



**Water Solutions, Inc.**

November 30, 2018

Sarah Henderson  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, Oregon 97301

**RE: Application for an Instream Lease of Certificate 64084 on Behalf of Union Pacific Railroad Company**

Dear Sarah:

On behalf of the water right holder, please find enclosed an Application for an Instream Lease of Certificate 64084 accompanied by a check in the amount of \$350 for payment of the required application filing fee.

If you have any questions regarding the enclosed application, you can reach me at 971-200-8509. Please copy both me and Ryan Simpson with Union Pacific Railroad Company on any correspondence regarding this application; our contact information is provided below:

Ted Ressler  
GSI Water Solutions, Inc.  
55 SW Yamhill Street, Suite 300  
Portland, OR 97204  
tressler@gsiws.com

Ryan Simpson  
Union Pacific Railroad Company  
1400 Douglas Street, Stop 1690  
Omaha, NE 68179  
rcsimpson@up.com

Sincerely,

A handwritten signature in blue ink that reads "Theodore R. Ressler".

Theodore R. Ressler, RG, CWRE  
GSI Water Solutions, Inc.

Enclosures: Application for an Instream Lease of Certificate 64084  
Check #20982 in the amount of \$350

CC: Ryan Simpson – Union Pacific Railroad Company

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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 Instream Lease

## Part 1 of 4 – Minimum Requirements Checklist

<b>Complete Part 1 through 4 and include the required attachments</b> <b>Fill in or check boxes as indicated. (N/A= Not Applicable)</b>	OWRD #	<u>16-1911</u>
	Fee-	<u>350.00</u>

*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"/> \$520.00 for a lease involving <b>four or more landowners or four or more water rights</b>	<input checked="" type="checkbox"/> \$350.00 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: Certificate 64084**  
**(See Attachment A)**

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: N/A**

**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: N/A)?

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**Attachments:**

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

**Right being leased in entirety, map not required. Final proof map from Certificate 64084 is enclosed (Attachment A)**

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.

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## Part 2 of 4 – Instream Lease Application Map Checklist

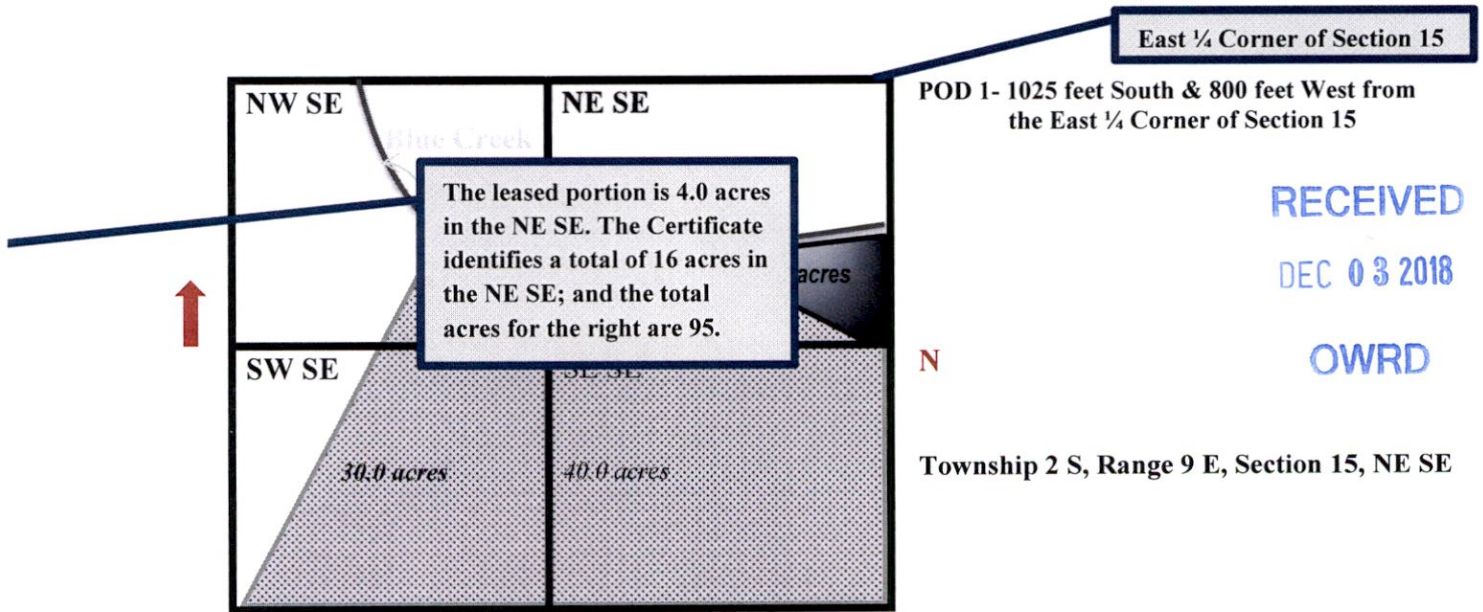
**A Map is generally required for each water right not leased in its entirety**

