



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

Application for Instream Lease

Part 1 of 4 – Minimum Requirements Checklist

Complete Part 1 through 4 and include the required attachments Fill in or check boxes as indicated. (N/A= Not Applicable)	OWRD # <u>14 - 1550</u>
	Fee- _____

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

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

Yes **Part 1 – Completed Minimum Requirements Checklist and Application Fee**

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

Yes **Part 2 – Completed Instream Lease Application Map Checklist.**

Yes **Part 3 – Completed Water Right and Instream Use Information**
 Include a separate **Part 3** for **each water right**

Yes **Part 4 – Completed Instream Lease Provisions and Signatures**

Yes **How many water rights are leased? 1 List them here: Claim KA-107**
 Include a separate **Part 3** for each **water right**.

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: _____

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: _____)?

Attachments:

Yes N/A **Map:** Instream Lease map requirements (see Part 2 of this application)

Yes N/A **Tax Lot Map:** If a portion of the water right *not included in the lease* is appurtenant to lands owned by others, a tax lot map must be included with the lease application. The tax lot map should clearly show the property involved in the lease.

Yes N/A Supporting documentation describing why a right (or portion thereof) is valid and not subject to forfeiture even though the right has not been exercised for five or more consecutive years. This information only needs to be provided if the checkbox has been checked to identify that the water right has not been used in the last five years and is not subject to forfeiture (See Part 4 of 4).

Yes N/A If the Lessor (water right holder) is not the deeded landowner - provide one of the following.

- A notarized statement from the landowner 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 which provides authority to pursue the lease absent consent of the landowner. (See Attachment 1)

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Part 2 of 4 – Instream Lease Application Map Checklist

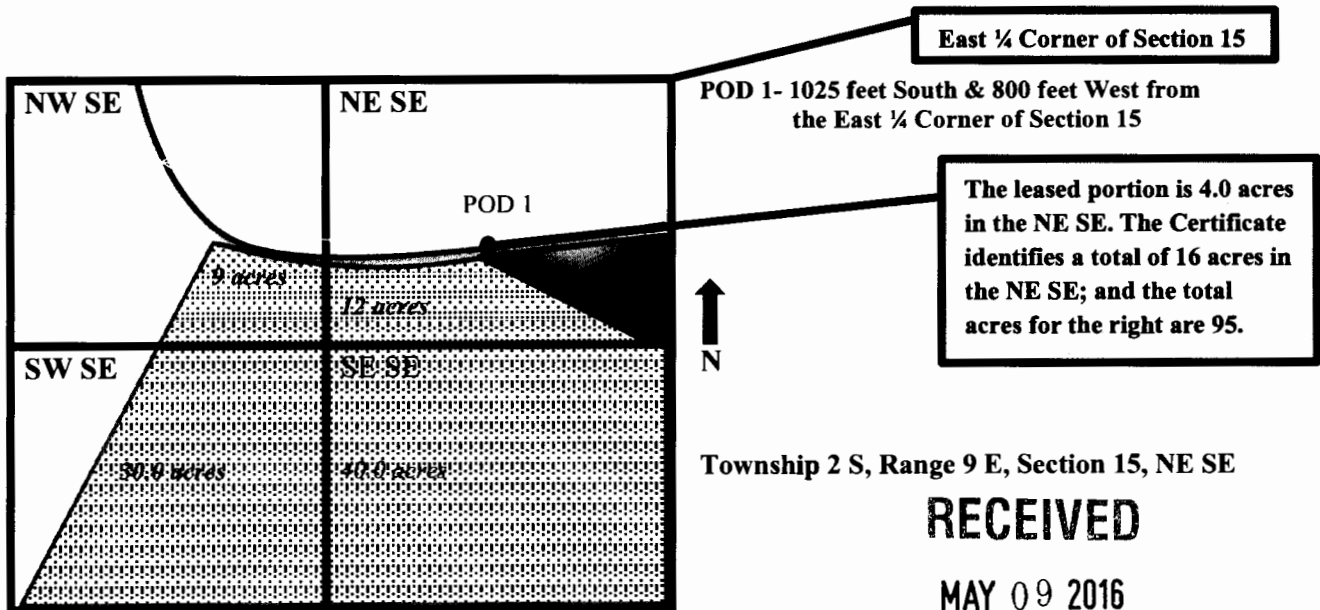
A Map is generally required for each water right not leased in its entirety

The application map (if required) should include all the items listed below and match the existing water right(s) of record. Check all boxes that apply.

