

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

In the Matter of the Proposed Short-Term)
Lease of Existing Water Rights for Instream)
Use, Certificates 72197 and 76714, Crook,)
Jefferson 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 short-term instream lease applications.

Lessor #1

Charles and Carleen Hegele
7950 N Lone Pine Rd
Terrebonne, OR 97760

Lessor #2

Crook County Improvement District
2598 N Hwy 97
Redmond, OR 97756

Lessee

Deschutes River Conservancy (DRC)
PO Box 1560
Bend, OR 97709

Findings of Fact

1. Charles and Carleen Hegele and Crook County Improvement District, along with the DRC, filed an application to lease a portion of Certificates 72197 and 76714 to instream use. The Department assigned the application number L-611.
2. The rights to be leased are as described in the application.
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.

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.

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

Deschutes River

Tributary to the Columbia River in the Deschutes Basin

Instream Reach: From POD (SE ¼ NE ¼ , Section 29, T17S, R12E, W.M.; N. 36 degrees 45' W. 1056.8 feet from the East ¼ corner of Section 29) to Lake Billy Chinook

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
72197	10/31/1900	0.059 cfs (season 1) 0.074 cfs (season 2) 0.094 cfs (season 3)	April 1 – October 27, being season 1 as April 1 to May 1 & Oct 1 through October 27, season 2 as May 1 to May 15 & Sept 15 to Oct 1, and season 3 as May 15 to Sept 15
76714	2/28/1913	Up to 34.02 AF (Sufficient quantities may be protected instream to make up any deficiency of the primary right)	April 1 – October 27

5. Certificate 76714 is supplemental to certificate 72197. The portion of certificate 76714 being leased instream shall only be protected instream if the full rate and duty under certificate 72197 are not available during the period for which water is being leased instream.
6. 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.
7. 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.
8. The lease application identifies the termination date as October 26, 2009. Leases generally terminate on the last day of the irrigation season. The irrigation season for the rights being leased is April 1 to November 1. The lease will terminate on October 31, 2009.
9. The lessor has requested the option of terminating the lease early with written notice to the Department.

CONCLUSIONS OF LAW

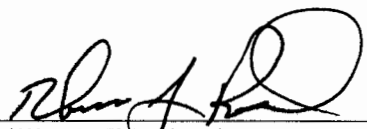
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease agreement conforms to the applicable provisions of OAR 690-077-0015.

ORDER

Therefore, it is ORDERED:

1. That the Short-Term Lease as described herein is APPROVED.
2. The former place of use shall no longer receive water as part of these rights during the term of the lease.
3. The lease shall terminate on October 31, 2009. The lessor shall have the option of terminating the lease each year, with notification to the Department by March 1 of each year, and before any irrigation has occurred on the property.

Dated at Salem, Oregon this 21st day of April 2005.


Phillip C. Ward, Director

Mailing date: APR 22 2005