

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

In the Matter of Instream Lease IL-1578 and)	FINAL ORDER
Mitigation Credit Project MP-216, 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

Deschutes River Ranch Group
(DRRG)
Craig Morton, Manager
20210 Swalley Road
Bend, Oregon 97701

Lessee

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

Findings of Fact

1. On February 15, 2017, DRRG and the DRCMB filed an application involving a portion of Certificate 83521 for instream use. The Department assigned the application number IL-1578 and mitigation credit project MP-216.
2. The lease application requested to protect water instream for five years, terminating on October 31, 2021. A Final Order approving this lease and mitigation credit project was issued by the Department on March 23, 2017, as evidenced by Special Order Volume 104, Page 232. The mitigation credit project was awarded 39.6 mitigation credits for use in the General and Middle Zones of Impact. These mitigation credits were assigned to the DRC Mitigation Bank and were to expire on December 31, 2021.
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 15, 2019, the Department received a request from DRRG 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 2017 and 2018 water use period ending on October 31, 2018. Mitigation credits established by this project were used to provide mitigation for groundwater permits in 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.



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.