This should be a simple map. (See example below). A copy of a final proof survey map with the portion to be leased shaded or hachured in will also suffice.

- N/A A map is required for each water right not leased in its entirety. More than one QQ and property may be included on each map. A map is not required, if leasing the entire right or if the right to be leased is for municipal or quasi-municipal water use.
- The map should be of sufficient quality to be reproducible. Please do not use highlighters to mark items on the map as highlighters do not always copy.
- A North arrow and map scale (no smaller than 1" = 1320').
- Township, Range, Section, quarter quarter (QQ), and a clearly labeled survey corner.
- For irrigation or other similar use, the number of acres to be leased in each quarter-quarter clearly labeled and hachured to differentiate between the acres being leased and any remaining. If the place of use is broken down by more than one priority date, or source stream, and/or point of diversion you must identify each with separate hachuring and clearly label.
- If available, identify the existing point(s) of diversion.

EXAMPLE MAP (the darker shaded portion representing the portion leased instream)



Township 2 S, Range 9 E, Section 15, NE SE

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Part 3 of 4 – Water Right and Instream Use Information

Use a separate Part 3 for each water right to be leased instream

Water Right Information

Water right # KA-107

Table 1

Water Right Information: Provide a description of the originating water right to be leased. Also include your tax lot number(s). Fill in all applicable information. For example, if your water right has multiple points of diversion (POD) but they're not numbered, you do not need to include a number. If not enough room below, you may add additional rows (see instructions) or attach spreadsheet (matching Table 1). Please clearly label any attachments.

Table with 11 columns: Priority Date, POD #, Twp, Rng, Sec, Q-Q, Tax Lot, Gov't Lot/DLC, Acres, USE, Previous Lease # (if any). Includes checkboxes for leasing portion or entirety.

Total Acres: _____

Table 2

Table with 7 columns: Priority Date, POD #, Use, Total Acres, Other Information (such as conditions/limitations on the right), Total Rate (cfs), Total Volume (af). Includes text for totals and checkboxes for storage.

Table 3

Point of Diversion (POD) description: 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(s) involved in the lease must be described. If not enough room below, you may add additional rows (see instructions) or attach spreadsheet (matching Table 3). Please clearly label any attachments.

Table with 7 columns: POD #, Twp, Rng, Sec, Q-Q, DLC/Gov't lot, Measured Distances, latitude/longitude coordinates, or river mile (if unknown you may indicate "unknown").

Please check this box if you don't know the location of the POD(s) and want the Department to identify the location of the POD(s) for the purpose of the instream lease.

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Part 3 of 4 cont. – Water Right and Instream Use Information

Instream Use Information

Table 4

Instream Use Created by the Lease						
River/ Stream Name: <u>Upper Klamath Lake, tributary to Klamath River</u>				River Basin: <u>Klamath</u>		
Instream Portion: Use Table 4 to illustrate the instream rate, volume and instream period by priority date, POD (if more than one), Use (if more than one), and acreage as appropriate considering the right to be leased. If not enough room below, you may add additional rows (see instructions) or attach a spreadsheet (matching the below portion of Table 4). Please clearly label any attachments.						
Priority date	POD #	Use	Acres	Proposed Instream Period	Total instream rate (cfs)	Total instream volume (af)
10/14/1864	1	IM/FP	NA	Jun 1 st - Oct 15 th	1.0	100.0
Note: If not certain of the instream rate, volume and/or instream period, see the instructions and/or contact Department Staff for assistance. The instream rate and volume may be up to the maximum rate and duty/volume allowed by the right, as described in Table 2 or on your Certificate if leasing the entire right. The proposed instream period may be no longer than the irrigation season or the authorized period of allowed use.						
OR <input type="checkbox"/> 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.						
Instream Reach						
Proposed Instream Reach: <input type="checkbox"/> A reach typically begins at the point of diversion (POD) and ends at the mouth of the source stream: From the POD to _____				Or Proposed Instream Point: <input checked="" type="checkbox"/> Instream use protected at the POD		
OR <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 certificate, the lease may be processed to be protected at the POD.)						
Additional Instream Information						
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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: <u>Would like the 100 acre-feet to be protected equally for the instream lease period from June 1st through October 15st (136 days)(equaling 0.735 ac-ft/day for 136 days).</u>						

