

Application for
District 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

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 #	IL-1901/MP-218
	District #	

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

Fee in the amount of:

<input type="checkbox"/> \$610.00 for a lease involving four or more landowners or four or more water rights	Or <input checked="" type="checkbox"/> \$410.00 for all other leases
<input type="checkbox"/> Check enclosed or	
<input checked="" type="checkbox"/> Fee Charged to customer account <u>Deschutes River Conservancy (Account name)</u>	

Yes N/A Pooled Lease—a lease with more than one Lessor (Landowner/water right interest holder)

- 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.)

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How many Water Rights are included in the lease application? 1 (# of rights)

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List each water right to be leased instream here: 74145

- 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:

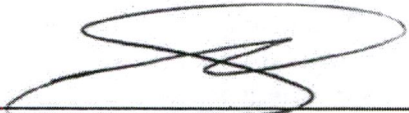
- Yes N/A Instream lease application map(s). More than one QQ and property may be included on each map. A map is **not** required if an entire right is being leased or if the right is for use of municipal or quasi-municipal water use. The map should include the following:
 - A north arrow and map scale (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

Term of the Lease: The lease is requested to begin in: month <u>April</u> year <u>2022</u> and end: month <u>October</u> year <u>2022</u> .	
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 checked="" type="checkbox"/> Recreation <input checked="" type="checkbox"/> Pollution abatement <input type="checkbox"/> Navigation	Termination provision (for multiyear leases): The parties to the lease request (choose one): <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)
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 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.	
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.	
Validity of the rights to be leased: <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 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.


 _____ Date: 3/2/22
 Signature of Co-Lessor

Printed name (and title): Jer Camarata, General Manager
 Business/Organization name: Swalley Irrigation District
 Mailing Address (with state and zip): 64672 Cook Ave, Ste 1, Bend, OR 97703
 Phone number (include area code): 541-388-0658 **E-mail address: kathy@swalley.com

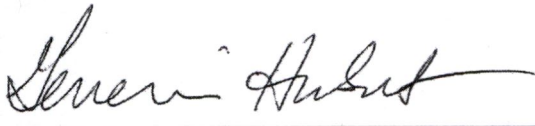
_____ Date: _____
 Signature of Co-Lessor
 Printed name (and title): _____
 Business/organization name: _____
 Mailing Address (with state and zip): _____
 Phone number (include area code): _____ **E-mail address: _____

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See next page for additional signatures.



Date: 3/2/2022

Signature of Lessee

Printed name (and title): Genevieve Hubert, Senior Program Manager

Business/organization name: Deschutes River Conservancy - Mitigation Bank

Mailing Address (with state and zip): 700 NW Hill St., Ste 1, Bend, OR 97702

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**

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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: Swalley 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 #
74145	9-1-1899	3 & 15	17	12	18	NW SE	00105		23.36	IRR	22	IL-1594

Any additional information about the right: _____

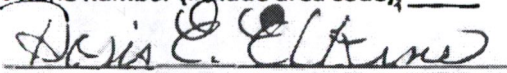
Farm Deferral Tax Status: Counties make the determination of whether a property qualifies for the farm use assessment without consideration of whether the lands have an associated water right which is leased instream. If you have questions regarding the farm use assessment you should contact your local 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.

★  Date: 02/21/2022
Signature of Lessor
Edward J Elkins

Printed name (and title): _____ Business name, if applicable: _____
Mailing Address (with state and zip): 63613 OB Riley Rd, Bend, OR 97703
Phone number (include area code): _____ **E-mail address: _____

★  Date: _____
Signature of Lessor
DORIS E Elkins

Printed name (and title): _____ Business name, if applicable: _____
Mailing Address (with state and zip): 63613 OB Riley Rd, Bend, OR 97703
Phone number (include area code): _____ **E-mail address: _____

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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

Use Table 2 to illustrate the totals for the water right proposed to be leased instream (based on Part 3 of 4) Water Right # 74145

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 rows (see instructions) or create a spreadsheet (matching Table 2 and clearly labeled) and attach.
(cfs = cubic feet per second and af = acre-feet)

Priority Date	POD #	Use	Acres	Other Information (such as conditions/limitations on the right)	Rate (cfs)	Volume (af)
9/1/1899	3	IRR	23.36	Season 1	0.176	
				Season 2	0.236	Total
				Season 3 rate and volume for April - October	0.443	151.79

