

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

In the Matter of Instream Lease Application) DETERMINATION and
SL-40, Marion 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

Santiam Water Control District
284 E. Water St.
Stayton, OR. 97383

Findings of Fact

1. On June 26, 2023, Santiam Water Control District filed an application to renew instream lease SL-40, involving all of Certificate 30336, as a split season instream use.
2. The right to be leased is as follows:

Certificate: 30336 in the name of Marion County Investment Company (confirmed under the North Santiam River Decree Volume 14, at Page 354)
Use: Power and Other Manufacturing Purposes
Priority Date: 1866
Quantity/ Limit: 762 Cubic Feet per Second
Source: the North Santiam River and its tributaries, tributary to the Santiam River
Authorized Place of Use as described:

Beginning at a point on east line of sawmill lot, 180 feet west and 166 feet south of the southeast corner of Block 6, City of Stayton, Marion County, Oregon; and running thence east 34 feet; thence south 30 feet to the section line between Secs. 10 and 15; thence south 90 feet, more or less, to the center of tail-race slough; thence easterly 47 feet; thence north 90 feet, more or less, to said section line; thence north 17 feet; thence north 74° 22' east 26 feet to the northeast corner of Mutchler's lot; thence north 74° 22' east 26 feet (northeast corner of Cooper's lot); thence north 58° 10' east 34.1 feet; thence north 70° 42' east 21.2 feet; thence north 75° 0' east 68.3 feet; thence east 66 feet; thence north 50.1 feet to the northwest corner of the flour mill lot; thence north 60° 0' east 38.3 feet; thence north 55° 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.

east 40.3 feet; thence north 63° 30' east 37.0 feet; thence east 165 feet; thence north 80° 30' east 134 feet to the northeast corner of flour mill lot; thence north 60° 0' east 38.3 feet; thence north 55° 0' east 40.3 feet; thence north 63° 30' east 37.0 feet; thence east 165 feet; thence north 80° 30' east 134 feet to the northeast corner of flour mill lot; thence east 100 feet; thence south 7.9 feet; thence north 84° 02' east 121.6 feet; thence south 80° 24' east 262.1 feet; thence north 29° 45' east 288 feet; thence north 20° 50' east 175 feet; thence north 48° 35' east 294.4 feet; thence north 84° 31' west 111.7 feet to a point near the northeast corner of the Hepburn tract; thence south 50° 11' west 271.9 feet; thence south 25° 53' west 172.4 feet to a point on north line of Florence Street, produced; thence south 71° 54' west 338.0 feet; thence south 76° 01' west 62 feet to the southwest corner of Hepburn tract; thence south 13 feet; thence south 57° 10' west 36.9 feet; thence south 63° 09' west 53.8 feet; thence west 78.4 feet to the southeast corner of the English tract; thence south 74° 06' west 182.6 feet; thence south 81° 38' west 101.1 feet to the southwest corner of the English tract; thence west 120 feet; thence south 63° 26' west 174.4 feet; thence west 30 feet; thence south 24 feet; thence south 51° 20' west 38.4 feet; thence west 20 feet; thence south 74° 22' west 26 feet; thence north 5' to the southeast corner of Cooper's lot thence west 25 feet; thence south 5 feet; thence west 25 feet; thence south 5 feet; thence west 40 feet; thence north 30 feet; thence west 11 feet; thence south 70 feet; thence west 34 feet; thence south 6 feet to the point of beginning, all in tp. 9S., R. 1 W., W.M., in Marion County, Oregon.

- Certificate 30336 does not provide a description of the location of the point of diversion. Based upon additional information provided by the Lessee, review of Department records, and the Department's Watermaster, for purposes of this instream lease, the point of diversion is described as follows:

Twp	Rng	Mer	Sec	Q-Q	Gov Lot	Measured Distances
9 S	1 W	WM	11	SW SE	2	1800 FEET SOUTH AND 2830 FEET EAST FROM THE WEST ¼ CORNER OF SECTION 11

- 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 lease application, as proposed, is a split season lease:

Use of water under the water right included in this lease may continue for the existing use up to the rates and volumes specified in the below table consistent with the water right limitations identified in Finding of Fact No. 2:

Certificate	Priority Date	Rate	Volume	Use Period
30336	1866	256.78 CFS	185902.8 AF	July 1 through October 31

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

North Santiam River, tributary to the Santiam River

Instream Reach: At the POD (as described in Finding of Fact No. 3) to the mouth of the Santiam River and into the Willamette River

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
30336	1866	505.216	365759.99	November 1 through June 30

7. Other conditions to prevent injury and enlargement are:

The Lessor shall report monthly measurements of use under the water right involved in this split-season lease. The Lessor shall report the readings using the Split Season Measurement Reporting Form.

Where a staff gage is installed, an observer shall read the staff gage and record the reading at uniform intervals, and as close as practical before and after the time regulation of the diversion flow rate occurs. At no time shall the periodic interval be greater than three days. A continuous stage recorder may be used in lieu of periodic staff gage readings. The Watermaster may also request to read the Lessor's meter and staff gage(s) to verify readings supplied by the Lessor and/or request more frequent reporting. The measurement device is a flume located within each diversion ditch in close proximity to the POD.

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 within the proposed reach is appropriate, considering:
- The instream water use begins at the recorded point of diversion;
 - The location of confluences with other streams downstream of the point of diversion.
 - There are no known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
 - Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.
10. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach will provide for a beneficial purpose.
11. The total monthly quantities of water to be protected instream under existing and proposed instream rights in the reach 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 Lessee has requested that the lease terminate on November 30, 2027. The lease may commence on the date this final order is signed.
16. The Lessor has requested the option of terminating the lease early with written notice to the Department.

Conclusions of Law

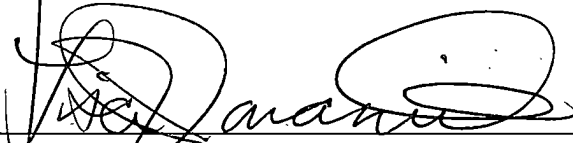
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

Now, therefore it is ORDERED:

1. The Lease as described herein is APPROVED.
2. During the term of this lease, the place of use will continue to receive water as identified in Finding of Fact No. 5 during the period July 1 through October 31. For the term of this lease, the former place of use will not receive water as part of this right, any supplemental rights, or any other layered water rights for irrigation use, including groundwater registrations and permits.

3. The term of the lease will commence upon signature and terminate on November 30, 2027. For multiyear lease, the lessor shall have the option of terminating the lease any time each year with written notice to the Department. However, if the termination request is received less than 30-days prior to the instream use period (June 30 through November 1) or after the water right original period of allowed use has begun, the Department may issue an order terminating the lease but use of water may not be allowed until the following calendar year, unless the Director determines that enlargement would not occur.

Dated at Salem, Oregon this AUG / 8 2023.



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
Douglas E. Woodcock, Acting Director
Oregon Water Resources Department

Mailing date: AUG / 9 2023

*This document was prepared by
Corey Courchane. If you have any
questions, call 503-979-3917.*

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