

**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 37245, 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

Robert Jahn Corporation
 19775 Fir Grove Road
 Monmouth, Oregon 97361

Findings of Fact

1. Robert Jahn Corporation filed an application to renew L-93, involving all of Certificate 37245 to instream use. The Department assigned the application number L-93.
2. The rights to be leased are as follows:

Certificate: 37245 in the name of ROBERT JAHN (perfected under Permit S-27967)
Use: IRRIGATION of 30.20 ACRES
Priority Date: APRIL 9, 1962
Rate: 0.380 CUBIC FEET PER SECOND
Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.50 acre-feet per acre per year
Source: PEDEE CREEK, tributary to LUCKIAMUTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
9 S	6 W	WM	17	SW NW	1580 FEET SOUTH & 1230 FEET EAST FROM NW CORNER, SECTION 17

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	6 W	WM	17	NE NW	6.40
9 S	6 W	WM	17	NW NW	11.40
9 S	6 W	WM	17	SW NW	3.60
9 S	6 W	WM	17	SE NW	8.80

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.

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, as amended by the applicant, is as follows:
PEDEE CREEK tributary to LUCKIAMUTE RIVER

Instream Reach: From POD (as described in Finding of Fact #2) to mouth of Pedee Creek

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
37245	APRIL 9, 1962	0.38	June 23 through September 30

5. 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.
6. 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.
7. The application requested that the lease commence on April 30, 2007 and continue through September 30, 2012. Leases are limited to a period of five years, but may be renewed. OAR 690-077-0076(1). Since water may not be used on the land during the term of a lease, leases normally commence at the beginning of the irrigation season, which in this case is April 1st.
8. On the original application form, the lessor requested not to have the option of terminating the lease early with written notice to the Department. This condition was not asked to be modified, and so remains in effect for the this lease renewal.

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.
3. The lease shall commence on April 1, 2007 and terminate on September 30, 2011.

Dated at Salem, Oregon this 24th day of November 2006.



Phillip C. Ward, Director

Mailing date: NOV 30 2006