

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

In the Matter of Instream Lease Application) DENIAL OF PROPOSED INSTREAM
IL-1104, Certificate 41487,) LEASE
Polk County)

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

Cameron Craig
Hampton Lumber Mills
9600 SW Barnes Road, Suite 200
Portland Oregon 97225
cameroncraig@hamptonaffiliates.com

Findings of Fact

1. On January 19, 2011 Hampton Lumber Mills, Inc. filed an application to lease all of Water Right Certificate 14487 for instream use. The Department assigned the application number IL-1104.
2. The right to be leased is as follows:

Certificate: 14487 in the name of Pacific Plywood
Use: Manufacturing and Maintenance of a Log Pond,
Priority Date: February 23, 1939 for 5.0 CFS and July 20, 1939 for 5.0 CFS
Rate: 10.0 Cubic Foot per Second (CFS)
Source: SOUTH FORK YAMHILL RIVER and a POND, both tributaries to the YAMHILL RIVER

Authorized Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6S	6W	WM	6	SE NW	S. P. OSBORN DLC 91	NOT SPECIFIED

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:

Manufacturing and Log Pond					
Twp	Rng	Mer	Sec	Q-Q	DLC
6S	6W	WM	6	SE NW	S. P. OSBORN DLC 91

Log Pond					
Twp	Rng	Mer	Sec	Q-Q	DLC
6S	6W	WM	6	SW NW	S. P. OSBORN DLC 91
6S	6W	WM	6	NW SW	& William Brunson DLC 93

3. On January 21, 2011 the Department requested the local Watermaster to perform the customary review of Instream Lease Application IL-1104 pursuant to OAR 690-077-0077. The Watermaster indicated that he was uncertain as to when the water right described above was last used.
4. On January 31, and March 3, 2011 the Department notified Mr. Craig, via telephone and via email, that Instream Lease Application IL-1104 could not be approved without additional evidence, sufficient to establish whether the right described above has been used according to the terms and conditions specified in Water Right Certificate 14487, during the five years prior to submission of Instream Lease application IL-1104.
5. On March 22, 2011 the Department notified, Mr. Craig, via email, that the Department had not received the required additional evidence sufficient to establish that the water right described in Certificate 14487, had been used according to the terms and conditions of the right. The same notice also stated that failure to provide evidence sufficient to establish that the right had been used according to the terms and conditions of the Certificate 14487 during the five years prior to submission of Instream Lease Application IL-1104, could result in denial of the application.
6. The March 22, 2011 notice also informed Mr. Craig that if he was not able to provide the requested evidence prior to April 6, 2011, he could withdraw the instream lease application entirely, or withdraw the instream lease application and submit a Time Limited Instream Transfer as provided under OAR 690-077-0075, which would allow the Department to perform a more in-depth investigation regarding the actual use of the right.
7. On March 25, 2011 Mr. Craig notified the Department that the water right described by Certificate 14487 was currently being used by the City of Willamina to supply a recreational pond at a location not specified in Certificate 14487.
8. Mr. Craig did not provide any evidence that would indicate the water right described by Water Right Certificate 14487 has been used according to the terms and conditions of the Certificate.

CONCLUSIONS OF LAW

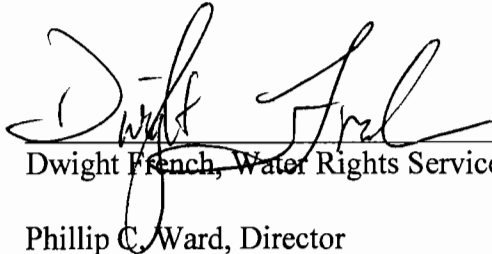
The Department concludes that approval of instream Lease Application IL-1104 would result in enlargement as described by OAR 690-077-0077. The proposed instream lease does not conform to the applicable provisions of OAR 690-077-0015.

ORDER

Therefore, it is ORDERED:

1. That the Lease as described herein is DENIED.

Dated at Salem, Oregon this 13 day of June 2011.



Dwight French, Water Rights Services Administrator *for*

Phillip C. Ward, Director

Mailing date: **JUN 13 2011**

The order approving this was prepared by Kody Thurgood. If you have any questions about the information in this document, you may reach me at 503-986-0892 or thurgokj@wrds.state.or.us