

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

In the Matter of Instream Lease Application) DETERMINATION and
 IL-647, Certificate 80356, Yamhill County) FINAL ORDER ON PROPOSED
) 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

Confederated Tribes of the Grand Ronde
 Chris Leno, Executive Officer
 9615 Grand Ronde, OR. 97347
Jesse.white@grandronde.org

Findings of Fact

1. On October 23, 2012, the Confederated Tribes of the Grand Ronde filed an application to renew instream lease IL-647, involving a portion of Certificate 80356 for instream use. The Department assigned the application number IL-647.

2. The portion of the right to be leased is as follows:

Certificate: 80356 in the name of RICHARD KIRKHAM (perfected under Permit S-40025)

Use: Irrigation of 3.8 Acres

Priority Date: APRIL 23, 1975

Quantity Rate: 0.0475 Cubic Foot per Second (CFS)

Duty: 9.5 Acre-Foot (AF)

Limit: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: SOUTH YAMHILL RIVER, tributary to the YAMHILL RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	7 W	WM	12	NE NE	94	620 FEET SOUTH AND 160 FEET WEST FROM THE NE CORNER OF SECTION 12

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:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	6 W	WM	6	SE SW	90	3.80

3. Certificate 80356 does not specify the irrigation season. However, OAR 690-250-070 identifies the irrigation season of April 1 through September 30.
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.
5. The instream use has been clarified from the lease application to prevent injury and enlargement and is as follows:

Instream Reach: From POD (as described in Finding of Fact #2) located at approximately RM 42.4 to the mouth of the South Yamhill River.

Certificate	Priority Date	Instream Rate (cfs)	Duty(af)	Period Protected Instream
80356	April 23, 1975	0.0475	9.5	June 23 through September 30

6. 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.
7. 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.
8. 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.
9. The Lessor has requested that the lease terminate on September 30, 2017. The lease may commence on the date this final order is signed.
10. The Lessor has requested the option of terminating the lease early with written notice to the Department.

CONCLUSIONS OF LAW

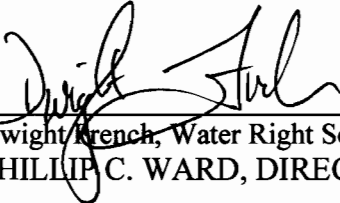
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

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, 2017. For multiyear leases, 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 termination request is received less than 30-days prior to the period of allowed instream use (June 23 through September 30) or after the period of allowed use has begun for the water right being leased, water shall not be used under the right leased until the following calendar year, unless the Director determines that enlargement would not occur.

Dated at Salem, Oregon this 16 day of April, 2013.


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

This document was prepared by Joan Smith and if you have any questions, please call 503-986-0898.

Mailing date: APR 25 2013