

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

OWRD #

11-1926

Fee- _____

Fill in or check boxes as indicated. (N/A= Not Applicable)

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 type="checkbox"/> Check enclosed <u>or</u>	
	<input type="checkbox"/> Fee Charged to customer account (account name)	

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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? ^(one) List them here: 95732
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.

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)

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POD 1- 1025 feet South & 800 feet West from the East ¼ Corner of Section 15

N

Township 2 S, Range 9 E, Section 15, NE SE

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Water Right Information

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Water right # 95732

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.

Table with 11 columns: Priority Date, POD #, Twp, Rng, Sec, Q-Q, Tax Lot, Gov't Lot/DLC, Acres, USE, Previous Lease # (if any). Includes an example row and handwritten entries for 11/15/1946 with various Q-Q and Acres values.

Total Acres: 11.1

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)

Table with 7 columns: Priority Date, POD #, Use, Total Acres, Other Information (such as conditions/limitations on the right), Total Rate (cfs), Total Volume (af). Includes handwritten entry for 11/15/1946 with IR use and 11.1 acres.

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.

Table with 7 columns: POD #, Twp, Rng, Sec, Q-Q, DLC/Gov't lot, Measured Distances, latitude/longitude coordinates, or river mile (if unknown you may indicate "unknown"). Includes handwritten entry for POD # 2 with coordinates and DLC 46.

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: <i>Luckiamute</i> , tributary to <i>Willamette</i>				River Basin: <i>Willamette</i>		
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)
<i>11/15/1946</i>	<i>2</i>	<i>IR</i>	<i>11.1</i>	<i>4/15 - 9/30</i>	<i>0.08</i>	<i>27.75</i>
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 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 <i>the mouth.</i>				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 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:						

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

The lease is requested to begin in: April, 2022 month year and end: September, 2026 month year

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.

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.

Amara Davis
Signature of Lessor

Date: 5/10/22

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Andrea Davis

Printed name (and title): Business name, if applicable:

Mailing Address (with state and zip): 23719 Tatum Ln., Monmouth OR 97361

Phone number (include area code): 541-929-4054 **E-mail address: adaviskv@peak.org

See next page for additional signatures.

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John Madson
Signature of Co-Lessor

Date: 5/10/22

Printed name (and title): John Madson

Business/organization name:

Mailing Address (with state and zip): 23719 Tatum Ln, Monmouth, OR 97361

Phone number (include area code): 541-929-4054

**E-mail address: madsenj@peak.org

Date:

Signature of Lessee

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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**** 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.**

Helpful Links	If you are unsure or need assistance with your Application Contact us at 503-986-0900 or the Watermaster for your District
Watermasters in Oregon	https://www.oregon.gov/owrd/aboutus/contactus/Pages/RegionalOfficesandWatermastersDirectory.aspx
Instream Leasing Forms	https://www.oregon.gov/owrd/Forms/Pages/default.aspx?wp1278=se:%22instream+lease%22
Fee Schedule	https://www.oregon.gov/owrd/WRDFormsPDF/fee_schedule.pdf
Water Rights Information	https://apps.wrd.state.or.us/apps/wr/wrinfo/
Additional Water Rights	https://apps.wrd.state.or.us/apps/wr/wrinfo/wr_platcard.aspx
Water Rights Public Notice	https://apps.wrd.state.or.us/apps/misc/wrd_notice_view/?notice_id=21
OAR: Chapter 690 Division	https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=3169

Application Instructions: Part 1 of 4

Eligible Water Rights: Surface or Storage water rights subject to Instream Lease include:


1. Certificated rights.
2. Adjudicated rights evidenced by a court decree.
3. Permits or transferred rights upon which satisfactory proof has been made.
4. Conserver's portion of conserved water allocation under ORS 537.445 to 537.500.
5. Secondary water rights for the use of stored water.
6. A Determined Claim in the Upper Klamath Basin determined and established in an order of determination certified by the Water Resources Director under ORS 539.130.


Only valid rights are eligible to be leased to instream use.

- A water right that has not been used for five or more years may no longer be valid under Oregon law. Municipal water rights are the exception.
- If the Department reasonably suspects the right may no longer be valid, it may require an affidavit attesting to the use, along with supporting documentation, and/or deny the lease as incomplete.
- If a water right hasn't been used for five or more years, you may also be able to demonstrate that it's not subject to forfeiture if you qualify for one of the provisions under ORS 540.610(2).



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Purple  = area we want to lease back instream

Green  = area where we want to keep using the water ourselves

Please note: Sarah Henderson helped us with this map and with our application.