

MP-145

September 1, 2009



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: Prev L-740, Mitigation Project
Lease Application Number (assigned by WRD): _____

This Lease is between:

Lessor #1:

Name Gordon Wanek
Mailing address 50825 Huntington Rd
City, State, Zip Code LaPine, OR 97739
Telephone number 541-536-6055
Email address _____

Lessor #2, 3, etc.

N/A (LaPine Cooperative Water Assoc. Signature Not Required)

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

Lessee (if different than Oregon Water Resources Department):

Name Deschutes River Conservancy – Mitigation Bank
Mailing address 700 NW Hill St
City, State, Zip Code Bend, OR 97701
Telephone number 541-382-4077 x 16
Email address gen@deschutesriver.org

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 22 S, Range 10 E, Section 22, 23, 27 and Tax Lot number multiple. 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. ~~83653~~ (prev. 72196) now C-86022

- 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.: ~~83653~~ (prev. 72196) now C86022

Priority date: 197 ac 1897, 103 acres 4/30/1902 Type of use: IRR

Legal Season of Use: April 1-Nov 1

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 22 S, R 10 E, Section , ¼ ¼ - acres to be leased
Enter additional places of use here, using format above:

See Exhibit A

Total of 197 ac 1897, 103 ac 4/30/1902 = 300 acres

Previously leased 2006-2010, L-740/MP-85

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

Number of acres being leased, if for irrigation: 300 total

197 ac of 1897

103 ac of 4/30/1902

Acre-feet of storage, if applicable: n/a

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

1897 Priority:

2.46 (1/80th of 1cfs/ac) from April 1 to May 23

4.93 (1/40th of 1 cfs/ac) from May 23 to August 20

2.46 (1/80th of 1cfs/ac) from August 20 to Nov 1

1902 Priority:

1.29 (1/80th of 1cfs/ac) from April 1 to May 23

2.58 (1/40th of 1 cfs/ac) from May 23 to August 20

1.29 (1/80th of 1cfs/ac) from August 20 to Nov 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): 4 ac-ft/acre (788 acre-feet, 1897 and 412 ac-ft of 1902 = 1200 ac-ft total)

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

Conditions or other limitations, if any: _____

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).

~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:

Little Deschutes River

Tributary to Deschutes River in the Deschutes 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): from POD at SW ¼ SW 1/4 , section 34, T 23 S, R 9 E, W.M.; 550 ft North and 1150 ft East from the SW corner of Section 34 to Lake Billy Chinook.

Maximum volume in acre-feet:

1897 Priority: 788 ac-ft,

1902 Priority: 412 ac-ft = total 1200 ac-ft

Rate in cfs:

197 ac of 1897: 2.463 cfs (0.0125 cfs/ac) from 5/15 to 10/23

103 ac of 1902: 1.288 cfs (0.0125 cfs/ac) from 5/1 to 10/10

(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 5/1 through 10/23.
- Other (describe): _____

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 November 1, 2015.
- 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: Gordon W. Wanek Date: 2-23-11
Gordon Wanek

Date: _____

For additional Lessors, type in space for signature and date

N/A

Lessee: Genevieve Hubert Date: 2/24/2011
Deschutes River Conservancy - Mitigation Bank

Other Attachments as Needed:

Attachment 1: Tax Lot Map. (See instructions.)

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.)

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).

Attachment 4: Split Season Instream Use Form

Exhibit A - Place of Use

Taxlot	Township	Range	Section	1/4	1/4	Acres IS	Remaining	QQ Total	Priority
101	22S	10E	22	SE	NE	22.70	6.10	28.80	1897
101	22S	10E	22	NE	SE	30.00	8.70	38.70	1897
101	22S	10E	22	SW	SE	2.90	0.40		1897
109 (prev 103)	22S	10E	22	SW	SE	1.70	0.10	5.10	1897
101	22S	10E	22	SE	SE	5.00	15.20		1897
109 (103)	22S	10E	22	SE	SE	0.60	0.40	21.20	1897
2400	22S	10E	23	NW	SW	1.00		1.00	1897
2401	22S	10E	23	NW	SW	8.10		8.10	1897
2401	22S	10E	23	SW	SW	4.80		4.80	1897
102 (103)	22S	10E	27	NE	NE	3.80	5.10		1897
103	22S	10E	27	NE	NE	3.60	2.70	15.20	1897
102 (103)	22S	10E	27	NW	NE	20.60	1.20		1897
103	22S	10E	27	NW	NE	14.00	1.00	36.80	1897
103	22S	10E	27	SW	NE	7.50	0.70		1897
104 (103/108)	22S	10E	27	SW	NE	18.90	4.80		1897
108	22S	10E	27	SW	NE	5.60	2.10	39.60	1897
103	22S	10E	27	SE	NE	3.00	1.20		1897
104 (103/108)	22S	10E	27	SE	NE	7.40	1.50		1897
108	22S	10E	27	SE	NE	3.90	0.00	17.00	1897
108	22S	10E	27	NE	SE	5.40	0.00		1897
105 (108)	22S	10E	27	NE	SE	0.30	0.00	5.70	1897
108	22S	10E	27	NW	SE	10.50	5.40		1897
105 (108)	22S	10E	27	NW	SE	12.50	5.80	34.20	1897
101	22S	10E	22	SW	NE	37.40		37.40	1902
101	22S	10E	22	SE	NE	1.00		1.00	1902
101	22S	10E	22	NW	SE	39.30		39.30	1902
101	22S	10E	22	SW	SE	28.50	5.70	34.20	1902
Total leased acreage						300.00	68.10	368.10	
Total 1897						193.80	62.40	256.20	
Total 1902						106.20	5.70	111.90	

