

**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 5626, 47332, 47333, 47334,)	INSTREAM LEASE
48315, and 54586, Wasco 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

City of Dufur
P.O. Box 145
Dufur, Oregon 97201

Lessee

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

Findings of Fact

1. The City of Dufur and the Oregon Water Trust filed an application to renew instream lease L-52, involving all of Certificates 5626, 47332, 47333, 47334, 48315, and 54586 to instream use. The Department assigned the application number IL-52.

2. The first right to be leased is as follows:

Certificate: 5626 in the name of CITY OF DUFUR (confirmed by Fifteen Mile Creek decree)

Use: MUNICIPAL PURPOSES

Priority Date: 1886

Rate: Not described on certificate

Limit/Duty: Three hundred thousand gallons per day

Source: FIFTEEN MILE CREEK, tributary to COLUMBIA RIVER

Authorized Point of Diversion (POD): Not described on certificate

Authorized Place of Use:

Within and in the vicinity of the City of Dufur, Oregon

3. Certificate 5626 is limited to a maximum of 0.46 cubic foot per second. For the purposes of this lease, the POD is described as:

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.

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 S	12 E	WM	15	NE SE	80 FEET SOUTH AND 630 FEET WEST FROM EAST 1/4 CORNER OF SECTION 15

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

Certificate: 47332 in the name of CITY OF DUFUR (perfected under Permit S-5201)

Use: MUNICIPAL USE

Priority Date: AUGUST 26, 1921

Rate: 0.025 CUBIC FEET PER SECOND, DURING THE IRRIGATION SEASON ONLY

Limit/Duty: Not described on certificate.

Source: FIFTEEN MILE CREEK, tributary to COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 S	12 E	WM	15	NE SE	80 FEET SOUTH AND 630 FEET WEST FROM EAST 1/4 CORNER OF SECTION 15

Authorized Place of Use:

MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
1 S	13 E	WM	25	SW NW
1 S	13 E	WM	25	SE NW
1 S	13 E	WM	25	NE SW
1 S	13 E	WM	25	NW SW
1 S	13 E	WM	25	SW SW
1 S	13 E	WM	25	SE SW
1 S	13 E	WM	25	NE SE
1 S	13 E	WM	25	NW SE
1 S	13 E	WM	25	SW SE
1 S	13 E	WM	25	SE SE
1 S	13 E	WM	26	SE NE
1 S	13 E	WM	26	NE SE
1 S	13 E	WM	26	SE SE

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

Certificate: 47333 in the name of CITY OF DUFUR (confirmed by Fifteen Mile Creek decree)

Use: MUNICIPAL USE

Priority Date: 1905

Rate: 0.04 CUBIC FEET PER SECOND, DURING THE IRRIGATION SEASON ONLY

Limit/Duty: Not to exceed 4.8 acre-feet per acre per year, being 1.6 acre-feet per 30 day period to July 1 and 1.2 acre-feet per 30 day period thereafter

Source: FIFTEEN MILE CREEK, tributary to COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 S	12 E	WM	15	NE SE	80 FEET SOUTH AND 630 FEET WEST FROM EAST 1/4 CORNER OF SECTION 15

Authorized Place of Use:

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
1 S	13 E	WM	25	SW NW
1 S	13 E	WM	25	SE NW
1 S	13 E	WM	25	NE SW
1 S	13 E	WM	25	NW SW
1 S	13 E	WM	25	SW SW
1 S	13 E	WM	25	SE SW
1 S	13 E	WM	25	NE SE
1 S	13 E	WM	25	NW SE
1 S	13 E	WM	25	SW SE
1 S	13 E	WM	25	SE SE
1 S	13 E	WM	26	SE NE
1 S	13 E	WM	26	NE SE
1 S	13 E	WM	26	SE SE

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

Certificate: 47334 in the name of CITY OF DUFUR (confirmed by Fifteen Mile Creek decree)

Use: MUNICIPAL USE

Priority Date: 1906

Rate: 0.103 CUBIC FEET PER SECOND, DURING THE IRRIGATION SEASON ONLY

Limit/Duty: Not to exceed 12.3 acre-feet per acre per year, being 4.1 acre-feet per 30 day period to July 1 and 3.08 acre-feet per 30 day period thereafter

Source: FIFTEEN MILE CREEK, tributary to COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 S	12 E	WM	15	NE SE	80 FEET SOUTH AND 630 FEET WEST FROM EAST 1/4 CORNER OF SECTION 15

Authorized Place of Use:

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
1 S	13 E	WM	25	SW NW
1 S	13 E	WM	25	SE NW
1 S	13 E	WM	25	NE SW
1 S	13 E	WM	25	NW SW
1 S	13 E	WM	25	SW SW
1 S	13 E	WM	25	SE SW
1 S	13 E	WM	25	NE SE
1 S	13 E	WM	25	NW SE
1 S	13 E	WM	25	SW SE
1 S	13 E	WM	25	SE SE
1 S	13 E	WM	26	SE NE
1 S	13 E	WM	26	NE SE
1 S	13 E	WM	26	SE SE

