



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: 2402 (Mitigation Lease)  
Lease Application Number (assigned by WRD): IL-825 / MP-103

This Lease is between:

**Lessor #1:**

Name Deschutes River Conservancy  
Mailing address PO Box 1560  
City, State, Zip Code Bend, OR 97709  
Telephone number 541-382-5186  
Email address gen@deschutesriver.org

**Lessor #2, 3, etc.**

Central Oregon Irrigation District  
1055 SW Lake Ct  
Redmond, OR 97756  
541-548-6047  
Email: lauraw@coid.org

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

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

Name Deschutes Water Exchange Mitigation Bank  
Mailing address PO Box 1560  
City, State, Zip Code Bend, OR 97709  
Telephone number 541-382-5186  
Email address gen@deschutesriver.org

**Trustee:**

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

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**~I~ Water Right Holder and Water Right Information** WATER RESOURCES DEPT  
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- 1.1 Lessor #1 is the water right holder, or authorized agent for water right holder of the property located at: Township 15 S, Range 12 E, Section 25 and Tax Lot number 300. 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.

1.2 Lessor #2 is the (Check one):

Not applicable

Official representative of Central Oregon Irrigation District, 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. 76358 & 76714

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.: 76358

Priority date: October 31, 1900 & December 31, 1907 Type of use: Irrigation

Legal Season of Use: April 1 to November 1

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 ¼ ¼ 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 15 S, R 12 E, Section 25, NW¼ NW¼ - 2.37 acres to be leased

Enter additional places of use here, using format above:

\_\_\_\_\_

Page 29 (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres being leased, if for irrigation: 2.37

Acre-feet of storage, if applicable: 0

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

October 31, 1900: Season 1: 0.030, Season 2: 0.040, Season 3: 0.052

December 2, 1907: Season 3: 0.021

(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): 23.49

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

Conditions or other limitations, if any: None

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

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forfeiture under ORS 540.610(2)(\_) (include necessary supporting documentation as Attachment 3).

## ~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:

Deschutes River

Tributary to Columbia 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 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): POD #11 to Lake Billy Chinook

Maximum volume in acre-feet: October 31, 1900: 12.92

Rate in cfs: October 31, 1900: Season 1: 0.016, Season 2: 0.022, Season 3: 0.041

(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 April 1 through October 26.
- 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 October 31, 2011.

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

**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

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3.1

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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 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: Genevieve Hubert Date: 03-13-2007  
Deschutes River Conservancy

For additional Lessors, type in space for signature and date

Lessor #2: [Signature] Date: 16 March, 2007  
Central Oregon Irrigation District

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Lessee: Shirley Hubert  
Deschutes Water Exchange Mitigation Bank

Date: 03-13-2007

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DESCHUTES COUNTY OFFICIAL RECORDS  
NANCY BLANKENSHIP, COUNTY CLERK

2007-12287



\$36.00

D-80 Cnt=1 Str=23 CE  
\$10.00 \$11.00 \$10.00 \$5.00

02/28/2007 02:31:28 PM

After Recording return to:  
Central Oregon Irrigation District  
1055 S.W. Lake Court  
Redmond, OR 97756

MAIL TAX STATEMENT  
TO: NO CHANGE

**QUITCLAIM DEED  
WATER CONVEYANCE AGREEMENT  
FOR TRANSFER OF INTEREST IN A WATER RIGHT**

Grantor, Central Oregon Irrigation District, releases and quitclaims to the Deschutes River Conservancy ("DRC"), Grantee, all of Grantor's rights, title and interest in 2.37 acres of water rights (the "Water Rights") described as a portion of Certificate # 76358, priority date of October 31, 1900 and December 2, 1907 and Certificate # 76714, priority date of February 28, 1913, and appurtenant to lands commonly known as T 15 South, R 12 East, Section 25, NW NW, Tax Lot 00300 that is more particularly described in attached Exhibit A (the "Subject Lands").

