

Application for Instream Lease

Part 1 of 4 – Minimum Requirements Checklist



Oregon Water Resources Department
 725 Summer Street NE, Suite A
 Salem, Oregon 97301-1266
 (503) 986-0900
 www.oregon.gov/OWRD

Complete Part 1 through 4 and include the required attachments Fill in or check boxes as indicated. (N/A= Not Applicable)	OWRD # <u>1L-1897</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"/> \$610.00 for a lease involving four or more landowners or four or more water rights	<input checked="" type="checkbox"/> \$410.00 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: Cert. 30799**
 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: Cert. 91749

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

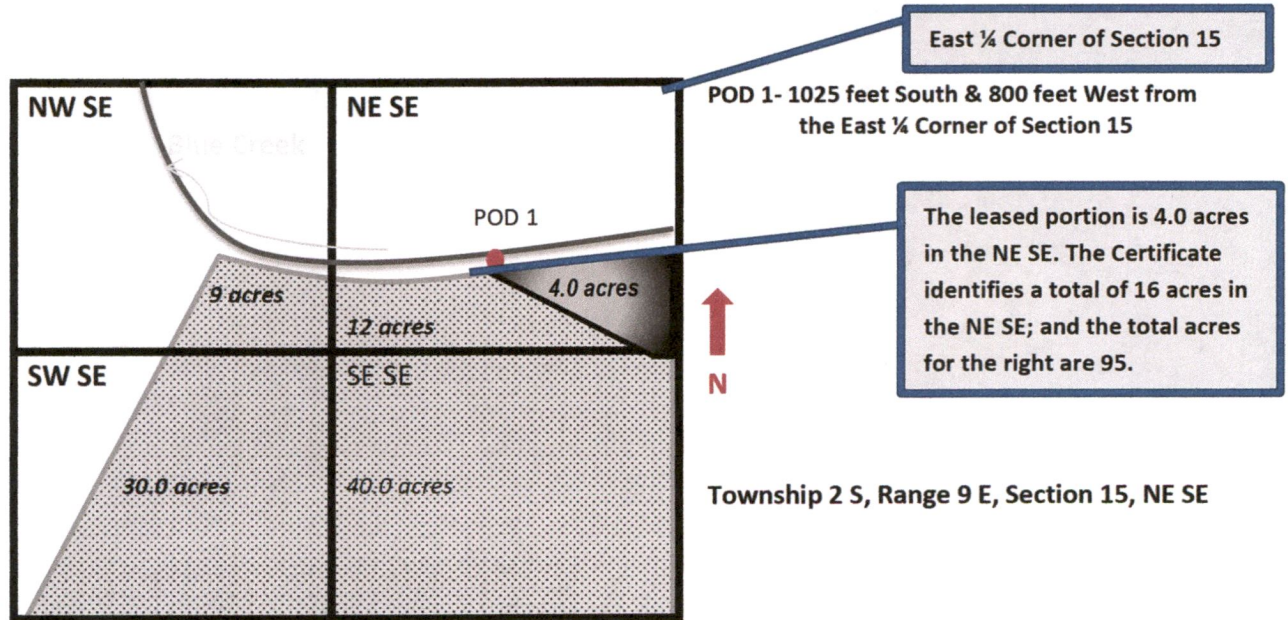
The application map (if required) should include all the items listed below and match the existing water right(s) of record. Check all boxes that apply.

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.

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



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 # Cert. 30799

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
		-	-		-					RECEIVED
		-	-		-					FEB 22 2022
		-	-		-					OWRD

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")
River POD	16-S	2-E	31	SW-NE	L3	44.137559, -122.612807
Canal POD	17-S	1-E	10	NW-NE		44.110581, -122.671028

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.

Instream Use Information

Table 4

Instream Use Created by the Lease						
River/ Stream Name: <u>McKenzie River through Eugene Water and Electric Board Canal, tributary to McKenzie River</u>				River Basin: <u>Willamette</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)
1-9-1962	River POD	Irrigation	6.1	Mar. 1 – Oct. 31	0.08	15.25
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: _____						


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>Mar.</u> year <u>2022</u> and end: month <u>Oct.</u> year <u>2026</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):</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: 2-16-22

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Printed name (and title): John R. Johnson, Owner Business name, if applicable: _____

Mailing Address (with state and zip): 42973 McKenzie Hwy, Leaburg, OR 97489

Phone number (include area code): (541) 896-3189 **E-mail address: janiemjohns@yahoo.com

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See next page for additional signatures.

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Jane M Johnson
Signature of Co-Lessor

Date: 2-16-22

Printed name (and title): Jane M. Johnson, Owner

Business/organization name: _____

Mailing Address (with state and zip): 42973 McKenzie Hwy, Leaburg, OR 97489

Phone number (include area code): (541) 896-3189 **E-mail address: janiemjohns@yahoo.com

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**

0546828, 1176336, 1816469, 1816444, 1816451

Lane County Clerk
Lane County Deeds and Records

2019-041012



\$102.00

09/18/2019 11:52:35 AM

RPR-DEED Cnt=1 Pgs=4 Stn=40 CASHIER 01
\$20.00 \$11.00 \$61.00 \$10.00

Until a change is requested,
send all tax statements to:

After recording, return to:

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John Robert Johnson, Co-Trustee
Jane Marie Johnson, Co-Trustee
The Johnson Living Trust Dated
September 12, 2019
42973 McKenzie Highway
Leaburg, OR 97489

John C. Urness
1011 Harlow Road, Suite 300
Springfield, OR 97477

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* * * * *

CONSIDERATION: Transfer to revocable living trust.

