BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Instream Lease Renewal)	DETERMINATION and
IL-351, Certificates 79382, Douglas County)	FINAL ORDER ON 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

Robert J. Scharf 2277 Cougar Creek Road Oakland, Oregon 97462

Findings of Fact

- 1. On September 26, 2012, Robert J. Sharf filed an application to renew instream lease IL-351, involving a portion of Certificate 79382. The Department assigned the application number IL-351.
- 2. Upon review, the Department identified that IL-351 requires clarification of the rate allowed and the rate associated with instream use. Clarification will be shown in italic and does not change this lease.
- 3. The portion of the right to be leased is as follows (clarification shown in italic):

Certificate: 79382 in the name of ROBERT J. AND NORMA L. SCHARF (perfected

under Permit S-54017)

Use: Irrigation of 19.1 acres

Season of Use: March 1 through October 31

Priority Date: November 18, 1991

Quantity: Rate: 0.239 Cubic Foot per Second (CFS)

Duty: 47.75 Acre-Feet (AF) per acre

Limit: One-eightieth CFS per acre, not to exceed 2.5 AF per acre per year

Source: UMPQUA RIVER, tributary to PACIFIC OCEAN

Authorized Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	G-Lot	Measured Distances
24 S	7 W	WM	15	NE SW	. 6	UMPQUA RIVER: 1820 FEET NORTH AND 2250 FEET EAST FROM SW CORNER OF SECTION 15

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	GLot	Acres
24 S	7 W	WM	15	SE NW	11	2.6
24 S	7 W	WM	15	NE SW	6	12.0
24 S	7 W	WM	15	SE SW	7	4.5

- 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 is as follows:

Umpqua River tributary to Pacific Ocean

Instream Reach: From the POD (as described in Finding of Fact #2), located at approximately River Mile 81.1 to River Mile 48.5

Certificate	Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
79382	November 18, 1991	0.239	47.75	July 24 through October 31

- 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 October 31, 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 October 31, 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 (July 24 through October 31) 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 25 day of April, 2013.

Dwight Frensh, 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 2 5 2013