

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

In the Matter of the Proposed Short-Term )	FINAL ORDER WITHDRAWING
Lease of Existing Water Rights for Instream )	PROPOSED INSTREAM LEASE &
Use, Certificate 76358, Deschutes County )	MITIGATION CREDIT PROJECT

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.

OAR 690-521-0100 to 690-521-0600 establishes the process in which anyone may submit a ground water mitigation project to the Department for the purpose of establishing mitigation credits in the Deschutes Ground Water Study Area.

**Lessor #1**

John and Shirley Andrews  
22425 Bear Creek Rd.  
Bend, OR 97701

**Lessor #2**

Central Oregon Irrigation District (COID)  
1055 SW Lake Court  
Redmond, OR 97756  
[lauraw@coid.org](mailto:lauraw@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 June 21, 2006, the DWE Mitigation Bank, COID and John and Shirley Andrews filed an application to lease a portion of Certificate 76358 to instream use. The Department assigned the application number L-755. The Lessee, a mitigation bank chartered by the Water Resources Commission, also requested that the portion of the right to be protected instream be used to generate mitigation credits. The Department assigned this mitigation credit project number MP-89.
2. The lease application includes the information required under OAR 690-077-0077(3). On June 27, 2006, the Department provided notice of the lease application pursuant to OAR 690-077-0077(6) and the Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300 (6). On June 28, 2006, the Department also provided notice of the mitigation credit project to the Oregon Department of Fish and Wildlife, Oregon Department

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.

of Environmental Quality, Oregon State Parks and Recreation Department, Oregon Division of State Lands, the Oregon Department of Agriculture, and the Department's Watermaster pursuant to OAR 690-521-0300 (7) and OAR 690-505-0630 (2). The public comment period closes on July 18, 2006. Comments have been received from the Oregon State Parks and Recreation Department.

3. On July 11, 2006, the Department received a request from COID and the DWE Mitigation Bank to withdraw this lease application and mitigation credit project.

### CONCLUSIONS OF LAW

The Department concludes that this lease has been withdrawn and does not result in the protection of any instream flow pursuant to OAR 690-077-0077.

This mitigation project has been withdrawn and, therefore, does not result in mitigation credits pursuant to ORS 537.746 and OAR 690-521-0300 and 690-521-0400.

### ORDER

Therefore, it is ORDERED:

1. That the Short-Term Lease application and mitigation credit project as described herein are withdrawn.

Dated at Salem, Oregon this 11<sup>th</sup> day of July 2006.

  
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Phillip C. Ward, Director

Mailing date: JUL 14 2006