



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

Township		Range		Meridian	Sec	¼ ¼		Location
14	S	12	E	W.M.	26	SW	SE	765 Feet North and 215 Feet West from the SE Corner, Section 26

**Authorized Place of Use:**

Township	Range	Meridian	Sec	1/4 1/4	Lot	Priority Date	Acres		
14	S	12	E	W.M.	35	NW NW	4301	5/12/1944	33.0

**Certificate:** 80477

**Priority Date:** May 12, 1944

**Use:** Irrigation

**Acres:** 2.1

**Season of Use:** April 1 to November 1

**Quantity:** Rate (limited to 1/80<sup>th</sup> Cubic Foot per Second (CFS) per acre): 0.026 CFS

Duty (limited to 3.0 AF per acre): 6.3 AF

**Source:** Deschutes River, tributary to the Columbia River

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

Township		Range		Meridian	Sec	¼ ¼		Location
14	S	12	E	W.M.	26	SW	SE	765 Feet North and 215 Feet West from the SE Corner, Section 26

**Authorized Place of Use for certificate 80477:**

Township	Range	Meridian	Sec	1/4 1/4	Lot	Priority Date	Acres		
14	S	12	E	W.M.	35	NW NW	4301	5/12/1944	2.1

5. The application proposes to lease water for instream as follows:

Reach: The lease application did not specify a reach but did describe the POD as being located SW SE, Section 26, T14S, R12E, W.M., 765 Feet North and 215 Feet West from the SE Corner, Section 26.

Certificate	Priority Date	Rate Instream	Period Protected Instream	Days Instream	Volume Instream
80226	5/12/1944	0.413 CFS	Unspecified by application		99.0 AF
80477	5/12/1944	0.026 CFS	Unspecified by application		6.3 AF
<b>Totals</b>		<b>0.439 CFS</b>			<b>105.3 AF</b>

6. The Department finds that water may be protected instream at the rate and volume requested for certificate 80226 for a period of 120 days and for certificate 80477 for a period of 122 days. On May 25, 2004, the Deschutes Water Exchange Mitigation Bank requested that water be protected instream July 4 through October 31 for certificate 80226 and July 2 through October 31 for certificate 80477.

7. On April 7, 2004, the Deschutes Water Exchange Mitigation Bank clarified that water should be protected within a reach from the POD to Lake Billy Chinook.
8. Based on the above findings, the Department finds that water may be leased instream as follows (changes are shown in bold):

**Reach: From the POD (SW SE, Section 26, T14S, R12E, W.M., 765 Feet North and 215 Feet West from the SE Corner, Section 26) to Lake Billy Chinook.**

Certificate	Priority Date	Rate Instream	Period Protected Instream	Days Instream	Volume Instream
80226	5/12/1944	0.413 CFS	<b>July 4 through October 31</b>	<b>120</b>	99.0 AF
80477	5/12/1944	0.026 CFS	<b>July 2 through October 31</b>	<b>122</b>	6.3 AF
<b>Totals</b>		<b>0.439 CFS</b>			<b>105.3 AF</b>

9. Based upon review of the application and information provided by the Department's Watermaster, the Department finds that the lease, as proposed and modified above, will not result in injury or enlargement.
10. The lease application identifies the termination date as November 30, 2004. 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, 2004**.
11. This lease covers the same irrigated lands as those to be transferred to instream use under instream transfer application T-9697. No precedent is set by this Final Order as to whether the water right may be permanently transferred to instream use.

**Preliminary Award of Deschutes Basin Mitigation Credits**

12. The Lessee, the Deschutes Water Exchange, a mitigation bank chartered by the Water Resources Commission, has requested that this instream lease application be used to establish mitigation credits in the Deschutes Ground Water Study Area. Any mitigation credits generated from this project are to be assigned to the Deschutes Water Exchange Mitigation Bank.
13. The Department assigned this mitigation credit project number MP-21.
14. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300 (6). The Department also provided notice of the mitigation credit project to the Oregon Department of Fish and Wildlife, Oregon Department of Environmental Quality, Oregon State Parks and Recreation Department, Oregon Division of State Lands, the Oregon Department of Agriculture, and the Department's Watermaster pursuant to OAR 690-521-0300 (7) and OAR 690-505-0630 (2). Comments were received from the Watermaster. The Watermaster did not make any specific recommendations on how to enhance resource benefits and make the most effective use of the mitigation project and the mitigation water (credits) generated by the project.
15. No modifications were made to the lease based upon comments received.