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

Instream Use created by the lease	River Basin: <u>Deschutes</u>	River/Stream Name: <u>Deschutes River, tributary to Columbia River</u>				
Proposed Instream Reach: <input checked="" type="checkbox"/> A reach typically begins at the POD and ends at the mouth of the source stream: From the POD <u>SID #3</u> to <u>Lake Billy Chinook</u>	Or Proposed Instream Point: <input 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 water right, the lease may be processed to be protected at the POD.)						
Instream Portion: May not exceed the maximum rate/volume for the right (identified in Table 2)						
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)
8/1/1899	3	IRR	23.36	Season 1	0.160	
				Season 2	0.215	
				Season 3	0.398	Total
				Instream from April 1 through October 25		127.34
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.						
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A Conditions to avoid enlargement or injury to other water rights, if any, or other limitations: list here <u>Instream from 4/1-10/26</u>						
Note: The Department may identify additional conditions to prevent injury and/or enlargement.						
Any additional information about the proposed instream use: <u>Submitted as Mitigation Project</u>						

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4/30/2019

**This table will calculate flow rate factors and duty for Swalley Irrigation District
Instream Leases & Transfers**

Canal Diversion - Enter Total Number of Acres to be Leased Instream Here	23.360		
Direct Diversion - Enter Total Number of Acres to be Leased Instream Here	0.000		
Starting Point - Direct Diversion total acres	117.950		
Starting Point - Canal Diversion total acres	4192.620		
Starting Point	Full Right	Direct Diversion only	Canal Diversion only
	Starting Point - Rate*	Starting Point - Rate	Starting Point - Rate
Season 1	32.419	0.810	31.609
Season 2	43.373	1.084	42.289
Season 3	81.472	2.010	79.462
Duty	27886.510	644.078	27,242.43

*Approximate starting point

Information highlighted with purple font is to be entered on to the Instream Lease Application Form

For Primary Water Right - Certificate 74145

For Canal Diversion Only

Rate (CFS) associated with leased rights for Section 1.5 of the Lease Application Form		Rate and duty identified in this section includes the 43% transmission loss allowed by decree	
	Full Rate	Duty (AF) associated with leased right for Section 1.5 of the Lease Application Form	
Season 1*	0.176	Duty AF/Acre* = 6.50	
Season 2*	0.236		
Season 3*	0.443		
		151.79	

* Note - The rates and duty identified have been proportion to prevent enlargement of the right and to reflect the amount at which the diversion should be reduced. (for example, S3 = starting canal rate divided by 4441.765 canal acres)

Rates and volumes identified in this section do not include the 43% transmission loss		Volume (AF) leased instream for Section 2.2 of the Lease Application Form	
Rate (CFS) leased instream for Section 2.2 of the Lease Application Form		Duty (decree) AF/Acre =	5.46
	Full Rate	Total =	127.56
		# of Days in each Season	AF/ Season
Season 1	0.160	61	19.36
Season 2	0.215	30	12.79
Season 3	0.398	123	97.10
			129.25

Additional Conditions to Prevent Injury for Section 2.2 of the Lease Application Form

	# days	AF/Season	
Season 1*	55	17.45	
Season 2	30	12.79	
Season 3	123	97.10	
Season total =	208	127.34	Does not exceed duty
Water protected instream: April 1 through October 25			

* Note - The number of days that water may be protected instream in Season 1 has been reduced on prevent enlargement of the right. The instream rates identified in this section are based upon the face value of the water right minus 43%.

