

**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 21986, Washington 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
 Rick Krueger
 P.O. Box 32
 North Plains, Oregon 97133

Lessee
 Oregon Water Trust
 522 SW Fifth Avenue, Suite 825
 Portland, Oregon 97204

Findings of Fact

1. Rick Krueger and the Oregon Water Trust filed an application to lease a portion of Certificate 21986 to instream use. The Department assigned the application number L-742.
2. The rights to be leased are as follows:

Certificate: 21986 in the name of CHARLES SCHMIDLIN (perfected under Permit S-17634)

Use: IRRIGATION of 7.7 ACRES

Priority Date: MARCH 26, 1947

Rate: 0.1 CUBIC FEET PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.50 acre-feet per acre per year

Source: DAIRY CREEK, tributary to TUALATIN RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
2 N	4 W	WM	24	NW NW

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:

Twp	Rng	Mer	Sec	Q-Q	Acres
2 N	4 W	WM	13	SW SW	0.1
2 N	4 W	WM	14	SE SE	5.5
2 N	4 W	WM	23	NE NE	0.1
2 N	4 W	WM	24	NW NW	2.0

3. Certificate 21986 describes the source of water as Dairy Creek. The applicant has identified that current maps identify the source as West Fork Dairy Creek.
4. 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.
5. The instream use has been modified from the lease application to prevent injury and enlargement and is as follows:
WEST FORK DAIRY CREEK tributary to DAIRY CREEK

Instream Reach: From POD (as described in Finding of Fact #2) to the mouth of West Fork Dairy Creek

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
21986	MARCH 26, 1947	0.1	June 26 through September 30

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 lease will terminate on September 30, 2010.
9. The lessor and lessee have requested not to have the option of terminating the lease early.

CONCLUSIONS OF LAW

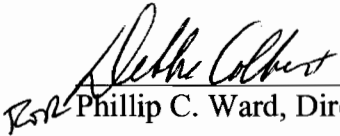
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease agreement conforms to the applicable provisions of OAR 690-077-0015.

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.

Dated at Salem, Oregon this 21ST day of June 2006.



Phillip C. Ward, Director

Mailing date: JUN 28 2006