

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

In the Matter of the Proposed Short-Term)	DETERMINATION and
Lease of Existing Water Rights for Instream)	FINAL ORDER ON
Use and Preliminary and Final Award of)	PROPOSED INSTREAM
Mitigation Credits, Certificate 74145,)	LEASE and
Deschutes County, Oregon,)	MITIGATION CREDIT
		PROJECT

On May 19, 2003, the Deschutes Water Exchange Mitigation Bank submitted an instream lease application for the purpose of protecting flows instream and generating mitigation credits to offset the impacts of ground water use in the Deschutes Ground Water Study Area.

FINDINGS OF FACT

Short-Term Instream Lease

1. A Short-Term Lease Application, which proposed to lease all or a portion of certificate 74145 for instream purposes was submitted to the Department by:

Lessor
Swalley Irrigation District
P.O. Box 5126
Bend, OR 97708-5126

Lessee
Deschutes Water Exchange Mitigation Bank
P.O. Box 1560
Bend, OR 97709

2. The Department assigned this lease agreement number L-417.
3. The lease application includes the required information under OAR 690-077-0077(3). The Department provided notice of the lease application pursuant to OAR 690-077-0077(6). No comments were received.
4. Based upon review of the application and information provided by the Department's Watermaster, the Department finds that the lease, as proposed, will not result in injury or enlargement.
5. The lease will terminate on October 31, 2007.

Preliminary Award of Deschutes Basin Mitigation Credits

6. The Lessee, a mitigation bank chartered by the Commission, has requested that the portion of the right to be protected instream be used to generate mitigation credits.

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 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

7. The Department assigned this mitigation credit project number MP-5.
8. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300 (6). The Department also provided notice of the mitigation credit project to the Oregon Department of Fish and Wildlife, Oregon Department of Environmental Quality, Oregon State Parks and Recreation Department, Oregon Division of State Lands, the Oregon Department of Agriculture, and the Department's Watermaster pursuant to OAR 690-521-0300 (7) and OAR 690-505-0630 (2). No comments were received.
9. When the Department originally published notice of this mitigation project, it was identified that the project may generate 140.4 mitigation credits. However, based upon additional evaluation, the Department finds that 134.7 mitigation credits may be awarded for this mitigation credit project. The mitigation credits may be used to mitigate for ground water permit applications and existing conditioned ground water permits and certificates, providing mitigation pursuant to the Deschutes Ground Water Mitigation Rules, OAR Chapter 690, Division 505, within the Middle Deschutes and General zones of impact.
10. The mitigation credits expire on December 31, 2007.
11. The use and maintenance of the mitigation credits is subject to the terms and conditions of the Deschutes Water Exchange Mitigation Bank Charter.

CONCLUSIONS OF LAW

Short-Term Instream Lease

The Department concludes that the lease, as clarified above, will not result in injury or enlargement, OAR 690-077-0077.

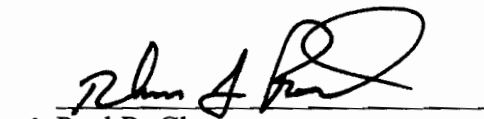
Final Award of Deschutes Basin Mitigation Credits

The Department concludes that the mitigation credit project is awarded mitigation credits, as described above, pursuant to OAR 690-521-0400 and ORS 537.746.

ORDER

Therefore, it is ORDERED that the Short-Term Lease and Mitigation Credits, in the amount of 134.7 credits, described herein are APPROVED.

Dated at Salem, Oregon this 25th day of June, 2003.


Paul R. Cleary
Director