



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

# Application for District Instream Lease

## Part 1 of 4 – Minimum Requirements Checklist

<b>This Application to be used for water rights in the name of or conveyed by          an Irrigation District (or similar organization)          Complete Parts 1 through 4 and any required attachments</b>	OWRD #	<u>SL 36</u>
	District #	

Check all items included with this application. (N/A = Not Applicable)

Yes  N/A Pooled Lease-a lease with more than one Lessor (Landowner/water right interest holder)

Fee in the amount of:

<input type="checkbox"/> \$450.00 for a lease involving four or more landowners or four or more water rights	Or <input checked="" type="checkbox"/> \$300.00 for all other leases
<input type="checkbox"/> Check enclosed or	
<input checked="" type="checkbox"/> Fee Charged to customer account <u>The Freshwater Trust</u> (Account name)	

- Part 1 – Completed Minimum Requirements Checklist
- Part 2 – Completed District and Other Party Signature Page
- Part 3 – Completed Place of Use and Lessor Signature Page  
(Include a separate Part 3 for each Lessor.)
- Part 4 – Completed Water Right and Instream Use Information  
(Include a separate Part 4 for each Water Right.)
- How many Water Rights are included in the lease application? 1 (# of rights)  
List each water right to be leased instream here: 79891

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Yes  N/A Other water rights, if any, appurtenant to the lands involved in the lease application and not proposed to be leased instream.

List those other water rights here: Supplemental Certificates 81507 and 11642

Yes  No Conservation Reserve Enhancement Program CREP – Are some or all of the lands to be leased part of CREP or another Federal program (list here: \_\_\_\_\_)?

### Required Attachments:

Yes  N/A Instream lease application map(s). More than one QQ and property may be included on each map. A map is **not** required if an entire right is being leased or if the right is for use of municipal or quasi-municipal water use. The map should include the following:

- A north arrow and map scale (no smaller than 1" = 1320').
- Label township, range, section and quarter-quarter (QQ).
- If an irrigation right, the numbers of acres to be leased in each quarter-quarter identify and hachure/shade to differentiate between the acreage being leased and any remaining. If the place of use has more than one priority date, source stream, and/or point of diversion you **must identify each with separate hachuring or shading** and label.
- Tax lot lines and numbers must be included on the map and should clearly identify the property(s) involved.

Yes  N/A If the Lessor(s) is not the deeded land owner, include one of the following:

- A notarized statement from the land owner consenting to the lease and a copy of the recorded deed; or
- A water right conveyance agreement and a copy of the recorded deed for the landowner at the time the water right was conveyed; or
- Other documentation.

Yes  N/A If the right has **not** been used in the last five years; provide supporting documentation indicating why a right (or portion thereof) is **not** subject to forfeiture.

**Part 2 of 4 – District and other party Signature**

**Term of the Lease:**

The lease is requested to begin in: **month** May **year** 2016 and end: **month** October **year** 2016.

**Public use:** Check the public use(s) this lease will serve (as defined by ORS 537.332):  
 Conservation, maintenance and enhancement of aquatic, fish and wildlife, fish and wildlife habitat and any other ecological values.  
 Recreation  
 Pollution abatement  
 Navigation

**Termination provision (for multiyear leases):**  
**The parties to the lease request (choose one):**  
 a. The option of terminating the lease prior to expiration of the full term with written notice to the Department by the Lessor(s) and/or Lessee.  
 b. The option of terminating the lease prior to expiration of the full term, with consent by all parties to the lease.  
 c. The parties would not like to include a Termination Provision.  
 (See instructions for limitations to this provision)

**Additive/Replacing Relationship to other instream water rights:** Instream leases are generally additive to other existing instream water rights created as a result of instream leases and transfers and/or allocations of conserved water. Since instream leases are also generally senior to other instream rights created through a state agency process or conversion of minimum flows, they generally replace a portion of these junior instream rights.

If you would like this lease to relate to other instream water rights differently than described above, please check this box.  And attach an explanation of your intent.

**Precedent:** If a right which has been leased is later proposed to be leased again or later transferred or become part of an allocation of conserved water project, a new injury review shall be required. An instream lease shall not set a precedent on a future transaction.

