

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

In the Matter of the Proposed Short-Term	)	FINAL ORDER TO
Lease of Existing Water Rights for Instream	)	TERMINATE
Use, Certificate 74145, Deschutes County,	)	INSTREAM LEASE
Oregon	)	

**FINDINGS OF FACT**

1. On June 16, 2003, a Short-Term Lease Application, which proposed to lease a portion of certificate 74145 for instream purposes, was submitted to the Department by:

Lessor #1

Edward & Doris Elkins  
63613 OB Riley Road  
Bend, Oregon 97701

Lessor #2

Swalley Irrigation District  
P.O. Box 5126  
Bend, Oregon 97701

Lessee

Deschutes Resources Conservancy (now Deschutes River Conservancy)  
PO Box 1560  
Bend, OR 97709

2. The Department assigned this lease agreement number L-431.
3. The lease application contained a provision allowing the Lessor to terminate the lease in any year of the lease, prior to the lease being exercised.
4. The lease application requested to protect water instream for five years, terminating on October 31, 2007. A Final Order approving this lease was issued by the Department on July 21, 2004, as evidenced by Special Order Volume 57, Page 965.
5. On March 31, 2005, the Department received a request from Lessor #2 to terminate the lease prior to the 2005 irrigation season.
6. The lease was exercised during the 2003 and 2004 water use periods.

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 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

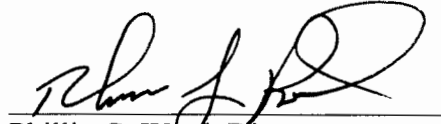
## CONCLUSIONS OF LAW

The Department concludes that terminating the lease in advance of water being protected instream during the 2005 irrigation season is consistent with OAR 690-077.

## ORDER

Therefore, it is ORDERED that the Short-Term Lease described herein is TERMINATED and no longer in effect.

Dated at Salem, Oregon this 4<sup>th</sup> day of April, 2005.

  
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Phillip C. Ward, Director

*For*