By recording of this deed, Grantor hereby notifies any subsequent purchaser of the Subject Lands that upon completion of a transfer, the Water Rights will no longer be appurtenant to the Subject Lands.

This agreement and quitclaim deed is binding upon the heirs, executors, administrators, successors, and permitted assigns of the parties to this agreement.

Consideration for this Quitclaim: No dollars and other valuable consideration

Grantor:

Date 5 Feb. 2007

Steven C. Johnson, Secretary-Manager Central Oregon Irrigation District

State of Oregon, County of Deschutes:

This instrument was acknowledged before me on February 5, 2007 by Steven C. Johnson as Secretary-Manager for Central Oregon Irrigation District.

Notary Public



Grantee:

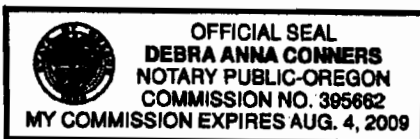
Date 2/27/07

Tod Heisler, Executive Director, Deschutes River Conservancy

State of Oregon, County of Deschutes:

This instrument was acknowledged before me on February 27, 2007 by Tod Heisler, Executive Director for the DRC.

Notary Public



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EXHIBIT "A"  
LEGAL DESCRIPTION

A parcel of land situated in the Northwest Quarter (NW1/4) of Section Twenty-five (25), Township Fifteen (15) South, Range Twelve (12), East of the Willamette Meridian, Deschutes County, Oregon, and being more particularly described as follows:

Beginning at the Northwest corner of said Section 25; thence North 89°54'40" East, 1550.99 feet upon the North line of said Section 25; thence leaving said North line South 1°17'34" West, 1318.86 feet; thence South 89°53'26" West, 135.50 feet; thence North 0°13'15" East, 7.50 feet; thence South 89°53'26" West, 371.34 feet; thence North 0°06'34" West, 30.00 feet; thence South 89°53'26" West, 559.56 feet; thence North 1°27'22" East, 558.51 feet; thence North 68°07'51" East, 315.13 feet; thence North 0°37'18" West, 172.70 feet; thence South 89°53'26" West, 760.47 feet; thence North 0°05'39" East, 433.72 feet upon the West line of said Section 25 to the point of beginning.

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02/12/2007 12:17:20 PM

D-D Cnt=1 Str=4 TM  
\$20.00 \$11.00 \$10.00 \$5.00

After Recording return to:  
Central Oregon Irrigation District  
1055 S.W. Lake Court  
Redmond, OR 97756

MAIL TAX STATEMENT  
TO: NO CHANGE

**QUITCLAIM DEED  
WATER CONVEYANCE AGREEMENT  
FOR TRANSFER OF INTEREST IN A WATER RIGHT**

Grantor, Robert D. Evans & Sharon L. Evans as tenants by the entirety, releases and quitclaims to Central Oregon Irrigation District (COID), Grantee, all rights, title and interest in the following: By this agreement, Grantor, the owner of the lands described in Exhibit "A ("Subject Lands") attached, and incorporated by this reference and located on land commonly known as: 15-12-25 NW NW 300, release their claim and responsibility for 2.37 acres of COID water rights that are appurtenant to the Subject Lands, to COID. The water right in question is further described as a portion of Certificate # 76358, priority date of Oct. 31, 1900 and Dec. 2, 1907 and Certificate # 76714, priority date of Feb. 28, 1913.

By entry of this deed, Grantor hereby notifies any subsequent purchaser of the Subject Lands that Grantor, as owner of the Subject Land, approved the transfer (including a change in the place and type of use and point of diversion) of the water rights that are appurtenant to the Subject Land; and that upon completion of a transfer, by election of COID, the Subject Land will have 24.13 acres of appurtenant water rights remaining.

Furthermore, upon signing of this agreement, Grantor shall no longer be liable for any district assessment or charges pertaining to the described 2.37 acres of water rights incurred.