**Validity of the rights to be leased:**

The water right(s) to be leased have been used under the terms and conditions of the right(s) during the last five years or have been leased instream; or  
 The water right(s) **have not been used** for the last five years according to the terms and conditions of the rights. However, the water right(s) is not subject to forfeiture under ORS 540.610(2). Documentation describing why the water right is not subject to forfeiture has been provided.

**SIGNATURES**

The undersigned declare that the information contained in this application is true and accurate.

*Don Wentz*

Signature of Co-Lessor

Date: 4-7-16

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Printed name (and title): *Perry Johnston, President*

Business/Organization name: Clearwater Ditch Co.

Mailing Address (with state and zip): 81703 Hwy 82, Wallowa, OR 97885

Phone number (include area code): 541-263-0386 \*\*E-mail address: \_\_\_\_\_

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

Signature of Co-Lessor

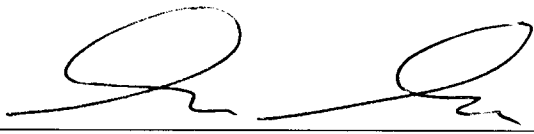
Printed name (and title): \_\_\_\_\_

Business/organization name: \_\_\_\_\_

Mailing Address (with state and zip): \_\_\_\_\_

Phone number (include area code): \_\_\_\_\_ \*\*E-mail address: \_\_\_\_\_

**See next page for additional signatures.**



Date: 4-4-2016

Signature of Lessee

Printed name (and title): Aaron Maxwell, Flow Restoration Project Manager

Business/organization name: The Freshwater Trust

Mailing Address (with state and zip): P.O. Box 351 Enterprise, OR 97828

Phone number (include area code): 541-263-2220 \*\*E-mail address: aaron@thefreshwatertrust.org

**\*\* BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED TO THE LESSOR**

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**Part 3 of 4 – Place of Use – Lessor Information and Signatures**

**Complete Table 1 Identify water right(s) proposed to be leased instream  
Provide a separate Part 3 for each Lessor (water right interest holder/landowner)**

**Table 1**

**Irrigation District or other Water Purveyor Name: Clearwater Ditch Co.**

Specify Water Right, Priority Date, point of diversion(s) (POD), place of use, tax lot, gov't lot/DLC, acres to be leased, original use type, certificate page number, and any previous lease.

If not enough room below, you may add rows (see instructions) or create a spreadsheet/table (matching Table 1) and attach.

Any attached table should include reference to the Lessor.


Water Right #	Priority Date	POD #	Twp	Rng	Sec	Q-Q	Tax Lot	Gov't Lot/DLC #	Acres	Use	Page #	Previous Lease #
79891	5/31/1897		1 N	43 E	31	NE NE	8000		15	IR		
79891	5/31/1897		1 N	43 E	31	NW NE	8000		13.2	IR		

**Any additional information about the right:** \_\_\_\_\_

**Farm Deferral Tax Status:** Counties make the determination of whether a property qualifies for the farm use assessment without consideration of whether the lands have an associated water right which is leased instream. If you have questions regarding the farm use assessment you should contact your local county assessor. You should contact your County for any weed ordinance and management requirements.

The undersigned declare:

1. I/We agree during the term of this lease to suspend use of water allowed under the water right(s) involved in the lease as well as and any other appurtenant primary or supplemental water right(s); and
2. I/We certify are the lessor(s) (water right interest holder) of the water right(s) in Table 1. If not the deeded land owner, I/we have obtained consent from the deeded land owner and/or have provided documentation of authorization to pursue the instream lease; and
3. I/We affirm that the information in this application is true and accurate.


  
\_\_\_\_\_  
Signature of Lessor

Date: 4-5-16

Printed name (and title): Woody Wolfe Business name, if applicable: \_\_\_\_\_

Mailing Address (with state and zip): 81544 Hwy 82, Wallowa, OR 97885

Phone number (include area code): 541-263-0802 \*\*E-mail address: \_\_\_\_\_

  
\_\_\_\_\_  
Signature of Lessor

Date: 4-5-16

Printed name (and title): \_\_\_\_\_ Business name, if applicable: \_\_\_\_\_

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Mailing Address (with state and zip): \_\_\_\_\_  
Phone number (include area code): \_\_\_\_\_ \*\*E-mail address: \_\_\_\_\_

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Part 4 of 4 – Water Right and Instream Use Information

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Use a separate Part 4 for each water right to be leased instream

