

**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 76358 and 76714, Deschutes)	PROPOSED INSTREAM
County, Oregon)	LEASE

FINDINGS OF FACT

1. A Short-Term Lease Application, which proposed to lease all or a portion of certificate 76358 and 76714 for instream purposes was submitted to the Department by:

Lessor #1
George and Barbara Cutting
21232 Dove Lane
Bend, OR 97702

Lessor #2
Central Oregon Irrigation District
2598 N Hwy 97
Redmond, OR 97756

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

2. The instream lease application included the required fees. The Department assigned this lease agreement number L-600.
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 instream use has been modified from the lease application to prevent injury and enlargement and is as follows:

Reach: From the Central Oregon Canal POD (1) (SW NE, Section 13, T18S, R11E, W.M., 1520 Feet South and 1535 Feet West from the NE Corner, Section 13) on the Deschutes River to Lake Billy Chinook.

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.

Certificate	Priority Date	Rate Instream	Period Protected Instream	Volume Instream
76358 (primary)	October 31, 1900 & December 2, 1907	Season 1: 0.002 Cubic Foot per Second (CFS) under the 1900 priority date Season 2: 0.003 CFS under the 1900 priority date Season 3: 0.006 CFS, being 0.004 CFS under the 1900 priority date and 0.002 CFS under the 1907 priority date	April 1 through October 26, being April 1 to May 1 & October 1 – October 26 for Season 1, May 1 to May 15 & September 15 to October 1 for Season 2 & May 15 to September 15 for Season 3	1.91 Acre-Feet (AF), being 1.49 AF under the 1900 priority date and 0.42 AF under the 1907 priority date
76714 (supplemental)	February 28, 1913	Sufficient quantities may be protected instream to make up any deficiency of the primary right	April 1 through October 26	0.34 AF

5. The amount of water to be leased instream under certificate 76358 does not include a 45% transmission loss associated with this right when used for its originally authorized purpose. The transmission loss may not be leased and protected instream.
6. Certificate 76714 is supplemental to certificate 76358. The portion of certificate 76714 being leased instream shall only be protected instream if the full rate and duty under certificate 76358 are not available during the period for which water is being leased instream. The rate at which certificate 76714 may be leased instream to make up a deficiency may not exceed a cumulative total of the amounts allowed under certificate 76358.
7. 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.
8. 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.

9. The lease will terminate on October 31, 2009. The lessor has requested the option of terminating the lease early with written notice to the Department.

CONCLUSIONS OF LAW

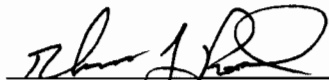
The Department concludes that the lease, as modified above, will not result in injury or enlargement, OAR 690-077-0077.

ORDER

Therefore, it is ORDERED

1. 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 will terminate on October 31, 2009. The lessor shall have the option of terminating the lease each year, prior to the lease being exercised (April 1) and before any irrigation occurs, with 30 days written notice to the Department.

Dated at Salem, Oregon this 24th day of February, 2005.



Phillip C. Ward, Director

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