

**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 74306, Hood River 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

Attn: Rick Brock
Farmers Irrigation District
1985 Country Club Road
Hood River, Oregon 97301

Findings of Fact

1. On March 20, 2008, Farmers Irrigation District filed an application to lease a portion of Certificate 74306 to instream use. The Department assigned the application number IL-896.
2. On March 30, 2008, Farmers Irrigation District modified the instream reach requested.
3. On April 29 and May 8, 2008, Farmers Irrigation District provided additional information regarding the holder of the water right.

4. The right to be leased is as follows:

Certificate: 74306 in the name of FARMERS IRRIGATION DISTRICT (confirmed by Hood River decree)

Use: IRRIGATION of 63.15 acres

Priority Date: MAY 7, 1906

Rate: 0.79 CUBIC FEET PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source: HOOD RIVER, tributary to COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 N	10 E	WM	31	NW SW	2250 FEET NORTH AND 470 FEET EAST FROM SW CORNER OF SECTION 31

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:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
2 N	10 E	WM	1	NW NW	2400	0.2
2 N	10 E	WM	1	NW NW	2700	2.2
3 N	10 E	WM	34	NE SW	501	0.1
3 N	10 E	WM	34	SW SW	100	0.2
3 N	10 E	WM	34	SW SW	501	0.2
3 N	10 E	WM	34	SE SW	501	2.9
3 N	10 E	WM	35	SW SW	900	4.0
3 N	10 E	WM	35	SW SW	2400	1.8
3 N	10 E	WM	35	SW SE	100	1.55
3 N	10 E	WM	36	NE SW	200	26.4
3 N	10 E	WM	36	SE SW	200	11.4
3 N	10 E	WM	36	NW SE	700	1.2
3 N	10 E	WM	36	NW SE	500	2.6
3 N	10 E	WM	36	NW SE	600	3.1
3 N	10 E	WM	36	SW SE	700	0.6
3 N	10 E	WM	36	SW SE	600	4.7

5. 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.

6. The instream use has been modified from the lease application to prevent injury and enlargement and is as follows:
HOOD RIVER tributary to COLUMBIA RIVER

Instream Reach: From POD (as described in Finding of Fact #4) at approximately RM 11.25 to the mouth of the Hood River

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
74306	MAY 7, 1906	0.79	June 1 through September 30

7. 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 point of diversion within the specific stream reach.

8. 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 applications requests to terminate on April 15, 2009. Instream leases typically terminate at the end of the irrigation season, which is September 30th.

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 September 30, 2008.

Dated at Salem, Oregon this 9th day of May 2008.


Phillip C. Ward, Director

Mailing date: MAY 14 2008