

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

In the Matter of the Proposed Lease of) RECONSIDERATION AND
Existing Water Rights for Instream Use,) MODIFICATION OF FINAL ORDER
Certificate 22094, Douglas County)

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

Donald C. & Patsy M. Knight
499 Driver Valley Road
Oakland, Oregon 97462

Lessee

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

Findings of Fact

1. The Department issued an order approving an instream lease renewal under application IL-206 on April 18, 2008. The order is entered at Special Order Volume 74, Pages 624 to 626.
2. On May 30, 2008, the Department received a petition for reconsideration from the lessor. The lessor indicated a desire to irrigate 2.0 of the 120.0 acres that had been leased instream so that he could irrigate a small park area. The lessee is willing to accommodate the lessor's desire to modify the lease order.
3. The period of instream use approved under IL-206 is from June 7 through October 31, 2008. As of the date of this order, no water has been protected instream or used on the lands that had been leased instream.
4. The application fee for an instream lease renewal is \$50. An instream lease renewal is not allowed if there is a change in acreage. The lessee has agreed to pay the \$50 difference between the regular lease application fee (\$100) and that of the lease renewal fee.

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.

5. The lessor, as part of the petition for reconsideration, has provided a map which describes the 2.0 acres to be taken out of the lease.
6. Donald C. & Patsy M. Knight and the Oregon Water Trust desire to modify IL-206 and lease a portion of Certificate 22094 to instream use. The Department assigns the modified request a new application number, IL-928.
7. The right to be leased is as follows:

Certificate: 22094 in the name of LORAN & MAMIE O'NEAL (perfected under Permit S-22517)

Use: IRRIGATION of 118.0 ACRES

Priority Date: JUNE 30, 1953

Rate: 1.01 CUBIC FEET PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre per year

Source: CALAPOOYA CREEK, tributary to UMPQUA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC
24 S	5 W	WM	34	SW NW	40
24 S	5 W	WM	34	NE SW	40
24 S	5 W	WM	34	NW SW	40

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
24 S	5 W	WM	33	SE NE	40	2.8
24 S	5 W	WM	34	SW NW	40	4.0
24 S	5 W	WM	34	SW NW	40	3.8
24 S	5 W	WM	34	SE NW	40	9.4
24 S	5 W	WM	34	NE SW	40	34.8
24 S	5 W	WM	34	NW SW	40	26.8
24 S	5 W	WM	34	SE SW	40	13.5
24 S	5 W	WM	34	NW SE	40	15.6
24 S	5 W	WM	34	SW SE	40	7.3

8. 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.
9. The instream use is clarified from the lease application to prevent injury and enlargement and is as follows:
CALAPOOYA CREEK tributary to UMPQUA RIVER

Instream Reach: From POD located at:

Twp	Rng	Mer	Sec	Q-Q	DLC
24 S	5 W	WM	34	NE SW	40

to mouth of Calapooya Creek.

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
22094	JUNE 30, 1953	1.01	June 7 through October 31

10. 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.
11. 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.
12. 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.
13. The lease will terminate on October 31, 2008.

CONCLUSIONS OF LAW

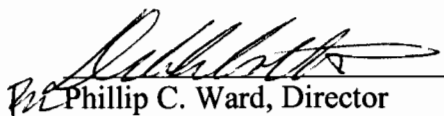
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

ORDER

Therefore, it is ORDERED:

1. The order approving IL-206 recorded in Special Order Volume 74, Pages 624 to 626 is withdrawn and of no further force or effect.
2. That the Lease as described herein is APPROVED.
3. 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.
4. The lease will terminate on October 31, 2008.

Dated at Salem, Oregon this 3rd day of June 2008.


Phillip C. Ward, Director

Mailing date: JUN 19 2008