

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

In the Matter of Instream Lease Renewal)
IL-634, Certificate 31858, Douglas 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

Jerry Mensch
1673 Kendall
Roseburg, Oregon 97471
Jerrytoni1@msn.com

Findings of Fact

1. On November 13, 2009 Jerry Mensch filed an application to renew instream lease L-634 involving all of Certificate 31858. The Department assigned the application number IL-634.
2. The rights to be leased are as follows:

Certificate: 31858 in the name of ROBERT ALLEN and GLORIA S. DRIVER
Use: Irrigation of 0.5 acres
Priority Date: July 4, 1969
Quantity: Rate: 0.1 Cubic Foot per Second (CFS)
Duty: 2.5 Acre-Feet (AF)
Limit: One-eightieth CFS per acre, not to exceed 2.5 AF per acre per year further limited to that period when the flow of the South Umpqua River is more than 60 CFS at the mouth.

Source: South Umpqua River, tributary to the Umpqua River

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot
27 S	6 W	WM	24	SW SE	5

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
27 S	6 W	WM	24	SE SW	5	0.10
27 S	6 W	WM	24	SW SE	5	0.40
TOTAL:						0.50

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

South Umpqua River, Tributary to Umpqua River in the Umpqua Basin

Instream Reach: From POD (as described in Finding of Fact #2) to mouth of South Umpqua River:

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
31858	October 2, 1962	0.01	July 31 through October 1

5. Other conditions to prevent injury and enlargement are: The right shall be protected instream only when the flow of the South. Umpqua River is more than 60 cfs at the mouth.
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 Applicant requested that this lease will terminate on October 31, 2014. The lease has been submitted prior to the first day of the irrigation season. The lease may commence on March 1, 2009 which is the first day of the irrigation season.
9. The lessor has requested the option of terminating the lease early with written notice to the Department.

CONCLUSIONS OF LAW

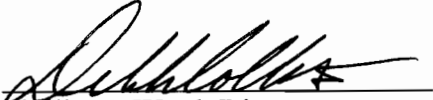
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease agreement conforms to the applicable provisions of OAR 690-077-0015.

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 31, 2014. The lessor shall have the option of terminating the lease each year, with notification to the Department by June 30 of each year, and before any irrigation has occurred on the property.

Dated at Salem, Oregon this 17th day of December 2009.


Phillip C. Ward, Director *PH*

Mailing date: DEC 22 2009