

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

In the Matter of Instream Lease Application ) DETERMINATION and  
IL-1161, Certificates 83381, 83383, 80578, ) FINAL ORDER ON PROPOSED  
83728 and Permit S-4951, Jackson County ) INSTREAM LEASE

**Authority**

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 instream lease applications.

**Lessor**

Medford Irrigation District  
5045 Jacksonville Hwy.  
Central Point, Oregon 97530

**Findings of Fact**

1. On April 25, 2011 Medford Irrigation District (MID) filed an application to lease a portion of Water Right Certificates 83381 and 83383, 80578, 83728 and Permit S-4951 for instream use. The Department assigned the application number IL-1161.
2. On August 23, 2011 MID requested the Department to amend Instream Lease Application IL-1161 by removing supplemental Water Right Certificates 83383, 80578, 83728 and Permit S-4951, from the application.
3. The right to be leased is as follows:

**Certificate:** 83381 in the name of MEDFORD IRRIGATION DISTRICT

**Use:** IRRIGATION of 33.73 ACRES

**Priority Date:** JULY 23, 1909

**Rate:** 0.34 CUBIC FOOT PER SECOND (CFS)

**Limit/Duty:** 1/100 cfs per acre or its equivalent for each acre irrigated, during the irrigation season of each year. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 88.87 CUBIC FEET PER SECOND INTO MEDFORD CANAL AT BRADSHAW DROP, or its equivalent in case of rotation.

**Source:** NORTH and SOUTH FORKS, LITTLE BUTTE CREEK, tributaries to LITTLE BUTTE CREEK

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.

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
36 S	2 E	WM	20	SE NE	NORTH FORK LITTLE BUTTE CREEK: 40 FEET NORTH AND 620 FEET WEST FROM THE E¼ CORNER OF SECTION 20
36 S	2 E	WM	29	NE SE	SOUTH FORK LITTLE BUTTE CREEK: 780 FEET SOUTH AND 400 FEET WEST FROM THE E¼ CORNER OF SECTION 29

**Authorized Place of Use:**

IRRIGATION								
TWP	RNG	Mer	SEC	Tax Lot	QQ	AC	Owner	Quitclaim #
37S	1W	WM	16	301	NWSE	3.60	FOOTHILLS ROAD	---
37S	1W	WM	16	500	NWSE	4.50	FOOTHILLS ROAD	---
37S	1W	WM	16	700	NESE	1.67	FOOTHILLS ROAD	---
37S	2W	WM	9	1202	NWSW	2.40	MID	---
37S	2W	WM	9	1306	NWSW	3.10	MID	---
37S	2W	WM	9	3906	NWSW	0.40	MID	---
37S	2W	WM	16	2101	NWSW	3.60	ROBERT VAUGHN	---
37S	2W	WM	16	2101	SWNW	3.99	ROBERT VAUGHN	---
37S	2W	WM	26	900	NENE	1.21	MID	2009-026422
37S	2W	WM	26	400	NENE	0.65	MID	2008-005694
37S	2W	WM	26	1600	NENE	0.50	MID	2008-018506
37S	2W	WM	26	3900	NWNE	0.50	MID	2008-018507
37S	2W	WM	26	1300	SWNE	1.52	MID	2010-011948
37S	2W	WM	26	1300	SENE	0.44	MID	2010-011948
37S	2W	WM	26	2501	SWSE	0.40	MID	2010-040803
37S	2W	WM	34	500	NENE	0.10	MID	2008-018504
37S	2W	WM	34	2900	SWSE	0.33	MID	2011-001898
37S	2W	WM	34	2900	SESE	0.33	MID	2011-01898
37S	2W	WM	35	700	NWNE	1.00	MID	2010-007434
37S	2W	WM	35	900	NWNE	0.69	MID	2010-007434
37S	2W	WM	35	1200	NESE	2.06	MID	2011-001899
37S	2W	WM	35	1200	NWSE	0.24	MID	2011-001899
38S	1W	WM	6	500	NWSW	0.50	MID	2008-005695
<b>TOTAL:</b>						<b>33.73</b>		

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:

**Instream Reach:** From the confluence of the North and South Forks of Little Butte Creek, at approximately River Mile 17, to the mouth of Little Butte Creek, as measured at the Little Butte Creek Gage at Lake Creek (#14346700) (added to any other water required to be delivered there) and at Eagle Point Gage (LBEO) (added to any other water required to be delivered there).

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
83381	JULY 23, 1909	0.34	July 17 through October 15

6. Other conditions to prevent injury and enlargement are:

The portion of water protected instream under this lease shall be based at the same percentage of diversion and delivery rate that MID is diverting to rights of the same priority within the district. When MID is diverting water on a percentage basis, MID shall report to the District 13 Watermaster's office the percentage diverted under the July 23, 1909, and March 31, 1910 priority dates. This information only needs to be reported to the Watermaster's office once MID is diverting water on a percentage basis (less than the 1/100<sup>th</sup> cfs/acre). Subsequent reports need to be made to the Watermaster's office within one day of when changes are made to the percentage of water being diverted. Once MID begins diverting water on a percentage basis, the amount water leased instream shall be adjusted by that same percentage. In the event that MID stops delivery irrigation water prior to October 31, the Watermaster shall be notified and the delivery for instream use shall also stop.

7. Supplemental water right Certificates 83383, 80578, 83728 and Permit S-4951 are appurtenant to all or a portion of the lands described in Finding of Fact # 3. The Lessor requested that these water rights not be included as part of this lease application. During the term of the lease, water use under these rights will also be suspended.
8. 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.
9. 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.
10. 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.

11. The lease will terminate on October 15, 2011.

### CONCLUSIONS OF LAW

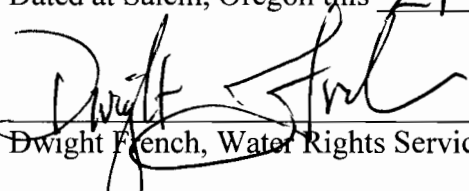
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

### 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 for irrigation use, including ground water registrations during the term of the lease.
3. The lease will terminate on October 15, 2011.

Dated at Salem, Oregon this 29 day of August 2011.

  
Dwight French, Water Rights Services Administrator for

Phillip C. Ward, Director

Mailing date: AUG 31 2011

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 thurgokj@wrds.state.or.us