



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>IL-1850</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"/> \$520.00 for a lease involving four or more landowners or four or more water rights	<input checked="" type="checkbox"/> \$350.00 for all other leases
	<input 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? 2 List them here: 27661, 27664 (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: _____

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.

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Part 2 of 4 – Instream Lease Application Map Checklist

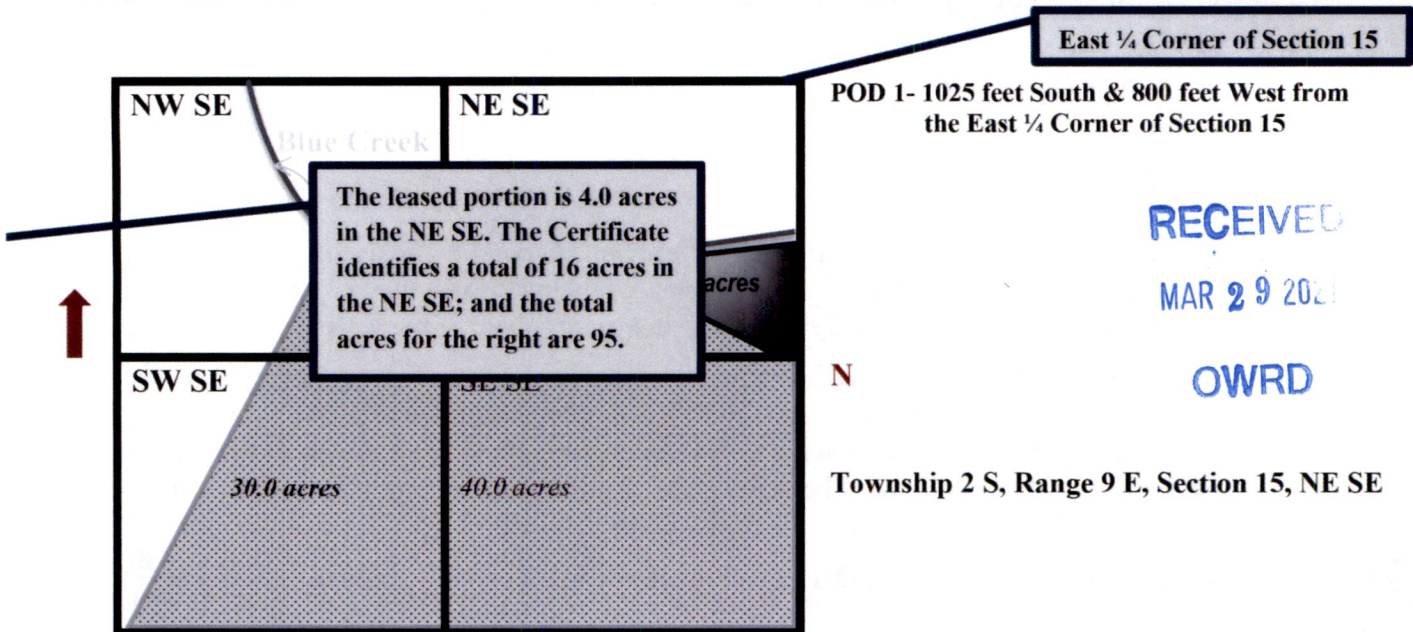
A Map is generally required for each water right not leased in its entirety

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)



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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

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Water Right Information

Water right # 27661

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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.

If only leasing a portion of the right - complete Table 1 as indicated **Entirety** - 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)

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

Any additional information about the right: _____

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	16-S	2-E	31	SW-NE		4015 feet N 9°32' E from the ¼ corner on the South line of Sec. 31
	-	-		-		

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

Instream Use Created by the Lease						
River/ Stream Name: <u>McKenzie River, Johnson Creek, and Bear Creek Reservoir, tributary to Willamette River</u>					River Basin: <u>Willamette</u>	
<p>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.</p> <p>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.</p>						
Priority date	POD #	Use	Acres	Proposed Instream Period	Total instream rate (cfs)	Total instream volume (af)
3/5/1926	1	Hydro-electric	N/A	Year-round	2,200	N/A
<p>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.</p>						
<p>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.</p>						
Instream Reach						
<p>Proposed Instream Reach:</p> <p><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 _____</p>				<p>Or Proposed Instream Point:</p> <p><input checked="" type="checkbox"/> Instream use protected at the POD</p>		
<p>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.)</p>						
Additional Instream Information						
<p><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 _____</p> <p>Note: The Department may identify additional conditions to prevent injury and/or enlargement.</p>						
<p>Any additional information about the proposed instream use: _____</p>						

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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

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Water Right Information

Water right # 27664

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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"/> If only leasing a portion of the right - complete Table 1 as indicated					<input checked="" type="checkbox"/> Entirety - 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)
Total af from storage, if applicable: _____ AF or <input type="checkbox"/> N/A						
Any additional information about the right: _____						

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	16-S	12-E	31	SW-NE		4015 feet N 9°32' E from the ¼ corner on the South line of Sec. 31
	-	-		-		
<input type="checkbox"/> 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

Instream Use Created by the Lease						
River/ Stream Name: <u>McKenzie R., tributary to Willamette R.</u>				River Basin: <u>Willamette</u>		
<p>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.</p> <p>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.</p>						
Priority date	POD #	Use	Acres	Proposed Instream Period	Total instream rate (cfs)	Total instream volume (af)
1/24/1955	1	Electric power	N/A	Year-round	300	N/A
<p>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.</p>						
<p>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.</p>						
Instream Reach						
<p>Proposed Instream Reach:</p> <p><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 _____</p>				<p>Or Proposed Instream Point:</p> <p><input checked="" type="checkbox"/> Instream use protected at the POD</p>		
<p>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.)</p>						
Additional Instream Information						
<p><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 _____</p> <p>Note: The Department may identify additional conditions to prevent injury and/or enlargement.</p>						
<p>Any additional information about the proposed instream use: _____</p>						

