

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

In the Matter of Instream Lease Application) DETERMINATION and
IL-1765, Umatilla 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

Ronald Iverson
43384 Corey Lane
Pendleton, Oregon 97801

Findings of Fact

1. On June 27, 2019, Ronald Iverson filed an application to lease a portion of Certificate 79662 for instream use. The Department assigned the application number IL-1765.
2. The portion of the right to be leased is as follows:

Certificate: 79662 in the name of Charles Tullis, Jr. (perfected under Permit S-5996)
Use: Irrigation of 6.04 acres
Priority Date: August 16, 1923
Quantity: **Rate:** Cubic Foot per Second (CFS)
Volume: 18.12 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, is limited to ONE-EIGHTIETH of one cubic foot per second per acre for each acre irrigated during the irrigation season of each year.

Source: McKay Creek, tributary to the Umatilla River

Authorized Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 N	32 E	WM	28	SE NE	NORTH 57°, 30' WEST, 1414.19, THENCE NORTH 6°, 42' EAST, 55 FEET FROM THE E1/4 CORNER OF SECTION 28

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
2 N	32 E	WM	28	SE NE	6.04

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. Certificate 79662 does not specify the irrigation season. However, the Umatilla River Decree establishes the irrigation season for the area as March 1 through November 1.
4. There is a supplemental irrigation water right, appurtenant to all or a portion of the lands described in Finding of Fact No. 2. The Lessor and Lessee have requested that this water right not be included as part of this lease application. During the term of the lease, water use under this right will also be suspended.
5. At the full instream rate requested, water may only be protected instream for 121 days. To prevent enlargement of the right, the requested instream use requires modification of the period protected instream.
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:
McKay Creek, tributary to the Umatilla River

Instream Point: At the POD (as described in Finding of Fact No. 2)

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
79662	8/16/1923	0.076	18.12	July 23 through October 31

8. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water right.
9. The protection of flows at the authorized point of diversion is appropriate, considering:
 - a. The instream water use begins at the recorded point of diversion;
 - b. The location of confluences with other streams downstream of the point of diversion.
 - c. There are no known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
 - d. Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the point of the instream water right.
10. The total monthly quantities of water to be protected under the existing and proposed instream rights at the point will provide for a beneficial purpose.
11. The total monthly quantities of water to be protected instream under existing and proposed instream rights at the point do not exceed the estimated average natural flow.
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, 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.
14. 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.
15. The Lessor has requested that the lease terminate in October of 2019, however the last day of the irrigation season is November 1. The lease will terminate on November 1, 2019. The lease may commence on the date this final order is signed.

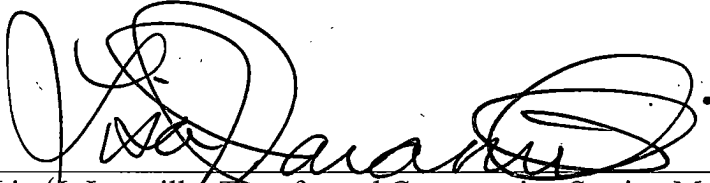
Conclusions of Law

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 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 November 1, 2019.

Dated at Salem, Oregon this day AUG 12 2019



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
Thomas M. Byler, Director, Oregon Water Resources Department

Mailing date: AUG 13 2019

This document was prepared by Sarah Henderson. If you have any questions, please call 503-986-0884.