

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

In the Matter of Instream Lease Application) DETERMINATION and
IL-580, Umatilla County) FINAL ORDER ON PROPOSED
) 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

Bureau of Reclamation (BOR)
Umatilla Field Office
32871 Diagonal Road
Hermiston, OR 97838

Findings of Fact

1. On May 15, 2014, the BOR filed an application to renew instream lease L-580, involving a portion of Certificate 36246.
2. On June 25, 2014 the applicant clarified the term of the lease to be the maximum term allowed (5 years), terminating in 2018.
3. The portion of the right to be leased is as follows:

Certificate: 36246
Use: Irrigation
Acres: 42.2 acres
Priority Date: October 5, 1964
Season of Use: March 1 to October 31
Quantity: **Rate:** 1.06 Cubic Feet per Second (CFS)
Duty: 189.9 Acre-Feet (AF)
Source: Umatilla River, tributary to the Columbia River

Authorized Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	28 E	WM	8	NW SE	1680 FEET NORTH AND 1060 FEET WEST FROM THE SE CORNER, SECTION 8

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:

Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	28 E	WM	8	SW NE	0.6
4 N	28 E	WM	8	SE NE	12.5
4 N	28 E	WM	8	NE SE	27.1
4 N	28 E	WM	8	NW SE	2.0
Total Acres					42.2

4. Certificate 36246 does not specify the irrigation season. However, the Umatilla River Decree establishes the irrigation season for the area as March 1 through November 1.
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. At the full instream rate and volume requested, water cannot be protected instream for the entire irrigation season without enlargement. The Watermaster has recommended that the instream use period be modified to April 1 through June 29, a 90 day period to prevent enlargement and maximize the instream use.
7. The instream use has been modified from the lease application to prevent injury and enlargement and is as follows:
Umatilla River, tributary to the Columbia River

Instream Point: At the POD (as described in Finding of Fact No. 3)

Certificate	Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
36246	October 5, 1964	1.06	189.9	April 1 through June 29

8. 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.
9. 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.
10. 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.

11. 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.
12. 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. 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.
13. If a right which has been leased is later proposed to be leased again, transferred and/or reviewed for 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.
14. The lease may commence on the date this final order is signed.
15. The Lessor has requested the option of terminating the lease early with written notice to the Department.

CONCLUSIONS OF LAW

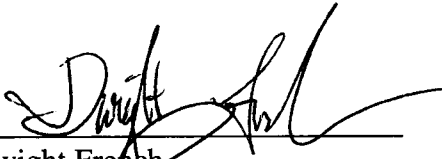
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

ORDER

Therefore, it is ORDERED:

1. That the Lease as described herein is APPROVED.
2. During each year of the term of the lease, the former place of use will no longer receive water as part of this right, any supplemental rights, or any other layered irrigation water rights, including ground water registrations and permits.
3. The lease will commence upon approval of the instream lease and terminate on October 31, 2018. For multiyear leases, 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 (April 1 through June 29) or after the water rights' 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 1 day of July, 2014.



Dwight French,
Water Right Services Division Administrator, for
Director, Oregon Water Resources Department

*This document was prepared by
Lanaya Blakely and if you have any
questions, please call 503-986-0888.*

Mailing date: JUL 02 2014