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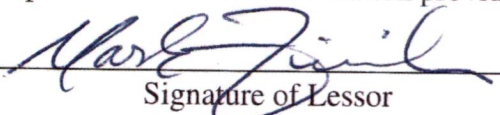
Part 4 of 4 – Lease Provisions and Party Signatures

<p>Term of the Lease (may be from 1 year up to 5 years): The lease is requested to begin in: month <u>January</u> year <u>Year</u> following issuance of final order and end: month <u>December</u> year <u>Five years from start of instream lease</u></p> <p>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):</p> <p><input checked="" type="checkbox"/> Conservation, maintenance and enhancement of aquatic, fish and wildlife, fish and wildlife habitat and any other ecological values.</p> <p><input type="checkbox"/> Recreation</p> <p><input type="checkbox"/> Pollution abatement</p> <p><input type="checkbox"/> Navigation</p>	<p>Termination provision (for multiyear leases): The parties to the lease request (choose one):</p> <p><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.</p> <p><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.</p> <p><input type="checkbox"/> c. The parties would not like to include a Termination Provision.</p> <p>(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.</p> <p>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):</p> <p><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</p> <p><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: March 16, 2021

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Printed name (and title): Mark Zinniker, EWEB Generation Engineering Supervisor

MAR 29 2021

Business name, if applicable: Eugene Water & Electric Board

Mailing Address (with state and zip): P.O. Box 10148, Eugene, OR 97440

OWRD

Phone number (include area code): 541-685-7000 **E-mail address: Mark.Zinniker@eweb.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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Attachment A
Certificates 27661 and 27664
Application for an Instream Lease – Eugene Water & Electric Board

STATE OF OREGON

COUNTY OF LANE

CERTIFICATE OF WATER RIGHT

This Is to Certify, That CITY of EUGENE by EUGENE WATER & ELECTRIC BOARD of 50C East 4th Avenue, Eugene, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of McKenzie River, Johnson Creek & Bear Creek Reservoir a tributary of Willamette River for the purpose of hydro-electric power,

under Permit No. 849 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from March 5, 1926.

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 2,200 cubic feet per second, subject to the limitations listed below,*

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the SW 1/4 NE 1/4, Section 31, Township 16 South, Range 2 East, W.M.

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 - - - - - of one cubic foot per second per acre,

Power Claim # 724

and 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 hereby confirmed, and to which such right is appurtenant, is as follows:

SE 1/4 SE 1/4 Section 9 Township 17 South, Range 1 East, W.M.

* Provided that at all times the quantity of water flowing in the main channel of the McKenzie River below this applicant's diversion shall not be diminished to a point that will materially injure fish life in the stream, including migratory fish or other species, provided further that the quantity shall not be diminished below 500 cubic feet per second until such time as on proper showing the reasonable conclusion is that a smaller quantity of water is sufficient for the protection of such fish life and in that event the quantity to be fixed by the State Engineer provided further that the works shall be constructed in accordance with the plans and specification now on file in the State Engineer's Office or with such reasonable alterations as are hereafter permitted.

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

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WITNESS the signature of the State Engineer, affixed this date. OCTOBER 21 1960

LEWIS A. STANLEY State Engineer

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STATE OF OREGON

COUNTY OF Lane

CERTIFICATE OF WATER RIGHT

This Is to Certify, That CITY of EUGENE by and through the EUGENE WATER and ELECTRIC BOARD

of 500 East 4th Avenue, Eugene, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of McKenzie River a tributary of Willamette River for the purpose of electric power production

under Permit No. 23958 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from January 24, 1955

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 300 cubic feet per second, and is subject to the limitations listed below *

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the SW 1/4 NE 1/4, Section 31, Township 16 South, Range 2 East, W.M.

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 - - - - - of one cubic foot per second per acre,

and 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 hereby confirmed, and to which such right is appurtenant, is as follows:

Electric power production
SE 1/4 SE 1/4
Section 9
Township 17 South, Range 1 East, W.M.

The amount of water which can be applied to beneficial use and not to exceed 300 cubic feet per second provided that at all times the quantity of water flowing in the main channel of the McKenzie River below this applicant's diversion shall not be diminished to a point that will materially injure fish life in the stream including migratory fish or other species, provided further that the quantity shall not be diminished below 500 cubic feet per second until such time as on proper showing the reasonable conclusion is that a smaller quantity of water is sufficient for the protection of such fish life and in that event the quantity to be fixed by the State Engineer.

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

WITNESS the signature of the State Engineer, affixed

this date. OCTOBER 21 1960

LEWIS A. STANLEY
State Engineer



March 24, 2021

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

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Dear Ms. Henderson:

GSI Water Solutions, Inc. (GSI) is submitting the enclosed application for an instream lease on behalf of Eugene Water & Electric Board (EWEB). EWEB is requesting to lease Certificates 27661 and 27664 instream at their point of diversion for a period of five years. These certificates authorize the use of a combined total of 2500 cfs for hydroelectric power production.

If you have any questions about this application, please contact me at 541-257-9004.

Sincerely,

A handwritten signature in cursive script that reads "Kimberly Grigsby".

Kimberly Grigsby
Principal Water Resources Consultant

CC: Michael McCann, EWEB

Enclosures: Application for Instream Lease
Check in the amount of \$350