Table 2

Use Table 2 to illustrate the totals for the water right proposed to be leased instream (based on Part 3 of 4) Water Right # 79891

Total rate and volume by priority date, POD, use and acreage as appropriate considering the right to be leased. If not enough room below, you may add rows (see instructions) or create a spreadsheet (matching Table 2 and clearly labeled) and attach.  
(cfs = cubic feet per second and af = acre-feet)

Priority Date	POD #	Use	Acres	Other Information (such as conditions/limitations on the right)	Rate (cfs)	Volume (af)
5/31/1897		IR	28.2		0.233	28.2

Total af from storage, if applicable: \_\_\_\_\_ AF or  N/A

If the POD is not described on the certificate or, if there is more than one POD listed on the certificate, then the specific POD must be described: The POD is located at Township 1-S, Range 43-E, Section 33, SW-SW (45.518688, -117.469878)

Table 3

<b>Instream Use created by the lease</b>	<b>River Basin:</b> <u>Grande Ronde</u>	<b>River/Stream Name:</b> <u>Lostine River, tributary to Wallowa River</u>				
<b>Proposed Instream Reach:</b> <input checked="" type="checkbox"/> A reach typically begins at the POD and ends at the mouth of the source stream: From the POD _____ to <u>Grande Ronde at Oregon - Washington Border</u>		<b>Or Proposed Instream Point:</b> <input type="checkbox"/> Instream use protected at the POD				
<b>OR</b> <input type="checkbox"/> Please check this box if you are not sure of the proposed reach and want water to be protected within a reach below the POD, if possible. If no reach is identified or the above box is not checked, and there is only one POD listed on the water right, the lease may be processed to be protected at the POD.)						
<b>Instream Portion: May not exceed the maximum rate/volume for the right (identified in Table 2)</b> Use the table 3 to illustrate the instream rate, volume and instream period by priority date, POD, Use and acreage, as appropriate. If not enough room below, you may add rows (see instructions) or create a spreadsheet (clearly labeled and matching the below portion of Table 3) and attach.						
Priority date	POD #	Use	Acres	Proposed Instream Period	Instream Rate (cfs)	Total instream volume (af)
5/31/1897		IR	28.2	August 1, 2016 - September 30, 2016	0.233	28.2

**OR**  Please check this box if you are not sure of the proposed rate, volume and instream period. As part of its review process, the Department will identify the appropriate instream rate, volume and period considering the water right(s) being leased and instream benefits.

Yes  N/A **Conditions to avoid enlargement or injury to other water rights, if any, or other limitations:** list here \_\_\_\_\_

Note: The Department may identify additional conditions to prevent injury and/or enlargement.

Any additional information about the proposed instream use: \_\_\_\_\_

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## Helpful Links

For assistance with your application contact the Watermaster or call 503-986-0900

Watermasters in Oregon	<a href="http://www.oregon.gov/owrd/docs/watermasterchart.pdf">http://www.oregon.gov/owrd/docs/watermasterchart.pdf</a>
Instream Leasing Forms	<a href="http://www.oregon.gov/owrd/pages/pubs/forms.aspx#instream">http://www.oregon.gov/owrd/pages/pubs/forms.aspx#instream</a>
Fee Schedule	<a href="http://www.oregon.gov/owrd/pages/pubs/forms.aspx#fees">http://www.oregon.gov/owrd/pages/pubs/forms.aspx#fees</a>
Water Rights Information Query	<a href="http://apps.wrd.state.or.us/apps/wr/wrinfo/">http://apps.wrd.state.or.us/apps/wr/wrinfo/</a>
OAR: Chapter 690 Division 77	<a href="http://www.oregon.gov/owrd/law/docs/law/oar_690_077.pdf">http://www.oregon.gov/owrd/law/docs/law/oar_690_077.pdf</a>

## Eligible Water Rights

Surface and Storage water rights subject to Instream Lease include:

1. Certificated rights.
2. Adjudicated rights evidenced by a court decree.
3. Permits or transferred rights upon which satisfactory proof has been made.
4. Conserver's portion of conserved water allocation under ORS 537.445 to 537.500.
5. Secondary water rights for the use of stored water.
6. A Determined Claim in the Upper Klamath Basin determined and established in an order of determination certified by the Water Resources Director under ORS 539.130.

