

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

In the Matter of the Proposed Lease of            )     DETERMINATION and  
Existing Water Rights for Instream Use,        )     FINAL ORDER ON PROPOSED  
Certificate 83381, Jackson 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**

Medford Irrigation District  
5045 Jacksonville Hwy.  
Central Point, Oregon 97530

**Findings of Fact**

1. On July 18, 2008 Medford Irrigation District (MID) filed an application to lease a portion of Certificates 83381 and 83383 for instream use. The Department assigned the application number IL-956.
2. On September 18, 2008, MID requested that supplemental water right Certificate 83383 be removed from Instream Lease Application IL-956.
3. On September 18 and 25, 2008 MID amended Instream Lease Application IL-956 by reducing the total acreage of the lands from which the water was to be leased to the amount of acreage listed in the exclusion agreements which MID included as part of Instream Lease Application IL-956.
4. The right to be leased is as follows:

**Certificate:** 83381 in the name of MEDFORD IRRIGATION DISTRICT

**Use:** IRRIGATION of 83.40 ACRES

**Priority Date:** JULY 23, 1909

**Rate:** 0.61 CUBIC FOOT PER SECOND (CFS)

**Limit/Duty:** 1/100 cfs per acre or its equivalent for each acre irrigated, during the irrigation season of each year. The amount of water to which this right is entitled is limited to an

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.

amount actually used beneficially, and shall not exceed 88.87 CUBIC FEET PER SECOND INTO MEDFORD CANAL AT BRADSHAW DROP, or its equivalent in case of rotation.  
**Source:** NORTH and SOUTH FORKS, LITTLE BUTTE CREEK, tributaries to LITTLE BUTTE CREEK

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
36 S	2 E	WM	20	SE NE	NORTH FORK LITTLE BUTTE CREEK: 40 FEET NORTH AND 620 FEET WEST FROM THE E¼ CORNER OF SECTION 20
36 S	2 E	WM	29	NE SE	SOUTH FORK LITTLE BUTTE CREEK: 780 FEET SOUTH AND 400 FEET WEST FROM THE E¼ CORNER OF SECTION 29

**Authorized Place of Use:**

IR CERTIFICATE 83381						
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot <sup>1</sup>
37S	1W	WM	16	SE NW	3.55	1001
37S	1W	WM	16	SE NW	2.00	1002
37S	1W	WM	16	SE NW	0.97	1200
37S	1W	WM	20	NW NE	0.39	2600
37S	1W	WM	20	NW NE	0.60	3700
37S	1W	WM	20	NW NE	3.60	1202
37S	1W	WM	21	NW NE	0.50	600
37S	1W	WM	21	NW SW	3.10	3800
37S	1W	WM	31	SW SW	2.34	500
37S	1W	WM	31	SE SE	0.20	1500
37S	1W	WM	32	SE SW	0.39	4000
37S	1W	WM	32	SE SW	0.44	4100
37S	2W	WM	5	SWSE/NWSE	0.30	1301
37S	2W	WM	22	NW NW	0.46	1400
37S	2W	WM	23	SE SE	0.68	200
37S	2W	WM	23	SE SE	0.22	800
37S	2W	WM	23	SE SE	0.67	1600
37S	2W	WM	23	SE SE	0.59	1800
37S	2W	WM	26	SW NE	0.41	400
37S	2W	WM	26	SW NE	0.44	1800
37S	2W	WM	26	SW NE	0.39	1900
37S	2W	WM	26	SW NE	0.04	2300
37S	2W	WM	26	SE NW	0.04	1600

<sup>1</sup> Old/New Tax Lot Number.  
 IL-956-KJT

37S	2W	WM	26	SW SW	0.30	6500
37S	2W	WM	26	SW SW	0.30	6800
37S	2W	WM	26	SE SE	0.20	2600
37S	2W	WM	26	NW SE	0.49	3600
37S	2W	WM	26	NW SE	0.89	3700
37S	2W	WM	26	NW SE	0.16	4600
37S	2W	WM	26	SW SE	0.40	1000
37S	2W	WM	34	NE SE	0.77	1000
37S	2W	WM	35	NE NE	0.99	2900
37S	2W	WM	35	NE NE	0.39	2400
37S	2W	WM	35	SW NE	0.64	2500
37S	2W	WM	35	SE SE	0.60	100
37S	2W	WM	35	SE SE	1.32	200
37S	2W	WM	35	SE SE	0.20	1100
37S	2W	WM	36	SW NE	0.60	800
37S	2W	WM	36	SW NE	0.44	1200
37S	2W	WM	36	SW NE	2.50	3300
37S	2W	WM	36	NW NW	0.10	2800
37S	2W	WM	36	NW NW	0.15	2900
37S	2W	WM	36	NW NW	0.13	3000
37S	2W	WM	36	SW NW	2.40	5100
37S	2W	WM	36	SW NW	0.50	5900
37S	2W	WM	36	SW NW	0.84	6000
37S	2W	WM	36	SE SW	0.40	1000
37S	2W	WM	36	NW SW	1.19	3000
37S	2W	WM	36	NW SW	1.40	3400
37S	2W	WM	36	NW SW	0.30	3700
37S	2W	WM	36	NE SE	2.76	500
37S	2W	WM	36	NE SE	0.27	11900/1000
37S	2W	WM	36	NE SE	3.40	12100/1100
37S	2W	WM	36	NE SE	1.64	1300
37S	2W	WM	36	NE SE	0.20	1400
37S	2W	WM	36	NE SE	0.40	2500
37S	2W	WM	36	NE SE	0.22	3100
37S	2W	WM	36	NE SE	0.25	3300
37S	2W	WM	36	NE SE	0.19	3500
37S	2W	WM	36	NE SE	0.11	3600
37S	2W	WM	36	NE SE	1.00	4200

