

**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 72197, Deschutes 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 #1
Mount Jefferson Farms, Inc.
PO Box 12708
Salem, OR 97309
mtjeffersonfarms@aol.com

Lessor #2
Crook County Improvement District (CCID)
2598 N. Hwy 97
Redmond, OR 97756

Lessee
Deschutes River Conservancy (DRC)
PO Box 1560
Bend, OR 97709
ghubert@deschutesrc.org

Findings of Fact

1. On May 26, 2006, the DRD, CCID, and Mount Jefferson Farms filed an application to lease a portion of Certificate 72197 to instream use. The Department assigned the application number L-747.
2. The right to be leased has been clarified from the application and is as follows (clarifications shown in bold):

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 64.2 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

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.

Season 3 - limited to 1/86.6th cfs per acre
 Duty: limited to 4.2 Acre-Feet (AF) per acre, as measured at the Lone Pine Weir

Priority Date	Season 1	Season 2	Season 3	Duty
October 31, 1900	0.469 CFS	0.589 CFS	0.741 CFS	269.64

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	17	SE NE	100	9.0
14 S	14 E	WM	17	SE SW	100	2.8
14 S	14 E	WM	17	NE SE	100	24.1
14 S	14 E	WM	17	NW SE	100	4.9
14 S	14 E	WM	17	SW SE	100	23.4

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

- There is a supplemental water right, certificate 76714, on all of the lands for which the portion of the primary irrigation right, certificate 72197, is being leased to instream use. There is also a ground water permit, G-11774, for primary and supplemental irrigation. A portion of the lands identified for primary irrigation under this ground water permit appear to cover a portion of the lands on which certificate 72197 is appurtenant and being leased to instream use. There is a pending transfer application (T-9626) to change a portion of the place of use for this ground water permit. It is not clear from the final proof map for the ground water permit or from the transfer application maps, whether this ground water right is supplemental to certificate 72197. The pending transfer application does not include certificates 72197 and 76714.
- 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.
- The instream use has been modified from the application to prevent injury and enlargement 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	Instream Rate (cfs)	Instream Volume (af)	Period Protected Instream
72197	10/31/1900	Season 1: 0.469 Season 2: 0.589 Season 3: 0.741	269.64	April 1 – Oct. 27

6. Other conditions to prevent injury and enlargement are:

During the term of this lease, no irrigation of the lands described in Finding of Fact #2 may be made under certificates 72197, 76714, and ground water permit G-11774 (if applicable).

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, 2006. If transfer application T-9626 is modified or if a subsequent transfer is filed (and approved) that includes the portion of certificate 72197 being leased to instream use, any subsequent renewals of this lease may be affected.

CONCLUSIONS OF LAW

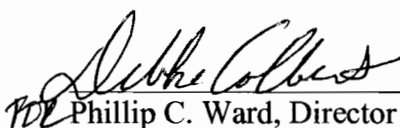
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease agreement conforms to the applicable provisions of OAR 690-077-0015.

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 this right, and any supplemental rights, during the term of the lease.
3. The lease shall terminate on October 31, 2006.

Dated at Salem, Oregon this 23rd day of June 2006.


Phillip C. Ward, Director

Mailing date: JUN 28 2006