

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

In the Matter of Instream Lease IL-1398            )    FINAL ORDER  
Benton County                                        )    TERMINATING INSTREAM  
  )    LEASE

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.

**Lessor**

Luckiamute River Farm, LLC.  
Attn: Bernard Silvernail  
3221 NE 30<sup>th</sup> Avenue  
Portland, OR 97212

**Findings of Fact**

1. On March 10, 2014, Thomas Paine Farms, Lessor (landowner), filed an application to renew instream lease IL-989, involving a portion Certificates 28041 and 54648. The Department assigned the lease a new application number, IL-1398.
2. The lease application requested to protect water instream for five years, terminating on September 30, 2018. A Final Order approving this lease was issued by the Department on April 24, 2014, as evidenced by Special Order Volume 92, Page 194.
3. 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, with written notification to the Department from the Lessor.
4. On March 1, 2015, the Department received a request from Luckiamute Farm, LLC., the new landowner (Lessor), to terminate the lease prior to the 2015 instream use period. The lands appurtenant to Certificates 28041 and 54648 were purchased by Luckiamute River Farm, LLC.
5. The lease was exercised during the 2014 water use period ending on September 30, 2014.

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.

**Conclusions of Law**

The Department concludes that terminating the lease in advance of the 2015 instream use period is consistent with OAR 690-077.

**Now, therefore it is ORDERED:**

The Instream Lease described herein is TERMINATED and no longer in effect.

Dated at Salem, Oregon this 10 day of March, 2015.



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

Mailing date:           MAR 13 2015          

*This document was prepared by  
Derrick Wheeler and if you have any  
questions, please call 503-986-0898.*