

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

<b>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</b>	OWRD #	<u>IL-2024</u>
	District #	<u>IL-2024-24</u>

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 <b>four or more landowners</b> or <b>four or more water rights</b>	Or <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  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.)

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

List each water right to be leased instream here: 94956

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: 76714

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.

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## Part 2 of 4 – District and other party Signature

<b>Term of the Lease:</b> The lease is requested to begin in: month <u>Apr</u> year <u>2024</u> and end: month <u>Oct</u> year <u>2024</u>	
<b>Public use:</b> 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	<b>Termination provision (for multiyear leases):</b> <b>The parties to the lease request (choose one):</b> <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. <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)
<b>Additive/Replacing Relationship to other instream water rights:</b> 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.	
<b>Precedent:</b> 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.	
<b>Validity of the rights to be leased:</b> <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) <b>have not been used</b> 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: 6-21-24  
 Signature of Co-Lessor

Printed name (and title): Mikaela Watson – Water Rights Project Assistant

Business name, if applicable: Central Oregon Irrigation District

Mailing Address (with state and zip): 1055 SW Lake Ct. Redmond, OR 97756

Phone number (include area code): 541-548-6047\*\*E-mail address: mwatson@coid.org

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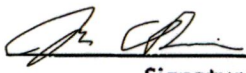
\_\_\_\_\_ Date: \_\_\_\_\_  
 Signature of Co-Lessor

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

Mailing Address (with state and zip): \_\_\_\_\_

Phone number (include area code): \_\_\_\_\_ \*\*E-mail address: \_\_\_\_\_

**See next page for additional signatures.**



for G. Hubert

Date: 6/21/2024

Signature of Lessee

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

Business name, if applicable: Deschutes River Conservancy

Mailing Address (with state and zip): 700 NW Hill St. Ste. 1 Bend, OR 97703

Phone number (include area code): 541-382-4077\*\*E-mail address: james@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

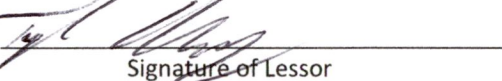
**Complete Table 1 Identify water right(s) proposed to be leased instream  
Provide a separate Part 3 for each Lessor (water right interest holder/landowner)**

Table 1

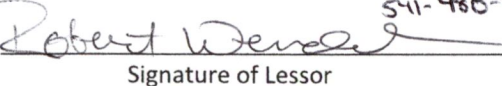
<b>Irrigation District or other Water Purveyor Name: Central Oregon Irrigation District</b>												
Specify Water Right, Priority Date, point of diversion(s) (POD), place of use, tax lot, gov't lot/DLC, acres to be leased, original use type, certificate page number, and any previous lease. If not 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 #
94956	10/31/1900	1	15 S	14 E	24	NE SW	701		0.22	IR	25	NONE
94956	10/31/1900	1	15 S	14 E	24	SE SW	700		5.38	IR	25	NONE
Any additional information about the right: _____												
<b>Farm Deferral Tax Status:</b> 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: 6-20-24  
 Signature of Lessor

Printed name (and title): Tyler Hershey Business name, if applicable: None  
 Mailing Address (with state and zip): 5643 SW Minson Rd. Powell Butte, OR 97753  
 Phone number (include area code): 541-468-7833 \*\*E-mail address: tylerhershey@gmail.com


 Date: 21 June 24  
 Signature of Lessor

Printed name (and title): Robert Wendel Business name, if applicable: None  
 Mailing Address (with state and zip): 5643 SW Minson Rd. Powell Butte, OR 97753  
 Phone number (include area code): None \*\*E-mail address: None

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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 # 94956

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)
10/31/1900	1	IR	5.60	Season 1 rate/Total Volume	0.069	54.93
10/31/1900	1	IR	5.60	Season 2 rate	0.092	
10/31/1900	1	IR	5.60	Season 3 rate	0.122	
12/02/1907	1	IR	5.60	Season 3 rate	0.049	