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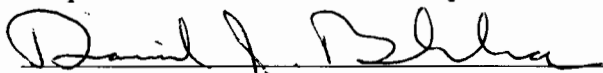
Part 4 of 4 – Lease Provisions and Party Signatures

<p>Term of the Lease (may be from 1 year up to 5 years): The lease is requested to begin in: month <u>January 1</u> year <u>2016</u> and end: month <u>December 31</u> year <u>2020</u> Note: The begin month is generally the first month of the irrigation season and the end month is the last month in the irrigation season. If not an irrigation right, this would be the first and last month of your authorized period of allowed use.</p>	
<p>Public use: Check the public use(s) this lease will serve (as defined by ORS 537.332): <input checked="" type="checkbox"/> Conservation, maintenance and enhancement of aquatic, fish and wildlife, fish and wildlife habitat and any other ecological values. <input type="checkbox"/> Recreation <input type="checkbox"/> Pollution abatement <input type="checkbox"/> Navigation</p>	<p>Termination provision (for multiyear leases): The parties to the lease request (choose one): <input checked="" type="checkbox"/> 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. <input type="checkbox"/> b. The option of terminating the lease prior to expiration of the full term, with consent by all parties to the lease. <input type="checkbox"/> c. The parties would not like to include a Termination Provision. (See instructions for limitations to this provision)</p>
<p>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, 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, please check this box. <input type="checkbox"/> And attach an explanation of your intent.</p>	
<p>Validity of the Right(s) to be leased (check the appropriate box): <input checked="" type="checkbox"/> 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 <input type="checkbox"/> The water right(s) have not been used for the last five years according to the terms and conditions of the right(s). However, the water right(s) is not subject to forfeiture under ORS 540.610(2). Documentation describing why the water right(s) is not subject to forfeiture is provided.</p>	

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.

The undersigned declare:

1. The Lessor(s) agree during the term of this lease, to suspend use of water allowed under the subject water right(s) and under any appurtenant primary or supplemental water right(s) not involved in the lease application; and
2. The Lessor(s) certify that I/we are the water right holder(s) of the right(s) described in this instream lease application. If not the deeded landowner, I/we have provided documentation with the lease application that I/we have authorization to pursue the lease application and/or have obtained consent from the deeded landowner; and
3. All parties affirm that information provided in this lease application is true and accurate.


 Signature of Lessor

Date: 4/27/2016

Printed name (and title): David Bleha, VP Engineering Business name, if applicable: Jeld-Wen Inc
 Mailing Address (with state and zip): 401 Harbor Isles Blvd, Klamath Falls, OR, 97601
 Phone number (include area code): (541) 883-3373 **E-mail address: DavidB@jeld-wen.com

**** 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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ATTACHMENT 1

**Property Deed
Documenting Jeld Wen's Ownership of
Claim 107**

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THIS SPACE RESERVED FOR RECORDER'S USE



After recording return to:
MODOC POINT LAKE PROPERTY, LLC, an
Oregon limited liability company
24800 Modoc Point Road
Chiloquin, OR 97624

Until a change is requested all tax statements
shall be sent to the following address:
MODOC POINT LAKE PROPERTY, LLC, an
Oregon limited liability company
24800 Modoc Point Road
Chiloquin, OR 97624

Escrow No. MT97499-KR
Title No. 0097499
SPECIAL r.020212

SPECIAL WARRANTY DEED

JELD-WEN, inc., an Oregon corporation,

Grantor(s) hereby conveys and specially warrants to

MODOC POINT LAKE PROPERTY, LLC, an Oregon limited liability company,

Grantee(s) and grantee's heirs, successors and assigns the following described real property free of encumbrances created or suffered by the Grantor, except as specifically set forth herein, situated in the County of and State of Oregon, to wit:

SEE EXHIBIT A WHICH IS MADE A PART HEREOF BY THIS REFERENCE

The true and actual consideration for this conveyance is **\$135,000.00**.

Grantor is lawfully seized in fee simple on the above granted premises and SUBJECT TO: all those items of record, if any, as of the date of this deed and those shown below, if any:

Except, Reserving unto Grantor, its heirs, successors, and assigns, all water rights, including but not limited to those rights evidenced by unadjudicated claims, adjudicated claims pending judicial confirmation, final certificates, or permits requiring claims of beneficial use, and further including but not limited to diversion, storage, and use rights, appurtenant and/or pertaining to the Real Property, including but not limited to Water Right Claim 107 in the Klamath Basin General Stream Adjudication, as further described in the attached Partial Order of Determination ("Exhibit B"); provided however that nothing contained herein reserves unto grantor the rights of access, storage or diversion by grantor on the subject property, and further nothing contained herein shall limit grantee's rights to apply for or acquire beneficial use for waters derived from any well established on the subject property for domestic, agricultural, commercial or industrial use to which grantees, grantees heirs, successors or assigns might seek.

and the grantor will warrant and forever defend the said premises and every part and parcel thereof against the lawful claims and demands of all persons claiming by, through, or under the grantor except those claiming under the above described encumbrances.

