

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

In the Matter of Instream Lease Application) TERMINATION OF INSTREAM
IL-574, Certificates 42935, 42934, 42936,) LEASE & FINAL ORDER
and 65386, 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 #1

Kurt Thomas
5800 Georgia Dr.
Bakersfield, CA 93308

Lessee

Klamath Basin Rangeland Trust (KBRT)
700 Main Street, Suite 201 A
Klamath Falls, OR 97601
shannon.peterson@kbrt.org

Findings of Fact

1. On June 30, 2009, the KBRT and Kurt Thomas filed an application to renew instream lease L-574, involving all of Certificates 42935, 42934, 42936, and 65386 for instream use. The Department assigned the application number IL-574.
2. The lease application requested to protect water instream for five years, terminating on October 31, 2013. A Final Order approving the lease was issued by the Department on July 30, 2009, as evidenced by Special Order Volume 78, Page 568.
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.
3. On February 28, 2011, the Department received a request from Lessor #1 to terminate the lease effective prior to water being protected instream in 2011.
4. The lease was exercised during the 2009 and 2010 water use periods ending on October 31, 2010.

CONCLUSIONS OF LAW

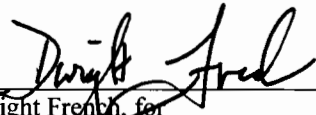
The Department concludes that terminating the lease in advance of the 2011 irrigation season is consistent with OAR 690-077.

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.

ORDER

Therefore, it is ORDERED that the Short-Term Lease described herein is TERMINATED and no longer in effect.

Dated at Salem, Oregon this 9 day of March, 2011.



Dwight French, for
Phillip C. Ward, Director

If you have any questions about this document, please call Laura Wilke at 503-986-0884.

Mailing date: **MAR 10 2011** _____