



State of Oregon
Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900

Application for Instream Lease

A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/OWRD/PUBS/forms.shtml.

Pursuant to ORS 537.348(2) and OAR 690-077

Optional Identification by Lessor/Lessee: _____
Lease Application Number (assigned by WRD): 1L-1097

RECEIVED

OCT 21 2010

WATER RESOURCES DEPT
SALEM, OREGON

This Lease is between:

Lessor #1:

Name Portland General Electric Company
Mailing address 121 SW Salmon Street
City, State, Zip Code Portland, OR 97204
Telephone number 503-464-7717
Email address _____

Lessor #2, 3, etc.

Not Applicable

The water right to be leased is located in Columbia County.

Lessee (if different than Oregon Water Resources Department):

Name Not Applicable
Mailing address _____
City, State, Zip Code _____
Telephone number _____
Email address _____

Trustee:

Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1266
(503) 986-0900

~I~ Water Right Holder and Water Right Information

1.1 Lessor #1 is the water right holder, or authorized agent for water right holder of the property located at: Township 6N, Range 2W, Sections 1 and 2, and Township 7N, Range 2W, Sections 35 and 36 and Tax Lot numbers 100, 1000, 1200. If the water right appurtenant to these lands is also appurtenant to lands owned by others who are not included in this application, then Attachment 1 (tax lot map), needs to be included.

- 1.2 Lessor #2 is the (Check one):
 Not applicable
 Official representative of _____, the irrigation district which conveys water to the subject water rights.
 Another party with an interest in the subject water rights representing _____.

- 1.3 For the water right(s) being leased, list all water rights appurtenant to the same lands. Indicate if there are any supplemental or overlying rights.

Certificate No. 86145 is subject to this lease. Certificates 61121 and 61122 are not included in this lease.

- 1.4 Are some or all of the lands being leased part of a Conservation Reserve Enhancement Program. Yes No

1.5 Water Rights Proposed to be Leased Instream.

The first right to be leased identified in Section 1.3 is further described as follows:

Certificate No.: 86145

Priority date: August 3, 1970 Type of use: General Industrial Use

Legal Season of Use: year-round

Is the entire water right certificate being leased? Yes No

If no, list the acres of the subject water right by legal description of township, range, section, and ¼ ¼ which will be dried up as part of this lease, and include a map (Attachment 2) showing the lands which will not receive water.

Place of use: T ____, R ____, Section __, __¼ __¼ - _____ acres to be leased

Enter additional places of use here, using format above:

PGE possesses a water right at Trojan Nuclear Plant for 81.1 cfs. PGE proposes to lease 80.7 cfs to instream use. PGE will retain 0.4 cfs for fire suppression purposes at the authorization place of use.

Page _____ (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres being leased, if for irrigation: N/A

Acre-feet of storage, if applicable: N/A

Maximum rate associated with the right to be leased (cfs): 81.1

(Use additional lines if there is more than one rate associated with the water right.)

Maximum duty associated with the right to be leased (ac-ft): N/A

(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any: N/A

If you need to enter another leased right, please use the additional water rights form.

1.6 Validity of rights. Lessor(s) attests (mark one) that:

- the water has been used over the past five years according to the terms and conditions of the water right certificate or as an instream water right or
 the water has not been used over the past five years according to the terms and conditions of the water right certificate, however the water right is not subject to forfeiture under ORS 540.610(2)()(include necessary supporting documentation as Attachment 3).

RECEIVED
OCT 21 2010
WATER RESOURCES DEPT
SALEM, OREGON

~II~ Instream Water Right Information

2.1 Public use. This lease will increase streamflows that will benefit:

- Conservation, maintenance and enhancement of aquatic and fish life, wildlife, and fish and wildlife habitat
- Pollution abatement
- Recreation and scenic attraction

2.2 Instream use created by lease. The instream use to be created is described as follows:

Columbia River
Tributary to Pacific Ocean in the Columbia Basin.

Describe the point of diversion (POD) and any associated reach(es) of the instream use being created. If possible list the reach by river mile. If no reach is identified, and there is only one POD listed on the certificate, the lease may be processed to be protected at the POD. (If more than one POD is listed on the certificate, then the POD and any associated reach(es) must be identified): 80.7 cfs to be protected at the Point of Diversion: Lot 3 (SW 1/4 SW 1/4) Section 36, T 7 N, R 2 W, W.M; 150 Feet North and 920 Feet East from the SW corner of Section 36.

Maximum volume in acre-feet: N/A

Rate in cfs: 80.7

(Use the section below to indicate a more restrictive period of use than allowed by the water right.)

Conditions to prevent injury, if any:

- None
- The instream flow will be allocated on a daily average basis up to the described rate from _____ through _____.
- Other (describe): Instream right to be protected at the Point of Diversion

If you need to enter more instream uses, please use the additional water rights form.

2.3 Term of lease. This lease shall terminate on December 31, 2015 (NOTE: PGE's existing instream lease (IL-691) expires December 31, 2010. PGE desires the new lease under this application to begin on January 1, 2011).

2.4 Flow protection. The Trustee will regulate use of water from the source, subject to prior appropriation and the agency enforcement guidance, to assure the water is delivered to the point of diversion, and through the reach past junior downstream users, so long as flow is sufficient to meet the demand under priority date of the new instream use (see Section 2.2). As part of regulation activities the watermaster or a designee has access to the point of diversion and place of use for the water rights involved in this lease. No party is required to continuously measure the flow of the waterway described in Section 2.2.

