

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

In the Matter of Instream Lease Application ) DETERMINATION and  
IL-1445, Douglas County ) FINAL ORDER ON PROPOSED  
) INSTREAM LEASE

**Authority**

Oregon Revised Statute (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. Oregon Administrative Rule (OAR) Chapter 690, Division 077 implements the statutes and provides the Department's procedures and criteria for evaluating instream lease applications.

**Lessor**

Joseph L. Weidum  
5795 Upton Road  
Central Point, OR 97502

**Findings of Fact**

1. On March 19, 2015, Joseph L. Weidum filed an application to lease the entirety of Certificates 24339 and 37690 for instream use. The Department assigned the application number IL-1445.
2. The first right to be leased is as follows:

**Certificate:** 24339 in the name of Pearl Ulam (perfected under permit S-22260)  
**Use:** Irrigation of 26.5 acres  
**Priority Date:** April 15, 1953  
**Quantity:** **Rate:** 0.33 Cubic Foot per Second (CFS)  
**Volume:** 66.25 Acre-Feet (AF)  
**Limit:** the amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth CFS per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 AF per acre for each acre irrigated during the irrigation season of each year.  
**Source:** South Umpqua River, tributary of Umpqua River

**Authorized Point of Diversion (POD):**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
30 S	5 W	W.M.	13	SW SE	55	NOT SPECIFIED ON CERTIFICATE

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	DLC	Gov't Lot	Acres
30 S	5 W	W.M.	13	NE SW			0.3
30 S	5 W	W.M.	13	SE SW	54		9.6
30 S	5 W	W.M.	13	NW SE		2	0.1
30 S	5 W	W.M.	13	SW SE	54		16.1
30 S	5 W	W.M.	13	SW SE	55		0.3
30 S	5 W	W.M.	24	NW NE			0.1
Total Acres							26.5

3. Certificate 24339 does not provide measured distances for the location of the point of diversion. Based upon additional information provided by the Lessor, for purposes of this instream lease, the point of diversion is described as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	River Mile
30 S	5 W	W.M.	13	SW SE	55	54.0

4. The second right to be leased is as follows:

**Certificate:** 37690 in the name of Peter E. Ulam (perfected under permit S-27976)

**Use:** Irrigation of 22.1 acres

**Priority Date:** April 11, 1962

**Quantity:** **Rate:** 0.28 CFS

**Volume:** 55.25 AF

**Limit:** the amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth CFS per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 AF per acre for each acre irrigated during the irrigation season of each year; provided further that the right to use of water is limited to the period when flow of the South Umpqua River is more than 60 CFS at its mouth.

**Source:** South Umpqua River, tributary of Umpqua River

**Authorized Point of Diversion (POD):**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
30 S	5 W	W.M.	24	NW NE	54	200 FEET SOUTH AND 2,740 FEET EAST FROM NW CORNER OF SECTION 24

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
30 S	5 W	W.M.	13	SE SW	54	7.5
30 S	5 W	W.M.	24	NE NW	54	14.6
Total Acres						22.1

5. The Lessor has provided additional information for the location of the point of diversion for Certificate 37690. The location of the point of diversion is further described as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances / River Mile
30 S	5 W	W.M.	24	NW NE	54	200 FEET SOUTH AND 2,740 FEET EAST FROM NW CORNER OF SECTION 24; MAY ALSO BE LOCATED AT RIVER MILE 53.9

6. Certificates 24339 and 37690 do not specify the irrigation season; nor is an irrigation season specified by Basin Program or Decree. For the purposes of instream leasing, an irrigation season of March 1 through October 31, consistent with OAR 690-250, shall be used to establish when water may be protected instream.
7. 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.
8. The Lessor requested to protect water instream under certificate 24339 for 101 days during the period July 23 through October 31. Water under Certificate 77690 was requested to be protected instream for a 99 day period, being July 25 through October 31. However, based upon continued evaluation, the Department has determined that both rights may be protected instream for 101 days during the period July 23 through October 31.
9. The instream use has been modified from the lease application and is as follows:  
South Umpqua River, tributary of the Umpqua River

**Instream Reach No. 1:** From the POD for Certificate 24339(as described in Finding of Fact No. 3) to the POD for Certificate 37690 (as described in Finding of Fact No. 5)

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
24339	April 15, 1953	0.33	66.25	July 23 – October 31

**Instream Reach No. 2:** From the POD for Certificate 37690 to RM 47.3 where Cow Creek joins the South Umpqua River.

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
24339	April 15, 1953	0.33	66.25	July 23 – October 31
37690	April 11, 1962	0.28	55.25	
Total Instream		0.61	121.50	

10. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water rights.
11. The protection of flows within the proposed reach is appropriate, considering:
  - a. The instream water use begins at the recorded points of diversion;
  - b. The location of confluences with other streams downstream of the points of diversion.
  - c. There are no known areas of natural loss of streamflow to the river bed downstream from the points of diversion; and



- d. Any return flows resulting from the exercise of the existing water rights would re-enter the river downstream of the reach of the instream water right.
12. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach will provide for a beneficial purpose.
13. The total monthly quantities of water to be protected instream under existing and proposed instream rights in the reach do not exceed the estimated average natural flow.
14. 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.
15. Based upon review of the application, information provided by the Department's Watermaster, and other available information, the Department finds that the lease will not result in injury or enlargement. The order approving this instream 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.
16. If a right which has been leased is later proposed to be leased again, transferred and/or reviewed under an allocation of conserved water, a new injury review shall be required. For example, instream 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 any future transactions.
17. The Lessor has requested that the lease terminate on October 31, 2019. The lease may commence on the date this final order is signed.
18. 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.

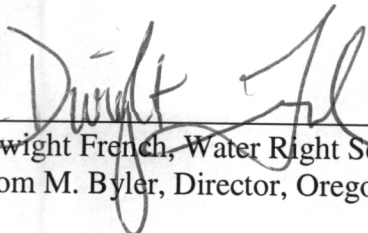
### **Now, therefore it is ORDERED:**

1. The Lease as described herein is APPROVED.
2. During each year of the term of the lease, the former place of use will no longer receive water as part of these rights, any supplemental rights, or any other layered irrigation water rights, including ground water registrations and permits.
3. The term of the lease will commence upon approval of the instream lease and terminate on October 31, 2019. The lessor *shall* have the option of terminating the lease any time each



year with written notice to the Department. However, if the termination request is received less than 30-days prior to the instream use period, July 23 through October 31, or after the water rights' original period of allowed use has begun on March 1, the Department may issue an order terminating the lease but use of water may not be allowed until the following calendar year, unless the Director determines that enlargement would not occur.

Dated at Salem, Oregon this 19 day of May, 2015.



Dwight French, Water Right Services Division Administrator, for  
Tom M. Byler, Director, Oregon Water Resources Department

**MAY 20 2015**

Mailing date: \_\_\_\_\_

*This document was prepared by Steve Parrett and if you have any questions, please call at 503-986-0919.*