

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

|   |                           |
|---|---------------------------|
| In the Matter of Instream Lease IL-1450 and ) | FINAL ORDER               |
| Mitigation Credit Project MP-196, Deschutes ) | TERMINATING INSTREAM      |
| County )                                      | LEASE & 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 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**

Wanek Ranch LLC  
P.O. Box 1098  
La Pine, Oregon 97739

**Lessee**

Deschutes River Conservancy Mitigation Bank (DRCMB)  
700 N.W. Hill Street, Suite 1  
Bend, Oregon 97703  
[gen@deschutesriver.org](mailto:gen@deschutesriver.org)

**Findings of Fact**

1. On April 17, 2015, Wanek Ranch LLC and the DRCMB filed an application involving a portion of Certificate 87048 for instream use. The Department assigned the application number IL-1450 and mitigation credit project MP-196.
2. The lease application requested to protect water instream for five years, terminating on November 2, 2019. A Final Order approving this lease and mitigation credit project was issued by the Department on June 19, 2015, as evidenced by Special Order Volume 96, Page 333. The mitigation credit project was awarded 360.0 mitigation credits for use in the Little Deschutes Zone of Impact, of that amount up to 334.8 could of also been used in the Upper Deschutes, Middle Deschutes and General Zones of Impact. These mitigation credits were assigned to the DRC Mitigation Bank and were to expire on December 31, 2019.
3. The final order contained a condition allowing the Lessor and the Lessee to terminate the lease in any year of the lease, prior to the lease being exercised that season, with written notification to the Department from all parties to the lease.

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.

4. On February 21, 2019, the Department received a request from Wanek Ranch and the DRCMB to terminate the lease and mitigation credit project prior to the 2019 instream use period.
3. The lease was exercised during the 2015, 2016, 2017, and 2018 water use period ending on November 2, 2018. Mitigation credits established by this project were used to provide mitigation for groundwater permits in 2015, 2016, 2017, and 2018.

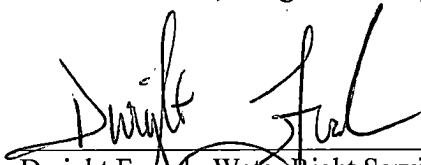
**Conclusions of Law**

The Department concludes that terminating the lease in advance of the 2019 instream use period is consistent with OAR 690-077.

**Now, therefore it is ORDERED:**

The Instream Lease described herein is **TERMINATED** and no longer in effect. The mitigation credits awarded to the Mitigation Project described herein are no longer valid.

Dated at Salem, Oregon this day, MAR 11 2019.



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Dwight French, Water Right Services Administrator, for  
Thomas M. Byler, Director, Oregon Water Resources Department

Mailing date: MAR 12 2019

*This document was prepared by Sarah Henderson and if you have any questions, please call 503-986-0884.*