

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

In the Matter of the Proposed Short-Term)	DETERMINATION and
Lease of Existing Water Rights for Instream)	FINAL ORDER ON
Use, Certificate 26557, 26556, and 11898,)	PROPOSED INSTREAM
Polk County, Oregon)	LEASE

FINDINGS OF FACT

1. A Short-Term Lease Application, which proposed to lease a portion of certificates 26557, 26556, and 11898 for instream purposes was submitted to the Department on September 30, 2003. A map showing the lands to be leased was submitted on May 27, 2004. The application and map were submitted by:

Lessor
Tom Finegan
18650 Fall City Road
Dallas, Oregon 97338

2. The Department assigned this lease agreement number L-566.
3. The lease application includes the required information 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 rights to be leased, as originally requested by the applicant, are as follows:

Certificate: 26557, 26556, and 11898,
Use: Irrigation
Acres: 11.9 acres
Priority Date: December 16, 1937, August 26, 1960, and September 21, 1948
Season of Use: April 1 to October 31
Quantity: Rate: 0.14 CFS
Duty: 29.75 AF
Source: Little Luckiamute River, tributary to the Luckiamute River

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 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

Authorized Place of Use:

Certificate	Township		Range		Meridian	Sec	1/4 1/4		Acres
26557	8	S	6	W	W.M.	22	NE	NW	1.0
26557	8	S	6	W	W.M.	22	NE	SW	2.0
26556	8	S	6	W	W.M.	22	SE	SW	5.0
11898	8	S	6	W	W.M.	22	SW	SE	3.0
11898	8	S	6	W	W.M.	22	SE	SW	0.9
								Total	11.9

5. The Department finds that the lease application requires modification in order to clarify the rights being leased. The rights are as follows (changes in bold):

Certificate: 26557
Use: Irrigation
Acres: 3.0 acres
Priority Date: August 25, 1950
Season of Use: April 1 through September 30
Quantity: Rate: 0.03 CFS
Duty: 7.5 AF
Source: Little Luckiamute River, tributary to the Luckiamute River

Authorized Place of Use:

Certificate	Township		Range		Meridian	Sec	1/4 1/4		Acres
26557	8	S	6	W	W.M.	22	NE	SW	3.0
								Total	3.0

Authorized Point of Diversion (POD):

Township		Range		Meridian	Sec	¼ ¼		Location
8	S	6	W	W.M.	22	SE	SW	As projected within Waymire D.L.C. #47

Certificate: 26556
Use: Irrigation
Acres: 5.0 acres
Priority Date: September 21, 1948
Season of Use: April 1 through September 30
Quantity: Rate: 0.06 CFS
Duty: 12.5 AF
Source: Little Luckiamute River, tributary to the Luckiamute River

Authorized Place of Use:

Certificate	Township		Range		Meridian	Sec	1/4 1/4		Acres
26556	8	S	6	W	W.M.	22	SE	SW	4.0
26556	8	S	6	W	W.M.	22	SW	SE	1.0
								Total	5.0

Authorized Point of Diversion (POD):

Township		Range		Meridian	Sec	¼ ¼		Location
8	S	6	W	W.M.	22	SE	SW	As projected within Waymire D.L.C. #47

Certificate: 11898
Use: Irrigation
Acres: 3.0 acres
Priority Date: August 3, 1933
Season of Use: April 1 through September 30
Quantity: Rate: 0.03 CFS
 Duty: 7.5 AF
Source: Little Luckiamute River, tributary to the Luckiamute River

Authorized Place of Use:

Certificate	Township		Range		Meridian	Sec	1/4 1/4		Acres
11898	8	S	6	W	W.M.	22	SW	SE	3.0
11898	8	S	6	W	W.M.	22	SE	SW	0.0
							Total		3.0

Authorized Points of Diversion (POD):

Township		Range		Meridian	Sec	¼ ¼		Location
8	S	6	W	W.M.	22	SE	SW	-
8	S	6	W	W.M.	27	NW	NE	-

6. The application proposes to lease water for instream as follows:

Reach: Point of Diversion to Mouth of Little Luckiamute River.

Certificate	Priority Date	Rate Instream (CFS)	Period Protected Instream	Volume Instream (AF)
26557, 26556, and 11898,	December 16, 1937, August 26, 1960, and September 21, 1948	0.14	April 1 through October 31	29.75

7. The Department finds that in order to prevent injury and enlargement the applicant's original request must be modified. Therefore, the Department finds that water may be leased instream as follows (changes are shown in bold text):

Reach: Point of Diversion (**SE ¼ SW ¼, Section 22, T 8 S, R 6 W, W.M.**) to Mouth of Little Luckiamute River.

Certificate	Priority Date	Rate Instream (CFS)	Period Protected Instream	Volume Instream (AF)
26557	August 25, 1950	0.03	May 28 through September 30	7.5
26556	September 21, 1948	0.06	June 18 through September 30	12.5
11898	August 3, 1933	0.03	May 28 through September 30	7.5

8. Based upon review of the application, including information provided by the Department's Watermaster and other available information, the Department finds that the lease, as proposed and modified above, will not result in injury or enlargement.
9. The lease will terminate on October 31, 2008.

CONCLUSIONS OF LAW

The Department concludes that the lease, as modified above, will not result in injury or enlargement, OAR 690-077-0077.

ORDER

Therefore, it is ORDERED:

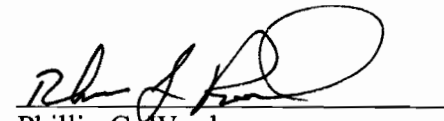
1. That the Short-Term Lease described herein is APPROVED.
2. The authorized place of use shall not be irrigated during the term of this lease.
3. Water is leased instream as follows:

Reach: Point of Diversion (SE ¼ SW ¼, Section 22, T 8 S, R 6 W, W.M.) to Mouth of Little Luckiamute River.

Certificate	Priority Date	Rate Instream (CFS)	Period Protected Instream	Volume Instream (AF)
26557	August 25, 1950	0.03	May 28 through September 30	7.5
26556	September 21, 1948	0.06	June 18 through September 30	12.5
11898	August 3, 1933	0.03	May 28 through September 30	7.5

4. The lease will terminate on October 31, 2008.

Dated at Salem, Oregon this 6th day of July, 2004.


 Phillip C. Ward
 Acting Director