

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

In the Matter of the Short-Term Lease of) FINAL ORDER TO
Existing Water Right for Instream Use,) TERMINATE
Certificate 76358 and 76714, Deschutes) INSTREAM LEASE
County, Oregon

FINDINGS OF FACT

1. On April 7, 2003, a Short-Term Lease Application, which proposed to lease a portion of certificates 76358 (primary) and 76714 (supplemental) for instream purposes was submitted to the Department by:

Lessor #1
Pieratt Brothers, Inc.
21350 Stevens Rd.
Bend, OR 97702

Lessor #2
Central Oregon Irrigation District (COID)
2598 N. Hwy 97
Redmond, OR 97756

Lessee
Deschutes River Conservancy
P.O. Box 1560
Bend, OR 9770

2. The Department assigned this lease agreement number L-399.
3. The lease application requested to protect water instream for five years, terminating on October 31, 2007. A Final Order approving this lease was issued by the Department on May 21, 2003, as evidenced by Special Order Volume 57, Page 697. The final order contains a condition allowing the Lessor (Lessor #1 or Lessor #2) to terminate the lease prior to water being protected instream in any year that the lease is in effect.
4. On February 16, 2006, the Department received a request from Bend Aerie #2089 Fraternal Order of Eagles, current landowner, and DesertScape Properties, LLC, current landowner, and COID, Lessor #2, to terminate the lease prior to the 2006 irrigation season.
5. The lease was exercised through the 2005 water use period, ending on October 31, 2005.

CONCLUSIONS OF LAW

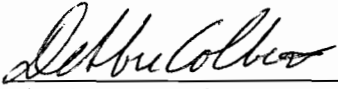
The Department concludes that terminating the lease in advance of the 2006 irrigation season is consistent with OAR 690-077.

<p>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.</p>

ORDER

Therefore, it is ORDERED that the Short-Term Lease described herein is TERMINATED and no longer in effect.

Dated at Salem, Oregon this 22nd day of February, 2006.



for Phillip C. Ward
Director

Marking Date: FEB 27 2006