

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

In the Matter of the Proposed Short-Term) Lease of Existing Water Rights for Instream) Use, Certificates 44663, 44664, 64319,) 76595, Wasco County)	DETERMINATION and FINAL ORDER ON PROPOSED INSTREAM LEASE
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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 short-term instream lease applications.

Lessor

Miller Wheat & Cattle, Ltd.
 66200 Starveout Creek Road
 Dufur, Oregon 97201

Lessee

Oregon Water Trust
 522 SW Fifth Avenue, Suite 825
 Portland, Oregon 97204

Findings of Fact

1. Miller Wheat & Cattle, Ltd. and the Oregon Water Trust filed an application to renew L-119, involving all of Certificates 44663, 44664, 64319, 76595) to instream use. The Department assigned the application number L-119.
2. The rights to be leased are as follows:

Certificate 44663

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	13 E	WM	30	NW SW	0.40
1 S	13 E	WM	30	SW SW	40.40

Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	12 E	WM	25	SE SE	800 FT N & 280 FT W FM SE COR, S25
2 S	11 E	WM	8	NW SW	1400 FT N & 650 FT E FM SW COR, S8

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.

Certificate 44664

STORAGE					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	12 E	WM	25	SE SE	0.00

Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	12 E	WM	25	SE SE	WOLF RUN DITCH

Certificate 64319

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	12 E	WM	25	SW SE	7.30
1 S	12 E	WM	25	SE SE	13.90
1 S	13 E	WM	29	NW SW	2.00
1 S	13 E	WM	30	SE NE	0.10
1 S	13 E	WM	30	NE SE	2.30
1 S	13 E	WM	30	NW SE	0.30

Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	12 E	WM	25	SE SE	800 FEET NORTH & 280 FEET WEST FROM SE CORNER, SECTION 25
2 S	11 E	WM	8	NW SW	1400 FEET NORTH & 650 FEET EAST FROM SW CORNER, SECTION 8

Certificate 76595

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	12 E	WM	25	SW SE	5.00
1 S	12 E	WM	25	SE SE	10.00

Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	12 E	WM	25	SE SE	WOLF RUN DITCH

- 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.
- The instream use has been modified from the lease application to prevent injury and enlargement and is as follows:
Eightmile Creek
Tributary to Fifteenmile Cr in the Hood Basin

Instream Reach: From POD listed below to Mouth of Eightmile Creek

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
44663	April 25, 1968	0.51	July 1 through October 31
44664	April 25, 1968	0.02	February 1 to April 26
64319	May 24, 1973	0.32	July 1 through October 31
76595	May 3, 1909	0.187	April 1 through October 31

Point where Reach Begins:

Certificate	Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
44663	2 S	11 E	WM	8	NW SW	1400 FT N & 650 FT E FM SW COR, S8
44664	1 S	12 E	WM	25	SE SE	WOLF RUN DITCH
64319	2 S	11 E	WM	8	NW SW	1400 FEET NORTH & 650 FEET EAST FROM SW CORNER, SECTION 8
76595	1 S	12 E	WM	25	SE SE	WOLF RUN DITCH

5. 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.
6. 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.
7. The lease will terminate on October 31, 2005.
8. The lessor has requested the option of terminating the lease early with written notice to the Department.

CONCLUSIONS OF LAW

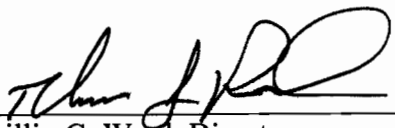
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease agreement conforms to the applicable provisions of OAR 690-077-0015.

ORDER

Therefore, it is ORDERED:

1. That the Short-Term Lease as described herein is APPROVED.
2. The former place of use shall no longer receive water as part of these rights during the term of the lease.

Dated at Salem, Oregon this 31st day of May 2005.


Phillip C. Ward, Director

Mailing date: JUN 08 2005