

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

In the Matter of the Proposed Lease of) DETERMINATION and
Existing Water Rights for Instream Use,) FINAL ORDER ON PROPOSED
Certificate 72196, Deschutes County) 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 instream lease applications.

Lessor #1
Green Prairie Ranch, LLC
1128 SW Rimrock Way
Redmond, OR 97756

Lessor #2
LaPine Cooperative Water Association
PO Box 97
LaPine, OR 97736

Lessee
Deschutes River Conservancy (DRC)
P.O. Box 1560
Bend, Oregon 97709
gen@deschutesriver.org

Findings of Fact

1. On June 7, 2007, the DRC, LaPine Cooperative Water Association, and Green Prairie Ranch filed an application to renew instream lease L-743, involving a portion of Certificate 72196.

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

Certificate: 72196
Priority Date: April 30, 1902
Acres: 29.0 acres
Season of Use: April 1 to November 1
Quantity: 0.363 Cubic Feet per Second (CFS) April 1 to May 23 &
August 20 to November 1
0.725 CFS May 23 to August 20
Duty: 116.0 Acre-Feet (AF)
Source: Little Deschutes River, tributary to the Deschutes 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 Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
22 S	10 E	WM	31	NE NE	3700	5.0
22 S	10 E	WM	31	SE NE	3700	11.5
22 S	10 E	WM	31	NE SE	3700	11.0
22 S	10 E	WM	31	SE SE	3700	1.5

Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
23 S	9 E	WM	34	SW SW	550 FEET NORTH & 1150 FEET EAST FROM THE SW CORNER OF SECTION 34

3. 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.

4. The instream use is as follows:
Little Deschutes River tributary to the Deschutes River

Instream Reach 1: From POD (as described in Finding of Fact #2) to the mouth of the Little Deschutes River

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
72196	4/30/1902	0.496	115.9	June 1 – August 19
		0.363		August 20 – October 10

Instream Reach 2: From the confluence of Little Deschutes River and the Deschutes River to Lake Billy Chinook

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
72196	4/30/1902	0.46	107.8	June 1 – August 19
		0.34		August 20 – October 10

5. Other conditions to prevent injury and enlargement are:

The segment of the Deschutes River between the confluence with the Little Deschutes River and Bend is a losing reach. A 7% loss factor has been applied to Reach #2 to account for this loss.

The total volume protected instream shall not exceed 116.0 AF.

6. The lease application requests to protect water instream from the Little Deschutes River into the Deschutes River. An instream reach is generally from the point of diversion to the mouth of the source stream (Little Deschutes River) but may be protected further if measurable in the receiving stream (the Deschutes River) (OAR 690-077-0015 (8)). The quantity that may be leased instream from the Little Deschutes River is measurable into the Deschutes River and may be protected instream in the Deschutes River.

7. 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.

8. 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.
9. 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.
10. The lease will terminate on October 31, 2011.
11. The Lessor has requested the option of terminating the lease early with written notice to the Department.

CONCLUSIONS OF LAW

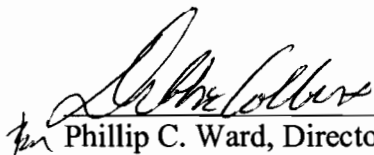
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

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, 2011. The Lessor has the option of terminating the lease each year, with notification to the Department by March 1 of each year, and before any use has occurred on the property.

Dated at Salem, Oregon this 13th day of July 2007.


Phillip C. Ward, Director

Mailing date: JUL 16 2007