

**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, Certificates 10928 and 10929, Klamath)	PROPOSED INSTREAM
County, Oregon)	LEASE

FINDINGS OF FACT

1. A Short-Term Lease Application, which proposed to lease a portion of certificates 10928 and 10929 for instream purposes was submitted to the Department by:

Lessor	Lessee
Robert F. Brown	Klamath Basin Rangeland Trust (KBRT)
PO Box 559	340 A Street, Suite 201
Fort Klamath, OR 97626	Ashland, OR 97520

2. The instream lease application included the required fees. The Department assigned this lease agreement number L-572.
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) on June 8, 2004. No comments were received during the comment period.
4. The rights to be leased, as requested by the Lessor and Lessee, are as follows:

Certificate: 10928 (leasing a portion of the right instream)
Use: Irrigation
Acres: 159.3 acres, being 94 .3 acres (from Springs and Crane Creek) under the 1888 priority date and 65.0 acres (from Sevenmile Creek) under the 1890 priority date
Priority Date: 1888, 1890, and 1900 (no water is being leased under the 1900 priority date)
Season of Use: April 1 to October 1
Quantity: Rate:
1/50th Cubic Foot per Second (CFS)/acre before July 20: 3.19 CFS,
being 1.89 CFS under the 1888 priority date and 1.3 CFS under the 1890 priority date
1/80th CFS/acre before July 20: 1.99 CFS, being 1.18 CFS under the 1888 priority date and 0.81 CFS under the 1890 priority date

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.

Duty (limited to 5.0 Acre-Feet (AF)/acre): 796.5 AF, being 471.5 under the 1888 priority date and 325.0 AF under the 1890 priority date

Source: Springs, Crane Creek and Sevenmile Creek, tributary to Agency Lake

Authorized Points of Diversion (POD): Unspecified by Certificate.

Authorized Place of Use:

Township		Range		Meridian	Sec	1/4 1/4		Priority Date	Acres
33	S	6	E	W.M.	35	NE	SE	1890	40.0
33	S	6	E	W.M.	35	NW	SE	1888	39.5
33	S	6	E	W.M.	35	SW	SE	1888	40.0
33	S	6	E	W.M.	35	SE	SE	1888	15.0
								1890	25.0
								Total acres	159.3

Certificate: 10929 (leasing a portion of the right instream)

Use: Irrigation, domestic and stock

Acres: 491.7 acres, being 490.1 acres (from Mares Egg Spring, Springs and Crane Creek) under the 1889 priority date and 1.6 acres (from Sevenmile Creek) under the 1891 priority date

Priority Date: 1889 and 1891

Season of Use: April 1 to October 1

Quantity: Rate:

1/50th Cubic Foot per Second (CFS)/acre before July 20: 9.834 CFS, being 9.802 CFS under the 1889 priority date and 0.032 CFS under the 1891 priority date

1/80th CFS/acre before July 20: 6.15 CFS, being 6.13 CFS under the 1889 priority date and 0.02 CFS under the 1891 priority date

Duty (limited to 5.0 Acre-Feet (AF)/acre): 2458.5 AF, being 2450.5 AF under the 1889 priority date and 8.0 AF under the 1891 priority date

Source: Mares Egg Springs, Springs, Sevenmile Creek, and Crane Creek, tributary to Agency Lake

Authorized Points of Diversion (POD): Unspecified by Certificate.

Authorized Place of Use:

Township	Range	Meridian	Sec	Lot	Priority Date	Acres
34	S	6	E	W.M.	1 5	1889 39.6
34	S	6	E	W.M.	1 6	1889 39.2
34	S	6	E	W.M.	1 11	1889 20.0
34	S	6	E	W.M.	1 12	1889 40.0
34	S	6	E	W.M.	1 13	1889 40.0
34	S	6	E	W.M.	1 20	1889 10.0
34	S	6	E	W.M.	1 7	1891 1.6
34	S	6	E	W.M.	2 1	1889 26.2
34	S	6	E	W.M.	2 2	1889 26.1
34	S	6	E	W.M.	2 3	1889 25.6

34	S	6	E	W.M.	2	6	1889	40.0
34	S	6	E	W.M.	2	7	1889	40.0
34	S	6	E	W.M.	2	8	1889	40.0
34	S	6	E	W.M.	2	9	1889	35.0
34	S	6	E	W.M.	2	10	1889	20.0
34	S	6	E	W.M.	2	16	1889	30.0
34	S	6	E	W.M.	2	24	1889	20.0
							Total acres	491.7

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

Certificate	Priority Date	Instream Point	Rate Instream	Period Protected Instream
10928	1888	At the Crane Creek POD	1.88 CFS 1.18 CFS	May 1 - July 19 July 20 - Sept. 30
	1890	At the Sevenmile Creek POD	1.3 CFS 0.81 CFS	May 1 - July 19 July 20 - Sept. 30
10929	1889	At the Mares Egg Springs POD	9.8 CFS 6.13 CFS	May 1 - July 19 July 20 - Sept. 30
	1891	At the Sevenmile Creek POD	0.032 CFS 0.02 CFS	May 1 - July 19 July 20 - Sept. 30

6. The Department finds that the rate at which water may be leased instream under Certificate 10928 from Crane Creek during the first part of the irrigation season should be 1.89 CFS.

7. To clarify the amount of water that may be leased instream under each right, the Department has made the following modification (changes shown in bold text):

Certificate	Priority Date	Instream Point	Rate Instream	Period Protected Instream
10928	1888	At the Crane Creek POD	1.89 CFS 1.18 CFS	May 1 - July 19 July 20 - Sept. 30
	1890	At the Sevenmile Creek POD	1.3 CFS 0.81 CFS	May 1 - July 19 July 20 - Sept. 30
10929	1889	At the Mares Egg Springs POD	9.8 CFS 6.13 CFS	May 1 - July 19 July 20 - Sept. 30
	1891	At the Sevenmile Creek POD	0.032 CFS 0.02 CFS	May 1 - July 19 July 20 - Sept. 30

8. Based upon review of the application, information provided by the Department's Watermaster, and other available information, the Department finds that the lease, as modified, will not result in injury or enlargement.
9. The lease will terminate on October 1, 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

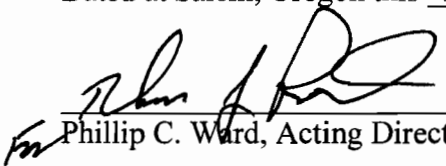
Therefore, it is ORDERED:

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:

Certificate	Priority Date	Instream Point	Rate Instream	Period Protected Instream
10928	1888	At the Crane Creek POD	1.89 CFS	May 1 - July 19
			1.18 CFS	July 20 - Sept. 30
	1890	At the Sevenmile Creek POD	1.3 CFS	May 1 - July 19
			0.81 CFS	July 20 - Sept. 30
10929	1889	At the Mares Egg Springs POD	9.8 CFS	May 1 - July 19
			6.13 CFS	July 20 - Sept. 30
	1891	At the Sevenmile Creek POD	0.032 CFS	May 1 - July 19
			0.02 CFS	July 20 - Sept. 30

4. The lease will terminate on October 31, 2004.

Dated at Salem, Oregon this 25th day of August 2004.


 Phillip C. Ward, Acting Director