

**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, Certificate(s) 74145, Deschutes County,)	PROPOSED INSTREAM
Oregon)	LEASE

FINDINGS OF FACT

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

Lessor #1
John & Rebecca Marshall
11228 NE 67th Street
Kirkland, WA 98033

Lessor #2
Swalley Irrigation District
P.O. Box 5126
Bend, Oregon 97701

Lessee
Deschutes Resources Conservancy
700 NW Hill Street
Bend, OR 97701

2. The Department assigned this lease agreement number L-430.
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).
3. On May 5, 2003, the Watermaster conducted an on-site visit and found that the owner had not suspended use of water allowed under the subject water rights. Consequently, the lease agreement does not meet the requirements of OAR 690-077-0077 to avoid enlargement of the water right or injury to other water rights.

CONCLUSIONS OF LAW


The Department concludes that the lease will result in injury and enlargement, OAR 690-077-0077.

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.

ORDER

Therefore, it is ORDERED that the Short-Term Lease described herein is DENIED.

Dated at Salem, Oregon this 2nd day of July, 2003.


Paul R. Cleary
Director