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

<b>Instream Use created by the lease</b>	River Basin: <u>Deschutes</u>	River/Stream Name: <u>Deschutes River</u> , tributary to <u>Columbia River</u>				
<b>Proposed Instream Reach:</b> <input checked="" type="checkbox"/> A reach typically begins at the POD and ends at the mouth of the source stream: From the POD <u>1</u> to <u>Mouth of Deschutes River</u>		<b>Or Proposed Instream Point:</b> <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.)						
<b>Instream Portion: May not exceed the maximum rate/volume for the right (identified in Table 2)</b> 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)
10/31/1900	1	IR	5.60	Season 1 rate/Total Volume	0.038	30.52
10/31/1900	1	IR	5.60	Season 2 rate	0.051	
10/31/1900	1	IR	5.60	Season 3 rate	0.095	
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 <b>Conditions to avoid enlargement or injury to other water rights, if any, or other limitations:</b> Instream flow allocated on daily average basis up to the described rate from April 1- October 26 _____						
Note: The Department may identify additional conditions to prevent injury and/or enlargement.						
<b>Any additional information about the proposed instream use:</b>						

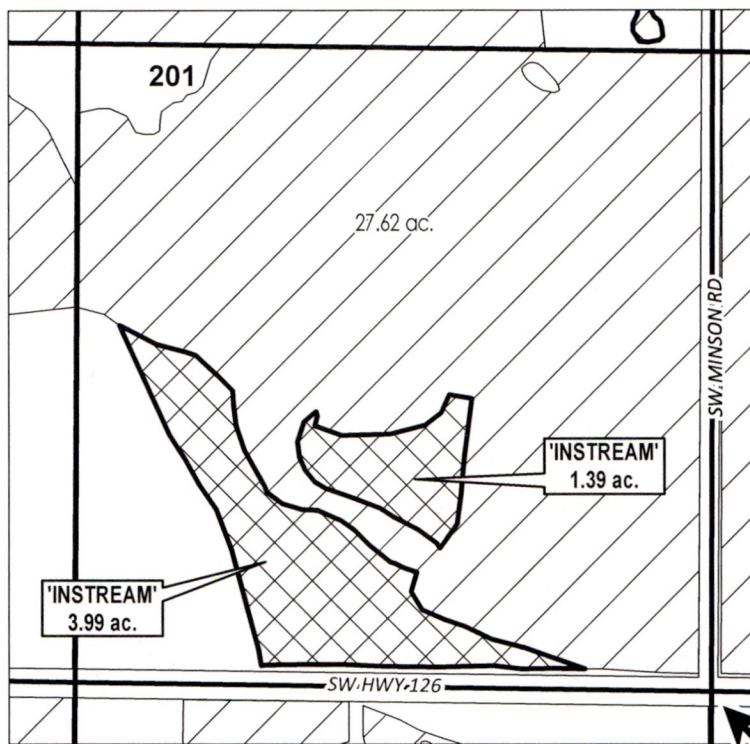
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# CROOK COUNTY SEC.24 T15S R14E

SCALE - 1" = 400'





