, and 1900 for 60.0 acres

Rate: 2.80 CUBIC FEET PER SECOND (cfs) prior to July 20th and 1.75 cfs thereafter

Limit/Duty: ONE-FIFTIETH cfs per acre prior to July 20th and ONE-EIGHTIETH cfs per acre thereafter, not to exceed 5 acre-feet per acre per year

Source: Springs, Crane Creek, and Seven Mile Creek

Authorized Point of Diversion: Not described on certificate.

Authorized Place of Use:

| IRRIGATION | | | | | | | |
|------------|-----|-----|-----|-------|-------|----------|----------------------|
| Twp | Rng | Mer | Sec | Q-Q | Acres | Priority | Source |
| 33 S | 6 E | WM | 35 | NE NE | 40.0 | 1900 | Seven Mile Cr |
| 33 S | 6 E | WM | 35 | NW NE | 25.0 | 1888 | Springs and Crane Cr |
| 33 S | 6 E | WM | 35 | SW NE | 35.0 | 1888 | Springs and Crane Cr |
| 33 S | 6 E | WM | 35 | SE NE | 20.0 | 1900 | Seven Mile Cr |
| 33 S | 6 E | WM | 35 | SE NE | 20.0 | 1890 | Seven Mile Cr |

4. For purposes of this lease the following PODs will be used:

| IRRIGATION | | | | | | |
|------------|-----|-----|-----|-------|----------------------|-------------|
| Twp | Rng | Mer | Sec | Q-Q | Source | Certificate |
| 33 S | 6 E | WM | 36 | NW NW | Seven Mile Cr | 10927 |
| 33 S | 6 E | WM | 35 | NE NE | Seven Mile Cr | 10928 |
| 33 S | 6 E | WM | 35 | NW NE | Springs and Crane Cr | 10928 |

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. The instream use has been modified from the lease application to prevent injury and enlargement and is as follows:

Instream Reach: From POD (as described in Finding of Fact #4) to Agency Lake

| Certificate | Priority Date | Instream Rate (cfs) | Period Protected Instream | Instream Reach |
|--------------|---------------|---------------------|-----------------------------|---|
| 10927 | 1900 | 1.00 | May 13 through September 30 | Seven Mile Cr POD to Agency Lake |
| 10928 | 1888 | 0.75 | | Springs and Crane Cr POD to Agency Lake |
| | 1890 | 0.25 | | Seven Mile Cr POD to Agency Lake |
| | 1900 | 0.75 | | Seven Mile Cr POD to Agency Lake |
| <i>Total</i> | | 2.75 | | |

7. Other conditions to prevent injury and enlargement are:

A 3.5 acre-foot per acre limitation has been applied to prevent injury and enlargement.

8. 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.
9. 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.
10. The lease will terminate on October 1, 2007.

CONCLUSIONS OF LAW

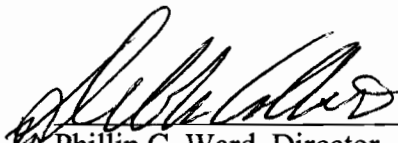
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

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 October 1, 2007.

Dated at Salem, Oregon this 31st day of May 2007.



Phillip C. Ward, Director

Mailing date: JUN 05 2007