

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

In the Matter of the Proposed Lease of            )     SUPERSEDING AND CORRECTING  
Existing Water Rights for Instream Use,         )     FINAL ORDER ON INSTREAM  
Certificates 30336, Marion County                )     LEASE

**Authority**

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 instream lease applications.

**Lessor**

Santiam Water Control District  
284 East Water Street  
Stayton, Oregon 97383  
brents.swed@wvi.com

**Findings of Fact**

1. This order Supersedes Special order Volume 87 page 40 and corrects an error in the description of the Instream Reach.
2. On October 24, 2011 Santiam Water Control District filed an application to lease all of Certificate 30336 for instream use. The Department assigned the application number IL-1191.
3. The right to be leased is as follows:

**Certificate:** 30336 in the name of MARION COUNTY INVESTMENT CO. (confirmed by North Santiam River decree)

**Use:** INDUSTRIAL/MANUFACTURING USES, POWER DEVELOPMENT

**Priority Date:** DECEMBER 31, 1866

**Rate:** 762.0 CUBIC FEET PER SECOND (CFS)

**Limit/Duty:** The amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 762 cubic feet per second FOR INDUSTRIAL/MANUFACTURING USES, FOR POWER DEVELOPMENT.

**Source:** NORTH SANTIAM RIVER, tributary to the SANTIAM 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:**

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
9 S	1 W	WM	11	SW SE	2	1800 FEET SOUTH AND 2830 FEET EAST FROM THE WEST 1/4 CORNER, OF SECTION 11

**Authorized Place of Use:**

Twp	Rng	Mer	Sec
9S	1W	WM	10

- The point of diversion was not described in the certificate, however, the Watermaster, described the point of diversion as:

Township 9 South, Range 1 West, 1800 feet south and 2830 feet east from the west ¼ corner, section 11.

- 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.
- The instream use is as follows:

NORTH SANTIAM RIVER tributary to SANTIAM RIVER

**Instream Reach:** From POD (as described in Finding of Fact #4) *to the confluence of the power canal and the North Santiam River at approximately River Mile 14.*

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
30336	DECEMBER 31, 1866	762.0	January 1 through December 31

- 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 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.
- 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.
- 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.

10. 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.
11. The lease will terminate on December 31, 2013.
12. 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 conforms to the applicable provisions of OAR 690-077-0015.

### ORDER

Therefore, it is ORDERED:

1. That the Lease as described herein is APPROVED.
2. The former place of use will no longer receive water as part of these rights, any supplemental rights, or any other layered water rights for irrigation use, including ground water registrations during the term of the lease.
3. The lease will terminate on December 31, 2013. The Lessor has the option of terminating the lease each year, with notification to the Department by November 30 of each year, and before any use has occurred on the property.

Dated at Salem, Oregon this 6 day of June 2012.

  
Dwight French, Water Right Services Administrator, for  
PHILLIP C. WARD, DIRECTOR

Mailing date: JUN 07 2012