

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

In the Matter of the Proposed Lease of) **DETERMINATION and**
Existing Water Rights for Instream Use,) **FINAL ORDER ON PROPOSED**
Certificate 72197, Crook 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 instream lease applications.

Lessor #1

Joyce Coats
63285 Skyline Ranch Rd.
Bend, OR 97701

Lessor #2

Crook County Improvement District (CCID)
PO Box 564
Terrebonne, OR 97760

Lessee

Deschutes River Conservancy (DRC)
P.O. Box 1560
Bend, Oregon 97709
gen@deschutesriver.org

Findings of Fact

1. On June 11, 2007, the DRC, CCID, and Joyce Coats filed an application to lease a portion of Certificate 72197 to instream use. The Department assigned the application number IL-840.
2. The portion of the right to be leased is as follows:

Certificate: 72197

Priority Date: October 31, 1900

Season of Use: April 1 to November 1, further limited as follows:

April 1 to May 1 and Oct. 1 to Nov. 1 described herein as Season 1

May 1 to May 15 and Sept. 15 to Oct. 1 described herein as Season 2

May 15 to Sept. 15 described herein as Season 3

Use: Irrigation of 78.5 acres

Quantity: Rate: Season 1 - limited to 1/137th Cubic Foot per Second (CFS) per acre
Season 2 - limited to 1/109th cfs per acre
Season 3 - limited to 1/86.6th cfs per acre

Duty: limited to 4.2 Acre-Foot (AF) per acre, as measured at the Lone Pine Weir

Season 1	Season 2	Season 3	Duty
0.573 CFS	0.720 CFS	0.906 CFS	329.7 AF

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.

Source: Deschutes River, tributary to the Columbia River

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
14 S	14 E	WM	4	SW NE	101	1.6
14 S	14 E	WM	4	NE NW	101	3.0
14 S	14 E	WM	4	NW NW	101	0.9
14 S	14 E	WM	4	SW NW	101	2.1
14 S	14 E	WM	4	SE NW	101	1.1
14 S	14 E	WM	4	NE SW	101	17.5
14 S	14 E	WM	4	NW SW	101	12.3
14 S	14 E	WM	4	SW SW	101	11.9
14 S	14 E	WM	4	SE SW	101	2.4
14 S	14 E	WM	4	NW SE	101	8.8
14 S	14 E	WM	4	SW SE	101	0.3
14 S	14 E	WM	9	NW NW	200	8.9
14 S	14 E	WM	9	SW NW	200	7.6
14 S	14 E	WM	9	SE NW	200	0.1

Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
17 S	12 E	WM	29	SE NE	DESCHUTES RIVER POD: N. 36° 45' W 1056.8 FEET FROM THE EAST ¼ CORNER OF SECTION 29
14 S	13 E	WM	13	SW SE	LONE PINE WEIR

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 has been clarified from the lease application and is as follows:
Deschutes River, tributary to the Columbia River

Instream Reach: From the Deschutes River POD (as described in Finding of Fact #2) to Lake Billy Chinook

Certificate	Priority Date	Period Protected Instream	Instream Rate (cfs)	Instream Volume (af)
72197	10/31/1900	Season 1 (modified to end on Oct 27)	0.573	329.7
		Season 2	0.720	
		Season 3	0.906	

5. There is a supplemental water right, Certificate 76714, appurtenant to all or a portion of the lands described in Finding of Fact # 2. The Lessor and Lessee have not requested that this water right be included as part of this lease application. During the term of the lease, water use under this right will also be suspended.

6. 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.

7. 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.

8. 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.
9. The lease will terminate on October 31, 2011.
10. 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. 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, 2011. The Lessor has the option of terminating the lease each year, with notification to the Department by March 1 of each year, and before any use has occurred on the property.

Dated at Salem, Oregon this 20th day of July 2007.


Phillip C. Ward, Director

Mailing date: JUL 23 2007