A water right that has not been used for five or more years may no longer be valid under Oregon law. If the Department reasonably suspects the right may no longer be valid, an affidavit attesting to the use and supporting documentation may be required or the lease may be denied as incomplete. An irrigation district or other water purveyor may provide evidence for water right holders, verifying the delivery of water for the lands appurtenant to the rights to be leased. Municipal water rights, in general, are not subject to forfeiture. However, if you have any questions, please contact the Department for additional information and/or clarification.

## Deadline for Submittal

A lease involving a water right with a seasonal use must be received prior to July 1. A lease involving a water right with a year round use must be received prior to October 1.

## Other Water Rights

It is important to provide an inventory of *all water rights appurtenant* to the same lands involved in the lease application. These are rights that are not being included in the lease application. This includes other primary and supplemental rights, even if the rights are still in permit status.

## Conservation Reserve Enhancement Program (CREP)

Indicate if some or all of the lands involved in the lease application are enrolled in the CREP program (or other similar Federal Program). The Department will send a copy of the order approving the lease to the Farm Services Administration and other associated parties. If lands involved in the lease are enrolled in another Federal Program, please provide the name of that program in the space provided in Part 1 of 4.

## Term of the lease

The term of the lease can be no less than one calendar year and no more than five calendar years.

**Note:** A lease may be renewed many times. See the link to Instream Leasing Forms above.



### **Termination provision**

For multiyear leases, this provision gives the Lessor(s) and any Lessee an opportunity to request or prohibit an Instream Lease to terminate prior to the scheduled termination date. Unless otherwise specified, the Lessee, if there is one, has the same standing as the Lessor for management of the instream lease.

For instream leases submitted as Mitigation Projects in the Deschutes Groundwater Study Area, termination will be required by all parties to the lease and must be submitted to both the Salem and Bend OWRD offices.

Requests to terminate a lease, may be submitted by e-mail from the appropriate parties identified in the Final Order approving the lease application.

### **Additive / Replacing**

- Water rights that are leased instream generally have senior priority dates. Instream rights created by an instream lease are then additive to other instream rights with senior priority dates created as a result of instream lease, transfer and/or allocation of conserved water.
- If there is an existing junior instream right created as a result of a state agency application process or conversion of minimum flows, the instream right created as a result of a lease will generally replace a portion of that existing right with an earlier (senior) priority date.
- However, applicants may request a different relationship to other instream rights than described above. For example, under certain conditions, if the priority date of the instream right to be created by the lease is junior to an existing instream right (created as a result of a state agency application process or minimum flow conversion), the new instream use could be additive to those existing instream rights. In this example, the applicant may need to submit additional information (such as a letter from ODFW, DEQ, or OPRD) describing the instream benefits of making the rights additive.

### **Parties to the Lease**

- Lessor:** This is generally the landowner(s) and is referred to as the water right holder. All water right holders must sign the lease application. The lessor may also be someone that holds interest in the water right or another party that has been granted authorization by the landowner to leases the water right. If the Lessor is not the deeded landowner, additional information must be provided as specified in the application checklist (Minimum Requirements Checklist Part 1 of 4).
- Co-Lessor:** Irrigation districts (or other similar organizations) as defined in ORS Chapters 545, 547, 552, 553, or 554, which delivers water to the subject lands must be a party to the lease. If the source of water for the subject lands is stored water, then the owner/operator of the reservoir must also be party to the lease as Co-lessor.
- Lessee:** Individuals or organizations, which may provide compensation to the Lessor for the leasing of the subject water right instream. The Lessee may have, unless otherwise indicated, the same standing as the Lessor for all purposes regarding management and enforcement of the instream water right. 690-077-0076 (12)
- Trustee:** The Trustee is the Oregon Water Resources Department. If a person leases a right to the State without third party involvement, the Department will also be considered the Lessee.

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### Tables 1, 2 and 3

If needed, you may attach a table and label with appropriate table #.

- Include all the information from the given table(s). For Table 1 include the specific Lessor information. The Lessor signatures and certification language should still be on Part 3. However, on Part 3 you may reference an attached table for the specific Lessor.

### Editing the Application Form

To add additional lines to tables within the forms or to copy and paste additional Part 3 & 4 pages, please **save the application form to your computer**. Unlock the document by using one of the following instructions for your Microsoft Word software version:

#### Microsoft Word 2007

- Unlock the document by clicking the **Review** tab, then click **Protect Document**, then click **Stop Protect**
- To relock the document, click **Editing Restrictions**, then click **Allow Only This Type of Editing**, select **Filling In Forms** from the drop-down menu, then check **Yes, Start Enforcing Protection**.

