

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

| | | |
|---|---|-------------------|
| In the Matter of the Proposed Short-Term |) | DETERMINATION and |
| Lease of Existing Water Rights for Instream |) | FINAL ORDER ON |
| Use, Certificate(s) 68394, Crook County, |) | PROPOSED INSTREAM |
| Oregon |) | LEASE |

FINDINGS OF FACT

1. A Short-Term Lease Application, which proposed to lease all or a portion of certificate(s) 68394 for instream purposes was submitted to the Department by:

Lessor #1
Patrick D. Serry
2900 N Barnes Road
Prineville, OR 97754

Lessor #2
Ochoco Irrigation District
1001 N. Deer Street
Prineville, OR 97754

Lessee
Deschutes Resources Conservancy
700 NW Hill Street
Bend, Oregon 97701

2. The instream lease application included the required fees. The Department assigned this lease agreement number L-502.
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.
4. The right to be leased, as originally requested by the applicant, is as follows:

Certificate: 68394
Use: Primary Irrigation
Acres: 24.9 acres
Priority Date: August 10, 1917
Season of Use: February 1 through December 1
Quantity: Rate: 0.3 CFS
Duty: 99.6 AF
Source: Ochoco Creek, tributary to the Crooked River

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 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

Authorized Place of Use:

| Township | | Range | | Meridian | Sec | ¼ ¼ | | Acres |
|----------|---|-------|---|----------|-----|-----|--------------|-------------|
| 14 | S | 16 | E | W.M. | 27 | SW | NE | 13.2 |
| 14 | S | 16 | E | W.M. | 27 | NW | SE | 8.5 |
| 14 | S | 16 | E | W.M. | 27 | SE | NE | 2.2 |
| 14 | S | 16 | E | W.M. | 27 | NE | SE | 1.0 |
| | | | | | | | Total | 24.9 |

5. Department finds that the point of diversion needs to be clarified in the lease application as follows:

Authorized Point of Diversion (POD):

| Township | | Range | | Meridian | Sec | ¼ ¼ | | Location |
|----------|---|-------|---|----------|-----|-----|----|--|
| 15 | S | 17 | E | W.M. | 5 | SW | NW | Ochoco Feed Canal (Ochoco Dam) 54: 500 Feet North and 250 Feet East from the W ¼ Corner, Section 5 |

6. The application as originally requested by the applicant proposes to lease water for instream as follows:

Reach: Ochoco Creek between Section 4 and 5 of T 15S, R 16 E to the mouth of Ochoco Creek and from there to the high water mark at Lake Billy Chinook in the Crooked River.

| Certificate | Priority Date | Rate Instream | Period Protected Instream | Days Instream | Volume Instream (AF) |
|-------------|-----------------|---------------|---------------------------|---------------|----------------------|
| 68394 | August 10, 1917 | 0.3 cfs | May 2 through October 15 | 167 | 99.6 |

7. The Department finds that in order to prevent injury and enlargement the applicant's original request must be modified. Therefore, the Department finds that water may be leased instream as follows (changes are shown in bold text):

Reach: **From POD (Ochoco Feed Canal) on Ochoco Creek to the mouth of Ochoco Creek and from there to the high water mark at Lake Billy Chinook in the Crooked River.**

| Certificate | Priority Date | Rate Instream | Period Protected Instream | Days Instream | Volume Instream (AF) |
|-------------|-----------------|---------------|---------------------------|---------------|----------------------|
| 68394 | August 10, 1917 | 0.3 cfs | May 2 through October 15 | 167 | 99.6 |

8. Based upon review of the application, including information provided by the Department's Watermaster and other available information, the Department finds that the lease, as proposed and modified above, will not result in injury or enlargement.

9. The lease will terminate on November 30, 2004.

CONCLUSIONS OF LAW

The Department concludes that the lease, as modified above, will not result in injury or enlargement, OAR 690-077-0077.

ORDER

Therefore, it is ORDERED:

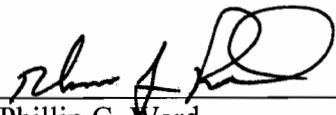
1. That the Short-Term Lease described herein is APPROVED.
2. The authorized place of use shall not be irrigated during the term of this lease.
3. Water is leased instream as follows:

Reach: From POD (Ochoco Feed Canal) on Ochoco Creek to the mouth of Ochoco Creek and from there to the high water mark at Lake Billy Chinook in the Crooked River.

| Certificate | Priority Date | Rate Instream | Period Protected Instream | Days Instream | Volume Instream (AF) |
|-------------|-----------------|---------------|---------------------------|---------------|----------------------|
| 68394 | August 10, 1917 | 0.3 cfs | May 2 through October 15 | 167 | 99.6 |

4. The lease will terminate on November 30, 2004.

Dated at Salem, Oregon this 7th day of June, 2004.


Phillip C. Ward
Acting Director