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Page 2 - Special Warranty Deed Signature / Notary page
Escrow No. MT97499-KR

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated this 16th day of May, 2013.

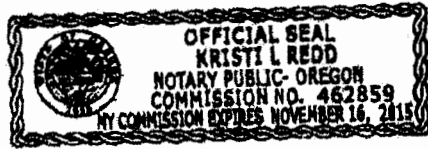
JELD-WEN, inc., an Oregon corporation

BY: [Signature]
Jeffrey Woolworth, Real Estate Manager

State of Oregon
County of Klamath

This instrument was acknowledged before me on May 16, 2013 by Jeffrey Woolworth, Real Estate Manager for JELD-WEN, inc., an Oregon corporation.

[Signature]
(Notary Public for Oregon)



My commission expires 11/16/2015

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**EXHIBIT "A"
LEGAL DESCRIPTION**

The following described real property in Klamath County, Oregon:

A tract of land situated in Section 15, Township 36 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a 1 inch iron pipe on the Westerly boundary of Modoc Point, a platted subdivision in Klamath County, Oregon, which is South $85^{\circ}30'$ West 30 feet and North $71^{\circ}51'$ West (North $71^{\circ}45'$ West by plat) 120.02 feet from the Northwesternly corner of Lot 26 in said Modoc Point; thence West 93.32 feet to a 5/8 inch iron pin marking the true point of beginning of this description; thence North $01^{\circ}06'15''$ East 870.04 feet to a 5/8 inch iron pin in the centerline of State Secondary Highway No. 427 as constructed; thence North $55^{\circ}33'15''$ West along said Highway centerline 630.61 feet to a 5/8 inch iron pin; thence South $14^{\circ}55'45''$ West 528.77 feet to a 5/8 inch iron pin; thence South $05^{\circ}13'15''$ West 553.13 feet to a 5/8 inch iron pin; thence continuing South $05^{\circ}13'15''$ West to the Northerly shore line of Upper Klamath Lake; thence Southeasterly along said shore line to a point East of the true point of beginning; thence East to a 5/8 inch iron pin being located West 244.79 feet from the true point of beginning; thence East 244.79 feet to the true point of beginning of this description.

The above described tract of land being subject to the following described easement:

Beginning at a point on the Easterly line of above described tract of land, said point being North $01^{\circ}06'15''$ East a distance of 669.04 feet from the true point of beginning, said point being the apparent centerline of an existing railroad spur grade 21 feet in width; thence North $65^{\circ}32'27''$ West along said centerline to the Westerly line of said described tract of land.

EXCEPTING from the above described land any portion lying within the limits of the State Secondary Highway.

TOGETHER WITH a strip of land twenty-one (21) feet in width, being 10.5 feet each side of, measured at right angles to the following described centerline situated in Section 15, Township 36 South Range 7 East of the Willamette Meridian, Klamath County, Oregon.

Beginning at the Northwesternly corner of Lot 26, Modoc Point, a platted subdivision in Klamath County, Oregon; thence South $85^{\circ}30'$ West a distance of 30 feet to a 3/8 inch iron pin; thence North $71^{\circ}51'$ West (North $71^{\circ}45'$ West by plat) a distance of 120.20 feet to a one inch iron pipe on the Westerly boundary of said Modoc Point subdivision; thence West 93.32 feet to a 5/8 inch iron pin; thence North $01^{\circ}06'15''$ East a distance of 668.81 feet to the True Point of Beginning of this description, said point being South $01^{\circ}06'15''$ West a distance of 201.23 feet from the 5/8 inch iron pin in the centerline of State Secondary Highway No. 427; thence South $65^{\circ}04'15''$ East a distance of 306.18 feet to the point of tangency of a ten degree curve to the right (the central angle is $53^{\circ}51'$); thence Southeasterly along the arc of said curve to the intersection with the Westerly right-of-way line of the Southern Pacific Company Railroad.