

Instream Lease Renewal Application (Standard or District)



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

Complete the questions below and include any required attachments

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

Instream Lease IL-- 2036

Renewal Fee included ☒

The undersigned hereby request Instream Lease Number IL-2036 & MP-319 be renewed.

For reference,
OID 2025-03

Fees: ☒ \$150.00 for an instream lease renewal application

☐ Check enclosed or ☒ Fee Charged to customer account Deschutes River Conserv. (Account name)

Term of the Lease:

The lease is requested to begin in month April year 2025 and end month October year 2025

Validity of the Right(s) (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.
- ☐ If the water right(s) have not been used for the last five years, right(s). Documentation describing why the water right(s) is not subject to forfeiture is provided. ORS 540.610(2).

Termination provision (for multiyear leases):

The parties to the lease request:

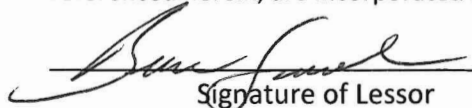
- ☐ a. The option of terminating the lease prior to expiration of the full term with written notice to the Department by the Lessor(s) and/or Lessee.
- ☐ b. The option of terminating the lease prior to expiration of the full term, with consent by all parties to the lease.
- ☐ c. The parties would not like to include a Termination Provision.

(See instructions for limitations to this provision)

☐ 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: _____)?

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 holders of the water right(s) involved in this Instream Lease. If not the deeded land owner, I/we have provided documentation demonstrating authorization to pursue the lease application and/or consent from the deeded landowner; and
3. All parties affirm that information provided in this lease application is true and accurate. Circumstances have not changed and all matters involved with or affected by the original instream lease remain as they were when the lease was previously approved. We also acknowledge that the terms and conditions of the original lease, referenced herein, are incorporated by reference in their entirety.


Signature of Lessor

Date: 5/29/25

Received by OWRD
May 29, 2025
Salem, OR

Printed name (and title): Bruce Scanlon, District Manager

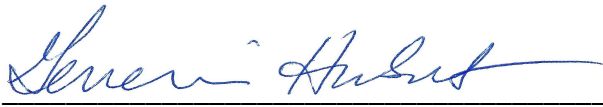
Business name, if applicable: Ochoco Irrigation District

Mailing Address (with state and zip): 1001 N Deer Street, Prineville, OR 97754

Phone number (include area code): _____ **E-mail address: ochocoid@crestviewcable.com

*Quitclaimed by Ochoco Lumber to OID since last lease. Quitclaim attached.

See next page for additional signatures.



Date: 05/29/2025

Signature of Lessee

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

Business/organization name: Deschutes River Conservancy

Mailing Address (with state and zip): 805 SW Industrial Way, Ste 5, 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.**

Received by OWRD
May 29, 2025
Salem, OR

Crook County Official Records
DEED-D
Pgs=2
\$10.00 \$11.00 \$61.00 \$2.00
\$5.00 \$10.00

2025-330382

02/03/25 12:25 PM

Total:\$99.00



01178895202503303820020022

I, Cheryl Seely, County Clerk for Crook County,
Oregon, certify that the instrument identified
herein was recorded in the Clerk records.

Cheryl Seely - County Clerk



After Recording Return to: *and send two statements*
Jered Reid
35 SE C Street, Suite D
Madras, Oregon 97741

QUITCLAIM DEED

Ochoco Lumber Company, Grantor, releases and quitclaims to Ochoco Irrigation District, Grantee, all right, title, and interest in 90 acres of Ochoco Irrigation District industrial water rights that are appurtenant to the following described real property located in Crook County, to wit:

See Exhibit A.

The true consideration for this conveyance is: zero dollars (\$0.00) but consists of other good and valuable consideration, which is the entire consideration.