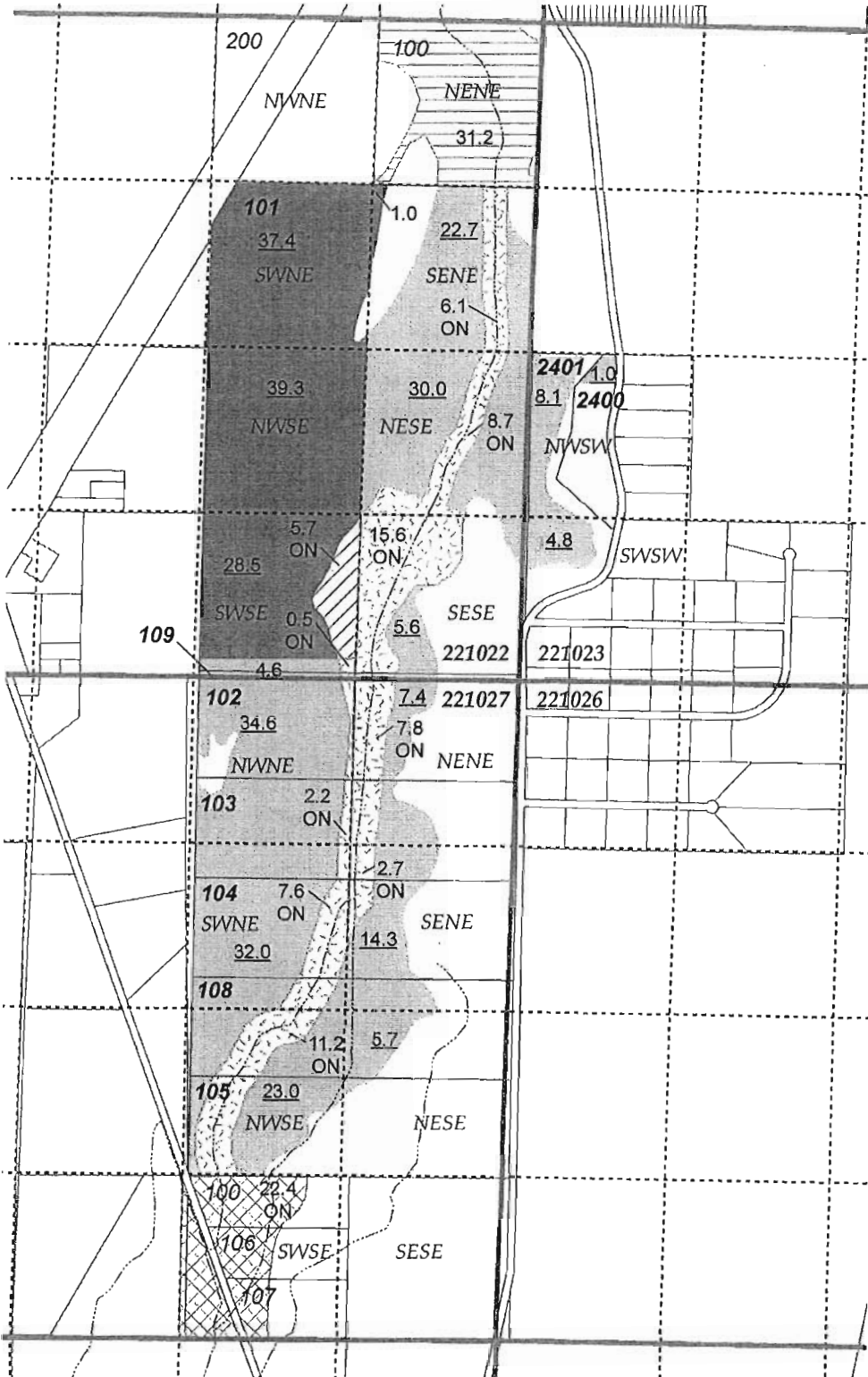
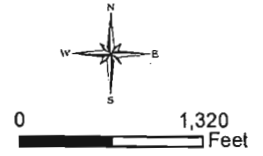
Note: lot divisions and lot line adjustments resulted in lot number changes
 Quarter quarter totals are boxed in bold

Taxlots 101, 2400 & 2401 have not changed
 Taxlot 103 was divided into: 109, 102, 103, 104
 Taxlot 108 was divided into: 104, 108, 105
 Previous taxlots associated with the new taxlot numbers are indicated in parenthesis in taxlot chart above

Previously leased from 2006-2010 In Lease L-740/MP-85 - - - map has been updated/digitized

DESCHUTES COUNTY T22S R10E Sections 22, 23, 27

SCALE: 1" = 1,320'



- Certificate 86022 (priority date)**
- Leased Acres (1897), 193.8 ac
 - Leased Acres (1902), 106.2 ac
 - Acres to Remain On (1897), 62.4 ac
 - Acres to Remain On (1902), 5.7 ac
 - Subject to Transfer T11163
 - Subject to Lease L-1059
 - Taxlot
 - PLSS Section
 - PLSS 1/4 1/4 Section
 - Canal

Source:
Deschutes County GIS
OWRD Water Rights Information System

INSTREAM LEASE MAP FOR GORDON WANER

Deschutes River Conservancy



Taxlot #: 101,102,103,104,105,108,109,2400,2401

Date: 03/24/11

**300 acres Instream
68.1 acres remain**

transfer_wanek_0311.mxd, D. Quinlan