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 hatchured 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)





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 # 64084

**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.

<input type="checkbox"/> <b>If only leasing a portion of the right</b> - complete Table 1 as indicated					<input checked="" type="checkbox"/> <b>Entirety</b> - If the entire water right is to be leased, skip to Table 3.					
Priority Date	POD #	Twp	Rng	Sec	Q-Q	Tax Lot	Gov't Lot/DLC	Acres	USE	Previous Lease # (if any)
EXAMPLE										
12/2/1901	3	2-S	9-E	15	NE SE	100	47	4.0	IR	IL-1100
		-	-		-					
		-	-		-					
		-	-		-					
		-	-		-					

Total Acres: \_\_\_\_\_

**Table 2**

**To illustrate the totals for the water right proposed to be leased instream**

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 additional rows (see instructions) or attach spreadsheet (matching Table 2). Please clearly label any attachments. (cfs = cubic feet per second and af = acre-feet)

Priority Date	POD #	Use	Total Acres	Other Information (such as conditions/limitations on the right)	Total Rate (cfs)	Total Volume (af)
12/19/1986	1	Irrigation	14.4		0.18	N/A

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

**Any additional information about the right:** The right is for irrigation within Sections 7 and 8 of T 2 N, R 13 E, WM. The Applicant is leasing the full right instream.

**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.

POD #	Twp	Rng	Sec	Q-Q	DLC/ Gov't lot	Measured Distances, latitude/longitude coordinates, or river mile (if unknown you may indicate "unknown")
1	2-N	13-E	8	SW-SW	DLC 42	180 feet North and 960 feet East from SW corner of Section 8
	-	-		-		

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.



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

**Instream Use Information**

**Table 4**

<b>Instream Use Created by the Lease</b>						
<b>River/ Stream Name:</b> <u>Tooley Lake</u> , tributary to <u>Columbia River</u>				<b>River Basin:</b> <u>Hood</u>		
<b>Instream Portion:</b> 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)
12/19/1986	1	Irrigation	14.4	3/1 through 10/31	0.18	N/A
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.						
<b>OR</b> <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.						
<b>Instream Reach</b>						
<b>Proposed Instream Reach:</b> <input checked="" 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 <u>the mouth of Tooley Lake</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 certificate, the lease may be processed to be protected at the POD.)						
<b>Additional Instream Information</b>						
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A <b>Conditions to avoid enlargement or injury to other water rights, if any, or other limitations:</b> list here <u>The amount protected instream shall not exceed the amount available at the POD.</u>						
Note: The Department may identify additional conditions to prevent injury and/or enlargement.						
<b>Any additional information about the proposed instream use:</b> _____						

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## Part 4 of 4 – Lease Provisions and Party Signatures

**Term of the Lease (may be from 1 year up to 5 years):**

The lease is requested to begin in: **month** March **year** 2019 and end: **month** October **year** 2023

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.

**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, 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.   
And attach an explanation of your intent.

**Validity of the Right(s) to be leased (check the appropriate box):**

- 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 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.

**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.

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**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: 11/28/18

Printed name (and title): Ryan Simpson (Acquisitions Manager)

Business name, if applicable: Union Pacific Railroad Company

Mailing Address (with state and zip): 1400 Douglas Street, Stop 1690, Omaha, NE 68179

Phone number (include area code): 402-544-5453 \*\*E-mail address: rsimpson@up.com

\_\_\_\_\_  
Signature of Co-Lessor

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

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

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

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

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

\_\_\_\_\_  
Signature of Lessee

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

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

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

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

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

**\*\* 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 A**  
**Certificate 64084**

Application for Instream Lease – Certificate 64084

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STATE OF OREGON  
COUNTY OF WASCO  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

PHIL D. MOORE  
ROUTE 1, BOX 1892  
HERMISTON, OREGON 97838

confirms the right to use the waters of TOOLEY LAKE, a tributary of the COLUMBIA RIVER, for the purpose of IRRIGATING 14.4 ACRES.

