

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

In the Matter of Instream Lease Application ) DETERMINATION and  
 IL-1169, Certificate 41522 and 59059 ) FINAL ORDER ON PROPOSED  
 Douglas County ) INSTREAM LEASE

**Authority**

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**

Gloria A. Jones  
 2307 Hubbard Creek Road  
 Umpqua, OR 97486

**Findings of Fact**

1. On May 2, 2011 Gloria A. Jones filed an application to lease all of Certificates 41522 and 59059 for instream use. The Department assigned the application number IL-1169.
2. The first right to be leased is as follows:

**Certificate:** 41522 in the name of RAY E & PATRICIA DOERNER (perfected under Permit S-35192)  
**Use:** IRRIGATION of 50.4 ACRES  
**Priority Date:** JUNE 5, 1970  
**Quantity:** **Rate:** 0.63 Cubic Foot per Second (CFS)  
**Duty:** 126.0 Acre-Feet (AF)  
**Limit:** One-eightieth CFS per acre, not to exceed 2.5 AF per acre per year  
**Source:** UMPQUA RIVER, tributary to the PACIFIC OCEAN

**Authorized Point(s) of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
25 S	7 W	WM	23	SW SW	42	4400 FEET NORTH AND 180 FEET WEST FROM THE SW CORNER OF HUBBARD DLC 41

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.

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
25 S	7 W	WM	23	SW SW	42	4.0
25 S	7 W	WM	26	NW NW	42	26.0
25 S	7 W	WM	26	SW NW	42	20.4
<b>TOTAL:</b>						50.4

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

**Certificate:** 59059 in the name of RAY E & PATRICIA DOERNER (perfected under Permit S-39075)  
**Use:** IRRIGATION of 58.6 ACRES  
**Priority Date:** May 14, 1974  
**Quantity:** **Rate:** 0.73 Cubic Foot per Second (CFS)  
**Duty:** 146.5 Acre-Feet (AF)  
**Limit:** One-eightieth CFS per acre, not to exceed 2.5 AF per acre per year  
**Source:** UMPQUA RIVER, tributary to the PACIFIC OCEAN

**Authorized Point(s) of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	7 W	WM	23	SW SW	350 FEET NORTH AND 1290 FEET EAST FROM THE SW CORNER OF SECTION 23

**Authorized Place of Use:**

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
25 S	7 W	WM	23	SE SW	6		5.50
25 S	7 W	WM	26	NE NW		41	20.80
25 S	7 W	WM	26	SE NW		41	20.80
25 S	7 W	WM	26	NE SW		41	9.20
25 S	7 W	WM	26	NW SW		42	2.30
<b>TOTAL:</b>							58.6

4. Neither Certificate 41522 or 59059 specify the irrigation season. However, to avoid injury or enlargement, the Applicant requested the instream rights created herein, be protected from July 24 through October 31 of each year.

5. 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 in response to that notice.

6. The instream use is as follows:

UMPQUA RIVER, tributary to the PACIFIC OCEAN

**Instream Reach:** From the POD, as described in Finding of Fact #2, to River Mile 28.0.

Certificate	Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
41522	6/5/1970	0.63 CFS	126.0 AF	July 24 through October 31
59059	5/14/1974	0.73 CFS	146.5 AF	July 24 through October 31
<b>TOTAL:</b>		<b>1.36 CFS</b>	<b>272.5 AF</b>	

7. 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.
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 Lessor has requested that the lease terminate on October 31, 2015.

### **CONCLUSIONS OF LAW**

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

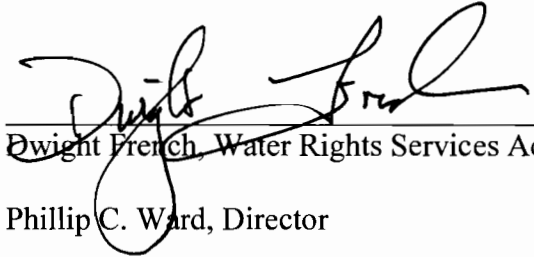
### **ORDER**

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 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. However, if the termination request is received less than 30-days prior to the period of allowed instream use (June 24) 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.

4. The lease will terminate on October 31, 2015.

Dated at Salem, Oregon this 16 day of August 2011.

  
Dwight French, Water Rights Services Administrator for  
Phillip C. Ward, Director

**AUG 17 2011**  
Mailing date: \_\_\_\_\_

The order approving this was prepared by Kody Thurgood. If you have any questions about the information in this document, you may reach me at 503-986-0892 or [thurgokj@wrds.state.or.us](mailto:thurgokj@wrds.state.or.us)