



State of Oregon  
Water Resources Department  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1266  
(503) 986-0900

# Application for Instream Lease

A summary of review criteria and procedures that are generally applicable to these applications is available at [www.wrd.state.or.us/OWRD/PUBS/forms.shtml](http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml).

## Pursuant to ORS 537.348(2) and OAR 690-077

Optional Identification by Lessor/Lessee: \_\_\_\_\_  
Lease Application Number (assigned by WRD): IL-876

This Lease is between:

### Lessor #1:

Name US Fish & Wildlife Service  
Mailing address 911 NE 11<sup>th</sup> Avenue  
City, State, Zip Code Portland, Oregon 97232-4181  
Telephone number 503-231-6251  
Email address Dar\_Crammond@fws.gov

### Lessor #2, 3, etc.

Not Applicable

The water right to be leased is located in Washington County.

### Lessee (if different than Oregon Water Resources Department):

Name Not Applicable  
Mailing address \_\_\_\_\_  
City, State, Zip Code \_\_\_\_\_  
Telephone number \_\_\_\_\_  
Email address \_\_\_\_\_

### Trustee:

Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1266  
(503) 986-0900

## ~I~ Water Right Holder and Water Right Information

1.1 Lessor #1 is the water right holder, or authorized agent for water right holder of the property located at: Township 2 S, Range 1 W, Section 20 & 21 and Tax Lot number 100 + 700. If the water right appurtenant to these lands is also appurtenant to lands owned by others who are not included in this application, then Attachment 1 (tax lot map) needs to be included.

*per e-mail  
of 9/16/07 BR*

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1.2 Lessor #2 is the (Check one):

Not applicable

Official representative of \_\_\_\_\_, the irrigation district which conveys water to the subject water rights.

Another party with an interest in the subject water rights representing \_\_\_\_\_.

1.3 For the water right(s) being leased, list all water rights appurtenant to the same lands. Indicate if there are any supplemental or overlying rights.

Certificate No. \_\_\_\_\_

1.4 Are some or all of the lands being leased part of a Conservation Reserve Enhancement Program.  Yes  No

1.5 **Water Rights Proposed to be Leased Instream.**

The first right to be leased identified in Section 1.3 is further described as follows:

Certificate No.: 29282

Priority date: 1890 Type of use: Irrigation

Legal Season of Use: Irrigation Season

Is the entire water right certificate being leased?  Yes  No

If no, list the acres of the subject water right by legal description of township, range, section, and  $\frac{1}{4}$   $\frac{1}{4}$  which will be dried up as part of this lease, and include a map (Attachment 2) showing the lands which will not receive water.

Place of use: T 2 S, R 1 W, Section 20, SE $\frac{1}{4}$  SE $\frac{1}{4}$  - 1.63 acres to be leased

Enter additional places of use here, using format above:

T2S, R1W, Section 21, SW 1/4 SW 1/4 - 3.37 acres

Page \_\_\_\_\_ (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres being leased, if for irrigation: 5 acres

Acre-feet of storage, if applicable: \_\_\_\_\_

Maximum rate associated with the right to be leased (cfs): 0.0625 cfs

(Use additional lines if there is more than one rate associated with the water right.)

Maximum duty associated with the right to be leased (ac-ft): \_\_\_\_\_

(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any: \_\_\_\_\_

If you need to enter another leased right, please use the additional water rights form.

1.6 **Validity of rights.** Lessor(s) attests (mark one) that:

the water has been used over the past five years according to the terms and conditions of the water right certificate or as an instream water right or

the water has not been used over the past five years according to the terms and conditions of the water right certificate, however the water right is not subject to forfeiture under ORS 540.610(2)(\_\_)(include necessary supporting documentation as Attachment 3).

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~II~ Instream Water Right Information

**2.1 Public use.** This lease will increase streamflows that will benefit:

- Conservation, maintenance and enhancement of aquatic and fish life, wildlife, and fish and wildlife habitat
- Pollution abatement
- Recreation and scenic attraction

**2.2 Instream use created by lease.** The instream use to be created is described as follows:

Rock Creek

Tributary to Tualatin River in the Willamette Basin.

Describe the point of diversion (POD) and any associated reach(es) of the instream use being created. If possible list the reach by river mile. If no reach is identified, and there is only one POD listed on the certificate, the lease may be processed to be protected at the POD. (If more than one POD is listed on the certificate, then the POD and any associated reach(es) must be identified): NE 1/4 NE 1/4, Section 20, T2S, R1W, WM

Maximum volume in acre-feet: \_\_\_\_\_

Rate in cfs: 0.0625 cfs

(Use the section below to indicate a more restrictive period of use than allowed by the water right.)

**Conditions to prevent injury, if any:**

- None
- The instream flow will be allocated on a daily average basis up to the described rate from 04/01 through 09/30.
- Other (describe): \_\_\_\_\_

If you need to enter more instream uses, please use the additional water rights form.

