

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

In the Matter of the Lease of Existing Water )  
Rights for Instream Use, Certificate 74145, )  
Deschutes County )

FINAL ORDER  
TERMINATING  
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 #1**

Dale Korish  
P.O. Box 1535  
Bend, OR 97701

**Lessor #2**

Swalley Irrigation District (SID)  
PO Box 5126  
Bend, OR 97708-5126

**Lessee**

Deschutes River Conservancy (DRC) (formerly Deschutes Resources Conservancy)  
PO Box 1560  
Bend, OR 97709  
[ghubert@deschutesrc.org](mailto:ghubert@deschutesrc.org)

**Findings of Fact**

1. On June 30, 2003, SID, the DRC, and Dale Korish filed an application to lease a portion of Certificate 74145 to instream use. The Department assigned the instream lease application number L-462.
2. 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 August 4, 2003, as evidenced by Special Order Volume 57, Page 1234.
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 notice to the Department. On February 28, 2007, the Department received a request from Dale Korish, SID, and the DRC to terminate the lease prior to the 2007 irrigation season.
4. The lease was exercised during the 2003, 2004, 2005, and 2006 water use periods ending on October 31, 2006.

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.

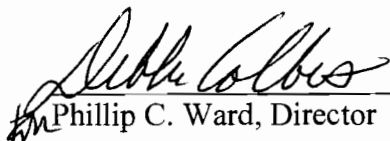
## CONCLUSIONS OF LAW

The Department concludes that terminating the lease in advance of the 2007 irrigation season is consistent with OAR 690-077.

## ORDER

Therefore, it is ORDERED that the Instream Lease described herein is TERMINATED and no longer in effect.

Dated at Salem, Oregon this 9<sup>th</sup> day of March 2007.

  
Phillip C. Ward, Director

Mailing date: MAR 13 2007