

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

In the Matter of the Proposed Lease of	)	DETERMINATION and
Existing Water Rights for Instream Use,	)	FINAL ORDER ON PROPOSED
Certificates 728 and 730, Washington	)	INSTREAM LEASE
County	)	

**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**

Myrna Daly  
2795 SW 118<sup>th</sup> Avenue  
Beaverton, Oregon 97005

**Lessee**

Oregon Water Trust  
522 SW Fifth Avenue, Suite 825  
Portland, Oregon 97204

**Findings of Fact**

1. On January 11, 2008, Myrna Daly and the Oregon Water Trust filed an application to lease a portion of Certificates 728 and 730 to instream use. The Department assigned the application number IL-888.
2. On January 31, 2008 a revised map was submitted for the application.
3. The first right to be leased is as follows:

**Certificate:** 728 in the name of MARSHALL W HAHN (perfected under Permit S-168)

**Use:** IRRIGATION of 3.7 ACRES

**Priority Date:** NOVEMBER 30, 1909

**Rate:** 0.039 CUBIC FEET PER SECOND

**Duty:** Not described on certificate.

**Source:** BLEDSOE CREEK, tributary to DAIRY CREEK

**Authorized Point of Diversion:** Not described on certificate.

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	Acres
2 N	3 W	WM	28	SE SW	3.7

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

**Certificate:** 730 in the name of JOHN I NORTHRUP (perfected under Permit S-170)

**Use:** IRRIGATION of 1.3 ACRES

**Priority Date:** NOVEMBER 30, 1909

**Rate:** 0.014 CUBIC FEET PER SECOND

**Duty:** Not described on certificate.

**Source:** BLEDSOE CREEK, tributary to DAIRY CREEK

**Authorized Point of Diversion:** Not described on certificate.

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 N	3 W	WM	28	SE SW	1.3

5. Bledsoe Creek is more appropriately described as a tributary of East Fork Dairy Creek.
6. For purposes of this lease, the point of diversion for Certificates 728 and 730 are located

Twp	Rng	Mer	Sec	Q-Q
2 N	3 W	WM	28	NW SW

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:  
BLEDSOE CREEK tributary to EAST FORK DAIRY CREEK

**Instream Reach:** From POD (as described in Finding of Fact #6) to the mouth of Bledsoe Creek

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
728	NOVEMBER 30, 1909	0.039	June 5 through September 30
730	NOVEMBER 30, 1909	0.014	June 5 through September 30
<i>Total</i>	<i>NOVEMBER 30, 1909</i>	<i>0.053</i>	<i>June 5 through September 30</i>

9. 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.
10. 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.

11. 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.
12. The lease will commence on May 1, 2011 and terminate on September 30, 2015.
13. The Lessor has indicated that they will not have the option of terminating the lease early without consent by all parties to the lease.

### CONCLUSIONS OF LAW

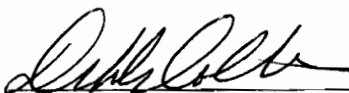
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

### 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 commence on May 1, 2011 and terminate on September 30, 2015. The Lessor may only terminate the lease early with the consent of all parties to the lease.

Dated at Salem, Oregon this 25<sup>th</sup> day of February 2008.



Phillip C. Ward, Director

Mailing date: MAR 03 2008