

**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 14538, Polk 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**

Confederated Tribes of the Grande Ronde Community of Oregon  
 9615 Grande Ronde Road  
 Grande Ronde, Oregon 97347  
 eric.scott@grandronde.org

**Findings of Fact**

1. Confederated Tribes of the Grande Ronde Community of Oregon filed a Split Season Instream Use Lease application to lease all of Certificate 14538 to instream use. The Department assigned the application number S-4.

2. The rights to be leased are as follows:

Certificate 14538

Twp	Rng	Mer	Sec	Q-Q
6 S	8 W	WM	12	SW SW

Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
6 S	8 W	WM	12	NW SW

3. On May 16, 2005, the Confederated Tribes of the Grande Ronde Community of Oregon filed a Specific-to-General Industrial Water Use change request from Log Pond to General Industrial Use.

4. 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 clarified from the lease application to prevent injury and enlargement and is as follows:  
 Rogue 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.

Tributary to South Yamhill River in the Willamette Basin

**Instream Reach:** From POD (as described in Finding of Fact #2) to the mouth of the Rogue River

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
14538	August 9, 1941	0.40	January 1 through September 30

6. The existing or authorized use period is:

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
14538	August 9, 1941	0.40	October 1 through December 31

7. Other conditions to prevent injury and enlargement are: During the existing use period the Tribal Engineer shall be responsible for recording daily measurements at the point of diversion from the water meter.

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 shall terminate on December 31, 2005.

### CONCLUSIONS OF LAW

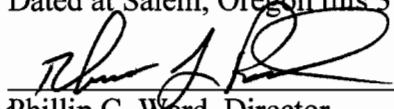
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease agreement conforms to the applicable provisions of OAR 690-077-0015.

### 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 31<sup>st</sup> day of May 2005.

  
Phillip C. Ward, Director

Mailing date: JUN 08 2005