

**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
Certificates 66827 and 15101, Yamhill) INSTREAM LEASE
County)

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
Barry House
708 N. Baker Street
McMinnville, Oregon 97128

Findings of Fact

1. Barry House filed an application to lease a portion of Certificate 66827 and all of Certificate 15101 to instream use. The Department assigned the application number IL-806.

2. The first right to be leased is as follows:

Certificate: 66827 in the name of BARRY HOUSE (perfected under Permit S-43209)
Use: PRIMARY IRRIGATION of 55.8 ACRES and SUPPLEMENTAL IRRIGATION of 11.2 ACRES
Priority Date: FEBRUARY 18, 1977
Rate: 0.70 CUBIC FEET PER SECOND (cfs) for PRIMARY IRRIGATION and 0.14 cfs for SUPPLEMENTAL IRRIGATION
Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre per year
Source: WILLAMETTE RIVER, tributary to COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
4 S	3 W	WM	22	NW SW	3	1440 FEET NORTH AND 450 FEET EAST FROM SE CORNER OF DLC 49

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
4 S	3 W	WM	20	SE NE	49	1.6
4 S	3 W	WM	20	NE SE	49	3.7
4 S	3 W	WM	21	SW NW	49	8.5
4 S	3 W	WM	21	SE NW	49	1.8
4 S	3 W	WM	21	NE SW	49	13.4
4 S	3 W	WM	21	NW SW	49	22.0
4 S	3 W	WM	21	SW SW	49	2.6
4 S	3 W	WM	21	SE SW	49	2.2

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	20	NE SE	49	3.8
4 S	3 W	WM	21	NW SW	49	7.4

3. The second right to be leased is as follows:

Certificate: 15101 in the name of V H THOMPSON (perfected under Permit S-14271)

Use: IRRIGATION of 11.2 ACRES

Priority Date: MARCH 30, 1940

Rate: 0.14 CUBIC FEET PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre per year

Source: UNNAMED STREAM, tributary to PALMER CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
4 S	3 W	WM	21	SW SW

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	20	NE SE	49	3.8
4 S	3 W	WM	21	NW SW	49	7.4

4. 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.

5. The instream use is as follows:

WILLAMETTE RIVER tributary to COLUMBIA RIVER (Certificate 66827) and UNNAMED STREAM tributary to PALMER CREEK (Certificate 15101)

Instream Reach: Certificate 66827: From POD (as described in Finding of Fact #2) to Willamette Falls at River Mile 7

Certificate 15101: From POD (as described in Finding of Fact #3) to mouth of Unnamed Stream and from there to mouth of Palmer Creek

Certificate	Priority Date	Instream Rate	Period Protected Instream
66827	FEBRUARY 18, 1977	0.70 cfs (Primary acres) 0.14 cfs (Supplemental acres)	June 23 through September 30
15101	MARCH 30, 1940	0.14 cfs	June 23 through September 30

6. Other conditions to prevent injury and enlargement are:
A portion of Certificate 66827 is supplemental to Certificate 15101. The supplemental portion of Certificate 66827 being leased instream shall only be protected instream if the full rate and duty under Certificate 15101 are not available during the period for which water is being leased instream.
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. 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.
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 lease will terminate on September 30, 2011.
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.

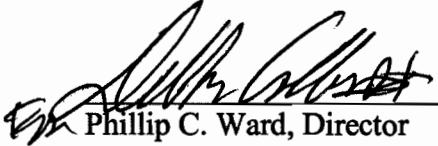
ORDER

Therefore, it is ORDERED:

1. That the Lease as described herein is APPROVED.
2. The former place of use will no longer receive water as part of these rights, any supplemental rights, or any ground water registrations for the same use during the term of the lease.

3. The lease will terminate on September 30, 2011. The Lessor has the option of terminating the lease each year, with notification to the Department by May 23 of each year, and before any use has occurred on the property.

Dated at Salem, Oregon this 13th day of April 2007.



Phillip C. Ward, Director

Mailing date: April 18, 2007