



**Authorized Place of Use:**

<b>Twp</b>	<b>Rng</b>	<b>Mer</b>	<b>Sec</b>	<b>Q-Q</b>	<b>DLC</b>	<b>Acres</b>
29 S	4 W	WM	23	NE NW	38	14.1
29 S	4 W	WM	23	SE NW	38	5.0

5. Certificate 39246 indicates that Louis Creek is tributary to the South Umpqua River. Louis Creek is more accurately described as a tributary to South Myrtle Creek.
6. Certificate 39246 does 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.
7. Certificate 39246 does not specify a duty limit per acre. The original instream lease, IL-274, used 2.5 Acre-Feet (AF) per acre as a general duty to calculate the instream volume and instream period. The Department has identified that this still appears to be an appropriate duty per acre.
8. 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.
9. The proposed instream lease will be additive to other instream rights within the reach to be established by this instream lease application. By adding to existing instream water rights established by other instream leases (IL-353 (re assigned to IL-1312)) within the same reach, the total monthly quantities of water to be protected instream will exceed the estimated average natural flow, which may not be exceeded unless criteria for exceeding is met. The Department has determined that the estimated average natural flows may not be exceeded. In order to not exceed the average natural flow limit on Louis Creek (approximately 0.32 CFS), the Department has identified that the instream rate and instream period require modification to protect water instream longer at a lower rate (0.11 CFS).
10. The lease application requests to protect water instream from Louis Creek into South Fork Myrtle Creek. An instream reach is generally from the point of diversion to the mouth of the source stream (Louis Creek) but may be protected further if measurable in the receiving stream (South Myrtle Creek) (OAR 690-077-0015 (8)). The quantity that may be leased instream from Louis Creek (0.11 CFS) is measurable into South Myrtle Creek and may be protected instream in South Myrtle Creek.

11. The instream use has been modified to not exceed estimated average natural flow limitation described in Finding of Fact #9 and is as follows:

Louis Creek, tributary to South Myrtle Creek

**Instream Reach:** From the POD (as described in Finding of Fact #4) to the mouth of Louis Creek and into South Myrtle Creek to River Mile 8.0.

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
39246	December 29, 1924	0.11	47.75	April 1 through October 31

12. 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.

13. 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. 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.

14. 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.

15. The Lessor has requested that the lease terminate on October 31, 2017. The lease may commence on the date this final order is signed.

16. 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. During each year of 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 water rights for irrigation use, including ground water registrations.

3. The term of the lease will commence upon approval of the instream lease and terminate on October 31, 2017. For multiyear leases, the lessor *shall* have the option of terminating the lease each year with written notice to the Department. The lease may be terminated at any time during the calendar year. However, if the termination request is received less than 30-days prior to the period of allowed instream use (April 1 through October 31) or after the period of allowed use has begun for the water right being leased, water shall not be used under the right leased until the following calendar year, unless the Director determines that enlargement would not occur.

Dated at Salem, Oregon this 12 day of August, 2013.

  
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Dwight French, Water Right Services Administrator, for  
PHILLIP C. WARD, DIRECTOR

*This document was prepared by Laura  
Wilke and if you have any questions,  
please call 503-986-0884*

Mailing date: AUG 15 2013