

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

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	OWRD #	2L-41
	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"/> \$520.00 for a lease involving four or more landowners or four or more water rights	Or <input checked="" type="checkbox"/> \$350.00 for all other leases
<input type="checkbox"/> Check enclosed or	
<input checked="" type="checkbox"/> Fee Charged to customer account <u>Deschutes River Cons</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: 74135

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: \_\_\_\_\_)?

### 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

<b>Term of the Lease:</b> The lease is requested to begin in: <u>month April year 2018</u> and end: <u>month October year 2018</u> .	
<b>Public use:</b> 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 checked="" type="checkbox"/> Recreation <input checked="" type="checkbox"/> Pollution abatement <input type="checkbox"/> Navigation	<b>Termination provision (for multiyear leases):</b> <b>The parties to the lease request (choose one):</b> <input 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)
<b>Additive/Replacing Relationship to other instream water rights:</b> 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. <input type="checkbox"/> And attach an explanation of your intent.	
<b>Precedent:</b> 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.	
<b>Validity of the rights to be leased:</b> <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) <b>have not been used</b> 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.

  
Signature of Co-Lessor

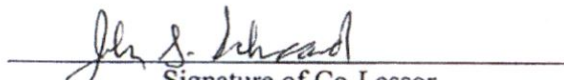
Date: 4/6/2018

Printed name (and title): Marc Thalacker, District Manager

Business/Organization name: Three Sisters Irrigation District

Mailing Address (with state and zip): P.O. Box 2230, Sisters, OR 97759

Phone number (include area code): 541-549-8815 \*\*E-mail address: manager@tsidweb.org

  
Signature of Co-Lessor

Date: 4/5/2018

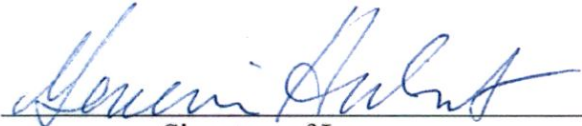
Printed name (and title): John Schaad

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

Mailing Address (with state and zip): 1170 Mclean Blvd, Eugene, OR 97405

Phone number (include area code): 541-915-4997 \*\*E-mail address: jgschaad@gmail.com

See next page for additional signatures.

  
Signature of Lessee

Date: 4/5/18

Printed name (and title): Gen Hubert, Program Manager

Business/organization name: Deschutes River Conservancy

Mailing Address (with state and zip): 700 NW Hill Street, Suite 1, Bend, OR 97703

Phone number (include area code): 541-382-4077 \*\*E-mail address: gen@deschutesriver.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**

**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: Three Sisters Irrigation District**

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 #		
74135	1895	Main Canal	15	S	11	E	07	sw se	600		40	IR	10	1616
74135	1895	Main	15	S	11	E	07	se se	600		39	IR	10	1616

**Any additional information about the right: 79 acres for split season lease, additional forms attached**

**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.

John S. Schaad Date: 4/5/2018  
Signature of Lessor

Printed name (and title): John Schaad Business name, if applicable: \_\_\_\_\_  
Mailing Address (with state and zip): 1170 McLean Blvd., Eugene, OR 97405  
Phone number (include area code): 541-915-4997 \*\*E-mail address: jgschaad@gmail.com

\_\_\_\_\_  
Signature of Lessor Date: \_\_\_\_\_

Printed name (and title): \_\_\_\_\_ Business name, if applicable: \_\_\_\_\_  
Mailing Address (with state and zip): \_\_\_\_\_ Phone number (include area code): \_\_\_\_\_ \*\*E-mail address: \_\_\_\_\_

## District Lease Application Information and Instructions

### Part 4 of 4 – Water Right and Instream Use Information

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

**Table 2**

Priority Date	POD #	Use	Acres	Other Information (such as conditions/limitations on the right)	Rate (cfs)	Volume (af)
1895	Main	IR	79	Certificated max rate 0.02 cfs/ac. Some CW has occurred	1.58	n/a

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:

**Table 3**

<b>Instream Use created by the lease</b>	River Basin: <u>Deschutes</u>	River/Stream Name: <u>Whychus Creek, tributary to Deschutes</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 <u>TSID Main</u> to <u>Lake Billy Chinook</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)
1895	Main	IR	79	Split Season lease (forms attached), Instream April 20-July 1	1.264	182.43

