

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

In the Matter of Instream Lease Application) DETERMINATION and FINAL ORDER ON
IL-1985, Hood River County) PROPOSED INSTREAM LEASE.

Authority

Oregon Revised Statute (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. Oregon Administrative Rule (OAR) Chapter 690, Division 077 implements the statutes and provides the Department's procedures and criteria for evaluating instream lease applications.

Lessor

Pooled Instream Lease on behalf of several water users (described in Findings of Fact No's 2 and 3)

Co-Lessor

East Fork Irrigation District
P.O. Box 162
Odell, Oregon 97044
steve@efidhr.org
jaylene@efidhr.org

Findings of Fact

1. On June 2, 2023, East Fork Irrigation District filed an application on behalf of several water right users, to lease portions of Certificates 92000 and 84803 for instream use. The Department assigned the application number IL-1985.

2. The portion of the first right to be leased is as follows:

Certificate: 92000 in the name of East Fork Irrigation District (confirmed by Hood River decree at Volume 17, Page 333)

Use: Irrigation of 54.85 acres

Priority Date: November 25, 1895

Quantity: **Rate:** 0.669 Cubic Foot per Second (CFS)

Volume: 164.55 Acre-Feet (AF)

Limit: The amount of water used for irrigation, is limited to a diversion of 1/80 of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year, and an annual volume limitation.

Source: EAST FORK HOOD RIVER, tributary to HOOD 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.

Authorized Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
1 S	10 E	WM	4	NW SW	1	3750 FEET SOUTH AND 430 FEET EAST FROM THE NW CORNER OF SECTION 4

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water Users (Lessor)
1 N	10 E	WM	3	NW NW	1200	23.50	Melvin Kubitscheck
1 N	10 E	WM	15	SW SE	100	4.70	Stephen Osserman
2 N	10 E	WM	13	SE SE	301	2.85	Dominguez Estate, LLC
2 N	10 E	WM	13	NE SE	301	14.50	Dominguez Estate, LLC
2 N	10 E	WM	28	SW NE	1900	4.40	Linda Riggs
2 N	10 E	WM	36	NE NE	100	4.90	Alp Acres, LLC
Total Acres						54.85	

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

Certificate: 84803 in the name of East Fork Irrigation District (perfected under Permit S-43395)
Use: Irrigation of 3.3 acres
Priority Date: August 8, 1977
Quantity: **Rate:** 0.041 Cubic Foot per Second (CFS)
Volume: 9.90 Acre-Feet (AF)
Limit: The amount of water used for irrigation, is limited to a diversion of 1/80 of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: EAST FORK HOOD RIVER, tributary to HOOD RIVER

Authorized Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
1 S	10 E	WM	4	NW SW	1	3750 FEET SOUTH AND 430 FEET EAST FROM THE NW CORNER OF SECTION 4

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water Users (Lessor)
2 N	10 E	WM	36	NE NE	100	1.30	Alp Acres, LLC
2 N	10 E	WM	36	NE NE	301	2.00	Fred Dominguez
Total Acres						3.30	

4. Water right Certificates 92000 and 84803 do not describe the season of use, however the Hood River Decree identifies the Irrigation season as beginning on April 15 and ending on the 1st day of October of each year.
5. 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.

6. The instream use is as follows:
East Fork Hood River, tributary to Hood River

Instream Reach: From the POD (as described in Finding of Facts No. 2 and 3) to the mouth of the East Fork Hood River at RM 0.0

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
92000	11/25/1895	0.669	164.55	June 1 through October 1
84803	8/8/1977	0.041	9.90	
Totals		0.710	174.45	

7. Other conditions to prevent injury and enlargement are:

Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion. Stream channel losses and gains calculated based on the best available data and the use of water by senior appropriators will determine the amount of water to which this right is entitled downstream from the original points of diversion within the specified stream reach.

8. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water rights.
9. The protection of flows within the proposed reach is appropriate, considering:
- The instream water use begins at the recorded point of diversion;
 - The location of confluences with other streams downstream of the point of diversion.
 - There are no known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
 - Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.
10. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach will provide for a beneficial purpose.
11. The total monthly quantities of water to be protected instream under existing and proposed instream rights in the reach do not exceed the estimated average natural flow.
12. 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.
13. Based upon review of the application, information provided by the Department's Watermaster, and other available information, the Department finds that the lease will not result in injury or enlargement. The order approving this instream 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.

14. If a right which has been leased is later proposed to be leased again, transferred and/or reviewed under an allocation of conserved water, a new injury review shall be required. For example, instream 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 any future transactions.
15. The Lessors and Co-Lessor have requested that the lease terminate in September, however the last day of the irrigation season is October 1. The lease will terminate on October 1, 2023. The lease may commence on the date this final order is signed.
16. The Lessors and Co-Lessor have requested that there not be an option to terminate the lease.

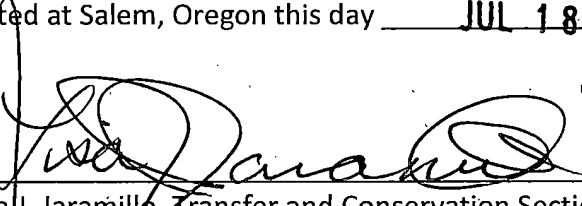
Conclusions of Law

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.

Now, therefore it is ORDERED:

1. The Lease as described herein is APPROVED.
2. During the term of the lease, the former place of use will no longer receive water as part of these rights, any supplemental rights, or any other layered irrigation water rights, including ground water registrations and permits.
3. The term of the lease will commence upon approval of the instream lease and terminate on October 1, 2023. The lease may not be terminated by any party to the lease prior to specified termination date.

Dated at Salem, Oregon this day JUL 18 2023



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
Douglas E. Woodcock, Acting Director
Oregon Water Resources Department

This document was prepared by Sarah Henderson. If you have any questions, please call 503-979-9872.

Mailing date: JUL 19 2023