



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

Application for Instream Lease Renewal

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.

The undersigned entered into Instream Lease Number L-982 involving Water Right Certificate(s) 74197 on 7/27/2010, which terminated on 10/31/2010.

The undersigned Lessor and Lessee, parties to the original lease, hereby request that Lease Number L-982 be renewed. Lessor and Lessee warrant that, to the best of their knowledge, circumstances have not changed and all matters involved with or affected by the instream lease and the subject water right(s) remain as they were when the lease was first entered into, including but not limited to water right holder interest, the acres from which the right is leased, and the public instream benefit provided as a result of this instream lease.

The terms and conditions of instream lease L-982 are hereby incorporated by reference in their entirety, with the following exception(s):

- The term of the lease shall commence on April 1, 2011 (not before execution by the parties) and continue through October 31, 2011.

CREP. Are some or all of the lands being leased part of a Conservation Reserve Enhancement Program?

- Yes
 No

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

- \$100 for an instream lease renewal application.

Lessor: Signature Page attached Date: _____
Email address: jason@avionwater.com
Avion Water Company

Lessor: Signature Page attached Date: _____
Email address: aidist@bendbroadband.com
Arnold Irrigation District

For additional Lessors, type in space for signature and date

Lessee: Genevieve Hubert Date: 3/29/2011
Email address: gen@deschutesriver.org
Deschutes River Conservancy



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Application for Instream Lease

Attachment 5: Pooled Water Right Holder Form

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

Optional Identification by Lessor/Lessee: prev. L-982
Lease Application Number (assigned by WRD): _____

This Lease is with:

Lessor #1 (Water Right Holder):

Name Avion Water Company
Mailing address 60813 Parrell Rd
City, State, Zip Code Bend, OR 97702
Telephone number 541-389-7275
Email address _____

If additional water right holders, enter water right holder information below

Note: The section numbering associated with this form corresponds to that found on the "Standard Instream Lease Application" form. The "Pooled Lease" form and "Pooled Water Right Holder" form(s) are used to provide the same information as the "Standard Instream Lease Application" form. Consequently, the numbering on this form is not always sequential.

~I~ Water Right Holder and Water Right Information

- 1.1 Lessor #1 is the water right holder, or authorized agent for property described in Section 1.5. 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.
- 1.3 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. _____

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

- 1.5 **Water Right(s) Proposed to be Leased Instream.** Water right holder proposes to lease the water rights shown on the map attached as Exhibit 5-B and described as follows:
[This information may be included on Exhibit 5-A, or an additional map may be attached. Crosshatch the area of water rights being leased. Attached map(s) must identify water right holder, township, range, section and ¼ ¼, tax lot number, map orientation and scale.]

T	R	Sect	1/4	Tax Lot	Acres	Type of Use	Certificate #	Page(s) #	Priority*	
*(Identify pertinent page number of certificate, if certificate is greater than 10 pages; identify priority date if there is more than one per certificate)										
1.	18	12	09	SW NE	301	6.00	IRRIG	74197	9	2/5/1905 4/25/1905
2.	18	12	09	SW NE	400	23.36	IRRIG	74197	9	2/5/1905 4/25/1905
3.	18	12	07	SE SE	2600 (907)	3.00	IRRIG	74197	7	2/5/1905 4/25/1905
4.	18	12	09	NE NE	300	4.00	IRRIG	74197	9	2/5/1905 4/25/1905
5.	18	12	09	NE NE	400	2.20	IRRIG	74197	9	2/5/1905 4/25/1905

Total number of acres, if for irrigation, by certificate and priority date: 49.06

ADDT'L:

6.	18	12	09	NENE	500	2.00	IRRIG	74197 Pg 9	2/5/1905- 4/25/1905
7.	18	12	16	SENE	700	3.00	IRRIG	74197 Pg 13	2/5/1905- 4/25/1905
8.	18	11	23	SESE	4900	1.50	IRRIG	74197 Pg 3	2/5/1905- 4/25/1905
9.	18	12	08	NE NE	400	1.75	IRRIG	74197 Pg 7	2/5/1905- 4/25/1905
10.	18	12	08	SW SE	1600	1.00	IRRIG	74197 Pg 9	2/5/1905- 4/25/1905
11.	18	12	09	NWNW	400	0.25	IRRIG	74197 Pg 10	2/5/1905- 4/25/1905
12.	18	12	17	NWNE	801	0.30	IRRIG	74197 Pg 13	2/5/1905- 4/25/1905
13.	18	12	17	NENW	801	0.70	IRRIG	74197 Pg 13	2/5/1905- 4/25/1905

Conditions or other limitations, if any: _____

If you need to enter another leased right, please use the Additional Water Right Form for Pooled Water Right Holder.

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

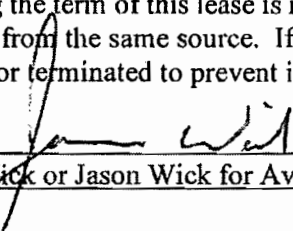
- 2.3 Term of lease.** This lease shall terminate on October 31, 2011. (If there is a conflict between the Pooled Lease Form and this form, the Pooled Lease Form will be the official term of the lease.)

~III~ Other Information

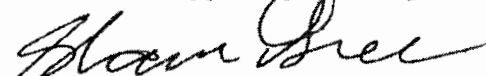
- 3.1 Accuracy.** The Undersigned Lessor(s) and Lessee(s) declare that, to the best of their knowledge and belief, the information contained in this application is true, correct and complete. If after the lease order is signed, any information is determined to be false, the lease order may be modified 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 short term 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.

Lessor #1:  Date: 3/8/11
Jan Wick or Jason Wick for Avion Water Company

For additional Lessors, type in space for signature and date

 3/28/11

Other Attachments As Needed:

- Exhibit 5-A: Tax Lot Map. (See instructions.)
- Exhibit 5-B: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. Exhibits 5-A and 5-B may be combined into a single map. (See instructions.)
- Exhibit 5-C: 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