

May 1 through May 14 & September 16 through September 30
 May 15 through September 15

Maximum Quantity (Rate) that can be applied to an acre:

Season 1: limited to 1/80th cubic foot per second (CFS) per acre
 Season 2: limited to 1/60th CFS per acre
 Season 3: limited to 1/32.4th CFS per acre

Maximum Duty that can be applied to an acre:

Not to exceed 9.91 acre-feet (AF) per acre per year.

The above listed rates and duty reflect allowance of a 45% transmission loss as determined by decree of the Circuit Court of Deschutes County, dated March 24, 1933. Those lands not served from the district main canal systems, but by direct pumping from the Deschutes River, are not allowed the 45% transmission loss.

Source: The Deschutes River, tributary to the Columbia River

Authorized Point of Diversion (POD):

| Township | | Range | | Meridian | Sec | ¼ ¼ | Survey Coordinates |
|----------|---|-------|---|----------|-----|-------|--|
| 18 | S | 11 | E | W.M. | 13 | SW NE | POD #1 (CENTRAL OREGON CANAL): 1520 FEET SOUTH AND 1535 FEET WEST FROM THE NE CORNER OF SECTION 13 |
| 17 | S | 12 | E | W.M. | 29 | SE NE | POD #11 (NORTH CANAL DAM): 850 FEET NORTH AND 630 FEET WEST FROM THE E ¼ CORNER OF SECTION 29 |

Authorized Places of Use:

| Twp | Rng | Mer | Sec | Q-Q | Acres | Additional Place of Use Description Provided in Application - Tax Lot | Water Right Holder (Lessor #1) |
|----------------|------|-----|-----|-------|-------|---|--------------------------------|
| POD #1 | | | | | | | |
| 16 S | 14 E | WM | 21 | NW NW | 0.57 | Lot 200 | COID |
| 17 S | 12 E | WM | 12 | NW NW | 3.00 | Lot 305 | COID |
| 17 S | 12 E | WM | 35 | SW NW | 2.50 | Lot 201 | COID |
| 17 S | 13 E | WM | 20 | NE SW | 19.30 | Lot 403 | COID |
| POD #11 | | | | | | | |
| 14 S | 13 E | WM | 13 | SW NW | 2.50 | Lot 1400 | Smith Hill Properties, Inc. |
| 14 S | 13 E | WM | 16 | NW SE | 1.90 | Lot 103 | COID |
| 14 S | 13 E | WM | 16 | NE SE | 0.04 | Lot 103 | COID |
| 15 S | 12 E | WM | 13 | SW SE | 0.40 | Lot 1401 | COID |
| 15 S | 13 E | WM | 4 | NE NE | 2.22 | Lot 700 | Watson Development Limited |
| 15 S | 13 E | WM | 5 | NE NW | 1.20 | Lot 600 | Watson Development Limited |
| 15 S | 13 E | WM | 18 | NE SW | 1.14 | Lot 100 Road - 0.40 | COID |
| | | | | | | Lot 200 Road - 0.44 | |
| | | | | | | Lot 301 Road - 0.28 | |
| | | | | | | Lot 302 - 0.02 | |

3. The Department has information that the season of use described in Certificate 83571 contains scrivener errors. Consistent with the Decree for the Deschutes River (Volume 12, Page 282), the irrigation season should be:

Season of Use: April 1 through October 31, further limited as follows:

April 1 through April 30 & October 1 through October 31 described herein as Season 1

May 1 through May 14 & September 15 through September 30 described herein as Season 2

May 15 through September 14 described herein as Season 3

- Certificate 83571 is a deficient water right. If water were diverted simultaneously to all authorized lands and uses described in the right at the maximum rates and duty allowed (described in Finding of Fact #3), the total rate and duty for the water right would be exceeded. In the event water were diverted simultaneously to all authorized lands and uses described in the right at the maximum rates and duty allowed at the PODs (described in Finding of Fact #3), the portion of the right involved in this instream lease would be limited as described in the tables below. These rates and duty are also the quantities by which the diversion at POD #1 and POD #11 under Certificate 83571 shall be reduced, if this instream lease is approved.

POD #1

| Priority Date | Season 1 | Season 2 | Season 3 | Duty |
|------------------|-----------|-----------|-----------|-----------|
| October 31, 1900 | 0.316 CFS | 0.421 CFS | 0.557 CFS | 250.32 AF |
| December 2, 1907 | | | 0.223 CFS | |

POD #11

| Priority Date | Season 1 | Season 2 | Season 3 | Duty |
|------------------|-----------|-----------|-----------|----------|
| October 31, 1900 | 0.117 CFS | 0.156 CFS | 0.206 CFS | 92.92 AF |
| December 2, 1907 | | | 0.083 CFS | |

- 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.
- The Lessor and Lessee have requested to protect water instream from the PODs described in Finding of Fact #3 to the mouth of the Deschutes River. A portion of the water diverted at the POD returns to the Deschutes River within the proposed reach and is available to downstream water right holders. Return flows from the existing use are back in the river system once river flows reach the Madras Gage. To prevent injury to downstream water right holders, the quantity of water that may be protected instream requires modification and return flows should be accounted for at the Madras Gage.
- The instream use has been modified from the original lease application to prevent injury and/or enlargement and is as follows:
Deschutes River, tributary to the Columbia River

Instream Reach #1: From POD #1 to POD #11 (both as described in Finding of Fact #3)

| Certificate | Priority Date | Instream Rate (cfs) | Instream Volume (af) | Period Protected Instream |
|-------------|---------------|---|----------------------|---------------------------|
| 83571 | 10/31/1900 | Season 1: 0.174 Season 2: 0.233 Season 3: 0.431 | 138.28 | April 1 – Oct. 26 |

Instream Reach #2: From POD #11 to the Madras Gage

| Certificate | Priority Date | Instream Rate (cfs) | Instream Volume (af) | Period Protected Instream |
|-------------|---------------|---|----------------------|---------------------------|
| 83571 | 10/31/1900 | Season 1: 0.239 Season 2: 0.319 Season 3: 0.591 | 189.51 | April 1 – Oct. 26 |

Instream Reach #3: From the Madras Gage to the mouth of the Deschutes River

| Certificate | Priority Date | Instream Rate (cfs) | Instream Volume (af) | Period Protected Instream |
|-------------|---------------|---------------------|----------------------|---------------------------|
| 83571 | 10/31/1900 | 0.151 | 62.59 | April 1 – Oct. 26 |

8. Other conditions to prevent injury and enlargement are:

The amount of water to be leased instream under Certificate 76358 does not include a 45% transmission loss associated with this right when used for its originally authorized purpose. The transmission loss may not be leased and protected instream.

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 point 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. There is a supplemental water right, Certificate 76714, appurtenant to all or a portion of the lands described in Finding of Fact #3. The Lessor and Lessee have requested that this water right not be included as part of this lease application. During the term of the lease, water use under this right will also be suspended.
10. 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.
11. 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.
12. 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.
13. The Lessor has requested that the lease terminate on October 31, 2009.

CONCLUSIONS OF LAW

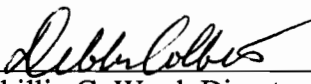
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

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 31, 2009.

Dated at Salem, Oregon this 24th day of April, 2009.



Phillip C. Ward, Director *pcw*

Mailing date: APR 29 2009