WARRANTY DEED

JOHN ROBERT JOHNSON and **JANE MARIE JOHNSON**, husband and wife, Grantors, convey and warrant to **JOHN ROBERT JOHNSON** and **JANE MARIE JOHNSON**, Co-Trustees of **THE JOHNSON LIVING TRUST DATED SEPTEMBER 12, 2019**, Grantee, the following described real property, situated in Lane County, Oregon, to wit:

See Exhibit "A" attached hereto.

Grantors covenant that Grantors are seized of an indefeasible estate in the real property described above in fee simple, that Grantors have good right to convey the property, that the property is free from encumbrances except for easements, reservations, restrictions and encumbrances of record, and that Grantors warrant and will defend the title to the property against all persons who may lawfully claim the same by, through, or under Grantors, provided that the foregoing covenants are limited to the extent of coverage available to Grantors under any applicable standard or extended policies of title insurance, it being the intention of the Grantors to preserve any existing title insurance coverage.

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, AND 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, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

DATED this 12th day of September, 2019.

John Robert Johnson

JOHN ROBERT JOHNSON
Jane Marie Johnson

JANE MARIE JOHNSON

STATE OF OREGON)
) ss.
County of Lane)

Personally appeared the above-named **JOHN ROBERT JOHNSON** and **JANE MARIE JOHNSON**, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed.

BEFORE ME this 12th day of September, 2019.



Elba Consuelo Barriga Chavez

Notary Public for Oregon
My Commission Expires: *April 25, 2023*

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EXHIBIT "A"

Map and Tax Lot 17-15-10-00-00402:

Parcel 1 of Land Partition Plat No. 2008-P2238, recorded April 15, 2008, containing 2.01 acres.

Map and Tax Lot 17-15-10-00-00403:

Parcel 2 of Land Partition Plat No. 2008-P2238, recorded April 15, 2008, containing 2.01 acres.

Map and Tax Lot 17-15-10-00-00404:

Parcel 3 of Land Partition Plat No. 2008-P2238, recorded April 15, 2008, containing 2.95 acres.

Map and Tax Lot 17-15-10-00-00502:

Beginning at a railroad rail set at the intersection of the Southerly boundary of the Eugene Water and Electric Power Canal right of way and the North-South centerline of Section 10, Township 17 South, Range 1 East of the Willamette Meridian which bears South 0° 15' East 1124.7 feet from the North one-quarter of said Section; thence North 70° 36' 45" East 179.92 feet along said Southerly right of way line to a point therein; thence South 13° 05' East 338.52 feet to a point; thence South 70° 36' 45" West 238.34 feet to a point; thence South 0° 15' East 253.25 feet along a line parallel with and 20.00 feet Easterly of said North-South centerline to a point; thence North 71° 16' East 189.42 feet along a line parallel with the North right of way line of the McKenzie Highway; thence South 15° 24' 34" East 215.88 feet to a point on said North right of way line; thence South 71° 16' West 20.03 feet along said North right of way line to a point bearing North 71° 16' East 250.00 feet from its intersection with said North-South centerline of Section 10; thence North 15° 24' 34" West 195.84 feet to a point; thence South 71° 16' West 196.00 feet to a point on said North-South centerline; thence North 0° 15' West 630.24 feet to the POINT OF BEGINNING, in Lane County, Oregon (containing 1.99 acres).

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Map and Tax Lot 17-15-10-00-00503:

Beginning at a railroad rail set at the intersection of the Southerly boundary of the Eugene Water and Electric Power Canal right of way and the North-South centerline of Section 10, Township 17 South, Range 1 East of the Willamette Meridian which bears South 0° 15' East 1124.7 feet from the North one-quarter corner of said Section; thence, North 70° 36' 45" East 179.92 feet along said Southerly right of way line to the TRUE POINT OF BEGINNING; thence North 70° 36' 45" East 163.43 feet continuing along said right of way line to a railroad rail marking an angle point therein; thence, North 86° 14' East 32.20 feet continuing along said right of way line to a point marked by an iron pipe; thence, South 13° 05' East 569.70 feet to a point which bears North 13° 05' West 223.00 feet from a point on the North right of way of the McKenzie Highway as found monumented on the ground in that survey recorded at the Lane County Surveyor's Office under No. 17698; thence, South 71° 16' West 148.00 feet along a line parallel with the North right of way line of the McKenzie Highway to a point; thence, South 13° 05' East 223.00 feet to a point on said Northerly right of way; thence, South 71° 16' West 143.52 feet along said Northerly right of way line to a point which bears North 71° 16' East 270.03 feet from its intersection with said North-South one-quarter line; thence, North 15° 24' 34" West 215.88 feet to a point; thence South 71° 16' West 189.42 feet to a point on a parallel with and 20.00 feet Easterly of said one-quarter Section line; thence, North 0° 15' West 253.25 feet to a point; thence, North 70° 36' 45" East 238.34 feet to a point; thence North 13° 05' West 338.52 feet to the true point of beginning, in Lane County, Oregon (containing 4.78 acres).