



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

January 2007

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: Entire C-1381 Leased, map not required
Lease Application Number (assigned by WRD): _____

This Lease is between:

Lessor #1:

Name Greenbriar, LLC - % Wendy Rubbert
Mailing address 2660 NE Hwy 20, #610-303
City, State, Zip Code Bend, OR 97701
Telephone number 541-548-5379 or cell 541-410-6071
Email address caesar@ykwec.net

Lessor #2, 3, etc.

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

Lessee (if different than Oregon Water Resources Department):

Name Deschutes River Conservancy
Mailing address 700 NW Hill Street
City, State, Zip Code Bend, OR 97701
Telephone number 541-382-4077
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 18 S, Range 18 E, Section 19 & 20 and Tax Lot number 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. 13811.4 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.: 1381Priority date: August 25, 1914 Type of use: IRRLegal Season of Use: No season listed (set at 4 af/ac by Crooked River Decree)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 1/4 1/4 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 18 S, R 18 E, Section 19, NE 1/4 NE 1/4 - 4.00 acres to be leased

Enter additional places of use here, using format above:

T 18 S, R 18 E, Sect 20, NWNW, 4.0 acres8.0 acres total - all of C-1381

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

Number of acres being leased, if for irrigation: 8.0Acre-feet of storage, if applicable: n/aMaximum rate associated with the right to be leased (cfs): 0.10 cfs

(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 af/ac, 32 af total perCrooked River Decree

(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:

No Name Creek

Tributary to Little Creek in the Crooked River 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): not listed on Certificate, from POD on No Name Creek to Little Bear Creek to the Mouth of Bear Creek

Maximum volume in acre-feet: duty limited by Crooked River Decree, max 32 ac-ft for 161 days instream (dates listed under Conditions).

Rate in cfs: 0.10

(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 May 1 through October 8.
- ☐ 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 December 2, 2012.

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:
- ☐ \$200 for an application with four or more landowners or four or more water rights.
- ☒ \$100 for all other applications.

Lessor #1: Greenbriar, LLC by Wendy Rubbert Date: 6/26/08

For additional Lessors, type in space for signature and date

Lessee: Genevieve Hubert Date: 27 June '08
Deschutes River Conservancy

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

STATE OF OREGON

WATER DIVISION No. 2 COUNTY OF CROOK

CERTIFICATE OF WATER RIGHT

(For rights perfected under original, enlargement or secondary permits)

This is to Certify, That CARL E. FISCHER

of Roberts, State of Oregon, has made proof to the satisfaction of the STATE WATER BOARD of Oregon, of a right to the use of the waters of Unnamed Creek, a tributary of Little Bear Creek, for the purpose of the irrigation of 8 acres of land

under Permit No. 2180 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon and duly confirmed by order of the STATE WATER BOARD of Oregon, made and entered of record in the Record of Proceedings of said Board, at Salem, in Volume 1,

at page 236, on the 8th day of February, 1917; that the priority of the right hereby confirmed dates from August 25, 1914; that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not

exceed 0.10 cubic foot per second, or its equivalent in case of rotation. The use hereunder shall conform to any reasonable rotation system ordered by the proper State Officer. A description of the lands under such right, and to which the water hereby confirmed is appurtenant, or, if for other purposes, the place where such water is put to beneficial use, is as follows: 4 acres in the Northeast quarter of Northeast quarter of Section Nineteen (19), and 4 acres in the Northwest quarter of Northwest quarter of Section Twenty (20), Township Eighteen (18) South, Range Eighteen (18) East of Willamette Meridian, in Crook County, Oregon.

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described.

Rights to the use of water for power purposes are limited to a period of forty years from the date of priority of the right, as herein set forth, subject to a preference right of renewal under the laws existing at the date of the expiration of the right for power purposes, as hereby confirmed and limited.

Witness the seal and signature of the STATE

WATER BOARD affixed this 5th day of March, 1917.

STATE WATER BOARD

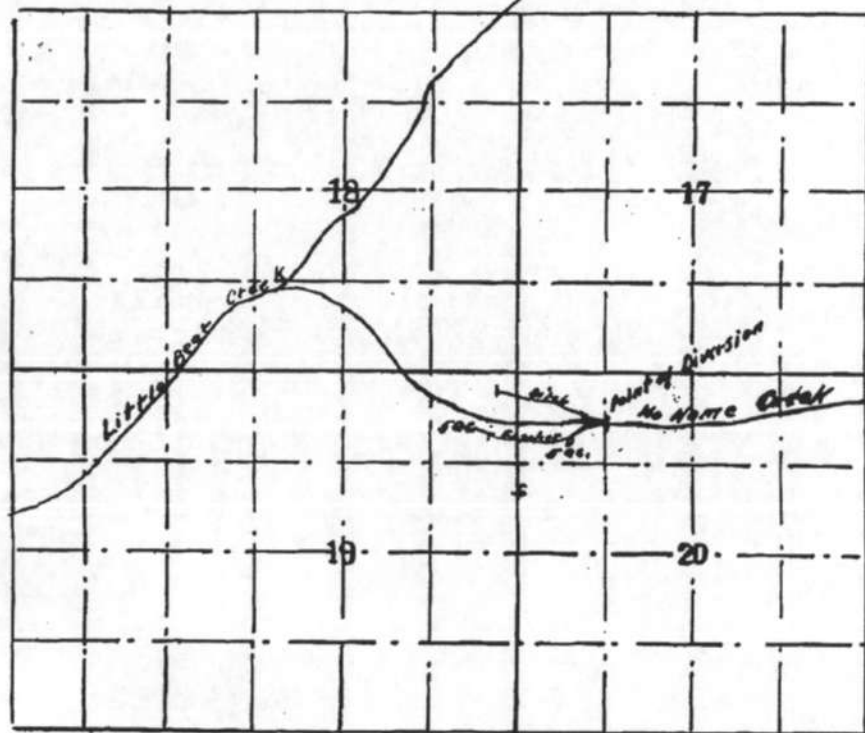
(SEAL OF STATE WATER BOARD)

By JOHN H. LEWIS
State Engineer, President

Attest: M. F. JERS
Secretary

Recorded in State Record of Water Right Certificates, Volume 2, Page 1381

C-1381



This map was made from notes taken by
Carl Fischer the applicant, and cor-
rectly represents the works described
in the accompanying application.

Map of
CARL FISCHER DITCH
CROOK COUNTY ORE.

Scale 2" = 1 Mile

715. R. 18 E.

FILE OF STATE

RECEIVED

AUG 25 1914

SALEM, OREGON,

Application No.

Permit No.

3889
2180

2180

C1381

C 1381 WR Map

