

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

In the Matter of the Proposed Lease of )  
Existing Water Rights for Instream Use, )  
Certificates 83381 and 83383, Jackson )  
County ) DETERMINATION and  
FINAL ORDER ON PROPOSED  
INSTREAM LEASE

**Authority**

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**

The Centennial Inc.  
1200 Mira Mar Avenue  
Medford, Oregon 97504

**Lessor #2**

Medford Irrigation District  
1340 Myers Lane  
Medford, Oregon 97501

**Findings of Fact**

1. The Centennial Inc. and Medford Irrigation District filed an application to lease a portion of Certificates 83381 and 83383 to instream use. The Department assigned the application number IL-889.
2. The first right to be leased is as follows:

**Certificate:** 83381 in the name of MEDFORD IRRIGATION DISTRICT (perfected under Permit E-19)

**Use:** IRRIGATION of 328.00 ACRES

**Priority Date:** JULY 23, 1909

**Rate:** 2.33 CUBIC FEET PER SECOND

**Limit/Duty:** 1/100 cfs per acre

**Source:** NORTH AND SOUTH FORKS LITTLE BUTTE CREEK, tributary to LITTLE BUTTE CREEK

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
36 S	1 E	WM	8	SW SW	
36 S	2 E	WM	20	SE NE	40 FEET NORTH AND 620 FEET WEST FROM E1/4 CORNER OF SECTION 20
36 S	2 E	WM	29	NE SE	780 FEET SOUTH AND 400 FEET WEST FROM E1/4 CORNER OF SECTION 29

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:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q	Q	Acres
37 S	1 W	WM	33	NE	SW	22.67
37 S	1 W	WM	33	SE	SW	18.50
37 S	1 W	WM	33	NE	SE	26.46
37 S	1 W	WM	33	NW	SE	35.15
37 S	1 W	WM	33	SW	SE	26.28
37 S	1 W	WM	33	SE	SE	25.14
37 S	1 W	WM	34	NW	SW	5.89
37 S	1 W	WM	34	SW	SW	12.24
38 S	1 W	WM	3	NW	NW	2.89
38 S	1 W	WM	3	SW	NW	4.98
38 S	1 W	WM	4	NE	NE	24.37
38 S	1 W	WM	4	NW	NE	26.30
38 S	1 W	WM	4	SW	NE	24.32
38 S	1 W	WM	4	SE	NE	21.53
38 S	1 W	WM	4	NE	NW	28.11
38 S	1 W	WM	4	NW	NW	4.99
38 S	1 W	WM	4	SW	NW	0.63
38 S	1 W	WM	4	SE	NW	17.55

3. The second right to be leased is as follows:

**Certificate:** 83383 in the name of MEDFORD IRRIGATION DISTRICT (perfected under Permit S-407)

**Use:** SUPPLEMENTAL IRRIGATION of 328.00 ACRES

**Priority Date:** MARCH 31, 1910

**Rate:** 2.33 CUBIC FEET PER SECOND

**Limit/Duty:** ONE-EIGHTIETH 1/80 cfs per acre

**Source:** FOURMILE LAKE, tributary to FOURMILE CREEK

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
36 S	2 E	WM	8	SW SW	
36 S	2 E	WM	20	SE NE	40 FEET NORTH AND 620 FEET WEST FROM E1/4 CORNER OF SECTION 20
36 S	5 E	WM	9	SW NW	3600 FEET NORTH AND 4200 FEET EAST FROM SW CORNER OF SECTION 9
37 S	4 E	WM	4	SE SE	4000 FEET SOUTH AND 600 FEET EAST FROM NE CORNER OF SECTION 4

**Authorized Place of Use for Supplemental Irrigation:** Same as Certificate 83381

4. 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.

5. The instream use has been modified from the lease application to prevent injury and enlargement and is as follows:

**Instream Reach:** From the confluence of the North and South Forks of Little Butte Creek, at approximately River Mile 17, to the mouth of Little Butte Creek, as measured at the Little Butte Creek Gage at Lakecreek (#14346700) (added to any other water required to be delivered there) and at Eagle Point Gage (LBEO) (added to any other water required to be delivered there).

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
83381	JULY 23, 1909	2.33	June 21 through October 31
83383	MARCH 31, 1910	2.33*	June 21 through October 31
<i>Total</i>		3.28	<i>June 21 through October 31</i>

\* Not to exceed 0.95 cfs except when the primary right (Certificate 83381) is insufficient to deliver 2.33 cfs.

6. Other conditions to prevent injury and enlargement are:

The portion of water protected instream under this lease shall be based at the same percentage of diversion and delivery rate that MID is diverting to rights of the same priority within the district. When MID is diverting water on a percentage basis, MID shall report to the District 13 Watermaster's office the percentage diverted under the July 23, 1909, and March 31, 1910 priority dates. This information only needs to be reported to the Watermaster's office once MID is diverting water on a percentage basis (less than the 1/100<sup>th</sup> cfs/acre). Subsequent reports need to be made to the Watermaster's office within one day of when changes are made to the percentage of water being diverted. Once MID begins diverting water on a percentage basis, the amount water leased instream shall be adjusted by that same percentage. In the event that MID stops delivery irrigation water prior to October 31, the watermaster shall be notified and the delivery for instream use shall also stop.

7. Certificate 83383 is supplemental to Certificate 83381. Certificate 83381 is limited to a 1/100 cfs per acre, but is a deficient water right. Certificate 83383 shall be protected instream so that a total of 1/100 cfs per acre is leased instream between Certificates 83381 and 83383.
8. 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.
9. 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.

10. 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.
11. The Lessors requested that the lease terminate on October 1, 2008. Typically, leases are terminated at the end of the irrigation season which is October 31, 2008.

### CONCLUSIONS OF LAW

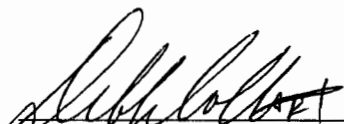
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

### 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, 2008

Dated at Salem, Oregon this 18<sup>th</sup> day of April 2008.

  
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Phillip C. Ward, Director

Mailing date: APR 23 2008