

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

In the Matter of Instream Lease Application) DETERMINATION and
IL-1264, Certificate 74306, Hood River) FINAL ORDER ON PROPOSED
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 #1

Pooled Instream Lease for two water right holders
(described in Finding of Fact #4)

Lessor #2

Farmers Irrigation District
1985 Country Club Road
Hood River, OR 97031
rick@fidhr.org

Findings of Fact

1. On February 26, 2013, Farmers Irrigation District, on behalf of two water right holders, filed an application to lease a portion of Certificate 74306 for instream use. The Department assigned the application number IL-1264.
2. On June 5, 2013, Department began discussing various application requirements with Farmers Irrigation District. On June 10, July 10, and 30, 2013, Farmers Irrigation District submitted revised application materials and, based upon discussion with the Department, reduced the portion of the right to be leased.
3. Interest in a portion of the water right to be leased instream appears to have been conveyed from the original land owners. The lease application identifies Framers Irrigation District as an interest holder in a portion of the water right to be leased. Individual agreements, along with supporting documentation, appear to identify that interest in a portion of the right to be leased is held by Farmers Irrigation District. For the purpose of this instream lease, the Department has determined that Farmers Irrigation District is an interest holder in the right and is authorized to lease the pertinent portion of the water right instream.
4. Certificate 74306 describes the authorized place of use by township, range, section, quarter quarter, and tax lots. The tax lots on which a portion of the right to be leased have changed since Certificate 74306 was issued. Some tax lot configurations no longer match those shown on the map of the water right and some of the original tax lots identified on the water right of record have been partitioned or subdivided. The portion of the water right to be

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.

leased is described in Finding of Fact #5 consistent with the water right of record in so far as possible.

- The portion of the right to be leased has been modified from the original lease application and is as follows:

Certificate: 74306 in the name of Famers Irrigation District (confirmed by decree of the Circuit Court of the State of Oregon for Hood River County. The decree is of record at Salem, in the Order Record of the Water Resources Director, in Volume 17, at Page 333)

Use: Irrigation of 37.23 acres

Priority Date: May 7, 1906

Quantity: **Rate:** 0.46 Cubic Foot per Second (CFS)

Duty: 111.69 Acre-Feet (AF)

Limit: One-eightieth CFS per acre, not to exceed 3.0 AF per acre per year

Source: Hood River, tributary to the Columbia River

Authorized Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 N	10 E	WM	31	NW SW	2250 FEET NORTH AND 470 FEET EAST FROM THE SW CORNER OF SECTION 31

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water Right Holder (Lessor #1)
2 N	10 E	WM	2	SE SW	1200	4.0	Farmers Irrigation District
3 N	10 E	WM	36	SE SW	200	11.4	Farmers Irrigation District
3 N	10 E	WM	36	NW SE	500	2.58	Farmers Irrigation District
3 N	10 E	WM	36	NW SE	600	3.1	Farmers Irrigation District
3 N	10 E	WM	36	NW SE	700	1.2	Farmers Irrigation District
3 N	10 E	WM	36	SW SE	600	4.7	Farmers Irrigation District
3 N	10 E	WM	36	SW SE	700	0.6	Farmers Irrigation District
3 N	10 E	WM	34	NE NE	500	7.5	Hood River County School District
3 N	10 E	WM	34	NW NE	800	2.15	Hood River County School District

- Certificate 74306 does not specify the irrigation season. Nor is an irrigation season specified by Basin Program or Decree. For the purposes of instream leasing, an irrigation season of March 1 through October 31, consistent with OAR 690-250, shall be used to establish when water may be protected instream.
- 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.
- At the full rate and volume requested, water may only be protected instream over a 121 day period. The applicant has requested that water be protected instream April 15 through September 30, a 169 day period. The Watermaster recommended that the instream period be reduced to protect water instream at the full rate and volume.

9. The instream use has been modified from the lease application to prevent injury and enlargement and is as follows:

Hood River, tributary to the Columbia River

Instream Reach: From the POD (as described in Finding of Fact #5) to the mouth of Hood River

Certificate	Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
74306	5/7/1906	0.46	111.69	June 2 through September 30

10. Other conditions to prevent injury and enlargement are:

Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion. Stream channel losses and gains calculated based on available data and the use of water by senior appropriators will determine the amount of water to which this right is entitled downstream from the original points of diversion within the specified stream reach.

11. 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.
12. 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. The order approving this instream 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.
13. 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.
14. The Lessor has requested that the lease terminate on September 30, 2013. The lease may commence on the date this final order is signed.

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. During each year of the term of the lease, 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.
3. The term of the lease will commence upon approval of the instream lease and terminate on September 30, 2013.

Dated at Salem, Oregon this 6 day of August, 2013.



Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

*This document was prepared by Laura
Wilke and if you have any questions,
please call 503-986-0884.*

Mailing date: AUG 07 2013