This agreement is binding upon the heirs, executors, administrators, successors, and permitted assigns of the parties to this agreement.

Consideration for this Quitclaim: No dollars and other valuable consideration

Grantor:

Robert D. Evans  
Robert D. Evans

Date 2/5/07

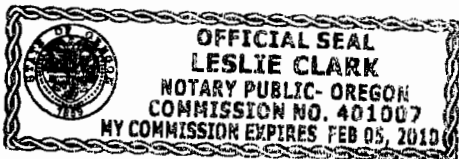
Sharon L. Evans  
Sharon L. Evans

Date 2/5/07

State of Oregon )  
) ss.  
County of Deschutes )

This instrument was acknowledged before me on February 5, 2007 by Robert D. Evans.

Leslie Clark  
Notary Public



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State of Oregon )  
 ) ss.  
County of Deschutes )

This instrument was acknowledged before me on February 5, 2007 by Robert D. Evans.

Leslie Clark  
Notary Public



Grantee:

Steven C. Johnson

Steven C. Johnson Secretary-Manager Central Oregon Irrigation District

Date 5 Feb. 2007

State of Oregon )  
 ) ss.  
County of Deschutes)

This instrument was acknowledged before me on February 5, 2007 by Steven C. Johnson as Secretary-Manager for Central Oregon Irrigation District.

Leslie Clark  
Notary Public



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A parcel of land situated in the Northwest Quarter (NW1/4) of Section Twenty-five (25), Township Fifteen (15) South, Range Twelve (12), East of the Willamette Meridian, Deschutes County, Oregon, and being more particularly described as follows:

Beginning at the Northwest corner of said Section 25; thence North 89°54'40" East, 1550.99 feet upon the North line of said Section 25; thence leaving said North line South 1°17'34" West, 1318.86 feet; thence South 89°53'26" West, 135.50 feet; thence North 0°13'15" East, 7.50 feet; thence South 89°53'26" West, 371.34 feet; thence North 0°06'34" West, 30.00 feet; thence South 89°53'26" West, 559.56 feet; thence North 1°27'22" East, 558.51 feet; thence North 68°07'51" East, 315.13 feet; thence North 0°37'18" West, 172.70 feet; thence South 89°53'26" West, 760.47 feet; thence North 0°05'39" East, 433.72 feet upon the West line of said Section 25 to the point of beginning.

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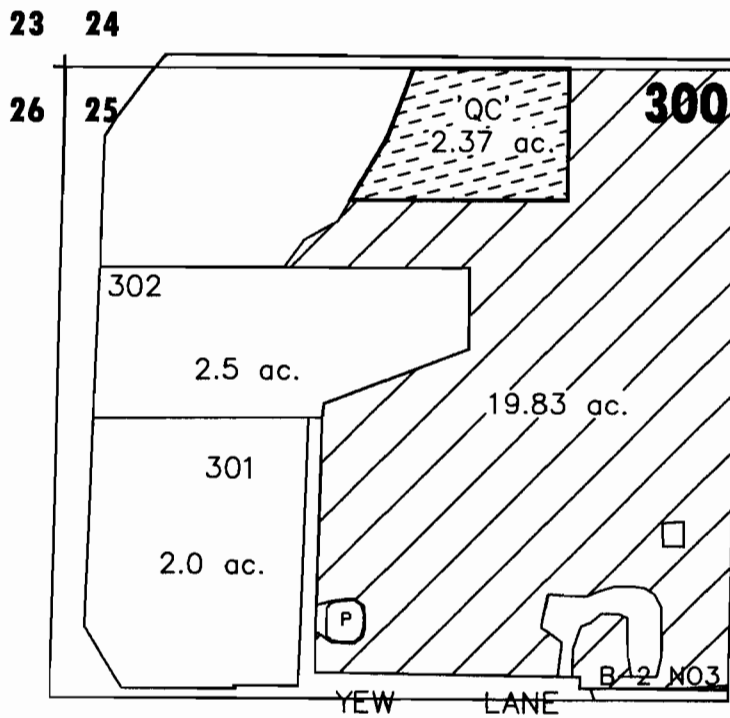
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**DESCHUTES COUNTY  
SEC. 25 T15S. R12E. W.M.**

