

**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, Certificates 80051 and 80052, Klamath) 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

Larry and Joan Sees
 P.O. Box 238
 Beatty, Oregon 97621

Findings of Fact

1. Larry and Joan Sees filed an application to lease all of Certificates 80051 and 80052 to instream use. The Department assigned the application number L-794.
2. The rights to be leased are as follows:

Certificate: 80051 in the name of WINDING SPRAGUE PARTNERS (perfected under Permit S-44824)

Use: IRRIGATION of 275 ACRES

Priority Date: DECEMBER 10, 1979

Rate: 6.88 CUBIC FEET PER SECOND

Limit/Duty: ONE-FORTIETH cfs per acre, not to exceed 3 acre-feet per acre per year

Source: SPRAGUE RIVER, tributary to the WILLIAMSON RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
36 S	12 E	WM	16	SW NW	13	2070 FEET SOUTH & 1320 FEET EAST FROM NW CORNER, SECTION 16
36 S	12 E	WM	16	SE NW	14	2100 FEET SOUTH & 1450 FEET EAST FROM NW CORNER, SECTION 16
36 S	12 E	WM	16	SE NW	14	2100 FEET SOUTH & 2130 FEET EAST FROM NW CORNER, SECTION 16

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	GLot	Acres
36 S	12 E	WM	16	NW NE	2	20.00
36 S	12 E	WM	16	NW NE	7	20.00
36 S	12 E	WM	16	SW NE	15	18.20
36 S	12 E	WM	16	SW NE	10	17.50
36 S	12 E	WM	16	NE NW	6	14.50
36 S	12 E	WM	16	NE NW	3	19.00
36 S	12 E	WM	16	NW NW	4	20.00
36 S	12 E	WM	16	NW NW	5	20.00
36 S	12 E	WM	16	SW NW	13	17.10
36 S	12 E	WM	16	SW NW	12	19.00
36 S	12 E	WM	16	SE NW	14	16.00
36 S	12 E	WM	16	SE NW	11	13.70
36 S	12 E	WM	16	NE SW	19	17.20
36 S	12 E	WM	16	NE SW	22	6.80
36 S	12 E	WM	16	NW SW	20	18.70
36 S	12 E	WM	16	NW SW	21	0.70
36 S	12 E	WM	16	NW SE	18	14.40
36 S	12 E	WM	16	NW SE	23	2.20

Certificate: 80052 in the name of WINDING SPRAGUE PARTNERS (perfected under Permit S-47533)

Use: IRRIGATION of 55.80 ACRES

Priority Date: APRIL 22, 1983

Rate: 1.40 CUBIC FEET PER SECOND

Limit/Duty: ONE-FORTIETH cfs per acre, not to exceed 3 acre-feet per acre per year

Source: SPRAGUE RIVER, tributary to the WILLIAMSON RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
36 S	12 E	WM	16	SW NW	13	2070 FEET SOUTH & 1320 FEET EAST FROM NW CORNER, SECTION 16
36 S	12 E	WM	16	SE NW	14	2100 FEET SOUTH & 1450 FEET EAST FROM NW CORNER, SECTION 16
36 S	12 E	WM	16	SE NW	14	2100 FEET SOUTH & 2130 FEET EAST FROM NW CORNER, SECTION 16

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
36 S	12 E	WM	16	NE NE	1	17.20
36 S	12 E	WM	16	NE NE	8	10.00
36 S	12 E	WM	16	SE NE	9	11.00
36 S	12 E	WM	16	SE NE	16	15.60
36 S	12 E	WM	16	NE SE	17	2.00

- 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 follows:
 SPRAGUE RIVER tributary to WILLIAMSON RIVER

Instream Reach: From POD described below

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
36 S	12 E	WM	16	SE NW	14	2100 FEET SOUTH & 2130 FEET EAST FROM NW CORNER, SECTION 16

to mouth of Sprague River.

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
80051	DECEMBER 10, 1979	4.00	April 15 through July 27
80052	APRIL 22, 1983	0.81	April 15 through July 27

5. Other conditions to prevent injury and enlargement are: The quantity protected instream shall be reduced by one percent per mile to account for return flows, evaporation and seepage.
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 application requests that the lease terminate on October 1, 2011. Since no irrigation season is identified by decree, certificate, or basin program, the Department uses an irrigation season of March 1 through October 31. Typically, instream leases terminate at the end of the irrigation season. The lease will commence on March 1, 2007 and terminate on October 31, 2011.

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.

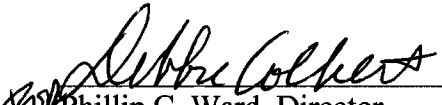
ORDER

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 terminate on October 31, 2011.

Dated at Salem, Oregon this 25th day of January 2007.



Phillip C. Ward, Director

Mailing date: JAN 26 2007