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

[Signature Page to Follow]

Received by OWRD
May 29, 2025
Salem, OR

Dated this 22nd day of January, 2025

OCHOCO LUMBER COMPANY, GRANTOR

Wanda Rasmussen
By: Ochoco Management, Inc. an Oregon Corporation
Its General Partner, Wanda Rasmussen, Vice President

STATE OF OREGON)
) ss.
County of Crook)

The foregoing instrument was acknowledged before me on January 22, 2025, by Wanda Rasmussen, on behalf of Ochoco Management, Inc., the General Partner of Ochoco Lumber Company.



April Fawn Hensley
Notary Public for Oregon
My Commission Expires: 7/19/2026

Received by OWRD
May 29, 2025
Salem, OR

STATE OF OREGON
COUNTY OF CROOK
CERTIFICATE OF WATER RIGHT

Received by OWRD
May 29, 2025
Salem, OR

THIS CERTIFICATE ISSUED TO

OCHOCO IRRIGATION DISTRICT
1001 NW DEER STREET
PRINEVILLE, OREGON 97754

This certificate confirms the right to use the waters of the OCHOCO CREEK and OCHOCO RESERVOIR CONSTRUCTED UNDER PERMIT R-528, a tributary of the CROOKED RIVER for INDUSTRIAL USE.

The right was perfected under Permit 49824. The date of priority is SEPTEMBER 2, 1986. This right is limited to an amount actually beneficially used and shall not exceed 2.75 CUBIC FEET PER SECOND (cfs), or the equivalent in case of rotation, measured at the point of diversion from the source. The right is further limited to a maximum volume of 4.0 acre-feet per equivalent acre per year.

The point of diversion is located as follows:

POD#	TWP	RNG	MER	SEC	1/4 - 1/4	SURVEY COORDINATES
1	15 S	17 E	W.M.	5	SW NW	OCHOCO FEED CANAL - 500 FEET NORTH AND 250 FEET EAST FROM W¼ CORNER OF SECTION 5

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant is as follows:

For the purposes of the legal description of the place of use, the acres equivalent industrial water right is listed and arrayed by the quarter-quarter section(s) of land within which the tax lot listed in the supplemental information column is located. However, the acres equivalent water right is not apportioned between the quarter-quarter section(s) of land, and the place of use for the acres equivalent industrial water right is authorized anywhere within the listed tax lots.

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

INDUSTRIAL							
LEGAL DESCRIPTION						SUPPLEMENTAL INFORMATION	
TWP	RNG	MER	SEC	1/4 - 1/4	ACRES*	TAX LOT	USER
14 S	15 E	W.M.	23	NE NW NW NW SE NW	75.0	1415230000112 1415230000200	Stafford Ranches Stafford Ranches
14 S	16 E	W.M.	31	NE NE NW NE SW NE SE NE	35.0	141631A000700 141631A000800	Clear Pine Moulding, Clear Pine Moulding,
15 S	16 E	W.M.	4	NE NW NW NW SW NW SE NW NW SW SE SW	90.0	151604B007200 151604C002900	Ochoco Lumber Co, Ochoco Lumber Co,
TOTAL:					200.00		

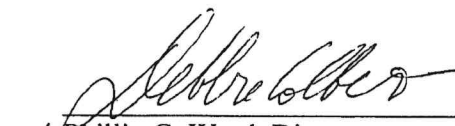
* Acres equivalent industrial water right

This Certificate confirms an order of the Director entered on July 27, 2006, and recorded in Special Order Volume 69, Page 170, approving a petition by Ochoco Irrigation District under ORS 541.329 for mapping water rights within the district.

This certificate confirms completion of Transfer Application T-8467, and supersedes Certificate 76576.

The right to the use of the water for the above purposes is restricted to beneficial use on the lands or place of use herein described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

Issued: October 27, 2006


Phillip C. Ward, Director
Oregon Water Resources Department

Received by OWRD
May 29, 2025
Salem, OR

Mailing Date: NOV 01 2006



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

January 31, 2025

VIA E-MAIL ONLY:

JEREMY.T.GIFFIN@WATER.OREGON.GOV

ANN.L.REECE@WATER.OREGON.GOV

SARAH.A.HENDERSON@WATER.OREGON.GOV

Jeremy Giffin
Watermaster - District 11
Oregon Water Resources Department
231 SW Scalehouse Loop, Suite 103
Bend, OR 97702

Received by OWRD
May 29, 2025
Salem, OR

Ann Reece
Sarah A. Henderson
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301

Re: 2025 Water Rights Transfer Applications in the Deschutes Basin

Dear Mr. Giffin, Ms. Reece, and Ms. Henderson:

We represent the Confederated Tribes of the Warm Springs Reservation of Oregon ("Tribe"). We write to provide the Department of Water Resources ("Department") with an update on the process for administering water rights transfer applications for the 2025 calendar year.

