

**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 13575, Wheeler County) 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 instream lease applications.

Lessor
U.S. Bureau of Land Management
P.O. Box 550
Prineville, Oregon 97754

Findings of Fact

1. The U.S. Bureau of Land Management filed an application to renew instream lease L-340, involving all of Certificate 13575 to instream use. The Department assigned the application number IL-340.

2. The right to be leased is as follows:

Certificate: 13575 in the name of JOHN MANNING (confirmed by Bridge Creek, Wheeler County decree)

Use: IRRIGATION of 56.8 ACRES

Priority Date: 1882

Rate: 1/40th of one cubic foot per second (cfs) per acre before June 15, and 1/80th of one cfs/ac after June 15th

Source: BRIDGE CREEK, tributary to JOHN DAY RIVER

Authorized Point of Diversion: Not described on certificate.

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
10 S	20 E	WM	13	SW SW	3.4
10 S	20 E	WM	14	SE SE	6.9
10 S	20 E	WM	23	NE NE	10.4
10 S	20 E	WM	23	SE NE	0.8
10 S	20 E	WM	24	NW NW	10.9

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.

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
10 S	20 E	WM	24	SW NW	19.1
10 S	20 E	WM	24	NW SW	5.3

3. For the purposes of this lease, the POD shall be the Manning Ditch POD, being:

Twp	Rng	Mer	Sec	Q-Q
10 S	20 E	WM	24	SW SW

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 clarified from the lease application to prevent injury and enlargement and is as follows:

BRIDGE CREEK tributary to JOHN DAY RIVER

Instream Reach 1: At POD (as described in Finding of Fact #3)

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
13575	1882	1.42	March 22 through June 15
		0.71	June 16 through September 30

Instream Reach 2: Below POD (as described in Finding of Fact #3) to the "other" Connolly #1 Ditch in

Twp	Rng	Mer	Sec	Q-Q
10 S	20 E	WM	24	SW SW

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
13575	1882	0.82	March 22 through June 15
		0.41	June 16 through September 30

6. Other conditions to prevent injury and enlargement are:
The rate below the POD has been reduced by 57.5 percent to prevent injury and account for return flow.
7. 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.
8. 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.
9. 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.

10. The lease will terminate on October 1, 2011.
11. The Lessor has requested the option of terminating the lease early with written notice to the Department. .

CONCLUSIONS OF LAW

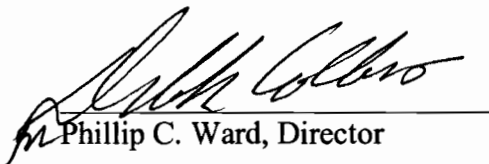
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

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 other layered water rights for irrigation use, including ground water registrations during the term of the lease.
3. The lease will terminate on October 1, 2011. The Lessor has the option of terminating the lease each year, with notification to the Department by February 22 of each year, and before any use has occurred on the property.

Dated at Salem, Oregon this 27th day of June 2007.


Phillip C. Ward, Director

Mailing date: JUN 29 2007