

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q
32 S	6 W	WM	33	SW NE

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

Certificate: 79690 in the name of Superior Lumber Company
Use: Operation of a Mill Pond
Season of Use: April 1st to October 31st
Priority Date: 1886
Rate: 0.77 Cubic Foot per Second (CFS)
Source: WINDY CREEK, a tributary of COW CREEK

Authorized Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
32 S	6 W	WM	27	NW SW	POD #1: CUNNINGHAM DITCH: 1810 FEET NORTH AND 760 FEET FROM THE SW CORNER OF SECTION 27
32 S	6 W	WM	33	SE SW	POD #2: WINDY CREEK PUMP DIVERSION: 258 NORTH AND 857 FEET WEST FROM THE NORTH ¼ CORNER OF SECTION 4, TWP 33 S, RANGE 6 W, W.M.

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q
32 S	6 W	WM	33	W ½ NE ¼

4. 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 in response to that notice.
5. The instream use has been modified from the lease application to prevent injury and enlargement and is as follows:

WINDY CREEK tributary to COW CREEK

Instream Reach: From POD #2, as described in Findings of Fact #2 and #3, to the confluence with Cow Creek

Certificate	Priority Date	Instream Rate	Period Protected Instream
79633	July 31, 1947	0.90 cfs	January 1 through December 31
79690	1886	0.77cfs	April 1 to October 1
TOTAL:		1.67 cfs	

6. Other conditions to prevent injury and enlargement are:

Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion. Stream channel losses and gains calculated based on available data and the use of water by senior

appropriators will determine the amount of water to which this right is entitled downstream from the original points of diversion within the specified stream reach.

7. 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.
8. 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.
9. 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.
10. The Lessor has requested that the lease terminate on May 31, 2015. However OAR 690-077-0076 prohibits the term of an instream lease from exceeding five years. Therefore, this lease will terminate at the end of the fifth irrigation season, October 1, 2014.
11. The Lessor has requested the option of terminating the lease early with written notice to the Department.

CONCLUSIONS OF LAW

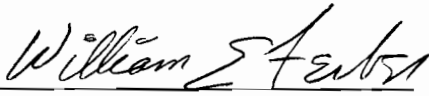
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

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, including ground water registrations during the term of the lease.
3. The lessor *shall* have the option of terminating the lease each year with written notice to the Department. The lease may be terminated at any time during the calendar year. However, if the termination request is not received prior to April 1, water shall not be used under the right(s) leased until the following calendar year, unless the Director determines that enlargement would not occur.
4. The lease will terminate on October 31, 2014.

Dated at Salem, Oregon this 30th day of JUNE 2010.


for Phillip C. Ward, Director

Mailing date: JUL 06 2010

The order approving this was prepared by Kody Thurgood. If you have any questions about the information in this document, you may reach me at 503-986-0892 or Kody.J.Thurgood@wrд.state.or.us