



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

Application for
Instream Lease
Pooled Lease Form

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): IL- 1171

This Lease is between:

Lessor #2: Irrigation District or Other Water Purveyor

Name Talent Irrigation District
Mailing address P.O. Box 467
City, State, Zip Code Talent, OR 97540
Telephone number 541-535-1529
Email address tid@talentid.org

AND USA acting through the Bureau of Reclamation

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

Lessee (if different than Oregon Water Resources Department):

Name
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

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~I~ Water Right Holder and Water Right Information

1.2 Lessor #2 is the (Check one):

- Official representative of Talent Irrigation District, the irrigation district, which conveys water to the subject water rights.
Another party with an interest in the subject water rights representing USA acting through the Bureau of Reclamation
Not applicable.

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. Primary 79212 Supplemental 83727

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.: 79212

date: May 23, 1915 Type of use: Primary and Supplemental Irrigation

Domestic use for the City of Ashland

Season of Use: April 1 to October 31

Irrigation right, total number of acres to be leased: 49.55

Feet of storage to be leased, if applicable: N/A

Flow rate associated with subject water rights (cfs) being leased: 0.62 (1/80<sup>th</sup> ac ft/ac)

If there is more than one rate associated with a water right, describe below:

Season 1 (cfs) \_\_\_\_\_ Time period: \_\_\_\_\_

Season 2 (cfs) \_\_\_\_\_ Time period: \_\_\_\_\_

Season 3 (cfs) \_\_\_\_\_ Time period: \_\_\_\_\_

Maximum duty associated with subject water rights (ac-ft): 222.9 (4.5 ac)

Priority date  
is according  
5-23-1912

SEE ATTACHED SPREADSHEET FOR ITEMIZED LIST OF LANDS

Conditions or other limitations, if any: The amount of water used for irrigation together with the amount secured under any other prior right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) for each acre irrigated during the irrigation seasons of each year. The right is limited to not more than the amount specified for each source, and not to exceed 87 CFS at one time, and further, the diversions from Bear Creek, including Ashland Creek and Neil Creek shall not exceed 55 CFS at one time.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

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

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**~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:

Bear Creek and Emigrant Creek

Tributary to Rogue River in the Rogue 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 will 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): The point of diversion for the primary right is the toe of

Emigrant Dam being within the SE1/4 SE 1/4 of Section 20, Township 39 South, Range 2 East, Willamette Meridian. The instream right will be protected in Emigrant Creek from the toe of Emigrant Dam downstream approximately 3.5 miles to the point where Walker Creek and Emigrant Creek join to form Bear Creek. The instream right will then be protected in Bear Creek from stream mile 27 to the mouth of Bear Creek at the Rogue River. Total protected stream reach is approximately 30.5 miles. At such time that the District is supplying water for irrigation from supplemental sources under Certificate 83727, the instream right will also be supplied by supplemental sources. Use of the primary water right to satisfy the instream right will be at an instream rate of 1/100<sup>th</sup> cfs per acre through the entire instream reach. The District will protect the instream water to the Oak Street Diversion. From that point it will be the responsibility of the local watermaster to protect the instream water.

Maximum volume in acre-feet: 131.31 (2.65 ac ft per acre)

Rate in cfs: 0.62

(If more than one rate, describe the rate associated within each time period or instream reach)

Rate in cfs: \_\_\_\_\_

Rate in cfs: \_\_\_\_\_

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(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 May 1 through October 15, 2011.

Other (describe): The instream right protected under this lease shall be satisfied based on the same percentage diversion and delivery rate that Talent Irrigation District is providing to irrigation rights within the District. The instream rate proposed is estimated based upon a 1/100<sup>th</sup> cfs per acre rate. In case of shortage of supply where the general allotment on the District has been reduced, the District may deliver less than 2.65 acre feet per acre in accordance with District policy governing temporary instream leases. In the event the District stops delivery of irrigation water prior to October 15<sup>th</sup>, the delivery for instream use shall also stop. Reporting to the watermaster shall be consistent with any required reporting of other District operations.

**2.3 Term of lease.** This lease shall terminate on October 15, 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 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.

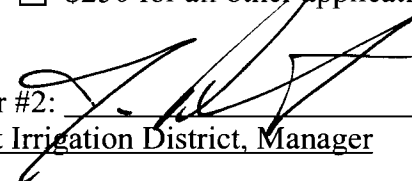
**3.5 Termination provision.**

- 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.

**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 #2:   
Talent Irrigation District, Manager

Date: 5-10-2011

And Lessor:  
Bureau of Reclamation

Date: \_\_\_\_\_

Lessee:  
Oregon Water Resources Department

Date: \_\_\_\_\_  
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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

Attachment 5: Pooled Lease Water Right Holder Form

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Additional Water Right Form
for Pooled
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.

~I~

Section 1.5 continued from Pooled Form.

Water Rights Proposed to be Leased Instream. District and water right holder(s) propose to lease the water rights identified in Section 1.3 on the "Pooled Lease Form."

The right(s) to be leased are further described as follows:

Certificate No.: 83727

Priority date: September 6, 1915 Type of use: Irrigation and Supplemental Irrigation

Legal Season of Use (if not listed on the certificate): April 1 through October 31

If an irrigation right, total number of acres to be leased: 6.50

Total acre-feet of storage to be leased, if applicable: N/A

Maximum rate associated with subject water rights (cfs) being leased: 0.16 cfs (1/40th)

If there is more than one rate associated with a water right, describe below:

Season 1 (cfs) Time period:

Season 2 (cfs) Time period:

Season 3 (cfs) Time period:

Maximum duty associated with subject water rights (ac-ft): 29.25

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Conditions or other limitations, if any: Delivery of water under this right must be consistent with TID regulations and policy governing instream leases.

~II~

Section 2.2 continued from Pooled Lease Form.

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

Bear Creek and Emigrant Creek

Tributary to Rogue River in the Rogue 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 will 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): The point of diversion for the right is the toe of Emigrant Dam being within the SE 1/4 SE 1/4 of Section 20, Township 39 South, Range 2 East, Willamette Meridian. The instream right will be protected in Emigrant Creek from the toe of Emigrant Dam downstream approximately 3.5 miles to the point where Walker Creek and Emigrant Creek join to form Bear Creek. The instream right will then be protected in Bear Creek from stream mile 27 to the mouth of Bear Creek at the Rogue River. Total protected stream reach is approximately 30.5 miles. Use of the source water right to satisfy the instream right will be at an instream rate of 1/100th cfs per acre through the entire instream reach. The District will protect the instream right to the Oak Street Diversion, from there to the mouth of Bear Creek, the local watermaster will be responsible for protecting the instream flow.

Maximum volume in acre-feet: 17.23 (2.65 ac/ft per acre)

Rate in cfs: 0.065

(If more than one rate, describe the rate associated within each time period or instream reach.)

Rate in cfs: \_\_\_\_\_

Rate in cfs: \_\_\_\_\_

(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 May 1, 2011 through October 15, 2011.

Other (describe): The instream right protected under this lease shall be satisfied based on the same percentage diversion and delivery rate that Talent Irrigation District is providing to irrigation rights within the District. The instream rate proposed is estimated based upon a 1/100<sup>th</sup> cfs per acre rate. In case of shortage of supply where the general allotment on the District has been reduced, the District may deliver less than 2.65 acre feet per acre in accordance with District policy governing temporary instream leases. In the event the District stops delivery of irrigation water prior to October 15, the delivery for instream use shall also stop. Reporting to the watermaster shall be consistent with any required reporting of other District operations.

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