

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

In the Matter of Instream Lease Application) DETERMINATION and
IL-1645, Douglas County) FINAL ORDER ON PROPOSED
) INSTREAM LEASE

Authority

Oregon Revised Statute (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. Oregon Administrative Rule (OAR) Chapter 690, Division 077 implements the statutes and provides the Department's procedures and criteria for evaluating instream lease applications.

Lessors

Ray D. Hymer
Buena L. Hymer
3835 S. Umpqua Road
Tiller, OR 97487
RayDHymer@gmail.com

Findings of Fact

1. On March 2, 2018, Ray D. Hymer and Buena L. Hymer filed an application to lease the entirety of Certificate 37416 for instream use. The Department assigned the application number IL-1645.
2. The right to be leased has been modified from the lease application and is as follows:

Certificate: 37416 in the name of John G. and Lola Gibson (perfected under S-31413)
Use: Irrigation of 49.3 acres
Priority Date & Rate: March 8, 1966 for 0.375 Cubic Foot per Second (CFS)
Quantity: April 1, 1966 for 0.245 CFS
Limit: One-eightieth CFS per acre, not to exceed 2.5 AF per acre per year
Source: South Umpqua River, tributary to Umpqua River
Authorized Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
30 S	2 W	WM	24	SE NW	380 FEET NORTH AND 1540 FEET EAST FROM THE W1/4 CORNER OF SECTION 24

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
30 S	2 W	WM	24	NE NW	14.0
30 S	2 W	WM	24	NW NW	0.1
30 S	2 W	WM	24	SW NW	25.2
30 S	2 W	WM	24	SE NW	10.0
Total Acres					49.3

3. Certificate 37416 does not specify the irrigation season; nor is an irrigation season specified by Basin Program or Decree. For the purposes of instream leasing, an irrigation season of March 1 through October 31, consistent with OAR 690-250, shall be used to establish when water may be protected instream.
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. To prevent enlargement, the rate of water to be protected instream must be adjusted so the annual volume limitation is not exceeded. By reducing the rate, the water may be protected through the entire irrigation season.
6. The instream use has been modified from the lease application to prevent injury and enlargement and is as follows:

South Umpqua River, tributary to Umpqua River

Instream Reach: From the POD (as described in Finding of Fact No. 2) to the confluence with the Umpqua River

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
37416	3/8/1966	0.152	73.86	March 1 through October 31
	4/1/1966	0.10	48.60	
Total		0.252	122.46	

7. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water right.
8. 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. Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.

9. 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.
10. 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.
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. 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.
13. If a right which has been leased is later proposed to be leased again, transferred and/or reviewed under 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 Lessors have requested that the lease terminate on October 31, 2022. The lease may commence on the date this final order is signed.
15. The Lessors have 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.

Now, therefore it is ORDERED:

1. 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 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 upon approval of the instream lease and terminate on October 31, 2022. For multiyear leases, the lessors 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 (March 31 through October 31) 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 day MAR 30 2018.



Dwight French, Water Right Services Division Administrator, for
Thomas M. Byler, Director, Oregon Water Resources Department

Mailing date: MAR 30 2018

*This document was prepared by Sarah
Henderson, and if you have any
questions, please call 503-986-0890.*

STATE OF OREGON
COUNTY OF DOUGLAS
CERTIFICATE OF WATER RIGHT

This Is to Certify, That JOHN G. and LOLA GIBSON

of Route 1, Box 26, Tillier, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of South Umpqua River

a tributary of Umpqua River for the purpose of irrigation of 49.3 acres

under Permit No. 31413 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from March 8, 1966 for 0.375 c.f.s. April 1, 1966 for 0.245 c.f.s.

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.62 cubic foot per second

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 24, T. 30 S., R. 2 W., W. M. Diversion point located: 380 feet North and 1540 feet East from NW $\frac{1}{4}$ Corner, Section 24.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2 $\frac{1}{2}$ acre feet per acre for each acre irrigated during the irrigation season of each year,

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

14.0 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$
0.1 acre NW $\frac{1}{4}$ NW $\frac{1}{4}$
25.2 acres SW $\frac{1}{4}$ NW $\frac{1}{4}$
10.0 acres SE $\frac{1}{4}$ NW $\frac{1}{4}$
Section 24
T. 30 S., R. 2 W., W. M.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

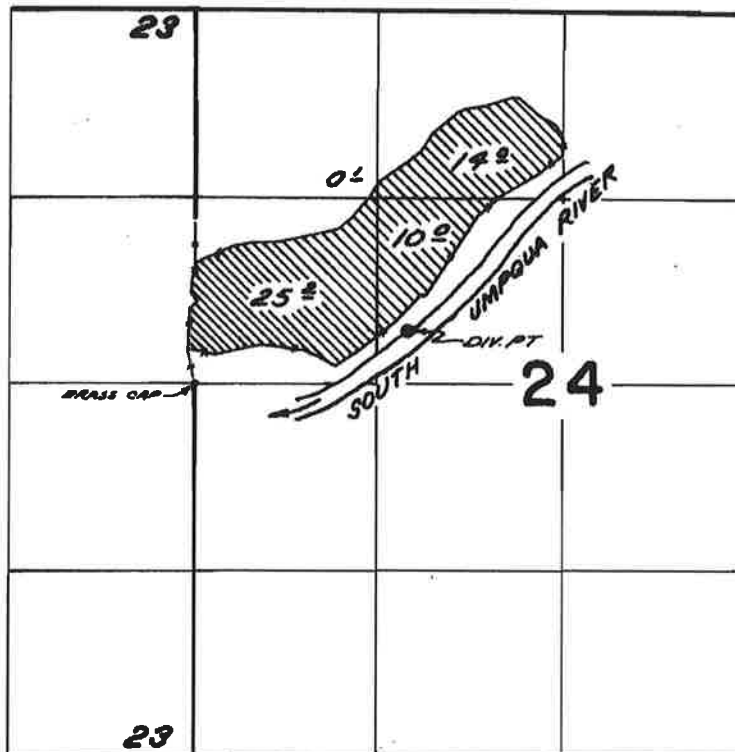
WITNESS the signature of the State Engineer, affixed

this date. March 19, 1971

.....CERIS L. WHEELER.....

State Engineer

T.30S.R.2W.W.M.



DIV. PT. LOCATED 380 FT. N. & 1590 FT. E. FROM W. 1/4 COR SEC 24

FINAL PROOF SURVEY
UNDER

Application No. 41960 Permit No. 31413
IN NAME OF

JOHN G. AND LOLA GIBSON

Surveyed JUL 31 1969, by D. BUELL