

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

In the Matter of Instream Lease Application) DETERMINATION and FINAL ORDER ON
IL-1422, Yamhill County) PROPOSED INSTREAM LEASE

Authority

Oregon Revised Statute (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. Oregon Administrative Rule (OAR) Chapter 690, Division 077 implements the statutes and provides the Department's procedures and criteria for evaluating instream lease applications.

Lessor

Christensen Farms, LLC
Don and Laura Christensen
17215 SW Christensen Rd.
McMinnville, OR 97128
dongchristensen@msn.com

Findings of Fact

1. On September 20, 2021, Don and Laura Christensen; Christensen Farms, LLC, filed an application to renew instream lease IL-1422.
2. The portion of the first right to be leased is as follows:

Certificate: 91914 in the name of CRIMSON WEST FARMS, INC. (perfected under Permit S-40859)

Use: Irrigation of 2.0 acres

Priority Date: July 6, 1976

Quantity: **Rate:** 0.03 Cubic Foot per Second (CFS)

Volume: 5.0 Acre-Feet (AF)

Limit: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: SOUTH YAMHILL RIVER, tributary to YAMHILL RIVER

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 Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
5 S	5 W	WM	26	NE SW	5	1340 FEET NORTH AND 1540 FEET EAST FROM THE SW CORNER OF SECTION 26

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	5 W	WM	26	NW SW	73	2.0
Total Acres						2.0

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

Certificate: 91915 in the name of CRIMSON WEST FARMS, INC. (perfected under Permit S-42508)

Use: Irrigation of 9.0 acres

Priority Date: May 4, 1977

Quantity: **Rate:** 0.11 Cubic Foot per Second (CFS)

Volume: 22.5 Acre-Feet (AF)

Limit: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: SOUTH YAMHILL RIVER, tributary to YAMHILL RIVER

Authorized Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Measured Distances
5 S	5 W	WM	26	NE SW	5		POD 1: 1340 FEET NORTH AND 1540 FEET EAST FROM THE SW CORNER OF SECTION 26
5 S	5 W	WM	35	NW NW		71	POD 2: 330 FEET SOUTH AND 1160 FEET EAST FROM THE SW CORNER OF SECTION 26

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	5 W	WM	26	SW NW	73	7.0
5 S	5 W	WM	26	NW SW	73	2.0
Total Acres						9.0

4. Certificates 91914 and 91915 do not specify the irrigation season. However, the Yamhill River Decree identifies the irrigation season as April 1 through September 30.
5. 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.

6. The instream use is as follows:
South Yamhill River, tributary to Yamhill River.

Instream Reach: At POD No. 1 (as described in Finding of Fact No. 2 & 3)

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
91914	7/6/1976	0.03	5.0	June 23 through September 30
91915	5/4/1977	0.11	22.5	June 23 through September 30

7. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water rights.
8. The protection of flows at the authorized point of diversion is appropriate, considering:
- The instream water use begins at the recorded point of diversion;
 - The location of confluences with other streams downstream of the point of diversion.
 - There are no known areas of natural loss of streamflow to the riverbed downstream from the point of diversion; and
 - Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the points of the instream water right.
9. The total monthly quantities of water to be protected under the existing and proposed instream rights at the point will provide for a beneficial purpose.
10. The total monthly quantities of water to be protected instream under existing and proposed instream rights in at the point do not exceed the estimated average natural flow.
11. 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.
12. Based upon review of the application, 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.
13. If a right which has been leased is later proposed to be leased again, transferred and/or reviewed under an allocation of conserved water, a new injury review shall be required. For example, instream 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 any future transactions.

14. The Lessors have requested that the lease terminate on September 30, 2026. The lease has been submitted prior to the first day of the irrigation season. The lease may commence on April 1, 2022, being the first day of the irrigation season.
15. The Lessors have requested the option of terminating the lease early but only with consent of all parties to the lease.

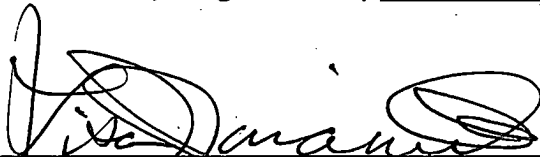
Conclusions of Law

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.

Now, therefore it is ORDERED:

1. 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 irrigation water rights, including ground water registrations and permits.
3. The term of the lease will commence on April 1, 2022 and terminate on September 30, 2026. For multiyear leases, the lessors *shall* have the option of terminating the lease any time each year with written notice to the Department. The Lessors may only terminate the lease early with the consent of all parties to the lease. However, if the termination request is received less than 30-days prior to the instream use period (June 23 through September 30) or after the water rights' original period of allowed use has begun, the Department may issue an order terminating the lease but use of water may not be allowed until the following calendar year, unless the Director determines that enlargement would not occur.

Dated at Salem, Oregon this day NOV 15 2021.



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
Thomas M. Byler, Director, Oregon Water Resources Department

Mailing date: NOV 16 2021

This document was prepared by Stacy Phillips. If you have any questions, please call 503-986-0898.