~III~ Other Information

3.1 Accuracy. The Undersigned Lessor(s) and Lessee(s) declare that, to the best of their knowledge and belief, the information contained in this application is true, correct and complete. If after the lease order is signed, any information is determined to be false, the lease order may be modified or terminated. The lease only exercises the water rights being

leased, for the term of the lease. It shall not be construed to overcome any claim that the water right may otherwise be subject to forfeiture for nonuse pursuant to ORS 540.610 during the period of time prior to the execution of the lease.

3.2 Lease. Lessor(s) and Lessee(s) agree to lease the water rights listed in Section(s) 1.5 for instream use for the term of this lease through Lessee to the Trustee, the Oregon Water Resources Department, pursuant to the provisions of ORS 537.348(2) and OAR 690-077.

3.3 Precedent. If a right which has been leased is later proposed to be leased again or transferred to an instream use under ORS 537.348 and OAR 690-077 a new injury review shall be required, and a prior lease shall not set a precedent for the amount of water to be leased or transferred instream.

3.4 Suspension of original use. During the period of the lease, the water right holder agrees to suspend use of water allowed under the subject water rights and under any water right that is supplemental to the subject water rights.

3.5 Termination provision.

- For multiyear leases, the Lessor(s) shall have the option of terminating the lease each year with written notice to the Department. The lease may be terminated at any time during the calendar year. However, if the termination request is received less than 30-days prior to the period of allowed instream use or after the period of allowed use has begun for the water right(s) being leased, water may not be used under the right(s) leased until the following calendar year, unless the Director determines that enlargement would not occur. The Department may also require:
 - Written notice to the Department with original signatures;
 - Consent by all parties to the lease; and/or
 - Written notice to the Watermaster's office.
- For multiyear leases, the lessor shall not have the option of terminating the lease, without consent by all parties to the lease.

3.6 Modification to prevent injury. Allocation of water to the instream use described in Section 2.2 during the term of this lease is not reasonably expected to cause injury to other rights to use water from the same source. If injury is found after this lease is signed, the lease may be modified or terminated to prevent injury.

3.7 Fees. Pursuant to ORS 536.050, the following fee is included:

- \$400 for an application with four or more landowners or four or more water rights.
- \$250 for all other applications.

Lessor #1:  Date: 14 Oct 10
Portland General Electric Company

For additional Lessors, type in space for signature and date

RECEIVED

OCT 21 2010

Lessee: _____ Date: _____
WATER RESOURCES DEPT
SALEM, OREGON

Other Attachments as Needed:

Attachment 1: Tax Lot Map. (See instructions.) – **NOT APPLICABLE**

Attachment 2: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. (See instructions.) – **SEE ATTACHED MAP**

Attachment 3: Supporting documentation indicating why a right is valid and not subject to forfeiture even though the right has not been exercised for five or more consecutive years (required if the second box in Section 1.6 is checked). – **NOT APPLICABLE**

Attachment 4: Split Season Instream Use Form – **NOT APPLICABLE**

RECEIVED

OCT 21 2010

WATER RESOURCES DEPT
SALEM, OREGON

Langford, Shonee D.

From: Laura Wilke [wilkelk@wrd.state.or.us]
Sent: Tuesday, October 12, 2010 1:07 PM
To: Langford, Shonee D.
Subject: RE: PGE/Trojan - lease map

Hi Shonee:

Generally we lean towards final proof maps but in this case, let's use the transfer map for T-10955.

thanks, Laura

From: Langford, Shonee D. [mailto:SLangford@SCHWABE.com]
Sent: Tuesday, October 12, 2010 12:56 PM
To: Laura Wilke
Subject: PGE/Trojan - lease map

Hi Laura,

Before we submit the instream lease application for 80.7 cfs of Certificate 86145 (which is all but the 0.4 cfs fire protection right), could you please confirm that one of the following maps would be sufficient:

1. Transfer map for T-10955, which shows the T-R-S info, point of diversion location, and entire footprint of the water right (see map at http://apps2.wrd.state.or.us/apps/misc/vault/vault.aspx?Type=TRFolder&folder_image_id=9320); or
2. Final proof map (see page 2 of 3 at this link: http://apps2.wrd.state.or.us/apps/misc/vault/vault.aspx?Type=CertMap&cert_nbr=86145)

And if you prefer one map over the other, please let me know which one we should submit.

Thanks.

Shonee

SHONEE D. LANGFORD | Attorney at Law
SCHWABE, WILLIAMSON & WYATT
530 Center Street NE, Suite 400, Salem, OR 97301
Direct: 503-540-4261 | Fax: 503-796-2900
Email: slangford@schwabe.com <<mailto:youreemail@schwabe.com>>
Assistant: Karen Donohue | Direct: 503-540-4262 | kdonohue@schwabe.com
Legal advisors for the future of your business®
www.schwabe.com

RECEIVED

OCT 21 2010

WATER RESOURCES DEPT
SALEM, OREGON

To comply with IRS regulations, we are required to inform you that this message, if it contains advice relating to federal taxes, cannot be used for the purpose of avoiding penalties that may be imposed under federal tax law. Any tax advice that is expressed in this message is limited to the tax issues addressed in this message. If advice is required that satisfies applicable IRS regulations, for a tax opinion appropriate for avoidance of federal tax law penalties, please contact a Schwabe attorney to arrange a

10/19/2010