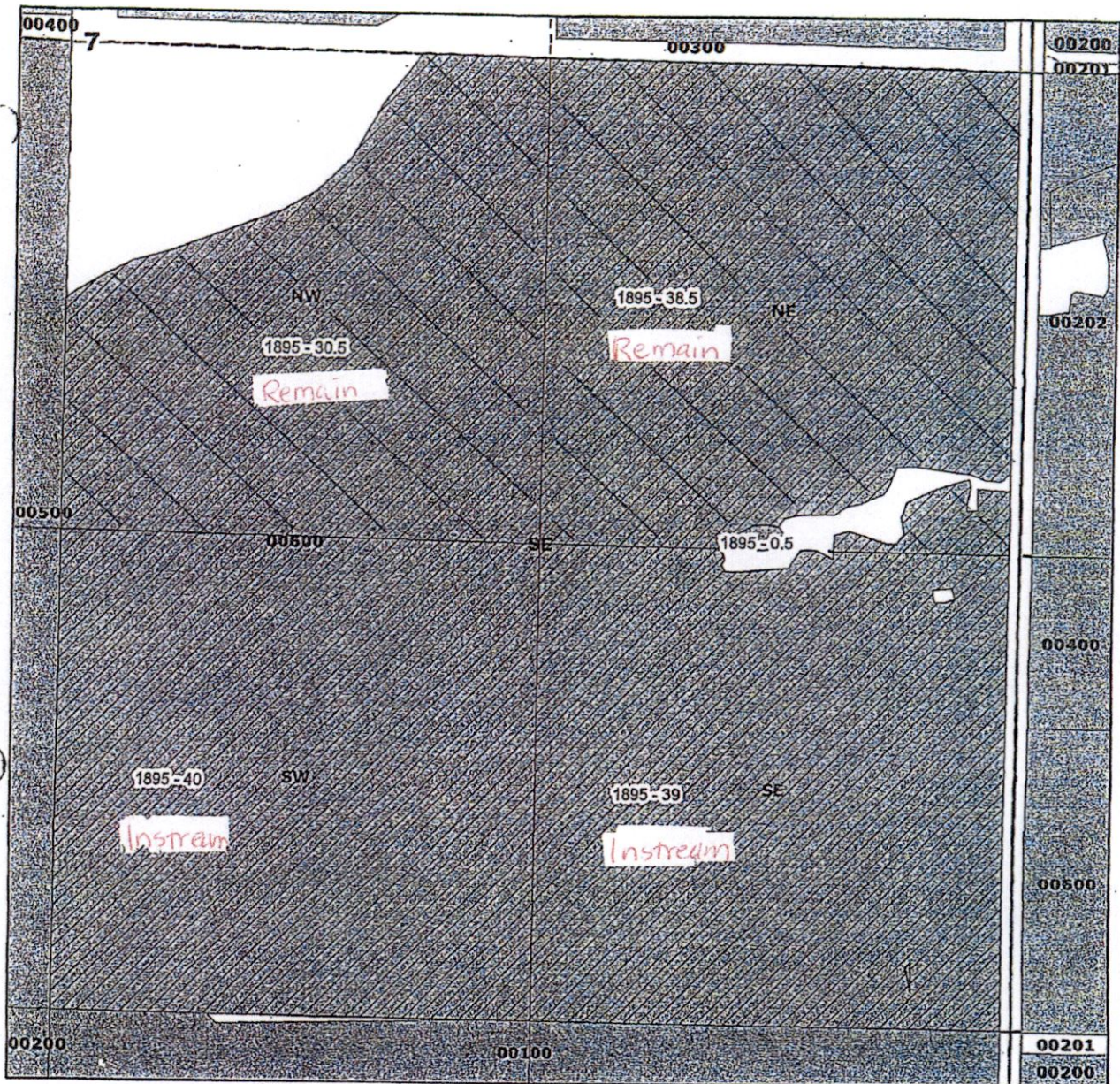
**OR**  Please check this box if you are not sure of the proposed rate, volume and instream period. As part of its review process, the Department will identify the appropriate instream rate, volume and period considering the water right(s) being leased and instream benefits.

