



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

Application for Instream Lease Pooled Lease Form

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.

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

Optional Identification by Lessor/Lessee: _____
 Lease Application Number (assigned by WRD): IL-831

This Lease is between:

Lessor #2: Irrigation District or Other Water Purveyor

Name Three Sisters Irrigation District
 Mailing address P.O. Box 2230
 City, State, Zip Code Sisters, OR 97759
 Telephone number 541-549-8815
 Email address tsid@uci.net

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

Lessee (if different than Oregon Water Resources Department):

Name Deschutes River Conservancy
 Mailing address P.O. Box 1560
 City, State, Zip Code Bend, OR 97709
 Telephone number 541-382-4077
 Email address gen@deschutesriver.org

Trustee:

Oregon Water Resources Department
 725 Summer Street NE, Suite A
 Salem, OR 97301-1266
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~I~ Water Right Holder and Water Right Information

1.2 Lessor #2 is the (Check one):

- Official representative of Three Sisters Irrigation District, the irrigation district, which conveys water to the subject water rights.
 Another party with an interest in the subject water rights representing _____.
 Not applicable.

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. 74135

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.: 74135

Priority date: 1895 & 1887 Type of use: 1887: 15.0 ac IRR and 1895: 288.7 ac IRR, 1.0 ac Pond

Legal Season of Use: N/A

If an irrigation right, total number of acres to be leased: 1887: 15.0 ac IRR and 1895: 288.7 ac IRR, 1.0 ac Pond

Total acre-feet of storage to be leased, if applicable: _____

Maximum rate associated with subject water rights (cfs) being leased: 1887: 0.30 cfs IRR and 1895: IRR 5.774 cfs, Pond 0.02 cfs

If there is more than one rate associated with a water right, describe below:

Season 1 (cfs) N/A Time period: _____

Season 2 (cfs) _____ Time period: _____

Season 3 (cfs) _____ Time period: _____

Maximum duty associated with subject water rights (ac-ft): N/A

Conditions or other limitations, if any: _____

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

~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:

Whychus Creek

Tributary to Deschutes River in the Deschutes 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 will 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): From POD at RM 23.5 of Whychus Cr to Lake Billy Chinook

Maximum volume in acre-feet: 1112.03 total af (1887: 54.74 af and 1895: 1053.64 af IRR, 3.65 af Pond)

Rate in cfs: 6.094 cfs (1887: 0.300 cfs IRR and 1895: 5.774 cfs IRR, 0.02 cfs Pond)

(If more than one rate, describe the rate associated within each time period or instream reach.)

Rate in cfs: _____

Rate in 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 July 1, 2007 through October 1, 2007.
 Other (describe): _____

2.3 Term of lease. This lease shall terminate on October 31, 2007.

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.

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 short term 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.

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:

- ~~24~~ - \$200 for an application with four or more landowners or four or more water rights.
~~W~~ \$100 for all other applications.

Lessor #2: *Muc Thalacker* Date: 5/7/07
Three Sisters Irrigation District

Lessee: *Genevieve Hubert* Date: 5/15/2007
Deschutes River Conservancy

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

Attachment 5: Pooled Lease Water Right Holder Form