

**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 INSTREAM LEASE
Use, Certificates 45299, 53000, 53001,)
80582, 80583, 7641, and 67090, Klamath
County

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

JaCox Ranch
PO Box 435
Fort Klamath, OR 97626

Lessee

Klamath Basin Rangeland Trust (KBRT)
700 Main Street, Suite 201A
Klamath Falls, OR 97601

Findings of Fact

1. On March 11, 2009, the KBRT and JaCox Ranch filed an application to renew instream lease IL-695, involving a portion of certificate 45299 and all of certificates 53000, 53001, 80582, 80583, 7641, and 67090.
2. The lease application requested to protect water instream for five years, terminating on October 31, 2013. A Final Order approving the renewal of this lease was issued by the Department on April 24, 2009, as evidenced by Special Order Volume 77, Page 472.
3. The final order contained a condition allowing the Lessor to terminate the lease in any year of the lease with notice submitted to the Department at least 30 days prior to the beginning of the instream period.
4. IL-695, along with IL-479, is subject to the terms of a Stipulated Agreement signed by JaCox Ranch, the Klamath Basin Rangeland Trust, Roger Nicholson and the Oregon Water Resources Department. A portion of the water protected instream under IL-695 is supplemental to water protected instream under IL-479.
5. On February 23, 2010, the Department received a request from the Lessor and Lessee to terminate the lease prior to water being protected instream in 2010. The request to terminate instream lease IL-695 does not affect the terms of the Stipulated Agreement or how water is protected instream under IL-479.

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.

6. The instream lease IL-695 was exercised during the 2009 water use period ending on October 31, 2009.


CONCLUSIONS OF LAW

The Department concludes that terminating instream lease IL-695 in advance of the 2010 instream 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 8th day of March 2010.


Per Phillip C. Ward, Director

Mailing date: 3-15-10