

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

In the Matter of the Lease of Existing Water    )    FINAL ORDER  
Right for Instream Use, Certificate 68665,    )    TERMINATING INSTREAM LEASE  
Marion 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**  
Oregon Department of Corrections  
Max Williams, Director  
2575 Center Street  
Salem, OR 97310-0505

Lessor #2  
Santiam Water Control District  
284 East Water Street  
Stayton, OR 97383

**Findings of Fact**

1. On November 15, 2006, the Oregon Department of Corrections and Santiam Water Control District filed an application to lease a portion of Certificate 68665 to instream use. The Department assigned the instream lease application number IL-791.
2. The lease application requested to protect water instream for five years, beginning on May 1, 2007, and terminating on September 30, 2011. A Final Order approving this lease was issued by the Department on December 15, 2006, as evidenced by Special Order Volume 70, Page 726.
3. The final order contained a condition allowing the Lessor to terminate the lease in any year of the lease, prior to May 1 of each year.
4. On May 13, 2009, the Department received a request from Santiam Water Control District (Lessor #2) to terminate the lease prior to water being protected instream in 2009. While the original order identified that a termination request needed to be submitted by May 1, water does not begin being protected instream until June 1. The Department has determined that terminating the lease in advance of water being protected instream will not result in injury or enlargement of the right.

**CONCLUSIONS OF LAW**

The Department concludes that terminating the lease in advance of water being protected instream in 2009 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 Instream Lease described herein is TERMINATED and no longer in effect.

Dated at Salem, Oregon this 19<sup>th</sup> day of May, 2009.

  
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Phillip C. Ward, Director *PCW*

Mailing date: MAY 29 2009