# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Instream Lease IL-1474,	)	FINAL ORDER
Deschutes County	)	TERMINATING INSTREAM
	)	LEASE
	)	
	)	

Oregon Revised Statute (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. Oregon Administrative Rule (OAR) Chapter 690, Division 077 implements the statutes and provides the Department's procedures and criteria for evaluating instream lease applications.

#### Lessor

Deming Ranch Land and Cattle, LLC Dan Kominek, Managing Partner 2064 Camp Whitney Circle Rocklin, CA 95765 dkominek@wildlandsinc.com

#### Lessee

Upper Klamath Improvement District (UKID) Randall Kizer, President of Directors 421 Commercial Street Klamath, OR 97601 randall.kzr@gmail.com

## **Findings of Fact**

- 1. On May 7, 2015, Deming Ranch Land and Cattle, LLC and UKID filed an application to lease a portion of Certificates 9950 and 9984 for instream use. The Department assigned the instream lease application number IL-1474.
- 2. The lease application requested to protect water instream for three years, terminating on October 1, 2017. A Final Order approving this lease was issued by the Department on June 25, 2015, as evidenced by Special Order Volume 96, Page 426.
- 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.
- 4. On January 26, 2017, the Department received a request from Deming Ranch Land and Cattle, LLC and UKID to terminate the lease prior to the 2017 instream use period.
- 3. The lease was exercised during the 2015 and 2016 water use periods ending on October 1, 2016.

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.

## **Conclusions of Law**

The Department concludes that terminating the lease in advance of the 2017 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.

Dated at Salem, Oregon this 3 day of January, 2017.

Dwight French, Water Right Services Administrator, for

Thomas M Byler, Director, Oregon Water Resources Department

Mailing date: FEB 0 2 2017

This document was prepared by Kate Fitzgerald. If you have any questions, please call 503-986-0898.