

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

In the Matter of the Proposed Short-Term)	DETERMINATION and
Lease of Existing Water Rights for Instream)	FINAL ORDER ON PROPOSED
Use, Certificate 13259, Umatilla 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 short-term instream lease applications.

Lessor

Christophe Baron
Cayuse Vineyards
P.O. Box 1602
Walla Walla, WA 99362

Lessee

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

Findings of Fact

1. Christophe Baron, Cayuse Vineyards and the Oregon Water Trust filed an application to lease all of Certificate 13259 to instream use. The Department assigned the application number L-646.
2. The rights to be leased are as described in the application. follows:

Certificate 13259

Twp	Rng	Mer	Sec	Q-Q	Acres
5 N	36 E	WM	21	SE NE	0.20
5 N	36 E	WM	22	SW NW	13.90

Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
5 N	36 E	WM	22	SE NW	1320 Feet East and 1320 Feet South of NW Corner of Section 22

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 described in the lease application:
North Fork Walla Walla River
Tributary to Walla Walla River in the Umatilla Basin

Instream Reach: From POD (as described in Finding of Fact #2) at RM 1 to Mouth of North Fork Walla Walla 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.

Certificate	Priority Date	Instream Rate (cfs)		Period Protected Instream
		At POD	Below POD	
13259	1878	0.53	0.16	March 1 through October 31

5. Other conditions to prevent injury and enlargement are: The rate immediately below the POD has been reduced by 70 percent to account for return flow. The rate is further reduced by 2 percent per mile to account for stream losses.
6. 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.
7. 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.
8. The lease will terminate on October 31, 2005.

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.


 for Phillip C. Ward
 Director

Mailing date: JUN 08 2005