

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

In the Matter of Instream Lease Application) FINAL ORDER
IL-818, Certificate 74145, Deschutes) TERMINATING INSTREAM LEASE
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 #1

Jane and Joseph Eilers
PO Box 6838
Bend, OR 97708

Lessor #2

Swalley Irrigation District (SID)
64672 Cook Ave., Suite 1
Bend, OR 97701

Lessee

Deschutes River Conservancy (DRC)
P.O. Box 1560
Bend, Oregon 97709

Findings of Fact

1. On April 25, 2007, the DRC, SID and Jane and Joseph Eilers filed an application to lease a portion of Certificate 74145 for instream use.
2. The lease application requested to protect water instream for five years, terminating on October 31, 2011. A Final Order approving this lease was issued by the Department on May 24, 2007, as evidenced by Special Order Volume 72, Page 84.
3. The final order contained a condition allowing the Lessor to terminate the lease in any year of the lease, with notification to the Department by March 1, and before any use has occurred on the property.
4. On February 26, 2010, the Department received a request from the Lessors and Lessee to terminate the lease prior to the 2010 irrigation season.
5. The lease was exercised during the 2007, 2008, and 2009 water use periods ending on October 31, 2009.

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 2010 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Therefore, it is ORDERED that the Instream Lease described herein is TERMINATED and no longer in effect.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 5th day of March 2010.

for 
Phillip C. Ward, Director

Mailing date: 3/8/2010