37S	2W	WM	36	NE SE	1.50	4300
37S	2W	WM	36	NE SE	0.22	400
37S	2W	WM	36	NW SE	1.05	600
37S	2W	WM	36	NW SE	0.74	900
37S	2W	WM	36	NW SE	0.17	2000
37S	2W	WM	36	NW SE	0.19	2500
37S	2W	WM	36	NW SE	0.23	2600
37S	2W	WM	36	SE SE	2.39	100
37S	2W	WM	36	SE SE	0.97	1300
38S	1W	WM	5	NE SW	0.81	3500
38S	1W	WM	5	SE NW	1.00	3800
38S	1W	WM	5	NW SW	0.30	5200
38S	1W	WM	6	SW NW	0.70	801
38S	1W	WM	6	SW NW	0.40	803
38S	1W	WM	6	SW NW	0.39	805
38S	1W	WM	8	NE NE	0.20	601
38S	1W	WM	8	NE NE	0.18	602
38S	1W	WM	9	NW NW	0.60	3100
38S	1W	WM	9	NW NW	0.33	3400
38S	1W	WM	9	NW SE	0.10	1000
38S	1W	WM	9	SE SE	0.12	4100
38S	1W	WM	9	SE SE	0.17	4200
38S	1W	WM	9	SE SE	0.14	4301
38S	1W	WM	15	NW NW	0.33	2500
38S	2W	WM	1	SW NE	0.50	1800
38S	2W	WM	1	SE NW	0.27	7504
38S	2W	WM	1	SE NW	0.27	7505
38S	2W	WM	1	SE NW	0.30	7902
38S	2W	WM	1	SE NW	0.30	7909
38S	2W	WM	2	NE NE	11.00	201
38S	2W	WM	2	NE NE	0.80	201
38S	2W	WM	2	NW NE	5.37	201
<b>TOTAL:</b>					<b>83.40</b>	

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.

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

**Instream Reach:** From the confluence of the North and South Forks of Little Butte Creek, at approximately River Mile 17, to the mouth of Little Butte Creek, as measured at the Little Butte Creek Gage at Lake Creek (#14346700) (added to any other water required to be delivered there) and at Eagle Point Gage (LBEO) (added to any other water required to be delivered there).

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
83381	JULY 23, 1909	0.61	July 17 through October 15

7. Other conditions to prevent injury and enlargement are:

The portion of water protected instream under this lease shall be based at the same percentage of diversion and delivery rate that MID is diverting to rights of the same priority within the district. When MID is diverting water on a percentage basis, MID shall report to the District 13 Watermaster's office the percentage diverted under the July 23, 1909, and March 31, 1910 priority dates. This information only needs to be reported to the Watermaster's office once MID is diverting water on a percentage basis (less than the 1/100<sup>th</sup> cfs/acre). Subsequent reports need to be made to the Watermaster's office within one day of when changes are made to the percentage of water being diverted. Once MID begins diverting water on a percentage basis, the amount water leased instream shall be adjusted by that same percentage. In the event that MID stops delivery irrigation water prior to October 31, the Watermaster shall be notified and the delivery for instream use shall also stop.

8. Supplemental water right Certificates 83383, 80578, 83728 and Permit S-4951 are appurtenant to all or a portion of the lands described in Finding of Fact # 4. The Lessor requested that these water rights not be included as part of this lease application. During the term of the lease, water use under these rights will also be suspended.
9. 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.
10. 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.
11. 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.

12. The lease will terminate on October 15, 2008.

### CONCLUSIONS OF LAW

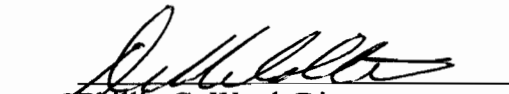
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

### 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 terminate on October 15, 2008.

Dated at Salem, Oregon this 10<sup>th</sup> day of October 2008.

  
Phillip C. Ward, Director

Mailing date: ~~OCT 08 2008~~