



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

Application for
Instream Lease

Attachment 5: Pooled Water Right Holder 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):

This Lease is with:

Lessor #1 (Water Right Holder):

Name Kerry Paulson
Mailing address 27705 SW Heater Rd
City, State, Zip Code Sherwood, OR 97140
Telephone number 541-923-2227
Email address

If additional water right holders, enter water right holder information below
Three Sisters Irrigation Dist
P.O. Box 2230
Sisters, OR 97759
541-549-8815 tsid@uci.net

Note: The section numbering associated with this form corresponds to that found on the "Standard Instream Lease Application" form. The "Pooled Lease" form and "Pooled Water Right Holder" form(s) are used to provide the same information as the "Standard Instream Lease Application" form. Consequently, the numbering on this form is not always sequential.

~I~ Water Right Holder and Water Right Information

1.1 Lessor #1 is the water right holder, or authorized agent for property described in Section 1.5. 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.

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 [X] No

1.5 Water Right(s) Proposed to be Leased Instream. Water right holder proposes to lease the water rights shown on the map attached as Exhibit 5-B and described as follows:

[This information may be included on Exhibit 5-A, or an additional map may be attached. Crosshatch the area of water rights being leased. Attached map(s) must identify water right holder, township, range, section and $\frac{1}{4}$ $\frac{1}{4}$, tax lot number, map orientation and scale.]

	T	R	Sect	¼¼	Tax Lot	Acres	Type of Use	Certificate #	Page(s) #	Priority*
*(Identify pertinent page number of certificate, if certificate is greater than 10 pages; identify priority date if there is more than one per certificate)										
1.	14	11	32	nwne	100	22.0	IRR	74135	5	1895
2.	14	11	32	nene	100	29.0	IRR	74135	5	1895
3.	14	11	32	swne	100	7.0	IRR	74135	5	1895
4.	14	11	32	sene	100	11.0	IRR	74135	5	1895
5.	14	11	33	nwnw	400	20.0	IRR	74135	5	1895
	14	11	33	nwnw	400	1.0	Pond	74135	5	1895

Total number of acres, if for irrigation, by certificate and priority date: C-74135, 1895, 89
acres IRR and 1.0 acre pond, 90.0 total acres

Conditions or other limitations, if any: _____

If you need to enter another leased right, please use the Additional Water Right Form for Pooled Water Right Holder.

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).

~II~ Instream Water Right Information

2.3 Term of lease. This lease shall terminate on November 1, 2007. (If there is a conflict between the Pooled Lease Form and this form, the Pooled Lease Form will be the official term of the lease.)

~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.
- 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.

Lessor #1: _____ Date: _____
Kerry Paulson

For additional Lessors, type in space for signature and date

Lessor #2: _____ Date: _____
Three Sisters Irrigation District

Other Attachments As Needed:

- Exhibit 5-A: Tax Lot Map. (See instructions.)
- Exhibit 5-B: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. Exhibits 5-A and 5-B may be combined into a single map. (See instructions.)
- Exhibit 5-C: 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 of this form is checked)
- Exhibit 5-D: Split Season Instream Use Form

Instructions for the Pooled Water Right Holder Instream Leasing Form

When Do I Use This Form?

This form is an attachment to the “Pooled Lease Form.” The “Pooled Lease Form” is most frequently used by irrigation districts that want to group or “pool” several water right holders on the same lease application form. If you wish to lease more than one water right, then also use the “Additional Water Rights Form for Pooled Water Right Holder” for each additional water right to be leased. For more information on the different types of lease forms go to www.wrd.state.or.us/OWRD/mgmt_leases.shtml.

Instructions

Lease Agreement Number: Water Resources Department staff in Salem will assign this number.

Required Parties to the Lease

Lessors: The Lessor is the water right holder, or an authorized agent, of the property where, during the term of the lease:

- Water use will be suspended; or
- Water stored in a reservoir will be released for instream use.

If the lands to which the subject water rights are attached fall within the boundaries of an irrigation district or other water purveyor, as defined in ORS Chapters 545, 547, 552, 553, or 554, that organization must be a party to the lease and should be listed as Lessor #2.

Spouses and immediate family can all be listed as Lessor #1. If another individual or organization also has an interest in the rights being leased, they should be listed as Lessor #2, #3, etc.

Section One

1.1 Provide the legal description for the lands being leased. Attachment 1, Tax Lot Map, is only needed if a portion of the water right not included in the lease is appurtenant to lands owned by others or for which others have an interest in the water right. Tax lot maps can be found at www.ormap.org/maps/.

