

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

In the Matter of the Proposed Short-Term)	DETERMINATION and
Lease of Existing Water Rights for Instream)	FINAL ORDER ON PROPOSED
Use, Certificates 62742, 63795, 63794,)	INSTREAM LEASE
62741, 63796, 46843 and 62743, Wasco	
County	

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 short-term instream lease applications.

Lessor

James Olson
80840 Dufur Valley Road
Dufur, OR 97021

Findings of Fact

1. Mr. Olsen filed an application to lease all of Certificates 62742, 63795, 63794, 62741, 63796, 46843 and 62743 to instream use. The Department assigned the application number L-590.
2. The portion of the right to be leased is as described in the application.
3. The lease application includes the information required under OAR 690-077-0077(3). The Department provided notice of the lease application pursuant to OAR 690-077-0077(6). No comments were received.
4. The instream use has been modified from the lease application to prevent injury and enlargement. Multiple instream reaches are created for each certificate. The first reach for each certificate is at the POD. Immediately below the POD, the rate is reduced by 42 percent to account for return flows. An additional 1 percent reduction per mile is added to account for losses.

Fifteen Mile Creek

Tributary to Columbia R in the Hood Basin

Instream Reach: POD (SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 1, T 2 S, R 12 E, W.M.; 290 Feet North and 200 Feet West from the E $\frac{1}{4}$ Corner of Section 1) to mouth of Fifteen Mile Creek.

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.

Certificate	Priority Date	Instream Rate (cfs)			Period Protected Instream
		POD	Below POD	End of Reach	
62742	May 24, 1919	0.08	0.04	0.03	July 1 through October 29
63795	August 19, 1918	0.06	0.03	0.02	July 1 through October 29
63794	1875	0.04	0.02	0.01	July 1 through October 29
62741	1875	0.29	0.17	0.10	July 1 through October 29
63796	May 5, 1926	0.02	0.01	0.01	July 1 through October 29
Total		0.49	0.27	0.17	

Fifteen Mile Creek

Tributary to Columbia R in the Hood Basin

Instream Reach: POD (SE ¼ NE ¼, Section 1, T 2 S, R 12 E, W.M.; 220 Feet North and 160 Feet West from the E ¼ Corner of Section 1) to mouth of Fifteen Mile Creek.

Certificate	Priority Date	Instream Rate (cfs)			Period Protected Instream
		POD	Below POD	End of Reach	
46843	1875	0.14	0.08	0.05	July 1 through October 29

Fifteen Mile Creek

Tributary to Columbia R in the Hood Basin

Instream Reach: POD #2 (NE ¼ SE ¼, Section 1, T 2 S, R 12 E, W.M.; 150 Feet South and 870 Feet West from the E ¼ Corner of Section 1) to mouth of Fifteen Mile Creek.

Certificate	Priority Date	Instream Rate (cfs)			Period Protected Instream
		POD	Below POD	End of Reach	
62743	November 17, 1921	0.15	0.08	0.05	July 1 through October 29

Fifteen Mile Creek

Tributary to Columbia R in the Hood Basin

Instream Reach: POD #3 (SW ¼ SE ¼, Section 1, T 2 S, R 12 E, W.M.; 1910 Feet South and 2170 Feet West from the E ¼ Corner of Section 1) to

Certificate	Priority Date	Instream Rate (cfs)			Period Protected Instream
		POD	Below POD	End of Reach	
62743	November 17, 1921	0.18	0.11	0.07	July 1 through October 29

- 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.

6. 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.
7. The lease will commence on January 1, 2007 and terminate on December 31, 2011.

CONCLUSIONS OF LAW

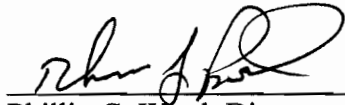
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease agreement conforms to the applicable provisions of OAR 690-077-0015.

ORDER

Therefore, it is ORDERED:

1. That the Short-Term Lease as described herein is APPROVED.
2. The former place of use shall no longer receive water as part of these rights during the term of the lease.
3. The water is leased instream as described in the Finding of Fact section above.

Dated at Salem, Oregon this 12th day of January 2005.


Phillip C. Ward, Director

Mailing date: JAN 18 2005