As you know, the Tribe, the State of Oregon, and the United States are all parties to the Confederated Tribes of the Warm Springs Reservation Water Rights Settlement Agreement, dated November 17, 1997, as amended ("Settlement Agreement"). The Settlement Agreement requires the three sovereign parties "to meet and describe in the memorandum of understanding the process for determining injury to the Tribal Reserved Water Right." Agmt. at Art. IX, § A. The ability to determine such an injury is a prerequisite to administering water rights transfers¹ in the Deschutes Basin, as "[n]o transfer of a State water right in the Deschutes Basin shall be made *unless the State finds that no injury to the Tribal Reserved Water Right shall result.*" Agmt. at Art. V, § (B) (emphasis added). The Tribe emphasizes that the contractual obligation to make a finding of no injury resides with the State, not the Tribe.

The parties to the Settlement Agreement have not yet developed the process for determining injury to the Tribal Reserved Water Right. In the absence of the injury determination process required by the Settlement Agreement, the Tribe reviewed numerous water rights transfer applications in 2024. During this process, the Tribe expended substantial resources to review certain information concerning water rights transfer applications in the Deschutes Basin. In particular, the Tribe has received and reviewed hundreds of

¹ A "Transfer" means any change in the nature of use, place of use, or point of diversion of a water right." Agmt. at Art. III, § 25.

Jeremy Giffin
Ann Reece
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applications from various irrigation districts, including the Central Oregon Irrigation District (“COID”); the Deschutes River Conservancy (“DRC”); the Department of Water Resources (“Department”); and numerous other applicants and entities.

The Tribe’s review of the 2024 applications was both time- and resource-intensive. It was also informative. The Tribe has considered the information learned, and has now identified certain categories of applications that present, respectively, a low-risk, medium-risk, and high-risk of injury to Tribal Reserved Water Rights as defined in the Settlement Agreement. Certain factors have been identified as presenting a low risk of injury to the Tribal Reserved Water Right. The Tribe believes that those factors indicating a low risk of injury to the Tribal Reserved Water Right can be used in the upcoming 2025 calendar year to simplify, and expedite, the process for administering said applications.

The Tribe has identified the applicable low-risk factors and believes that those factors are adequately represented in the “CTWS Low-Risk Transfer Checklist Requirements” document attached hereto as **Exhibit A**. In close coordination with COID, the Tribe has approved the attached checklist for use in the upcoming 2025 calendar year as a way to facilitate and expedite the processing of water rights transfer applications within the Deschutes Basin. The Tribe agrees that all transfer applications that fully satisfy this checklist may be processed by the Department without prior Tribal review. Accordingly, the Tribe does not object to the Department processing any applications that are submitted to the Department with a completed and signed checklist. The Department should process such applications in accordance with applicable law, and the Department’s customary practice.

The Tribe expressly reserves, and does not waive, all rights, claims, and defenses that it may possess in connection with such applications, including, but not limited to, whether such applications violate the Treaty of June 25, 1855, with the Tribes of Middle Oregon, 12 Stat. 963 (“1855 Treaty”), or the Settlement Agreement. To be clear, this letter, and the use of the enclosed checklist, does not remove or absolve the State of Oregon from fulfilling its obligations under the 1855 Treaty and the Settlement Agreement. It is the Tribe’s position that the Settlement Agreement requires that the Department affirmatively confirm that each and every water rights transfer application will not injure the Tribal Reserved Water Right or any undetermined vested water right claimed by the Tribe or the United States acting as trustee for the Tribe, including, but not limited to, instream flows necessary to maintain harvestable populations of treaty-protected fish in the Deschutes Basin. The checklist is not a replacement for that affirmative obligation and finding.