1.2 This section is omitted from the “Pooled Water Right Holder” form, and is included on the “Pooled Lease” form.

1.3 Provide an inventory of all of the water rights appurtenant to the same lands as the water right(s) being leased. Water rights information may be found at <http://apps.wrd.state.or.us/apps/wr/wrinfo/wrinfo.php>. List all supplemental, as well as all primary rights, even if the supplemental rights are still in permit status. Indicate if the supplemental rights are not being leased instream.

Only water right certificates can be leased instream, with the exception that a secondary right to use stored water, even if in permit status, can be leased. If this type of permit is being leased, indicate that it is a permit and list its number.

1.4 Indicate if some or all of the lands are enrolled in the federal Conservation Reserve Enhancement Program. The Department will send a copy of the lease application and the associated order to the Farm Services Administration.

1.5 Complete a water right profile for each right, or portion of a right proposed, to be leased for instream use. The priority date, type of use, and other information describing the

right will be found on your certificate, which can be viewed online at <http://apps.wrd.state.or.us/apps/wr/wrinfo/wrinfo.php>. (Note: Profiles of supplemental rights are required only when these rights are also proposed to be leased.)

If the entire water right is being leased, write “entire water right being leased.”

“Priority date” should include the day and month, if applicable, in addition to the year.

Attachment 5-B, a detailed map illustrating lands under subject rights to be leased, is required if only part of a right is being leased instream. If a map is required it needs to include the township, range, section, $\frac{1}{4}$ $\frac{1}{4}$, a north arrow, scale and crosshatching or other photocopyable means of differentiating the lands being leased from the remaining lands.

1.6 Only valid rights are eligible to be leased for instream use. Except for municipal water rights, a water right that has not been used for five or more years may no longer be valid under Oregon law. Once a water right is forfeited for non-use, resuming use will not make the right valid again. If the Department reasonably suspects the right may have been forfeited, it may refuse to execute the lease, or may require an affidavit attesting to the use.

By signing this Lease Application, Lessor(s) attest that the rights proposed to be leased have been beneficially used under the terms and conditions of the rights within the last five years. If the rights are for irrigation, the Lessor(s) also attest that such irrigation took place on all lands being leased. If other water purveyors, such as an Irrigation District are party to the lease, the District may confirm that the water right has been exercised.

Section Two

2.1 and 2.2 These sections are omitted from the “Pooled Water Right Holder” form, and are included on the “Pooled Lease” form.

2.3 The term of the lease can be from one to five calendar years. For seasonal water rights, the date the lease commences should be the first day the water can be legally used for the first year of the lease, continue through the last day the water can be legally used (e.g. the irrigation season), for the last year of the lease. For year-around rights, January 1, (year) and December 31, (year) should be used.

The lease is exercised the first day that water is legally protected instream. Frequently, this information is found in Section 2.2 and may be for a shorter time period than the legal season of use.

2.4 This section is omitted from the “Pooled Water Right Holder” form, and is included on the “Pooled Lease” form.

Section Three

3.1 to 3.4. These sections contain standard lease provisions.

3.5 For multiyear leases, identify whether the lessor has the option of terminating the lease each year.

3.6 This section contains standard lease provisions.

3.7 This section is omitted from the “Pooled Water Right Holder” form, and is included on the “Pooled Lease” form.

Next Steps

The signed “Pooled Lease” and “Pooled Water Right Holder” forms should be sent to the Water Resources Department office in Salem (725 Summer Street, NE; Suite A, Salem, Oregon 97301). Once the lease application is received, two steps simultaneously take place:

- The watermaster or other Department field staff is contacted to prepare a written assessment of whether the lease agreement meets the requirements to suspend the original use and avoid injury or enlargement.
- The lease application is included in the Department’s weekly public notice mailing. This mailing initiates a 21-day public

comment period and is sent to any water purveyor listed in the proposed agreement, posted in the affected watermaster district office, and available at http://www1.wrd.state.or.us/cgi-bin/notices.pl?water_rights.

If the watermaster review indicates that no injury or enlargement will occur and no comments are received, the Director presumes that no injury or enlargement of a water right would result from the proposed Lease Application. The Director, or designee, would sign an order that executes the lease.

If the watermaster review indicates that injury or enlargement will occur, or if other comments were received, they are reviewed by all the parties to decide whether to execute the lease, execute with modifications, or deny the lease.

Farm Deferral Tax Status

Counties make the decision 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.