

**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 68665, Marion 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
 Oregon Department of Corrections
 Max Williams, Director
 2575 Center Street
 Salem, Oregon 97310-0505

Lessor #2
 Santiam Water Control District
 284 East Water Street
 Stayton, Oregon 97383

Findings of Fact

1. Oregon Department of Corrections and Santiam Water Control District filed an application to lease a portion of Certificate 68665 to instream use. The Department assigned the application number L-791.

2. The rights to be leased are as follows:

Certificate: 68665 in the name of SANTIAM WATER CONTROL DISTRICT (confirmed by North Santiam River decree)
Use: IRRIGATION of 180.9 acres
Priority Date: MAY 14, 1909
Rate: 2.26 CUBIC FEET PER SECOND
Source: NORTH SANTIAM RIVER, tributary to SANTIAM RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
9 S	1 W	WM	11	SW SE	2	1800 FEET SOUTH & 2830 FEET EAST FROM W1/4 CORNER, SECTION 11

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	Tax Lot	Acres
8 S	2 W	WM	5	SW NE	1900	4.6
8 S	2 W	WM	5	NE SW	1900	2.3
8 S	2 W	WM	5	SE SW	1900	26.4
8 S	2 W	WM	5	NE SE	1900	15.0
8 S	2 W	WM	5	NW SE	1900	33.9
8 S	2 W	WM	5	SW SE	1900	31.2
8 S	2 W	WM	5	SE SE	1900	0.1
8 S	2 W	WM	8	NE NE	100	0.5
8 S	2 W	WM	8	NW NE	100	29.7
8 S	2 W	WM	8	SW NE	100	18.6
8 S	2 W	WM	8	SE NE	100	7.8
8 S	2 W	WM	8	NE NW	100	8.8
8 S	2 W	WM	8	SE NW	100	2.0

- 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 lease application to prevent injury and enlargement and is as follows:

Mill Creek tributary to Willamette River

Instream Reach: From POD on Mill Creek described below

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
7 S	2 W	WM	7	NW SE	1565 FEET NORTH & 2335 FEET EAST FROM SE 1/4 CORNER, SECTION 7

to the mouth of Mill Creek

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
68665	MAY 14, 1909	1.86	June 1 through September 30

Historically, water has been diverted from the North Santiam River and conveyed to Mill Creek where it is has then been diverted for irrigation. Instead of diverting the water for irrigation, the lease will protect the water in Mill Creek.

- 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.
- 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.

7. The lease will commence on May 1, 2007 and terminate on September 30, 2011.
8. The lessor has requested the option of terminating the lease early with written notice to the Department.

CONCLUSIONS OF LAW

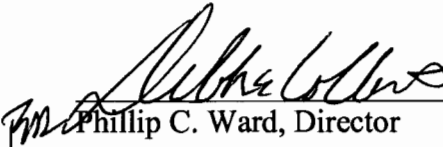
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease agreement conforms to the applicable provisions of OAR 690-077-0015.

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 September 30, 2011. The lessor shall have the option of terminating the lease each year, with notification to the Department by May 1 of each year, and before any irrigation has occurred on the property.

Dated at Salem, Oregon this 15th day of December 2006.



Phillip C. Ward, Director

Mailing date: DEC 19 2006