

**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, Certificate 76358, Deschutes County)

DETERMINATION and
FINAL ORDER ON PROPOSED
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 short-term instream lease applications.

Lessor #1

Pooled Instream Lease for several landowners
(described in Findings of Fact #3)

Lessor #2

Central Oregon Irrigation District (COID)
1055 SW Lake Court
Redmond, OR 97756
lauraw@coic.org

Lessee

Deschutes River Conservancy (DRC)
PO Box 1560
Bend, OR 97709
ghubert@deschutesrc.org

Findings of Fact

1. On June 26, 2006, the DRC and COID filed a pooled instream application to lease a portion of Certificate 76358 to instream use. The Department assigned the application number L-761.
2. Interest in a portion of the water right to be leased instream has been quit claimed from the original land owners. The lease application form identifies COID as the interest holder in a portion of the water right to be leased. Individual quit claim deeds, along with supporting documentation, submitted on July 13, 2006, identify that interest in a portion of the right to be leased is held by COID. The Department has determined that COID is an interest holder in the right and is authorized to lease the pertinent portion of the water right instream.
3. The right to be leased is as follows:
Certificate: 76358
Season of Use: April 1 to November 1, further limited as follows:
 April 1 to May 1 and Oct. 1 to Nov. 1 described herein as Season 1
 May 1 to May 15 and Sept. 15 to Oct. 1 described herein as Season 2
 May 15 to Sept. 15 described herein as Season 3
Priority Date: October 31, 1900 and December 2, 1907

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.

Use: Irrigation of 4.0 acres from Point of Diversion (POD) #1 and 30.49 acres from POD #11

Quantity: Rate:
 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)
 Duty (limited to 9.91 acre-feet per acre)

POD #1

Priority Date	Season 1	Season 2	Season 3	Duty
October 31, 1900	0.05 CFS	0.07 CFS	0.09 CFS	
December 2, 1907			0.03 CFS	
Totals	0.05 CFS	0.07 CFS	0.12 CFS	39.64 AF

POD #11

Priority Date	Season 1	Season 2	Season 3	Duty
October 31, 1900	0.38 CFS	0.51 CFS	0.67 CFS	
December 2, 1907			0.27 CFS	
Totals	0.38 CFS	0.51 CFS	0.94 CFS	302.16 AF

The listed quantities reflect allowance of a 45% canal transmission loss as determined by decree of the Circuit Court of Deschutes County, dated March 24, 1933. Direct diversions, by certificate, are not allowed this transmission loss.

Source: Deschutes River, tributary to the Columbia River

Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	POD #	Landowner (Lessor #1)
15 S	13 E	WM	10	NW NE	200	3.65	11	Walter Gnagy
15 S	13 E	WM	16	NW NW	1100	2.50	11	Connie Graves
15 S	13 E	WM	17	SE NE	1600	0.38	11	Hospice of Redmond
16 S	12 E	WM	35	SE NE	502	5.20	11	Peter & Laura Deubel, trustees
17 S	12 E	WM	11	SW NE	302	18.76	11	Brett Cromwell
18 S	12 E	WM	3	NE NE	1401	2.00	1	COID (interest holder)
18 S	12 E	WM	3	NE NE	1700	2.00	1	COID (interest holder)

POD:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
18 S	11 E	WM	13	SW NE	Central Oregon Canal POD #1 – 1520 feet South & 1535 feet West from the NE corner of Section 13
17 S	12 E	WM	29	SE NE	COID North Canal POD #11 – 850 feet North & 630 feet West from the E ¼ Corner of Section 29

- 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 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
76358	10/31/1900	Season 1: 0.028 Season 2: 0.037 Season 3: 0.068	21.80	April 1 – Oct. 26

Instream Reach: From POD #11 to Lake Billy Chinook

Certificate	Priority Date	Instream Rate (cfs)	Instream Volume (af)	Period Protected Instream
76358	10/31/1900	Season 1: 0.237 Season 2: 0.316 Season 3: 0.585	187.99	April 1 – Oct. 26

6. 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.

The total volume protected instream shall not exceed 187.99 AF.

7. 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.
8. 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.
9. The lease will terminate on October 31, 2006.

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.
3. The lease shall terminate on October 31, 2006.

Dated at Salem, Oregon this 8th day of August 2006.



Phillip C. Ward, Director

Mailing date: Aug 10, 2006