

Authorized Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
39 S	2 E	WM	20	SE SE	TOE OF EMIGRANT DAM

Authorized Place of Use (POU):

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
37 S	1 W	WM	27	NE SE	3.2
37 S	1 W	WM	27	NW SE	5.7
37 S	1 W	WM	27	SW SE	23.2
37 S	1 W	WM	27	SE SE	24.1
TOTAL:					56.2

- 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:

Instream Reach: From POD (as described in Finding of Fact #2) to mouth of Emigrant Creek, where Emigrant Creek and Walker Creek join to form Bear Creek (approximately 3.5 downstream of POD); then from River Mile 27 on Bear Creek to the mouth of Bear Creek

Certificate	Priority Date	Instream Rate	Instream Volume	Period Protected Instream
83727	September 6, 1915	0.56 cfs	148.93 AF	June 20 through October 31

- Other conditions to prevent injury and enlargement are:

The portion of water protected instream under this lease shall be based on the same percentage diversion and delivery rate that TID is diverting to rights of the same priority within the District. The instream rate listed is based upon a 1/100th cfs per acre rate. In cases of shortage of supply, where the general allotment in the District has been reduced, TID may deliver less than 2.65 AF/acre June 20 through October 31 in accordance with TID policy governing Instream Leases. In the event that TID stops delivery of irrigation water prior to October 31, the Watermaster shall be notified, and the delivery for instream use shall also stop. Any additional reporting to the Watermaster shall be consistent with any required reporting of District operations.

- The lease application requests to protect water instream from Emigrant Creek into Bear Creek. An instream reach is generally from the point of diversion to the mouth of the source stream (Emigrant Creek) but may be protected further if measurable in the receiving stream (Bear Creek) (OAR 690-077-0015 (8)). The quantity that may be leased instream from Emigrant Creek is measurable into Bear Creek and may be protected instream in Bear Creek.
- 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.

9. 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 October 31, 2008.

CONCLUSIONS OF LAW

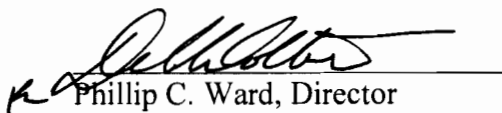
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

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 October 31, 2008.

Dated at Salem, Oregon this 16th day of September, 2008.


Phillip C. Ward, Director

Mailing date: SEP 18 2008