

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of the Proposed Short-Term)
Lease of Existing Water Rights for Instream)
Use, Certificates 13450, 13451, and 38612,)
Yamhill County

DETERMINATION and
FINAL ORDER ON PROPOSED
INSTREAM LEASE

ORS 537.348 establishes the process in which a water right holder may submit a request to lease an existing water right for instream purposes. OAR Chapter 690, Division 077 implements the statutes and provides the Department's procedures and criteria for evaluating short-term instream lease applications.

Lessor

Thorton Ranch, LLC
19976 NW Moores Valley Road
Yamhill, Oregon 97418

Findings of Fact

1. Thorton Ranch, LLC filed an application to lease all of Certificates 13450 and 13451 and a portion of certificate 38612 to instream use. The Department assigned the application number L-700.
2. The rights to be leased are as follows:

Certificate: 13450 in the name of J.L. JENNINGS (perfected under Permit S-10816)
Use: IRRIGATION of 57 ACRES
Priority Date: JANUARY 31, 1933
Rate: 0.72 CUBIC FEET PER SECOND
Limit/Duty: ONE-EIGHTIETH cfs per acre
Source: HASKINS CREEK, tributary to N YAMHILL RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
3 S	5 W	WM	8	SW NE

Authorized Place of Use:

IRRIGATION

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
3 S	5 W	WM	4	SW SW	47	0.20
3 S	5 W	WM	4	SE SW	47	19.70
3 S	5 W	WM	4	SW SE	47	8.00
3 S	5 W	WM	9	NW NE	47	0.80
3 S	5 W	WM	9	NE NW	47	13.20

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 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Twps	Rng	Mer	Sec	Q-Q	DLC	Acres
3 S	5 W	WM	9	NW NW	47	15.10

Certificate: 13451 in the name of J.L. JENNINGS (perfected under Permit S-11065)

Use: IRRIGATION of 36.20 ACRES

Priority Date: SEPTEMBER 16, 1933

Rate: 0.470 CUBIC FEET PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre

Source: HASKINS CREEK, tributary to N YAMHILL RIVER

Authorized Point of Diversion:

Twps	Rng	Mer	Sec	Q-Q
3 S	5 W	WM	8	SW NE

Authorized Place of Use:

IRRIGATION

Twps	Rng	Mer	Sec	Q-Q	DLC	Acres
3 S	5 W	WM	4	SW SE	47	0.40
3 S	5 W	WM	4	SW SE	48	1.10
3 S	5 W	WM	9	NW NE	47	3.60
3 S	5 W	WM	9	NW NE	48	12.50
3 S	5 W	WM	9	NE NW	47	12.30
3 S	5 W	WM	9	NW NW	47	2.00
3 S	5 W	WM	9	SW NW	47	3.30
3 S	5 W	WM	9	SE NW	47	1.00

Certificate: 38612 in the name of ROBERT M TURNER (perfected under Permit S-29989)

Use: IRRIGATION of 10.70 ACRES (all acres are being leased instream, however the domestic portion of the right is not be leased instream)

Priority Date: AUGUST 24, 1964

Rate: 0.13 CUBIC FEET PER SECOND; being 0.09 CFS FROM STREAM #1, AND 0.04 CFS FROM STREAM #2

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.50 AF/AC FOR IRRIGATION acre-feet per acre per year

Source: TWO UNNAMED STREAMS, AND A RESERVOIR CONSTRUCTED UNDER PERMIT R-4489, tributary to HASKINS CREEK

Authorized Point of Diversion:

Twps	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
3 S	5 W	WM	3	NE SW	50	Stream #1: 1250 FEET NORTH & 1420 FEET EAST FROM SW CORNER, DAVIS DLC 50
3 S	5 W	WM	3	NE SW	50	Stream #2: 680 FEET NORTH & 1500 FEET EAST FROM SW CORNER, DAVIS DLC 50

IRRIGATION

Twps	Rng	Mer	Sec	Q-Q	DLC	Acres
3 S	5 W	WM	3	NE SW	50	10.70

- 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 applicant requests to lease 142.5 AF (2.5 AF/ac) under certificate 13450, and 90.5 AF (2.5 AF/ac) under certificate 13451.
5. The instream use is clarified from the lease application to prevent injury and enlargement and is as follows:
HASKINS CREEK tributary to N YAMHILL RIVER

Instream Reach: From POD (as described in Finding of Fact #2) to mouth of Haskins Creek

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
13450	JANUARY 31, 1933	0.71	JUNE 22 THROUGH SEPTEMBER 30
13451	SEPTEMBER 16, 1933	0.45	JUNE 22 THROUGH SEPTEMBER 30
38612	AUGUST 24, 1964	0.09	JUNE 22 THROUGH SEPTEMBER 30
		0.04	JUNE 22 THROUGH SEPTEMBER 30
<i>Total</i>		<i>1.29</i>	<i>JUNE 22 THROUGH SEPTEMBER 30</i>

6. 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.
7. 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.
8. The lease will terminate on October 1, 2010.
9. 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 agreement conforms to the applicable provisions of OAR 690-077-0015.

ORDER

Therefore, it is ORDERED:

1. That 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 shall terminate on October 1, 2010. The lessor shall have the option of terminating the lease each year, with notification to the Department by May 22 of each year, and before any irrigation has occurred on the property.

Dated at Salem, Oregon this 10th day of May 2006.

For Debbie Colbis
Phillip C. Ward, Director

Mailing date: MAY 15 2006