16. The Department finds that **63.2** mitigation credits may be awarded to this mitigation credit project and assigned to the Deschutes Water Exchange Mitigation Bank. The mitigation credits may be used to mitigate for ground water permit applications and existing conditioned ground water permits and certificates, providing mitigation pursuant to the Deschutes Ground Water Mitigation Rules, OAR Chapter 690, Division 505, within the **Middle Deschutes and General** zone(s) of impact.
17. The mitigation credits expire on December 31, 2004.
18. The use and maintenance of the mitigation credits is subject to the terms and conditions of the Deschutes Water Exchange Mitigation Bank Charter.
19. The Department shall award final mitigation credits upon completion of the approved project by the applicant and verification by the Department that the project is complete. The issuance of the Final Order for the proposed instream lease shall result in completion of the project and verification that the project is complete.
20. Instream Transfer T-9697 is also intended to be used to establish mitigation credits in the Deschutes Ground Water Study Area. No precedent is set by this Final Order as to the amount of mitigation credits that may be generated by a subsequent mitigation credit project.

### CONCLUSIONS OF LAW

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

This mitigation project results in mitigation credits pursuant to ORS 537.746 and OAR 690-521-0300 and 690-521-0400.

### ORDER

Therefore, it is ORDERED:

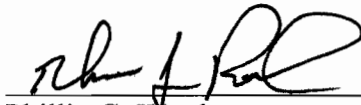
1. That the Short-Term Lease described herein is APPROVED.
2. The authorized place of use shall not be irrigated during the term of this lease.
3. The lease will terminate on October 31, 2004.
4. Water is leased instream as follows:

Reach: From the POD (SW SE, Section 26, T14S, R12E, W.M., 765 Feet North and 215 Feet West from the SE Corner, Section 26) to Lake Billy Chinook.

Certificate	Priority Date	Rate Instream	Period Protected Instream	Days Instream	Volume Instream
80226	5/12/1944	0.413 CFS	July 4 through October 31	120	99.0 AF
80477	5/12/1944	0.026 CFS	July 2 through October 31	122	6.3 AF
<b>Totals</b>		<b>0.439 CFS</b>			<b>105.3 AF</b>

5. **Final Award of Deschutes Basin Mitigation Credits:** Issuance of this Final Order results in completion of the project and verification by the Department that the project is complete. The Department concludes that the mitigation credit project is awarded mitigation credits, as described above, pursuant to OAR 690-521-0400 and ORS 537.746. Mitigation Credits, in the amount of 63.2 credits, as described herein, are awarded to this mitigation project and assigned to the Deschutes Water Exchange Mitigation Bank. Mitigation Credits may be used to satisfy a mitigation obligation of a ground water permit applicant and/or ground water permit/certificate holder in the **Middle Deschutes and General** zone(s) of impact.
6. Mitigation credits are valid until used (or expire) to satisfy a mitigation obligation of a ground water permit applicant and/or ground water permit/certificate holder within the Deschutes Ground Water Study Area pursuant to the Deschutes Ground Water Mitigation Rules. Mitigation credits are used when a person submits to the Department documentary evidence that valid credits have been obtained and assigned to satisfy a mitigation obligation.
7. The mitigation credits shall expire on December 31, 2004.
8. The use and maintenance of the mitigation credits shall be subject to the terms and conditions of the Deschutes Water Exchange Mitigation Bank Charter.

Dated at Salem, Oregon this 10<sup>th</sup> day of June, 2004.

  
Phillip C. Ward  
Acting Director