

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

In the Matter of the Proposed Short-Term )  
Lease of Existing Water Rights for Instream )  
Use, Certificates 38374, 51048, and 51049, )  
Sherman and Wasco Counties

DETERMINATION and  
FINAL ORDER ON PROPOSED  
INSTREAM LEASE

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 short-term instream lease applications.

**Lessor**

Wayne L. Webb  
P.O. Box 692  
The Dalles, Oregon 97058

**Lessee**

Oregon Water Trust  
522 SW Fifth Avenue, Suite 825  
Portland, Oregon 97204

**Findings of Fact**

1. Wayne L. Webb and the Oregon Water Trust filed an application to renew L-2, involving all of Certificates 38374, 51048, and 51049 to instream use. The Department assigned the application number L-2.
2. The rights to be leased are as follows:

Certificate 38374

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
3 S	14 E	WM	35	NE SW		0.10
3 S	14 E	WM	35	NW SE		9.40
3 S	14 E	WM	35	SW SE		14.70
4 S	14 E	WM	2	NW NE	2	7.40
4 S	14 E	WM	2	SW NE		5.70

Certificate 51048:

STORAGE				
Twp	Rng	Mer	Sec	Q-Q
4 S	14 E	WM	2	SW NE

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.

Certificate 51049:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	14 E	WM	35	NW SE	1.60
3 S	14 E	WM	35	SW SE	4.40
4 S	14 E	WM	2	NW NE	0.50
4 S	14 E	WM	2	NW NE	4.40
4 S	14 E	WM	2	SW NE	1.00

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	14 E	WM	2	NW NE	4.40
4 S	14 E	WM	2	SW NE	3.00

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

Buck Hollow Creek

Tributary to Deschutes River in the Deschutes Basin

**Instream Reach:** River Mile 0.8 to 0.0

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
38374	December 10, 1962	0.93	July 1 to September 18
51048 & 51049	March 10, 1975	0.3 (primary) 0.18 (supplemental)	July 1 to September 18

- A portion of certificates 51048 and 51049 are supplemental to certificate 38374. The supplemental portion of certificates 51048 and 51049 being leased instream shall only be protected instream if the full rate and duty under certificate 38374 are not available during the period for which water is being leased instream. If the supplemental portion is used, up to 0.18 cfs can be allocated on a daily basis until an additional 29.6 acre feet, minus the amount of acre feet already received under the underlying primary portion of certificate 38374 is met.
- 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.
- 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.

8. The lease will commence on April 1, 2005 and terminate on November 1, 2005.
9. The lessor has requested the option of terminating the lease early with written notice to the Department.

### CONCLUSIONS OF LAW

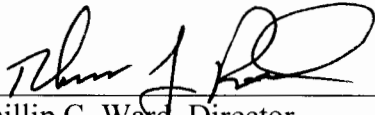
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease agreement conforms to the applicable provisions of OAR 690-077-0015.

### ORDER

Therefore, it is ORDERED:

1. That the Short-Term Lease as described herein is APPROVED.
2. The former place of use shall no longer receive water as part of these rights during the term of the lease.

Dated at Salem, Oregon this 17<sup>th</sup> day of March 2005.

  
for Phillip C. Ward, Director

Mailing date: MAR 18 2005