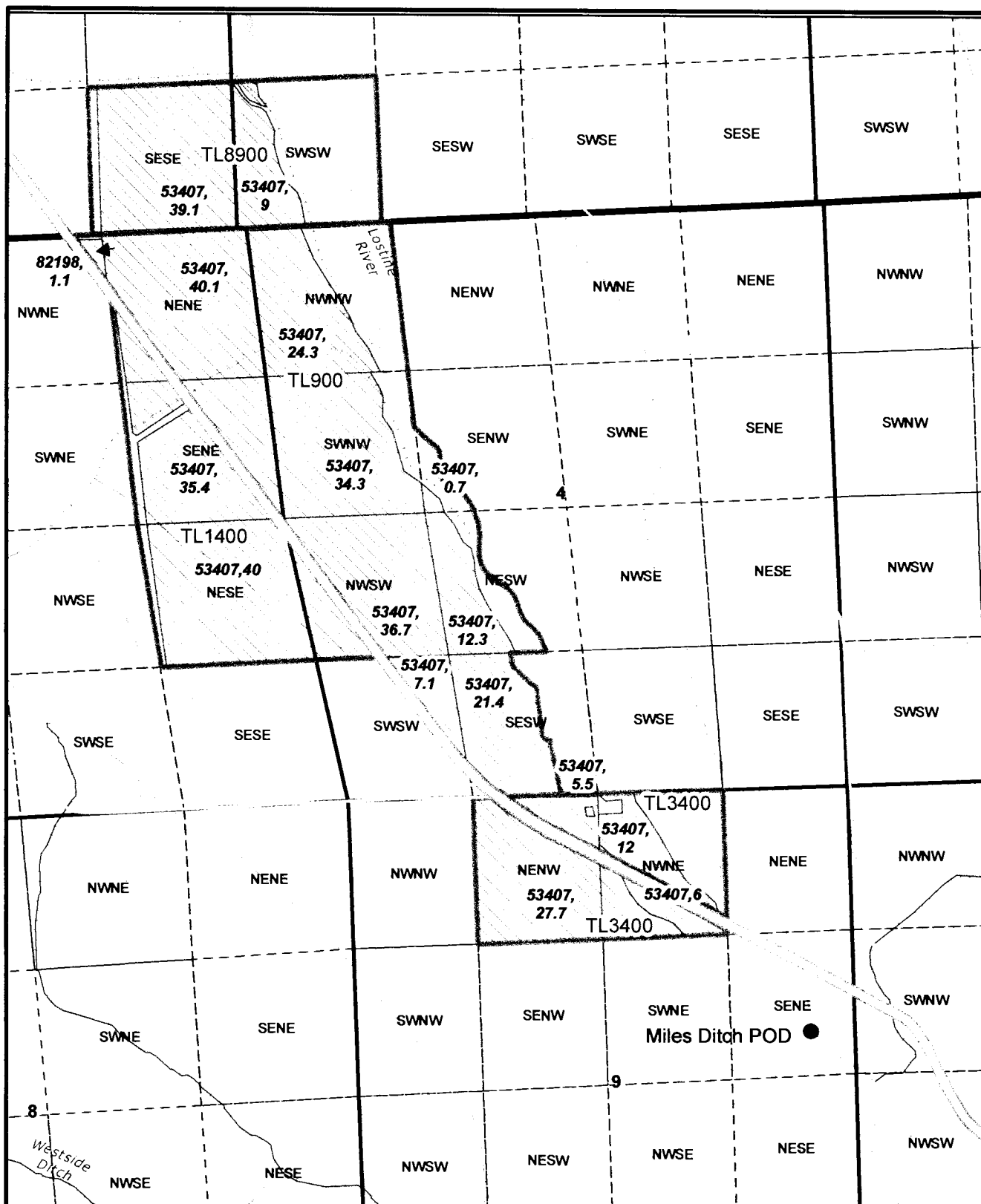
#### Microsoft Word 2010

- Unlock the document by clicking the **Review** tab, toggle the **Restrict Editing icon** at the upper right, then click **Stop Protect** at the bottom right. Then uncheck the “**Allow only this type of editing in the document: Filling in forms**” in the “Editing restrictions” section on the right-hand list of options.
- To relock the document, check the **Editing Restrictions/Allow Only This Type of Editing/Filling In Forms** box from the drop-down menu, then check **Yes, Start Enforcing Protection**. You do not need to assign a password for the editing restrictions.