7. The fifth right to be leased is as follows:

Certificate: 48315 in the name of CITY OF DUFUR (perfected under Permit S-28579)

Use: MUNICIPAL USE

Priority Date: JANUARY 3, 1963

Rate: 1.12 CUBIC FEET PER SECOND

Limit/Duty: Not described on certificate

Source: FIFTEENMILE CREEK, tributary to COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 S	12 E	WM	15	NE SE	80 FEET SOUTH AND 630 FEET WEST FROM EAST 1/4 CORNER OF SECTION 15

Authorized Place of Use:

MUNICIPAL USE					
Twp	Rng	Mer	Sec	Q-Q	
1 S	13 E	WM	25	SW NW	
1 S	13 E	WM	25	SE NW	
1 S	13 E	WM	25	NE SW	
1 S	13 E	WM	25	NW SW	
1 S	13 E	WM	25	SW SW	
1 S	13 E	WM	25	SE SW	
1 S	13 E	WM	25	NE SE	
1 S	13 E	WM	25	NW SE	
1 S	13 E	WM	25	SW SE	
1 S	13 E	WM	25	SE SE	
1 S	13 E	WM	26	SE NE	
1 S	13 E	WM	26	NE SE	
1 S	13 E	WM	26	SE SE	

8. The six right to be leased is as follows:

Certificate: 54586 in the name of CITY OF DUFUR (perfected under Permit S-41380)

Use: GROUP DOMESTIC USE FOR 53 FAMILIES AND USE IN TRAVEL TRAILER PARK

Priority Date: JANUARY 10, 1977

Rate: 0.1 CUBIC FEET PER SECOND

Limit/Duty: Not described on certificate

Source: FIFTEENMILE CREEK, tributary to COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 S	12 E	WM	15	NE SE	80 FEET SOUTH AND 630 FEET WEST FROM EAST 1/4 CORNER OF SECTION 15

Authorized Place of Use:

GROUP DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	COMMENT
1 S	12 E	WM	36	SE SE	
1 S	13 E	WM	31	SW SW	
1 S	13 E	WM	31	SE SE	

GROUP DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	COMMENT
1 S	13 E	WM	32	NE SE	
1 S	13 E	WM	32	NW SE	
1 S	13 E	WM	32	SW SE	
1 S	13 E	WM	33	NE SW	
1 S	13 E	WM	33	NW SW	
1 S	13 E	WM	33	NE SE	Domestic and Trailer Park
1 S	13 E	WM	33	NW SE	Domestic and Trailer Park
1 S	13 E	WM	34	NE NE	
1 S	13 E	WM	34	NW NE	
1 S	13 E	WM	34	SW NE	
1 S	13 E	WM	34	SE NE	
1 S	13 E	WM	34	NW NW	
1 S	13 E	WM	34	NE SW	
1 S	13 E	WM	34	NE SE	
1 S	13 E	WM	34	NW SE	
1 S	13 E	WM	35	NW NW	
1 S	13 E	WM	35	SE NW	
2 S	12 E	WM	1	SE NE	
2 S	12 E	WM	1	NW SE	
2 S	12 E	WM	1	SW SE	
2 S	12 E	WM	11	NE SE	
2 S	12 E	WM	11	SE SE	
2 S	12 E	WM	12	NE NW	
2 S	12 E	WM	12	SW NW	
2 S	12 E	WM	14	NE NW	
2 S	12 E	WM	14	SE NW	
2 S	13 E	WM	6	NE NE	
2 S	13 E	WM	6	NW NE	
2 S	13 E	WM	6	NE NW	
2 S	13 E	WM	6	NW NW	

9. 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.

10. The instream use is as follows:
 FIFTEENMILE CREEK tributary to COLUMBIA RIVER

Instream Reach: From POD (as described in Findings of Fact #3 - 8) to mouth of
 FIFTEENMILE CREEK

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
5626	1886	0.46	January 1 through December 31
47332	AUGUST 26, 1921	0.025	July 1 through October 29
47333	1905	0.04	July 1 through October 29
47334	1906	0.103	July 1 through October 29
48315	JANUARY 3, 1963	1.12	January 1 through December 31
54586	JANUARY 10, 1977	0.10	January 1 through December 31

11. 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.

12. 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.
13. 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.
14. 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.
15. The lease will terminate on December 31, 2012.
16. The Lessor has requested the option of terminating the lease early with written notice to the Department.

CONCLUSIONS OF LAW

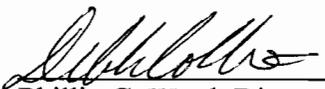
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

ORDER

Therefore, it is ORDERED:

1. That the Lease as described herein is APPROVED.
2. The lease will terminate on December 31, 2012. The Lessor has the option of terminating the lease each year, with notification to the Department by December 1 of each year, and before any use has occurred on the property.

Dated at Salem, Oregon this 16th day of May 2008.



Phillip C. Ward, Director

Mailing date: MAY 27 2008