We would be happy to meet with the Department to discuss the checklist and proposed process moving forward.

Please let us know if you have any questions.

Sincerely,



Alison K. Toivola
of BEST BEST & KRIEGER LLP

Jeremy Giffin
Ann Reece
Sarah A. Henderson
January 31, 2025
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AKT

cc: Robert A. Brunoe
Austin Smith, Jr.
Brad Houslet
Josh Newton, Esq.
David Filippi, Esq.
Jessi Talbott
Mikaela Watson

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May 29, 2025
Salem, OR

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May 29, 2025
Salem, OR

Exhibit A

INSTRUCTIONS:

This checklist is intended to facilitate the Department of Water Resources' ("Department") processing of water rights transfer applications within the Deschutes Basin for the 2025 calendar year. The Confederated Tribes of the Warm Springs Reservation of Oregon ("Tribe") has reviewed this checklist. The Tribe does not object to the Department's processing of any water rights transfer applications that meets a "Yes" of all applicable checklist items, and therefore satisfies the "Meets Requirements" category at the top of this checklist. When the checklist is so satisfied, the Department may process the application in accordance with applicable law, and the Department's customary practice.

Water rights transfer applications that meet all of the checklist criteria appear to present a low risk of injury to the Tribal Reserved Water Right as defined in the Confederated Tribes of the Warm Springs Reservation Water Rights Settlement Agreement, dated November 17, 1997, as amended. The Tribe does not waive its right to dispute or challenge any transfer application, whether or not they satisfy this checklist, on the basis that the transfer injures the Tribal Reserved Water Right or other federally-reserved water right held by the Tribe. The Tribe 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.

The Tribe further reserves the right to conduct additional analysis on any transfer that is submitted to the Department with a completed checklist. The Tribe reserves the right to consider, among other things, the risk of localized impacts, cumulative impacts, water quality, return flows, groundwater recharge, Habitat Conservation Plan flow augmentation agreements, water bank transactions, and additional analyses received from the Tribe's staff, Department, applicant, or third party.

A "temporary instream lease" is any instream lease lasting five (5) years or less.

This checklist applies to surface water transfers only. This checklist does not apply to groundwater transfers.

If you have any questions about this checklist, please contact:

Gen Hubert (DRC), Alex Ehrens (DRC), or Russell Rhoden on behalf of Ochoco Irrigation District, via e-mail at:
gen@deschutesriver.org or alex@deschutesriver.org
russell@ochocoid.org

Alison K. Toivola or Josh Newton of Best Best & Krieger, LLP, on behalf of the Tribe, via e-mail at:
Alison.Toivola@bbklaw.com
Josh.Newton@bbklaw.com

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May 29, 2025
Salem, OR

CTWS Low-Risk Transfer Checklist Requirements

Patron Name/Applicant Name :

Meets Requirements:

Transfer Type:

Does Not Meet Requirements:

Transfer #:

Review Date:

Checklist Completed By:

Water Right Transfer - Check Applicable Transfer Type

Own Lands Transfer

Water Right Sale

	YES	NO	Comments:
Transfer Within Same District Boundary			
On/Off Lands Balance			
On/Off Lands Within Five (5) Miles			
No Increase in Diversion Amount			
No Change in Type of use			
No Change in Point of Diversion or Appropriation			
On/Off Lands Served by Same Canal			Identify Canal:
NOT a Multi-Step Transfer			
NOT a Mitigation Credit			

Temporary Instream Lease	YES	NO	Comments:
Decrease in Diversion - Increased River Flows			
Transfer of Surface Water ONLY			
No Potential for Measurable Impact to Crooked River			
No Potential for Measurable Impact to Whychus Creek			
No Potential for Measurable Impact to Deschutes River			

Summary of Transfer:

Received by OWRD
May 29, 2025
Salem, OR