**2.3 Term of lease.** This lease shall terminate on September 30, 2012.

**2.4 Flow protection.** The Trustee will regulate use of water from the source, subject to prior appropriation and the agency enforcement guidance, to assure the water is delivered to the point of diversion, and through the reach past junior downstream users, so long as flow is sufficient to meet the demand under priority date of the new instream use (see Section 2.2). As part of regulation activities the watermaster or a designee has access to the point of diversion and place of use for the water rights involved in this lease. No party is required to continuously measure the flow of the waterway described in Section 2.2.

~III~ Other Information

**3.1 Accuracy.** The Undersigned Lessor(s) and Lessee(s) declare that, to the best of their knowledge and belief, the information contained in this application is true, correct and complete. If after the lease order is signed, any information is determined to be false, the lease order may be modified or terminated. The lease only exercises the water rights being leased, for the term of the lease. It shall not be construed to overcome any claim that the water right may otherwise be subject to forfeiture for nonuse pursuant to ORS 540.610 during the period of time prior to the execution of the lease.

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- 3.2 Lease.** Lessor(s) and Lessee(s) agree to lease the water rights listed in Section(s) 1.5 for instream use for the term of this lease through Lessee to the Trustee, the Oregon Water Resources Department, pursuant to the provisions of ORS 537.348(2) and OAR 690-077.
- 3.3 Precedent.** If a right which has been leased is later proposed to be leased again or transferred to an instream use under ORS 537.348 and OAR 690-077 a new injury review shall be required, and a prior lease shall not set a precedent for the amount of water to be leased or transferred instream.
- 3.4 Suspension of original use.** During the period of the lease, the water right holder agrees to suspend use of water allowed under the subject water rights and under any water right that is supplemental to the subject water rights.
- 3.5 Termination provision.**
- For multiyear leases, the Lessor(s) shall have the option of terminating the lease each year with written notice to the Department. The lease may be terminated at any time during the calendar year. However, if the termination request is received less than 30-days prior to the period of allowed instream use or after the period of allowed use has begun for the water right(s) being leased, water may not be used under the right(s) leased until the following calendar year, unless the Director determines that enlargement would not occur. The Department may also require:
    - Written notice to the Department with original signatures;
    - Consent by all parties to the lease; and/or
    - Written notice to the Watermaster's office.
  - For multiyear leases, the lessor shall not have the option of terminating the lease, without consent by all parties to the lease.
- 3.6 Modification to prevent injury.** Allocation of water to the instream use described in Section 2.2 during the term of this lease is not reasonably expected to cause injury to other rights to use water from the same source. If injury is found after this lease is signed, the lease may be modified or terminated to prevent injury.
- 3.7 Fees.** Pursuant to ORS 536.050, the following fee is included:
- \$200 for an application with four or more landowners or four or more water rights.
  - \$100 for all other applications.

Lessor #1:                     P. May                     Date:                     8/28/07                      
                    Agent, US Fish & Wildlife Service                    

For additional Lessors, type in space for signature and date

\_\_\_\_\_

Lessee: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_

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Other Attachments as Needed:

Attachment 1: Tax Lot Map. (See instructions.)

Attachment 2: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. (See instructions.)

Attachment 3: Supporting documentation indicating why a right is valid and not subject to forfeiture even though the right has not been exercised for five or more consecutive years (required if the second box in Section 1.6 is checked).

Attachment 4: Split Season Instream Use Form

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**United States Department of the Interior**

**FISH AND WILDLIFE SERVICE**

**Documentation of Water Right Utilization**

I, Christopher Lapp, in my capacity as Deputy Refuge Manager  
mailing address 19255 S.W. Pacific Highway, Sherwood, OR 97140

telephone number (503) 625-5944, say:

Water Right Certificate #: 29282

1. I attest that water was used during the previous five years on

the entire authorized place of use of the water right; or

a portion of the authorized place of use of the water right.

2. My knowledge of the exercise or status of the water right is based on (check one):

Personal observation

Professional expertise

3. My knowledge is specific to the use of water at the following locations:

Township		Range		Mer	Sec	¼ ¼ Section		Gov't Lot or DLC	Acres (if applicable)
2	S	1	W		20	SE	SE		1.63
						1/4	1/4		
2	S	1	W		21	SW	SW		3.37
						1/4	1/4		

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4. The water right was exercised for the authorized purpose described below (e.g., crops grown):  
Irrigation of small grain crops under cooperative farming agreement.

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5. The water delivery system used to apply water as authorized by the right is described below:

A hard hose traveling gun irrigation system was used. A pump was installed at the respective POD's and the irrigation gun cart was pulled out some distance from the traveler. The hose reel was then slowly "reeled in" as the sprinkler gun was in operation giving us the ability to irrigate the entire authorized place of use of the water right.

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6. Attached documentation supporting the above statements:

Digital photos \_\_\_\_\_

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Signature

*[Handwritten Signature]*  
  
*Frances M. Jackson*

Date

*8/9/07*

*08/09/07*

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STATE OF OREGON

COUNTY OF Washington

CERTIFICATE OF WATER RIGHT

This Is to Certify, That WILLIAM R. AND MARY YOUNG

of Route 4, Box 207, Sherwood, State of Oregon, has a right to the use of the waters of Rock Creek for the purpose of Irrigation

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for Washington County, and the said decree entered of record at Salem, in the Order Record of the STATE ENGINEER, in Volume 16, at page 419; that the priority of the right thereby confirmed dates from 1890

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.0625 c.f.s.