## District Lease Application Information and Instructions









Yes  N/A **Conditions to avoid enlargement or injury to other water rights, if any, or other limitations:** list here measurement and reporting for split season instream

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

**Any additional information about the proposed instream use:** Split Season instream lease, additional forms attached

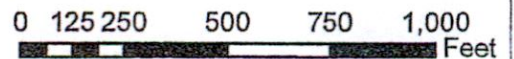


**Legend**

-  Leased Instream - Pond Maintenance
-  Leased Instream - Irrigation
- Water Rights**
- Priority\_Date**
-  1887
-  1895
-  1903
-  1904
-  Quarter Quarters
-  Taxlots

John Schaad  
 148 acres Instream - 1895  
 Certificate 74135  
 T15S R11E Sect 07  
 Tax Lot 600  
 NESE  
 38.5 acres Instream - 1895  
 0.5 acres remain - 1895 (pond maintenance)  
 NWSE  
 30.5 acres instream -1895  
 SWSE  
 40 acres remain -1895  
 SESE  
 39 acres remain 1895  
 Deschutes County

*79.0 Ac Lease Instream  
 SWSE & SESE*



**Three Sisters Irrigation District**





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 7/2/18 to 10/31/18.  
 The water right will be used for instream use period is from 4/20/18 to 7/1/18.

	Rate (cfs)		Conversion Factor 1 cfs = 1.983471 ac-ft/day		Number of days		Duty (ac-ft)
<b>Existing Use</b>	1.26	*	1.983471	*	122.00	=	<b>304.89</b>
use if needed		*	1.983471	*		=	<b>0.00</b>
use if needed		*	1.983471	*		=	<b>0.00</b>
<b>Instream Use</b>	1.26	*	1.983471	*	73	=	<b>182.43</b>
use if needed		*	1.983471	*		=	<b>0.00</b>
use if needed		*	1.983471	*		=	<b>0.00</b>
<b>Total</b>	n/a		n/a		n/a		<b>488.65</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): new macrometer meter located at landowner turnout from the TSID canal
- (b) Frequency of measurement: weekly for the purpose of the lease
- (c) Parties responsible for the respective measurements: Three Sisters Irrigation District



**Gen Hubert**

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**From:** GIFFIN Jeremy T \* WRD <Jeremy.T.Giffin@oregon.gov>  
**Sent:** Friday, April 06, 2018 9:28 AM  
**To:** Gen Hubert  
**Subject:** RE: Split season lease in TSID

OK Gen, Sounds good, just make sure than someone is measuring the diversion to these fields.

J

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**From:** Gen Hubert [mailto:gen@deschutesriver.org]  
**Sent:** Thursday, April 05, 2018 11:27 AM  
**To:** GIFFIN Jeremy T \* WRD  
**Subject:** Split season lease in TSID

Hi Jeremy,

I wanted to check in with you regarding a split season lease in TSID. This would be on a property that we lease every year, John Schaad's acres. He's interested in leasing the south half of his acres. Everything is metered. The instream period would start a little later than for our regular pooled lease and would end on July 1. Irrigation to establish a crop might not occur until September/October, most definitely would not be ready to irrigate yet in early July.

Map attached...

TSID would be monitoring gages and filling in the reporting forms for this split season lease.

We need a water master sign off to do a split season. Is this a lease that would pass your muster?

Thank you!

Gen

Genevieve Hubert  
*Program Manager*  
*Deschutes River Conservancy*  
541.382.4077 xt 16  
<http://www.deschutesriver.org>

## EXHIBIT C

### Deschutes River Conservancy Instream Leasing Program

#### Policy Concerning Weeds & Instream Leases Information on Farm Deferral & Lease Payment

The Deschutes River Conservancy is dedicated to restoring stream flow and improving water quality in the Deschutes Basin; land stewardship is a component of these goals.

#### **Weed Policy**

The DRC expects participants in the Leasing Program will continue to exercise agricultural best management practices on lands enrolled in the Program, particularly with respect to the control of noxious and/or nuisance weeds. Failure to control weeds on leased acres may result in exclusion from Program compensation.

*Information and Resources Attached*

#### **Farm Deferral Notice**

Instream leasing is a beneficial use that protects your water right from forfeiture and allows for compensation for this instream use, but please note that it does not automatically protect against loss of farm use special assessment. Exclusive Farm Use (EFU) zoned lands may still require at least minimal use with the intent to make a profit. It is the landowner's responsibility to know their tax assessment status and qualifying uses.

*Information and Resources Attached*

**Donated Leases:** Leases with public entities and leases with verified weed complaints are not paid a per acre or per acre-foot rate by the DRC. Leases eligible for payment are paid for the amount actually measurable instream, not to exceed the amount final ordered by the State.

I, JOHN SCHAAD understand the DRC weed policy and have  
*Print Name*  
been informed about farm deferral and donations.

Signature: John Schaad Date: 4/5/2018

**This form must be signed and returned with state lease form.**