

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

In the Matter of the Proposed Lease of) DETERMINATION and
Existing Water Rights for Instream Use,) FINAL ORDER ON PROPOSED
Certificate 7168, Klamath County) 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

Lynne Richardson-Cabral
Jean Richardson
21910 Sprague River Road
Chiloquin, Oregon 97824

Findings of Fact

1. Lynne Richardson-Cabral and Jean Richardson filed an application to lease a portion of Certificate 7168 to instream use. The Department assigned the application number IL-919.
2. The right to be leased is as follows:

Certificate: 7168 in the name of L. PANKY (perfected under Permit S-4829)
Use: IRRIGATION of 53.60 ACRES
Priority Date: JULY 21, 1920
Rate: 0.67 CUBIC FEET PER SECOND
Limit/Duty: ONE-EIGHTIETH cfs per acre
Source: SPRAGUE RIVER, tributary to WILLIAMSON RIVER

Authorized Point of Diversion: Not described on certificate.

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	10 E	WM	3	NW SW	1.54
36 S	10 E	WM	4	SW NE	0.73
36 S	10 E	WM	4	SW NW	12.9
36 S	10 E	WM	4	SE NW	12.16
36 S	10 E	WM	4	NW SW	5.26
36 S	10 E	WM	4	SW SW	1.97
36 S	10 E	WM	4	SE SW	12.9

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.

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	10 E	WM	4	NE SE	0.62
36 S	10 E	WM	4	SW SE	0.6
36 S	10 E	WM	4	SE SE	4.92

3. For the purposes of this lease, the Point of Diversion shall be described as:

Twp	Rng	Mer	Sec	Q-Q
36 S	10 E	WM	3	NW SW

4. 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.

5. The instream use is as follows:
 SPRAGUE RIVER tributary to WILLIAMSON RIVER

Instream Reach: From POD (as described in Finding of Fact #3) to mouth of Sprague River

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
7168	JULY 21, 1920	0.67	June 2 through September 30

6. Other conditions to prevent injury and enlargement are:
- a. A limit of 3 acre-feet per acre has been applied to prevent injury.
 - b. The portion of Klamath Adjudication Claim 109, or any other claim, shall not be exercised for the lands described in this lease.
 - c. By signing this order, OWRD staff does not make any recommendation or conclusion on any matter concerning Klamath Adjudication Claim 109.
7. 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.
8. 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.
9. 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.
10. The lease will terminate on October 1, 2012.

11. 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. The former place of use will no longer receive water as part of these rights, any supplemental rights, or any other layered water rights for irrigation use, including ground water registrations during the term of the lease.
3. The lease will terminate on October 1, 2012. The Lessor has the option of terminating the lease each year, with notification to the Department by May 2nd of each year, and before any use has occurred on the property.

Dated at Salem, Oregon this 28th day of May 2008.


Phillip C. Ward, Director

Mailing date: JUN 18 2008