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












**Wolfe Ranch 2016 Split Season Lease Map 1**

Scale 1in=1/4mi

**Map Disclaimer:**  
 This product is for informational purposes and may not have been prepared for, or be suitable for, legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.  
 This map is not intended to display property lines.

**Disclaimer:** This listing is the result of a manual search of the records of the Watermaster's Plat Cards and the WRPS database. The listing has not been field checked. That a right in of record is no guarantee that it has not been abandoned under the conditions of CRS 540.810. The plat card records of listed by the 40.0 acre quarter-quarter within a section. If the water right listed within a quarter-quarter is on more than one tax lot, this office has not determined that water rights for each tax lot - only a survey could accurately depict how much of the water rights are on each tax lot.

-  Proposed Lease Ground
-  Taxlots
-  Townships
-  Sections
-  Quarter quarters

-  Ditches, canals, flumes
-  Pipelines, etc.
-  Perennial
-  Intermittent or seasonal
-  Ephemeral
-  stream names

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April 6, 2016

**To:** Oregon Water Resources Department

**Re:** Measurement and Reporting for Split Season Lease

The water rights listed below have no rate limitation and a duty limitation of 1.5 acre-feet per acre for every 30 day period from May 1-July 31, and 1 acre-foot per acre for all of August 1- September 31. Because the instream period for the proposed split season lease begins on August 1 and ends on September 31, and because the irrigation duty limitation for August 1 - September 31 is independent of irrigation duty usage from May 1- July 31, the water master is not requiring measuring devices to monitor duty usage from May 1- July 31 for these water rights. Compliance with the terms of the split season lease and confirmation that no irrigation water is being applied to acres involved in the proposed split season lease from August 1- September 31 will be confirmed by regular site visits by the water master and The Freshwater Trust staff.

Water rights *not* subject to monitoring devices include certificates: **79891**

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

# Application for Split Season 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](http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml).

- Attachment 4 (Standard Leasing Form).
- Attachment 5-D (Pooled Leasing Form).

The standard instream water right form or for pooled leases, the appropriate pooled lease forms, pursuant to ORS 537.348(2) and OAR 690-077 must also be filled out before a Split Season Use Instream Lease Application can be processed.

Note: Split season use lease applications must be submitted to the Department two weeks prior to water being used either for the existing purpose or for the proposed instream purpose. (OAR 690-077-0079)

**1. Existing and Instream Use Periods**

For the water right being leased instream, as described in Section 1.5, include monthly or partial season rate or duty limitations, if appropriate. This section replaces the "Total volume, Rate in cfs, and Allowed period of use" portions of Section 2.2 on the standard or pooled instream leasing forms.

The water right will be used for its existing purpose from 5/1 to 7/31.  
 The water right will be used for instream use period is from 8/1 to 9/30.

	Rate (cfs)		Conversion Factor 1 cfs = 1.983471 ac-ft/day		Number of days		Duty (ac-ft)
<b>Existing Use</b>	0.6954	*	1.983471	*	92	=	126.9
use if needed		*	1.983471	*		=	
use if needed		*	1.983471	*		=	
<b>Instream Use</b>	0.233	*	1.983471	*	61	=	28.2
use if needed		*	1.983471	*		=	
use if needed		*	1.983471	*		=	
<b>Total</b>							<b>155.1</b>

**2. Measurement and Reporting**

The water right lessor or lessee shall contact the watermaster to determine the necessary measurement and reporting requirements associated with leasing a water right. The holders of the water rights shall measure and report the use of the existing water right and instream water right to the satisfaction of the Director, or provide for third party measurement and reporting to the satisfaction of the Director. Pursuant to ORS 537.332(3), the Department holds instream water rights in trust for the benefit of the people of the State of Oregon.

