

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

In the Matter of the Proposed Short-Term	)	FINAL ORDER
Lease of Existing Water Rights for Instream	)	TERMINATING
Use, Certificate 76358, Deschutes 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 short-term instream lease applications.

**Lessor #1**

Deryl Ferguson and Carol France  
5909 SW Williams Rd  
Powell Butte, OR 97753

**Lessor #2**

Central Oregon Irrigation District (COID)  
1055 SW Lake Court  
Redmond, OR 97756  
[transfers@coid.org](mailto:transfers@coid.org)

**Lessee**

Deschutes Water Exchange (DWE) Mitigation Bank  
PO Box 1560  
Bend, OR 97709  
[ghubert@deschutesrc.org](mailto:ghubert@deschutesrc.org)

**Findings of Fact**

1. On May 11, 2005, COID, the DWE Mitigation Bank, Deryl Ferguson, and Carol France filed an application to lease a portion of Certificate 76358 to instream use and to establish mitigation credits. The Department assigned the instream lease application number L-651 and the mitigation credit project MP-49.
2. The mitigation credit project portion of this application was withdrawn on July 7, 2005, prior to a final order being issued approving the application.
3. The lease application requested to protect water instream for five years, terminating on October 31, 2009. A Final Order approving this lease was issued by the Department on July 11, 2006, as evidenced by Special Order Volume 65, Page 293.
4. The final order contained a condition allowing the lessor to terminate the lease in any year of the lease, prior to the lease being exercised that season. On December 22, 2006, the Department received a request from Deryl Ferguson, Carol France, and COID to terminate

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.

the lease prior to the 2007 irrigation season. On December 29, 2006, the Department received a request from the DWE Mitigation Bank to terminate the lease.

5. The lease was exercised during the 2005 and 2006 water use periods ending on October 31, 2006.

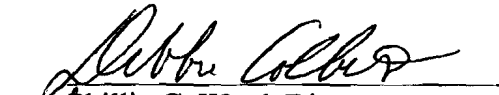
### CONCLUSIONS OF LAW

The Department concludes that terminating the lease in advance of the 2007 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 5<sup>th</sup> day of January 2007.

  
Phillip C. Ward, Director

Mailing date: JAN 0 8 2007