

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

In the Matter of the Proposed Lease of) DETERMINATION and
Existing Water Rights for Instream Use,) FINAL ORDER ON PROPOSED
Certificate 36246, Umatilla County) INSTREAM 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

Bureau of Reclamation (BOR)
Umatilla Field Office
32871 Diagonal Road
Hermiston, OR 97838

Findings of Fact

1. On October 16, 2008, the BOR filed an application to renew instream lease L-580, involving a portion of Certificate 36246. The Department assigned the application number IL-580.
2. The portion of the right to be leased is as follows:

Certificate: 36246
Use: Irrigation
Acres: 42.2 acres
Priority Date: October 5, 1964
Season of Use: March 1 to October 31
Quantity: Rate: 1.06 Cubic Feet per Second (CFS)
Duty: 189.9 Acre-Feet (AF)
Source: Umatilla River, tributary to the Columbia River
Authorized Place of Use:

Certificate	Township		Range		Meridian	Sec	1/4 1/4		Acres
36246	4	N	28	E	W.M.	8	SW	NE	0.6
36246	4	N	28	E	W.M.	8	SE	NE	12.5
36246	4	N	28	E	W.M.	8	NE	SE	27.1
36246	4	N	28	E	W.M.	8	NW	SE	2.0
							Total		42.2

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 (POD):

Township		Range		Meridian	Sec	¼ ¼		Location
4	N	28	E	W.M.	8	NW	SE	1680 FEET NORTH and 1060 FEET WEST from the SE CORNER, SECTION 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.
- The instream use has been modified from the lease application to prevent injury and enlargement and is as follows:
Umatilla River, tributary to the Columbia River

Instream Point: At the POD described in Finding of Fact #2

Certificate	Priority Date	Instream Rate (CFS)	Instream Period	Instream Volume (AF)
36246	October 5, 1964	1.06	April 1 through June 29	189.9

- 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.
- 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.
- The Lessor has requested that the lease commence on March 1, 2009 and terminate on October 31, 2013.
- The Lessor has indicated that they will not have the option of terminating the lease early without consent by all parties to the lease.

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 commence on March 1, 2009, and terminate on October 31, 2013. The Lessor may only terminate the lease early with the consent of all parties to the lease.

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

PC


Phillip C. Ward, Director

Mailing date: DEC 09 2008