

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

In the Matter of Instream Lease Renewal) DETERMINATION and
IL-591, Certificate 36479,) FINAL ORDER ON PROPOSED
Douglas 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

Donelle Manton
17621 Tyee Road
Umpqua, OR 97486

Findings of Fact

1. On October 14, 2009 Donelle Manton filed an application to renew instream lease L-591, involving a portion of Certificate 36479, for instream use. The Department assigned the application number IL-591.
2. On July 4, 2003 the original Lessor, Donelle A. McBartlette changed her name to Donelle Manton.
3. The right to be leased is as follows:

Certificate: 36479 in the name of Adolph Olson
Use: Irrigation of 6.5 acres
Priority Date: May 10, 1962
Quantity: **Rate:** 0.074 Cubic Foot per Second (CFS)
 Duty: 16.25 Acre-Feet (AF)
 Limit: One-eightieth CFS per acre, not to exceed 2.5 AF per acre per year
 further limited to the period when the flow of the Umpqua River is
 more than 525 CFS at tidewater.

Source: Umpqua River, tributary to the Pacific Ocean

Authorized Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	Lot	Measured Distances
24 S	7 W	WM	21	NW SW	#3	Not Specified

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 Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
24 S	7 W	WM	21	NW SW	6.2
24 S	7 W	WM	21	SW SW	0.3
TOTAL:					6.5

4. Certificate 36479 does not specify the irrigation season; however, irrigation season established by decree is April 1 to September 30. To avoid injury and enlargement the Applicant's requested that right be protected instream from July 14 through October 31.
5. 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.
6. The instream use has been modified from the lease application to prevent injury and enlargement and is as follows:

Umpqua River, tributary to the Pacific Ocean

Instream Reach: From the POD, described in Finding of Fact #2 (at RM 85.2) to RM 28.

Certificate	Priority Date	Instream Rate	Period Protected Instream
36479	May 10, 1962	0.074 CFS	July 14 through October 31

7. 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.
8. 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.
9. 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.
10. The Lessor requested that the lease commence on July 14, 2010 and terminate on October 31, 2014.
11. The Lessor 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 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 commence on July 14, 2010 and terminate on October 31, 2014. The lessor *shall* have the option of terminating the lease each year with written notice to the Department. The lease may be terminated at any time during the calendar year. However, if the Department receives the termination request less than 30-days prior to the period of allowed instream use or after the period of allowed use has begun for the water right(s) being leased, water shall not be used under the right(s) leased until the following calendar year, unless the Director determines that enlargement would not occur.

Dated at Salem, Oregon this 26th day of February 2010.


R- Phillip C. Ward, Director

Mailing date: MAR 04 2010