A description of the lands irrigated under such right, and to which the water is appurtenant (or, if for other purposes, the place where such water is put to beneficial use), is as follows:

- 1.63 acres in SE 1/4 Section 20
3.37 acres in SW 1/4 Section 21

T. 2 S., R. 1 W., W.M.

Being within the tract of land described as follows: Beginning at a point north 12.0 feet from the section corner common to Sections 20, 21, 28 and 29, T. 2 S., R. 1 W., W.M.; thence N. 89° 01' E. 272.8 feet to a point; thence north 538.0 feet to a point; thence south 89° 01' W. 404.8 feet to a point; thence south 538.0 feet to a point which is 12.0 feet north of the south line of said Section 20; thence N. 89° 01' E. 132.0 feet to the point of beginning.

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And said right shall be subject to all other conditions and limitations contained in said decree. The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer, affixed

this 10th day of January, 19 62.

LEWIS A. STANLEY

State Engineer.







# Tualatin River NWR -- Place of Use for C. 29282

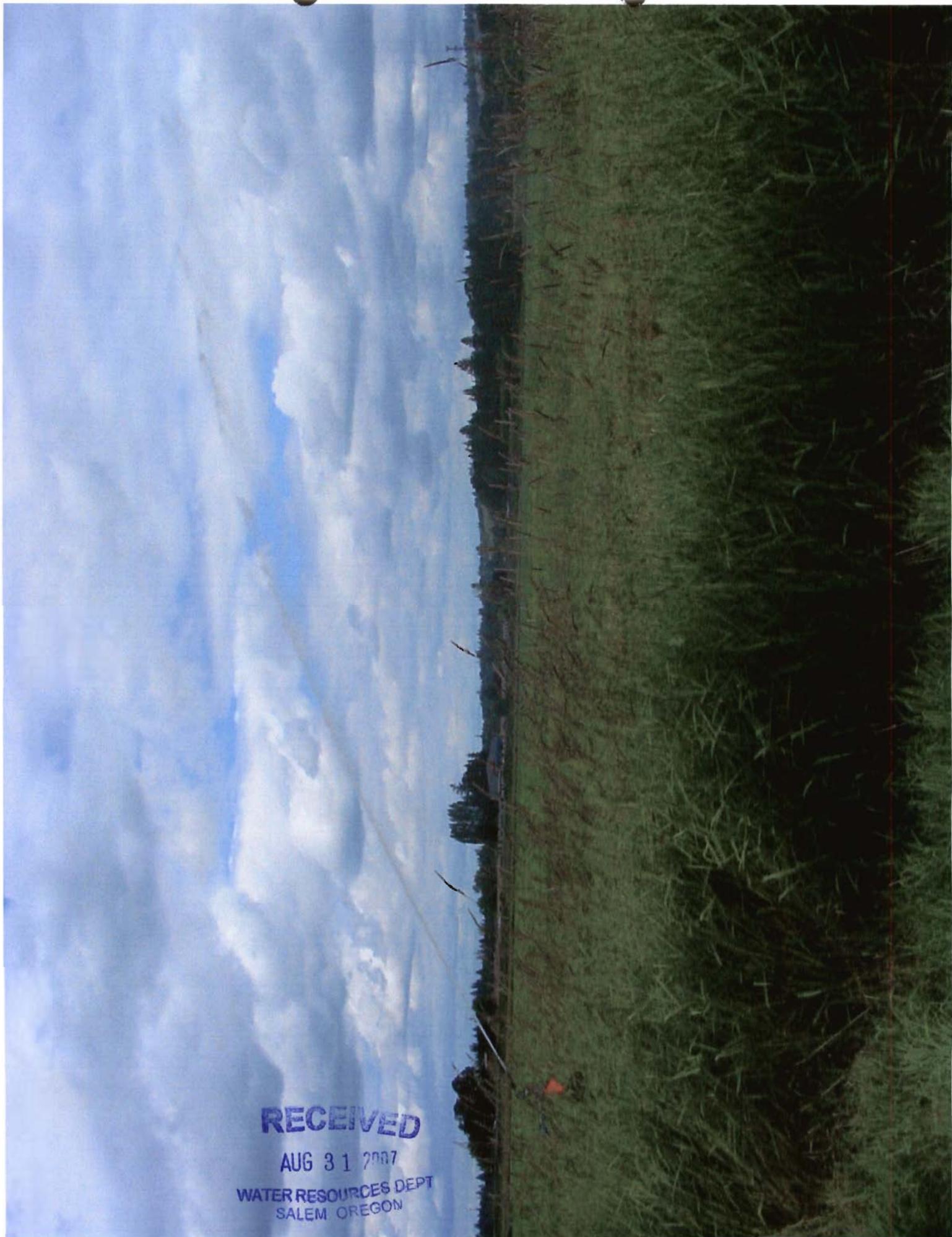


0 250 500 1,000 Feet

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## Legend

-  Point of Diversion
-  Place of Use
-  Tualatin River NWR Boundary
-  Inholding



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