

**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
Certificates 7870, 36378, 46677, and 44624,) INSTREAM LEASE
Klamath 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

Greg Harris
P.O. Box 467
Chiloquin, Oregon 97624

Findings of Fact

1. Greg Harris filed an application to lease a portion of Certificates 7870, 36378, 46677, and 44624 to instream use. The Department assigned the application number IL-911.
2. The first right to be leased is as follows:

Certificate: 7870 in the name of F.F. MCCREADY (perfected under Permit S-7011)
Use: IRRIGATION of 27.3 ACRES
Priority Date: JUNE 27, 1925
Rate: 0.34 CUBIC FEET PER SECOND
Limit/Duty: ONE-EIGHTIETH cfs per acre
Source: SPRAGUE RIVER, tributary to KLAMATH LAKE

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
34 S	9 E	WM	19	SE SE

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	9 E	WM	19	SW SW	2.4
34 S	9 E	WM	19	NE SE	7.4
34 S	9 E	WM	19	SW SE	9.2
34 S	9 E	WM	20	NW SW	3.3
34 S	9 E	WM	20	SW SW	5.0

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.

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

Certificate: 36378 in the name of EARL M HARRIS (perfected under Permit S-29424)

Use: IRRIGATION of 3.8 ACRES

Priority Date: MARCH 2, 1964

Rate: 0.10 CUBIC FEET PER SECOND

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

Source: SPRAGUE RIVER, tributary to KLAMATH LAKE

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
34 S	9 E	WM	30	SE SW	1720 FEET NORTH AND 620 FEET WEST FROM SE CORNER OF NE NW OF SECTION 31

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
34 S	9 E	WM	30	SW SW	4	1.0
34 S	9 E	WM	30	SE SW		2.8

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

Certificate: 46677 in the name of EARL M HARRIS (perfected under Permit S-33561)

Use: IRRIGATION of 4.7 ACRES

Priority Date: MAY 8, 1968

Rate: 0.12 CUBIC FEET PER SECOND

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

Source: SPRAGUE RIVER, tributary to WILLIAMSON RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
34 S	9 E	WM	30	NW SW	3	POD 2: 90 FEET NORTH AND 100 FEET EAST FROM SW CORNER OF LOT 3 (NW SW)
34 S	9 E	WM	30	SE SW		POD 1: 680 FEET NORTH AND 400 FEET W FROM SE CORNER OF SE SW OF SECTION 30

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
34 S	9 E	WM	30	NE SW		0.8
34 S	9 E	WM	30	NW SW	3	1.8
34 S	9 E	WM	30	NE SE		0.4
34 S	9 E	WM	30	SW SE		1.7

5. The fourth right to be leased is as follows:

Certificate: 44624 in the name of W. K. PLUMMER (perfected under Permit S-34928)
Use: IRRIGATION of 0.9 ACRES
Priority Date: FEBRUARY 26, 1970
Rate: 0.01 CUBIC FEET PER SECOND
Limit/Duty: ONE-FORTIETH cfs per acre, not to exceed 3.0 acre-feet per acre per year
Source: SPRAGUE RIVER, tributary to WILLIAMSON RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
34 S	9 E	WM	32	NW SW	1440 FEET NORTH AND 700 FEET EAST FROM SW CORNER OF SECTION 32

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	9 E	WM	32	NW SW	0.9

6. 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.
7. The instream use is as follows:
 SPRAGUE RIVER tributary to WILLIAMSON RIVER

Instream Reach: From POD (as described in Finding of Fact #2, 3, 4 [POD #2], and 5) to mouth of Sprague River

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
7870	JUNE 27, 1925	0.34	June 2 through September 30
36378	MARCH 2, 1964	0.10	August 1 through September 26
46677	MAY 8, 1968	0.12	August 1 through September 30
44624	FEBRUARY 26, 1970	0.01	May 18 through September 30

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 will terminate on September 30, 2012.
12. The Lessor has requested the option of terminating the lease early with written notice to the Department.

CONCLUSIONS OF LAW

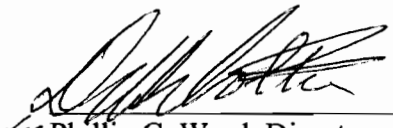
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

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, 2012. The Lessor has the option of terminating the lease each year, with notification to the Department by April 18 of each year, and before any use has occurred on the property.

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



Mr. Phillip C. Ward, Director

Mailing date: ~~MAY 14 2008~~