

**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, Deschutes County,) PROPOSED INSTREAM
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
Pansie V. Michel Trust
c/o Shirley Miller
20140 Putnum Lane
Bend, OR 97701

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-602.
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). Comments were received from the Bureau of Reclamation. In response to the comments, the application was amended to exclude the supplemental water right, Certificate 76714, which allows the diversion of water for irrigation purposes from Crane Prairie Reservoir.
4. The right to be leased are amended as follows:

Certificate 76358

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
15 S	15 E	WM	18	SE NW	300	2.0

Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
18 S	11 E	WM	13	SW NE	Central Oregon Canal – 1520 ft south and 1535 ft west from the NEW corner of Section 13

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.

- The instream use proposed in the application has been amended to exclude the supplemental water right, Certificate 76714. In addition, the Department has determined that modification of the instream use is necessary in order to clarify the amount of water that may be protected instream and to prevent injury and enlargement. The instream use is as follows:

Deschutes River, tributary to the Columbia River

Instream Reach: From the Central Oregon Canal POD (as described in Finding of Fact 4) to Lake Billy Chinook.

Certificate	Priority Date	Rate Instream	Period Protected Instream
76358	October 31, 1900 & December 2, 1907	Season 1: 0.014 Cubic Foot per Second (CFS) under the 1900 priority date Season 2: 0.018 CFS under the 1900 priority date Season 3: 0.034 CFS, being 0.024 CFS under the 1900 priority date and 0.01 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

- 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.
- 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.
- 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.
- 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

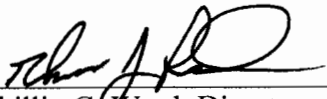
The Department concludes that the lease, as modified above, will not result in injury or enlargement, OAR 690-077-0077.

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 13th day of April, 2005.


Phillip C. Ward, Director