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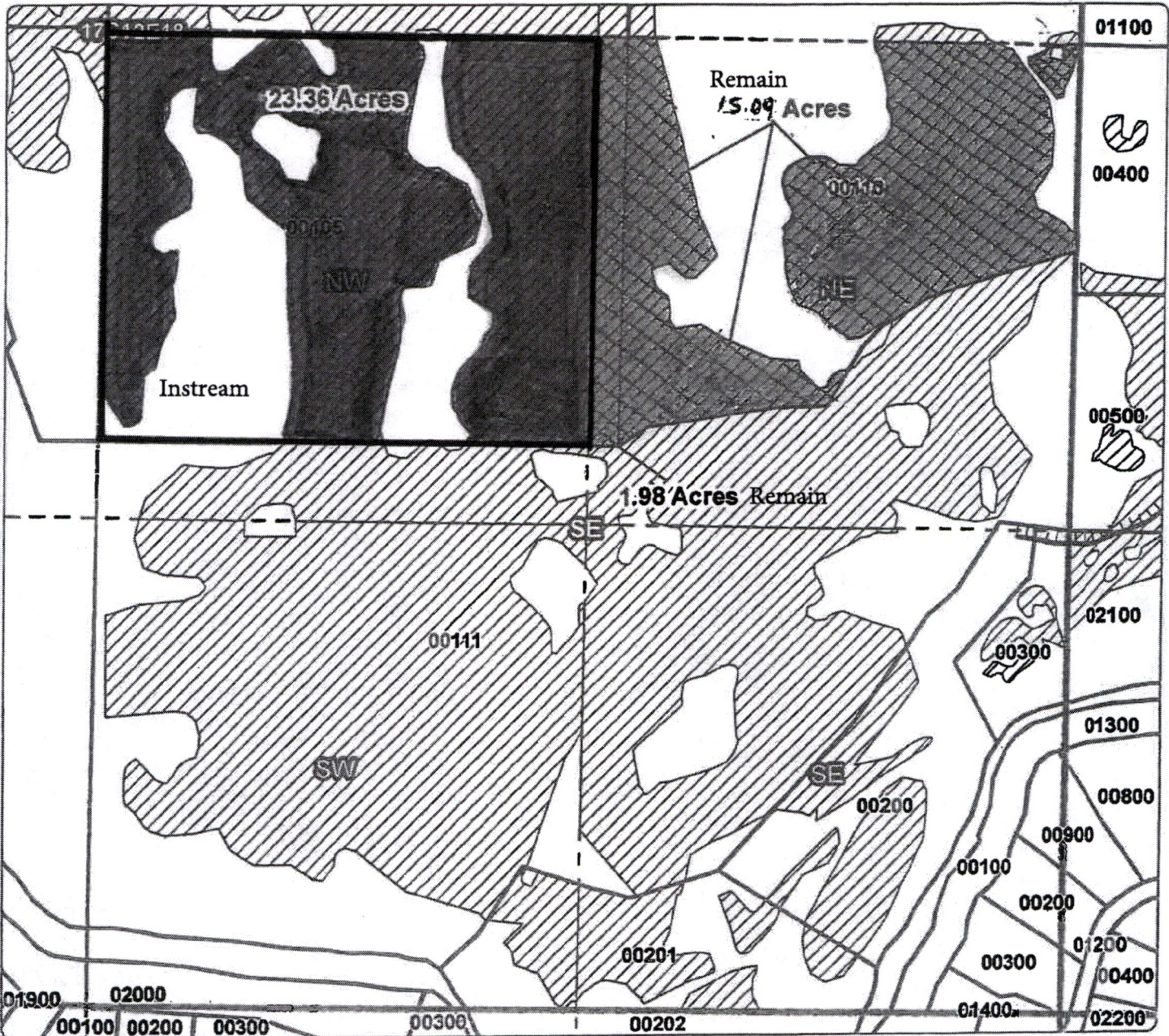
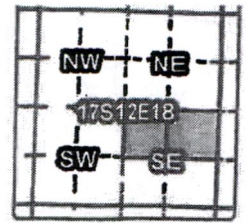
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Swalley Irrigation District Application for Instream Lease

2022

Cert #: 74145

For: Ed & Dorris Elkins



1 YEAR INSTREAM LEASE MAP

Taxlot 00105, 17S12E18NWSE: 23.36 Acres Leased

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- Point of Diversion
- TTT Canals
- Taxlots
- Lease
- Cert 74145



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 of less than 5 acres, leases with public entities, leases submitted after the due date agreed upon by the District and the DRC and posted by the District, and leases with verified weed complaints are not paid a per acre or per acre-foot rate by the DRC.

★

I, EDWARD J. ELKINS understand the DRC weed policy and have **Received by OWRD**
Print Name been informed about farm deferral and donations.

MAR 02 2022

Salem, OR

★

Signature: *Edward J. Elkins* Date: 02/21/2022

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