

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 #	1L-1942
	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 or	
	<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 66052**
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: Certificate 88122 and Permit S-55199 (Note: these water rights authorize irrigation and agricultural use at the property, but are not layered with the related nursery use (greenhouse use) authorized by Certificate 66052.

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).

Certificate 66052 is a water right held by the City of Tigard for water use on City of Tigard owned property. Under ORS 540.610(2)(a), Certificate 66052 is not subject to forfeiture for non-use.

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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

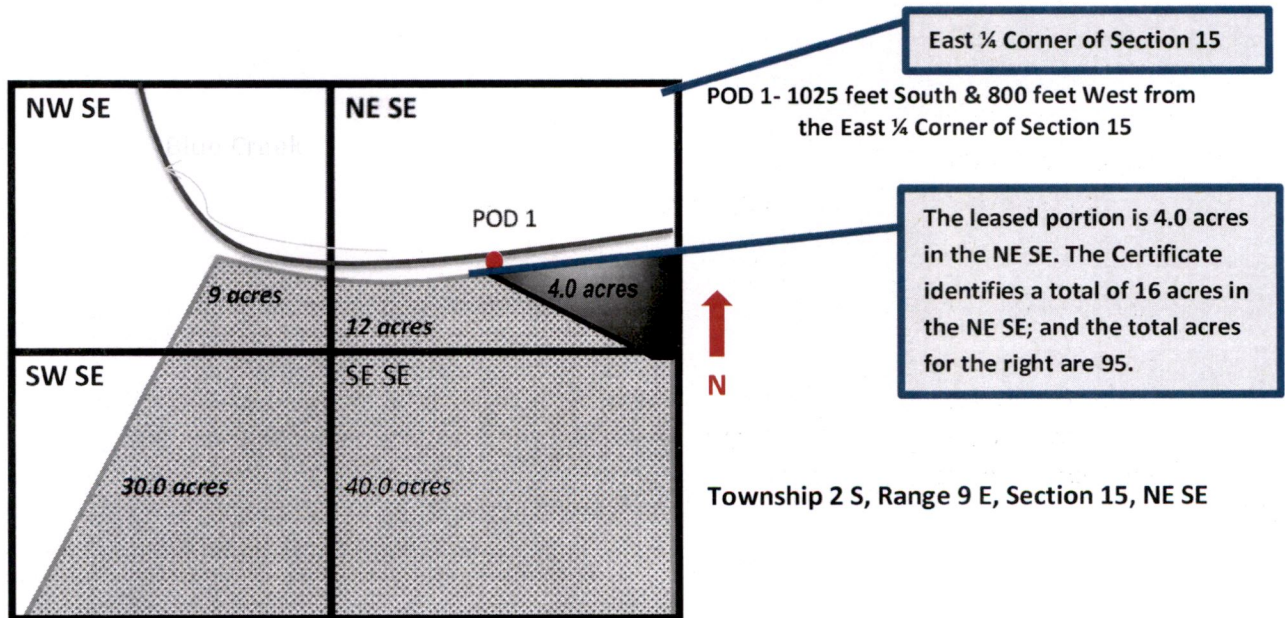
A Map is generally required for each water right not leased in its entirety

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

Water Right Information

Water right # 66052

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	1-S	4-W	20	NE-NE		(Note: this POD is for the stored water from Henry Haag Lake)
2	2-S	1-W	18	NW-NE		5050 feet north and 1460 feet west from the SW corner of NENE Section 18. (Note: this POD is for live flow and re-diversion of stored water)

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.

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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>Tualatin River</u> , tributary to <u>Willamette River</u>					River Basin: <u>Tualatin River</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)
4/28/1983	2	GH	--	1/1 to 6/30 & 9/16 to 12/31	0.2228	127.3
4/28/1983	1	GH	--	7/31 to 9/15		30
6/16/1983	1	GH	--	7/31 to 9/15		15
<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 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>mouth of the Tualatin River</u></p>				<p>Or Proposed Instream Point:</p> <p><input 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

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

The lease is requested to begin in: month Jan year 2023 and end: month Dec year 2027

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. **Certificate 66052 is a water right held by the City of Tigard for water use on City of Tigard owned property. Under ORS 540.610(2)(a), Certificate 66052 is not subject to forfeiture for non-use.**

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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Part 4 of 4 cont. – Lease Provisions and Party Signatures

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.

