BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Instream Lease Renewal)	DETERMINATION and
IL-342, Certificate 26041, Polk County)	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

York and Joanna Rentsch 7550 Harmony Road Sheridan, Oregon 97378 Joanna.rentsch@viclink.com

Findings of Fact

- 1. On September 29, 2009 York and Joanna Rentsch filed an application to renew instream lease L-342 involving a portion of Certificate 26041. The Department assigned the application number IL-342.
- 2. The rights to be leased are as follows:

Certificate: 26041 in the name of Ira V. and Elieen A. Sullenger

Use: Irrigation of 2.3 acres

Priority Date: July 4, 1969

Quantity: Rate: 0.015 Cubic Foot per Second (CFS)

Duty: 5.75 Acre-Feet (AF)

Limit: One-eightieth CFS per acre, not to exceed 2.5 AF per acre irrigated

during the irrigation season of each year.

Source: Mill Creek, Tributary to the South Fork Yamhill River

Authorized Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	DLC
6 S	6 W	WM	21	NE NW	41

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	6 W	WM	16	SE SW	41	0.6
6 S	6 W	WM	21	NE NW	41	1.7
				T	OTAL:	2.3

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.

- 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). No comments were received.
- 4. The instream use has been modified from the lease application to prevent injury and enlargement and is as follows:

Mill Creek, Tributary to the South Fork Yamhill River in the Willamette Basin

Instream Reach: From the POD (as described in Finding of Fact #2) at approximately River Mile 5, to County Park at approximately River Mile 1.

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
26041	December 10, 1952	0.015	March 22 through September 30

- 5. 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.
- 6. 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.
- 7. The Lessor has requested that the lease commence at the beginning of the 2010 irrigation season and terminate on September 30, 2014.
- 8. 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 commence on March 22, 2010 and terminate on September 30, 2014. The lessor shall have the option of terminating the lease each year, with notification to the Department by February 22 of each year, and before any irrigation has occurred on the property.

Dated at Salem, Oregon this 18 th day of December 2009.

Phillip C. Ward, Director the

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Mailing date: DEC 2 2 2009