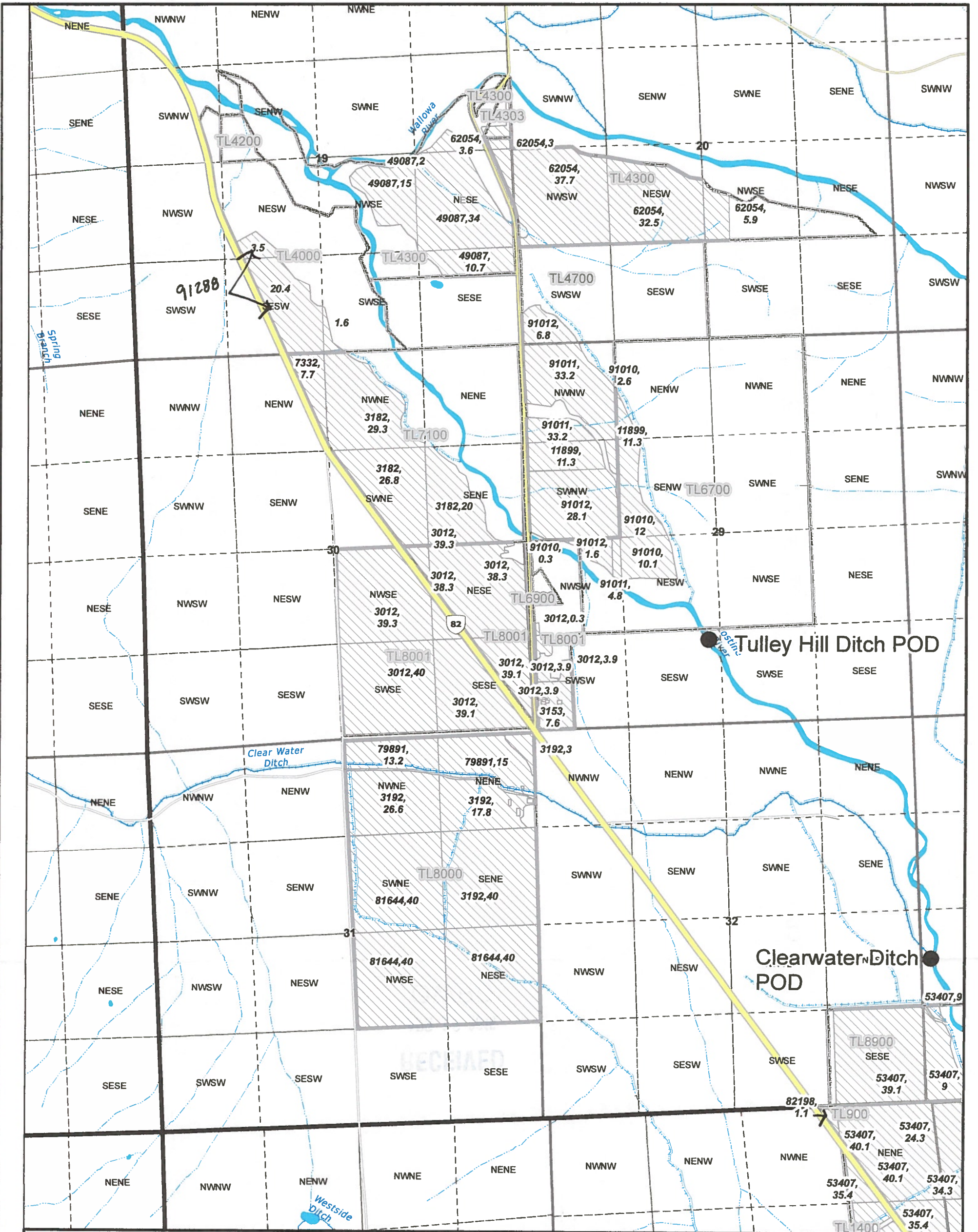
- (a) Location(s) and type(s) of measuring device(s): See attached letter
- (b) Frequency of measurement: See attached letter
- (c) Parties responsible for the respective measurements: See attached letter

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## Wolfe Ranch 2016 Split Season Lease Map 2

**Map Disclaimer:**  
 This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.  
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- |  |                       |  |                          |
|--|-----------------------|--|--------------------------|
|  | Proposed Lease Ground |  | Ditches, canals, flumes  |
|  | Wolfe Ranch Taxlots   |  | Pipelines, etc.          |
|  | Townships             |  | Perennial                |
|  | Sections              |  | Intermittent or seasonal |
|  | Quarter quarters      |  | Ephemeral                |
- stream names

Scale 1in=1/4mi