SCALE - 1" = 400'



**NW 1/4 OF THE NW 1/4**



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	"QUIT CLAIM" WATER RIGHTS
	EXISTING WATER RIGHTS
	PARCELS W/ WATER RIGHTS



QUITCLAIM DEED FOR WATER RIGHTS TRANSFER  
QUITCLAIM MAP

NAME: ROBERT EVANS

TAXLOT #: 300

2.37 ACRES 'QC'

DATE: 02-02-07

FILE NO: E:\TRANSFER\WRTRAND7\EVANS\_QC



02/03/2005 01:13:42 PM

D-D Cnt=1 Str=3 PAM  
\$10.00 \$11.00 \$10.00 \$5.00

2  
After Recording Return to:  
ROBERT D. EVANS and SHARON L. EVANS  
35000 SW UNGER ROAD  
CORNELIUS, OR 97113

Until a change is requested all tax statements  
Shall be sent to the following address:  
(same as above)

55453DM  
Order No. 55453DM

**WARRANTY DEED**

THORNE S. FOSTER and DENNIS C. FOSTER, Co-Trustees of THE THORNE AND DENNIS FOSTER REVOCABLE TRUST U/T/A dated October 31, 1975, amended and restated August 14, 1995 and completely restated April 22, 2004, herein called grantor, convey(s) to ROBERT D. EVANS and SHARON L. EVANS, Husband and Wife, herein called grantee, all that real property situated in the County of DESCHUTES, State of Oregon, described as:

A parcel of land situated in the Northwest quarter of Section 25, Township 15 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon, and being more particularly described as follows:

Beginning at the Northwest corner of said Section 25; thence North 89°54'40" East, 1550.99 feet upon the North line of said Section 25; thence leaving said North line South 1°17'34" West, 1318.86 feet; thence South 89°53'26" West, 135.50 feet; thence North 0°13'15" East, 7.50 feet; thence South 89°53'26" West, 371.34 feet; thence North 0°06'34" West, 30.00 feet; thence South 89°53'26" West, 559.56 feet; thence North 1°27'22" East, 558.51 feet; thence North 68°07'51" East, 315.13 feet; thence North 0°37'18" West, 172.70 feet; thence South 89°53'26" West, 760.47 feet; thence North 0°05'39" East, 433.72 feet upon the West line of said Section 25 to the point of beginning.

(Acct. #129167)

and covenant(s) that grantor is the owner of the above described property free of all encumbrances except covenants, conditions, restrictions, reservations, rights, rights of way and easements of record, if any, and apparent upon the land, contracts and/or liens for irrigation and/or drainage; and except any real property taxes due but not yet payable;

and will warrant and defend the same against all persons who may lawfully claim the same, except as shown above.

The true and actual consideration for this transfer is \$575,000.00 which is paid by a Qualified Intermediary as part of an IRC 1031 deferred exchange.

**THIS INSTRUMENT WILL 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 APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.**

Dated: FEBRUARY 1, 2005

THE THORNE AND DENNIS FOSTER REVOCABLE TRUST U/T/A dated October 31, 1975

THORNE S. FOSTER, Co-Trustee

DENNIS C. FOSTER, Co-Trustee

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STATE OF OREGON, County of Deschutes ) ss.

On FEBRUARY 1, 2005, personally appeared the above named **THORNE S. FOSTER and DENNIS C. FOSTER**, Co-Trustees of **THE THORNE AND DENNIS FOSTER REVOCABLE TRUST U/T/A** dated October 31, 1975, amended and restated August 14, 1995 and completely restated April 22, 2004 and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me: Diane F. Mowry  
Notary Public for Oregon  
My commission expires: 9/12/08

*Official Seal*



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