



**Maximum Duty that can be applied to an acre:**

Not to exceed 9.91 acre-feet (AF) per acre per year.

The above listed rates and duty reflect allowance of a 45% transmission loss on the main canal (POD No. 11) as determined by decree of the Circuit Court of Deschutes County, dated March 24, 1933. Those lands not served from the district main canal system, but by direct pumping from the Deschutes River, are not allowed the 45% transmission loss.

**Source:** Deschutes River, tributary to the Columbia River

**Authorized Point of Diversion (POD):**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17S	12E	W.M.	29	SE NE	POD No. 11 (COID NORTH CANAL): 850 FEET NORTH AND 630 FEET WEST FROM THE EAST CORNER OF SECTION 29

**Authorized Places of Use:**

Twp	Rng	Mer	Sec	Q-Q	Acres	Additional Place of Use Description Provided in Application - Tax Lot	Water Right Holder (Lessor)
14 S	12 E	W.M.	36	SE NE	0.40	4400	Michael McKennie
14 S	13 E	W.M.	18	NE SE	3.40	400	John & Joann Gunzner
15 S	12 E	W.M.	25	NE NW	1.80	203	Matthew & Lana Wittmer
15 S	12 E	W.M.	35	SE SE	0.50	100	Randall & Julie Mower
15 S	12 E	W.M.	36	SW SW	2.20	100	Randall & Julie Mower
16 S	12 E	W.M.	10	SW SW	2.25	902	John & Pamela Horwich
<b>Total</b>					10.55		

3. The Department has information that the season of use described in Certificate 83571 contains scrivener errors. Consistent with the Decree for the Deschutes River (Volume 12, Page 282), the irrigation season should be:

**Season of Use:** April 1 to November 1, further limited as follows:

April 1 to May 1 and October 1 to November 1 described herein as Season 1

May 1 to May 15 and September 15 to October 1 described herein as Season 2

May 15 to September 15 described herein as Season 3

4. Certificate 83571 is a deficient water right. Since Certificate 83571 was issued, the amount of water that may be diverted under this certificate has been affected (reduced) by allocation of conserved water projects, instream transfers, and other Department actions. If water were diverted simultaneously to all authorized lands and uses described in the right at the maximum rates and duty allowed (described in Finding of Fact No. 2), the total rate and duty for the water right would be exceeded. In the event water was diverted simultaneously to all authorized lands and uses described in the right at the maximum rates and duty allowed at the POD (described in Finding of Fact No. 2), the portion of the right involved in this instream lease would be limited as described in the table below. These rates and duty are also the quantities by which the diversion at POD No. 11 under Certificate 83571 shall be reduced, if this instream lease is approved.

Priority Date	Season 1	Season 2	Season 3	Duty
October 31, 1900	0.120 CFS	0.164 CFS	0.224 CFS	99.55 AF
December 2, 1907			0.090 CFS	

5. There is a supplemental irrigation water right, Certificate 76714, 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.
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 Lessor and Lessee have requested to protect water instream from the POD described in Finding of Fact No. 2 to the mouth of the Deschutes River. A portion of the water diverted at the POD returns to the Deschutes River within the proposed reach and is available to downstream water right holders. Return flows from the existing use are generally back in the river system once river flows reach the Madras Gage. To prevent injury to downstream water right holders and enlargement, the quantity of water that may be protected instream requires modification and return flows should be accounted for at the Madras Gage.
8. The instream use has been modified from the lease application to prevent injury and enlargement and is as follows:  
Deschutes River, tributary to the Columbia River

**Instream Reach No. 1:** From the COID North Canal POD No. 11 to the Madras Gage

Certificate	Priority Date	Instream Rate (CFS)			Instream Volume (AF)	Period Protected Instream
		Season 1	Season 2	Season 3		
83571	10/31/1900	0.073	0.097	0.179	57.50	April 1 – October 26

**Instream Reach No. 2:** From the Madras Gage to the mouth of the Deschutes River

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
83571	10/31/1900	0.046	19.0	April 1 – October 26

9. Other conditions to prevent injury and enlargement are:
 

The amount of water to be leased instream under Certificate 83571 does not include a 45% transmission loss associated with this right when used for its originally authorized purpose. The transmission loss may not be leased and protected instream.

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 points of diversion within the specified stream reach.
10. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water right.

11. The protection of flows within the proposed reach 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. Return flows resulting from the exercise of the existing water right would re-enter the river within the reach of the instream water right below the POD. The quantity of water to be protected within Instream Reach No. 2 has been reduced to account for return flows.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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.
17. The Lessors and Lessee have requested that the lease terminate on October 31, 2016. The lease has been submitted prior to the first day of the irrigation season.

### **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 on April 1, 2016, and terminate on October 31, 2016.

Dated at Salem, Oregon this 15 day of March, 2016.

  
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Dwight French, Water Right Services Administrator, for  
THOMAS M. BYLER, DIRECTOR  
Oregon Water Resources Department

Mailing date: MAR 17 2016

*This document was prepared by Teri Hranac. If you have any questions, please call 503-986-0881.*