

**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 48410, Wasco County) INSTREAM LEASE

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

Ashley Family Ranch LLC
4120 River Road
The Dalles, Oregon 97058

Findings of Fact

1. Ashley Family Ranch LLC filed an application to lease a portion of Certificate 48410 to instream use. The Department assigned the application number IL-821.
2. The right to be leased is as follows:

Certificate: 48410 in the name of FRED ASHLEY (confirmed by White River decree)

Use: IRRIGATION of 24.0 ACRES

Priority Date: 1874 and 1904

Rate: 0.30 CUBIC FEET PER SECOND (cfs), being 0.03 cfs with an 1874 priority and 0.27 cfs with a 1904 priority

Limit/Duty: Not to exceed 3.0 acre-feet per acre per year

Source: WHITE RIVER, tributary to DESCHUTES RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
4 S	13 E	WM	11	SW NW	2430 FEET SOUTH AND 1300 FEET EAST FROM NW CORNER OF SECTION 11

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	13 E	WM	12	NE NW	13.4
4 S	13 E	WM	12	NW NW	10.3
4 S	13 E	WM	12	SW NW	0.3

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.

3. Water may be diverted if it is available at the original point of diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
4 S	13 E	WM	10	NW SE	FRENCH ESTATE AND KNIGHTEN DITCH (LISTED AS ANDERSON DITCH IN ADJUDICATION PROCEEDINGS): 890 FEET SOUTH AND 1680 FEET WEST FROM THE E ¼ CORNER OF SECTION 10

4. 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.
5. The instream use has been modified from the lease application to prevent injury and enlargement and is as follows:
WHITE RIVER tributary to DESCHUTES RIVER

Instream Reach: POD (as described in Finding of Fact #2), if available at original POD (as described in Finding of Fact #3)

Certificate	Priority Date	Instream Rate (cfs)	Period Protected Instream
48410	1874	0.03	July 1 through October 29
	1904	0.27	

6. 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.
7. 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.
8. 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.
9. The lease application requests to terminate on December 31, 2012. However, OAR 690-077-0076(1) limits instream leases to a maximum five year period, which would be until December 31, 2011.
10. The Lessor has requested the option of terminating the lease early with written notice to the Department.

CONCLUSIONS OF LAW

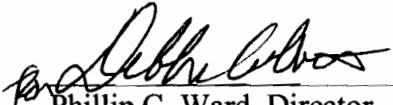
The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

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 December 31, 2011. The Lessor has the option of terminating the lease each year, with notification to the Department by June 1 of each year, and before any use has occurred on the property.

Dated at Salem, Oregon this 24th day of May 2007.


Phillip C. Ward, Director

Mailing date: ~~MAY 31 2007~~