The right has been perfected under Permit 49914. The date of priority is DECEMBER 19, 1986. The right is limited to not more than 0.18 CUBIC FOOT PER SECOND or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

SW 1/4 SW 1/4, AS PROJECTED WITHIN DLC 42, SECTION 8, T 2 N, R 13 E, W.M.; 180 FEET NORTH AND 960 FEET EAST FROM THE SW CORNER OF SECTION 8.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

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

A description of the place of use under the right, and to which such right is appurtenant, is as follows:

SE 1/4 SE 1/4        0.8 ACRE  
AS PROJECTED WITHIN DLC 42  
SECTION 7  
SW 1/4 SW 1/4        7.4 ACRES  
SE 1/4 SW 1/4        6.2 ACRES  
BOTH AS PROJECTED WITHIN DLC 42  
SECTION 8  
TOWNSHIP 2 NORTH, RANGE 13 EAST, W.M.

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The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The right is subject to minimum flows established by the Water Resources Commission with an effective date prior to this right.

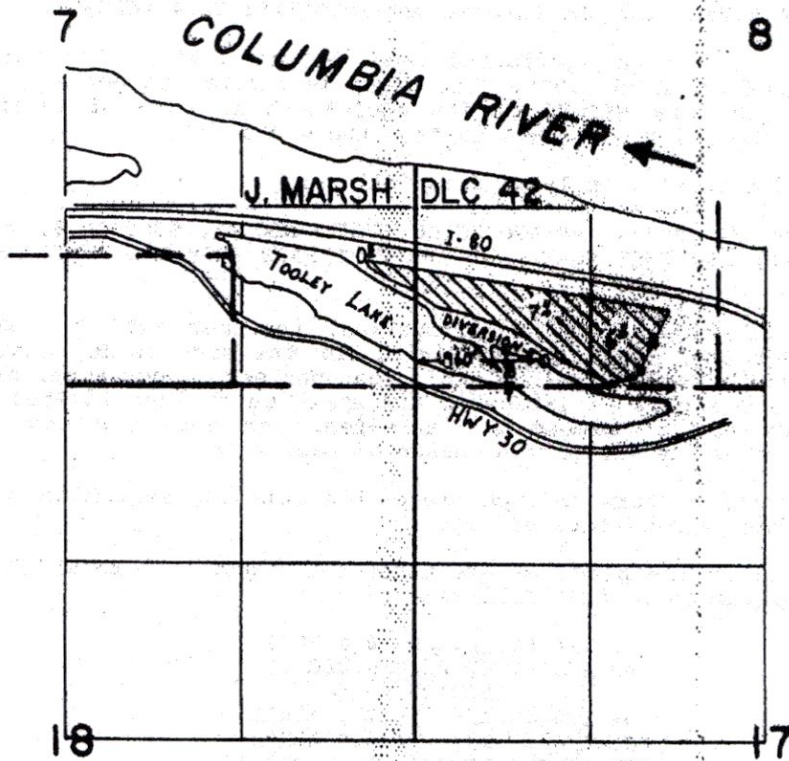
WITNESS the signature of the Water Resources Director, affixed this date FEBRUARY 7, 1990.

/s/ WILLIAM A. YOUNG  
Water Resources Director

Recorded in State Record of Water Right Certificates numbered 64084  
68979.RWK



T2N, R13E, WM



**FINAL PROOF SURVEY**  
UNDER

Application No. 68979.. Permit No. 49914.....  
IN NAME OF

.....PHIL D. MOORE.....

Surveyed JUNE...9... 1988, by T. M. WARREN...

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Attachment B  
Evidence of Use Affidavit  
Application for Instream Lease – Certificate 64084

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# Application for Water Right Transfer

## Evidence of Use Affidavit



Oregon Water Resources Department  
 725 Summer Street NE, Suite A  
 Salem, Oregon 97301-1266  
 (503) 986-0900  
 www.wrd.state.or.us

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more spacing. Supporting documentation must be attached.

