

Authorized Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	39 E	WM	24	SE SW	2110 FEET NORTH AND 1780 FEET WEST FROM THE SOUTHEAST CORNER OF NW NE OF SECTION 25

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	39 E	WM	24	SE SW	12.6
1 N	39 E	WM	25	NW NE	18.0
1 N	39 E	WM	25	NE NW	9.4
Total Acres					40.0

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

Certificate: 36706 in the name of Peter C. Westenskow (perfected under Permit S-132)

Use: Irrigation of 97.2 acres

Priority Date: August 4, 1909

Quantity: **Rate:** 1.22 Cubic Foot per Second (CFS)

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.

Source: Clark's Creek, tributary to the Grande Ronde River

Authorized Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	39 E	WM	24	SE SW	2110 FEET NORTH AND 1780 FEET WEST FROM THE SOUTHEAST CORNER NWNE OF SECTION 25

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	39 E	WM	23	NE SE	15.6
1 N	39 E	WM	23	SE SE	30.0
1 N	39 E	WM	24	NW SW	3.6
1 N	39 E	WM	24	SW SW	40.0
1 N	39 E	WM	24	SE SW	5.0
1 N	39 E	WM	25	NW NW	3.0
Total Acres					97.2

4. Certificate 36706 does not specify a duty limit per acre. However, the Grande Ronde River Decree specifies the duty limit as 3.0 af/acre.

5. Certificates 36696 and 36706 do not specify the irrigation season; nor is an irrigation season specified by Basin Program or Decree. For the purposes of instream leasing, an irrigation season of March 1 through October 31, consistent with OAR 690-250, shall be used to establish when water may be protected instream.

6. 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.

7. The instream use is as follows:
Clark's Creek, tributary to Grande Ronde River

Instream Reach: From the POD (as described in Finding of Fact Nos. 2 & 3) to the mouth of Clark's Creek

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
36696	January 13, 1966	0.458	100.0	May 15 through September 1
36706	August 4, 1909	0.960	291.6	May 1 through September 30

8. Other conditions to prevent injury and enlargement are:

Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original points of diversion. Stream channel losses and gains calculated based on available data and the use of water by senior appropriators will determine the amount of water to which this right is entitled downstream from the original points of diversion within the specified stream reach.

9. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water right.

10. The protection of flows within the proposed reach is appropriate, considering:

- a. The instream water use begins at the recorded point of diversion;
- b. The location of confluences with other streams downstream of the point of diversion.
- c. There are no known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
- d. Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.

11. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach will provide for a beneficial purpose.

12. The instream right established by this instream lease shall be in addition to instream water rights established pursuant to ORS 537.336, 537.346, 537.348 or 537.470, unless otherwise specified by a subsequent order establishing a new instream water right. By adding to the existing instream water right within the same reach, the total monthly quantities of water to be protected instream will exceed the estimated average natural flow.

The estimated average natural flow may not be exceeded unless criteria for exceeding are met.

13. The Department has determined that the estimated average natural flows may be exceeded due to the following:
 - a) There is an existing state agency established instream water right certificate (Certificate 73018) that covers the same reach or portion of the reach to be established by the proposed instream lease. In addition, the quantities to be protected instream will not exceed the amounts requested in the original instream water right application (IS-71662) filed by the Oregon Department of Fish and Wildlife (ODFW) and;
 - b) The water right proposed to be leased is in an Oregon Department of Fish and Wildlife (ODFW) flow restoration priority watershed.
14. 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.
15. 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.
16. 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.
17. The Lessor has requested that the lease terminate in September of 2023. The lease will terminate on October 31, 2023, being the last day of the irrigation season. The lease may commence on the date this final order is signed.

Conclusions of Law

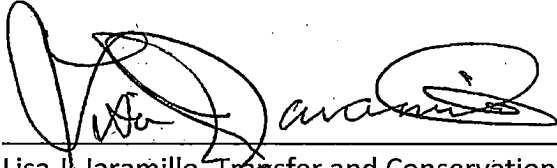
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

Now, therefore it is ORDERED:

1. The Lease as described herein is APPROVED.
2. During 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 upon approval of the instream lease and terminate on October 31, 2023.

Dated at Salem, Oregon this day JUN 21 2023.



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
Douglas E. Woodcock, Acting Director
Oregon Water Resources Department

Mailing date: JUN 23 2023

This document was prepared by Sarah Henderson. If you have any questions, please call 503-979-9872.