DocuSigned by:

 366C91E6F8EE4DB...
 Signature of Lessor

Date: 8/15/2022

Printed name (and title): **Rob Murchison, Assistant Public Works Director**
 Business name, if applicable: **City of Tigard**
 Mailing Address (with state and zip): **13125 SW Hall Blvd, Tigard, Oregon 97223**
 Phone number (include area code): **503-718-2699** **E-mail address: **robm@tigard-or.gov**

DocuSigned by:

 1482C94C9D86448...
 Signature of Co-Lessor

Date: 8/15/2022

Printed name (and title): **Bobby Nuvolini, Manager**
 Business/organization name: **Tualatin Valley Irrigation District**
 Mailing Address (with state and zip): **2330 Elm Street, Forest Grove, Oregon, 97116**
 Phone number (include area code): **503-357-3118** **E-mail address: **bobby.nuvolini@tvid.org**

 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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STATE OF OREGON
COUNTY OF WASHINGTON
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

WILLIAM B. KENNY
OREGON AZALEA'S, INCORPORATED
ROUTE 4, BOX 405K
SHERWOOD, OREGON 97140

confirms the right to use the waters of TUALATIN RIVER AND 45.0 ACRE-
FEET STORED WATER FROM HENRY HAAG LAKE CONSTRUCTED UNDER PERMIT R-5777,
a tributary of WILLAMETTE RIVER, for the purpose of GREENHOUSE USE.

The right has been perfected under Permit 47550. The date of priority
is APRIL 28, 1983 FOR 100 GPM AND 30.0 ACRE-FEET AND JUNE 16, 1983 FOR
15 ACRE-FEET. The right is limited to not more than 100 GALLONS PER
MINUTE or its equivalent in case of rotation, measured at the point of
diversion from the source.

The point of diversion is located as follows:

HENRY HAAG LAKE - NE 1/4 NE 1/4, SECTION 20, T 1 S, R 4 W,
W.M. RE-DIVERSION - NW 1/4 NE 1/4, SECTION 18, T 2 S, R 1 W, W.M.; 5050
FEET NORTH AND 1460 FEET WEST FROM THE SW CORNER OF NE 1/4 NE 1/4,
SECTION 18.

No water shall be diverted except from storage during the period July 31
through September 15 of each year. The use of stored water shall be
subject to the terms and conditions of a contract between the permittee
and the Tualatin Valley Irrigation District, a copy of which is on file
in the records of the Water Resources Department.

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:

NW 1/4 NE 1/4
SECTION 18
TOWNSHIP 2 SOUTH, RANGE 1 WEST, W.M.

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
JUNE 12, 1991.

/s/ WILLIAM H. YOUNG
William H. Young

Recorded in State Record of Water Right Certificates numbered 66052.

64838.DLM



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

Certificate of Water Right
Ownership Update

NOTICE TO SELLERS & BUYERS:

By law, all water belongs to the public (ORS 537.110). In almost every instance, a permit or water right certificate from the Water Resources Department is needed before using, diverting or storing water (ORS 537.130). However, most domestic wells do not require water rights. A certificate of water right stays with the land. In order to keep track of water right ownership, the Department requests that this form be submitted to the Department. If for multiple rights, a separate form for each right will be required.

Water that has been used for a long time in one place or that involves a water structure (like a dam) that already exists is no guarantee that there is a water right which would allow the water use to continue.

If you have any questions about this form or water right requirements, please contact your local watermaster or call the Water Resources Department at 503-986-0900.

Note: Please type or print legibly when filling in the following information. Use additional paper if necessary.

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PROPERTY SELLER INFORMATION

Applicant(s): William Kenny
Mailing Address: 17180 SW Lasich Lane
Sherwood OR 97140
Phone: Home Work Other

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PROPERTY BUYER INFORMATION

Applicant(s): City of Tigard
Mailing Address: 13125 SW Hall Blvd.
Tigard OR 97223
Phone: Home Work Other (503) 718-2591

PROPERTY DESCRIPTION (attach additional pages if necessary):

County: Washington Township: 2S Range: 1W Section: 18
Tax Lot Number(s): 601

Street address of water right property: 17180 SW Lasich Lane, Sherwood, OR 97140

Water Right Information (attach copy of water right permit or certificate & final proof map):

Application #: S-64838 Permit #: S-47550 Certificate or Page #: 66052

Will all the lands associated with this water right be owned by the buyer? Yes No

Name of individual completing this form: William Kenny Phone:

Signature: [Signature] Date: 9/14/15

Please be sure to attach a copy of your property deed or legal description of the property.

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October 4, 2022

Ms. Sarah Henderson
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1271

Subject: Application for Instream Lease of Certificate 66052
City of Tigard

Ms. Henderson:

On behalf of the applicant, City of Tigard, please find enclosed an Application for Instream Lease involving Certificate 66052, accompanied by a check in the amount of \$410 for payment of the application filing fee.

If you have any questions regarding the enclosed application, you can reach me at 503-701-4535. Please copy me on any correspondence regarding this application.

Respectfully submitted,

Theodore Ressler, RG, CWRE
Summit Water Resources LLC.

Cc: Rick Gruen – City of Tigard
Bobby Nuvolini – Tualatin Valley Irrigation District

Enclosures:

Application for Instream Lease
Check # 244696 in the amount of \$410