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S 1/4 COR

-  INSTREAM LANDS
-  EXISTING WATER RIGHTS



## APPLICATION FOR 1 YEAR INSTREAM LEASE

NAME: Hershey, Tyler/Wendel, Robert

TAXLOTS #: 700

5.38 ACRES

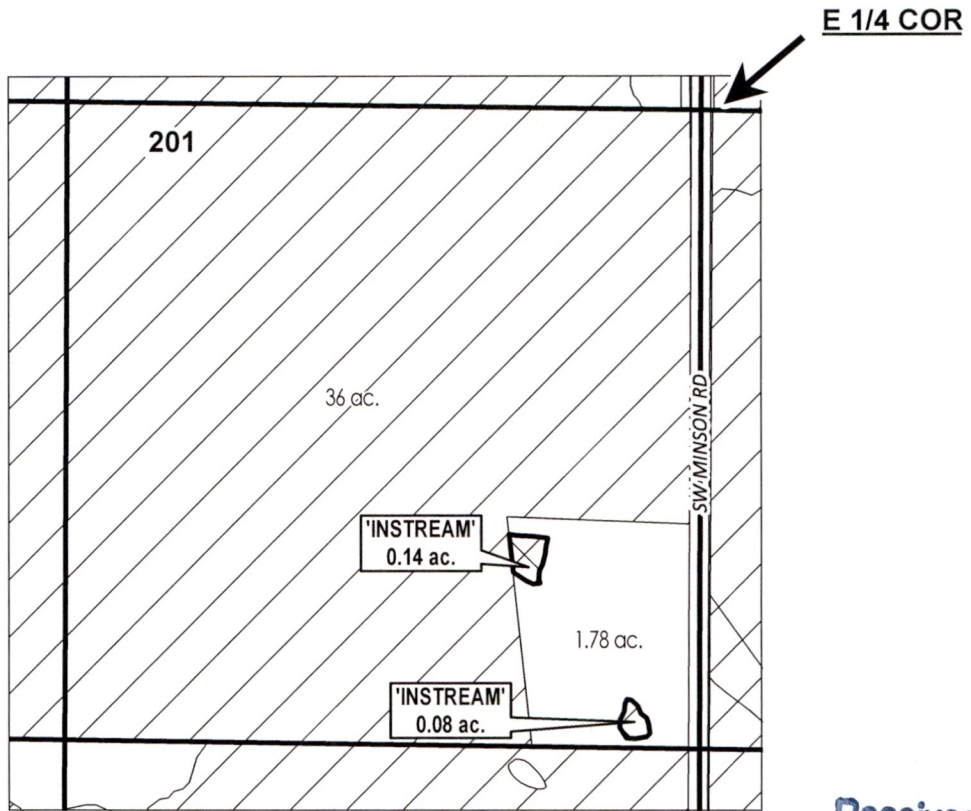
DATE: 6/24/2024

# CROOK COUNTY SEC.24 T15S R14E



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-  INSTREAM LANDS
-  EXISTING WATER RIGHTS



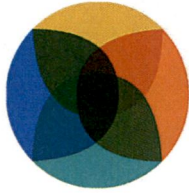
## APPLICATION FOR 1 YEAR INSTREAM LEASE

NAME: Hershey, Tyler/Wendel, Robert

TAXLOTS #: 701

0.22 ACRES

DATE: 6/24/2024



**BBK**  
BEST BEST & KRIEGER LLP  
ATTORNEYS AT LAW

Alison K. Toivola  
Of Counsel  
(541) 318-9836  
alison.toivola@bbklaw.com

June 25, 2024

**VIA E-MAIL ONLY: JTALBOTT@COID.ORG**

Jessi Talbott  
Director of Water Rights  
Central Oregon Irrigation District  
1055 SW Lake Rd  
Redmond, OR 97756

**Re: Instream Lease Application on 151424NESW00701 &  
151424SESW00700 for Tyler Hershey & Robert Wendel**

Dear Ms. Talbott,

We represent the Confederated Tribes of the Warm Springs Reservation of Oregon (“Tribe”). Central Oregon Irrigation District (“COID”) has provided the Tribe with certain information concerning an Instream Lease Application on 151424NESW00701 & 151424SESW00700 for Tyler Hershey & Robert Wendel identified in **Appendix A** hereto (the “Application”).

The Tribe has reviewed the information about the Application provided by COID. The Tribe is relying in good faith upon the information provided by COID. Based on that information, the Tribe does not object to the Department of Water Resources (“Department”) processing the Application in accordance with applicable law, and the Department’s customary practice. The Tribe, however, expressly reserves, and does not waive, all rights, claims, and defenses that it may possess in connection with the Application, including, but not limited to, whether the Application violates the Treaty of June 25, 1855, with the Tribes of Middle Oregon, 12 Stat. 963, or the Confederated Tribes of the Warm Springs Reservation Water Rights Settlement Agreement, dated November 17, 1997, as amended.

Please let us know if you have any questions.

Sincerely,

Alison K. Toivola  
for BEST BEST & KRIEGER LLP

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Jessi Talbott  
June 25, 2024  
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cc: Robert A. Brunoe  
Austin Smith, Jr.  
Brad Houslet  
David Filippi, Esq.  
Josh Newton, Esq.  
Jeremy Giffin, Oregon Water Resources Department  
Ann Reece, Oregon Water Resources Department

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