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State of Oregon )  
 ) ss  
 County of WASCO)

I, JOE SIRI, in my capacity as REPRESENTATIVE, SIRI AND SON FARMS, LESSOR,  
 mailing address PO BOX 1159, CLACKAMAS, OREGON 97015

telephone number (503)482-5788, being first duly sworn depose and say:

1. My knowledge of the exercise or status of the water right is based on (check one):

- Personal observation                       Professional expertise

2. I attest that:

Water was used during the previous five years on the **entire** place of use for Certificate # 64084; **OR**

My knowledge is specific to the use of water at the following locations within the last five years:

Certificate #	Township	Range	Mer	Sec	¼ ¼	Gov't Lot or DLC	Acres (if applicable)

**OR**

- Confirming Certificate # \_\_\_\_\_ has been issued within the past five years; **OR**
- Part or all of the water right was leased instream at some time within the last five years. The instream lease number is: \_\_\_\_\_ (Note: If the entire right proposed for transfer was not leased, additional evidence of use is needed for the portion not leased instream.); **OR**
- The water right is not subject to forfeiture and documentation that a presumption of forfeiture for non-use would be rebutted under ORS 540.610(2) is attached.
- Water has been used at the actual current point of diversion or appropriation for more than 10 years for Certificate # \_\_\_\_\_ (For Historic POD/POA Transfers)

(continues on reverse side)

3. The water right was used for: (e.g., crops, pasture, etc.): CROPS

4. I understand that if I do not attach one or more of the documents shown in the table below to support the above statements, my application will be considered incomplete.

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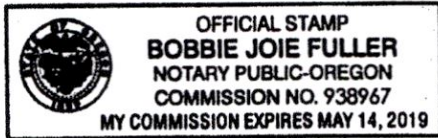
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Signature of Affiant Joe Jr

Date 9/28/16

Signed and sworn to (or affirmed) before me this 28 day of SEPTEMBER ~~20~~ 16.



Bobbie Joie Fuller  
Notary Public for Oregon

My Commission Expires: 5-14-2019

Supporting Documents	Examples
<input type="checkbox"/> Copy of a water right certificate that has been issued within the last five years. (not a remaining right certificate)	Copy of <b>confirming</b> water right certificate that shows issue date
<input checked="" type="checkbox"/> Copies of receipts from sales of irrigated crops or for expenditures related to use of water  <b>See attached power records</b>	<ul style="list-style-type: none"> <li>• Power usage records for pumps associated with irrigation use</li> <li>• Fertilizer or seed bills related to irrigated crops</li> <li>• Farmers Co-op sales receipt</li> </ul>
<input type="checkbox"/> Records such as FSA crop reports, irrigation district records, NRCS farm management plan, or records of other water suppliers	<ul style="list-style-type: none"> <li>• District assessment records for water delivered</li> <li>• Crop reports submitted under a federal loan agreement</li> <li>• Beneficial use reports from district</li> <li>• IRS Farm Usage Deduction Report</li> <li>• Agricultural Stabilization Plan</li> <li>• CREP Report</li> </ul>
<input type="checkbox"/> Aerial photos containing sufficient detail to establish location and date of photograph	Multiple photos can be submitted to resolve different areas of a water right. If the photograph does not print with a "date stamp" or without the source being identified, the date of the photograph and source should be added.  Sources for aerial photos: OSU – <a href="http://www.oregonexplorer.info/imagery">www.oregonexplorer.info/imagery</a> OWRD – <a href="http://www.wrd.state.or.us">www.wrd.state.or.us</a> Google Earth – <a href="http://earth.google.com">earth.google.com</a> TerraServer – <a href="http://www.terra-server.com">www.terra-server.com</a>
<input type="checkbox"/> Approved Lease establishing beneficial use within the last 5 years	Copy of instream lease or lease number



PUD

Service Address:

4877 Hwy 30 Pump The Dalles, Oregon 97058

Account Number	Meter number	Month	Amount
63592-005	14594	3/18/2015	\$27.80
63592-005	14594	4/17/2015	\$109.53
63592-005	14594	5/19/2015	\$134.24
63592-005	14594	6/18/2015	\$265.53
63592-005	14594	7/20/2015	\$74.90
63592-005	14594	8/20/2015	\$244.56
63592-005	14594	9/18/2015	\$240.41
63592-005	14594	10/20/2015	\$172.11
63592-005	14594	11/19/2015	\$100.29
63592-005	14594	12/18/2015	\$32.00
63592-005	14594	1/14/2016	\$32.00
63592-005	14594	1/19/2016	\$32.00
63592-005	14594	2/17/2016	\$32.00
			\$1,497.37

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