



State of Oregon
Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1271
(503) 986-0900

Application for Short-Term 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/publication/reports/index.shtml.

Pursuant to ORS 537.348(2) and OAR 690-077-0077

Optional Identification by Lessor/Lessee: L06.24
Lease Agreement Number (assigned by WRD): L-738

This Lease Agreement is between:

Lessor #2: Irrigation District or Other Water Purveyor

(Name) Tumalo Irrigation District
(Mailing address) 64697 Cook Ave
(City, State, Zip Code) Bend, OR 97701
(Telephone number) 541-382-3053
(Email address) _____

Lessor #3: Irrigation District
Central Oregon Irrigation District
1055 SW Lake Ct
Redmond, OR 97756

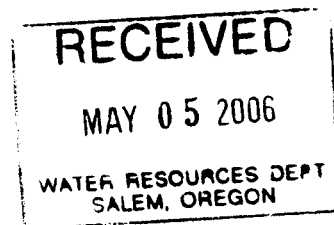
The water right to be leased is located in Deschutes County.

Lessee (if different than Oregon Water Resources Department):

(Name) Deschutes River Conservancy
(Mailing address) P.O. Box 1560
(City, State, Zip Code) Bend, OR 97701
(Telephone number) 541-382-4077, ext 16
(Email address) gen@deschutesrc.org

Trustee:

Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1271
(503) 986-0900



~I~ Ownership and Water Right Information

1.2 Lessor #2 is the (Check one):

- Official representative of Tumalo Irrigation District and 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 _____.

Not applicable.

1.3 For the lands being leased, list all water rights appurtenant to the lessor's property. Indicate if there are any supplemental or overlying rights.

Certificate No. 76358 (primary) and 76714 (supplemental)

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

1.5 **Subject water rights.** Lessor proposes to lease the water rights listed in 1.3.

The right(s) to be leased are further described as follows:

Certificate No.: 76358 and 76714

Priority date: Oct 30, 1900 (76358) and Dec 2, 1907 (76714) Type of use: IRR

Legal Season of Use: April 1 through November 1

If an irrigation right, total number of acres to be leased: 2.0

Total acre-feet of storage to be leased, if applicable: Priority 1900 and 1907: 19.82 AF

Maximum rate associated with subject water rights (cfs) being leased:

Priority 1900:

Season 1 - .025 cfs (April 1-May 1, Oct 1-Nov 1)

Season 2 - .033 cfs (May 1-15, Sept 15 - Oct 1)

Season 3 - .044 cfs (May 15 - Sept 15)

Priority 1907:

Season 3 - .018 cfs (May 15 - Sept 15)

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

Season 1 (cfs) _____ Time period: _____

Season 2 (cfs) _____ Time period: _____

Season 3 (cfs) _____ Time period: _____

Maximum duty associated with subject water rights (ac-ft): 19.82 AF

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

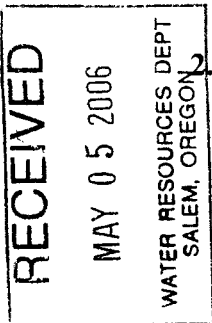
2.1 **Public use.** This lease will increase streamflows, which will benefit:

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

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 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): COID POD #11 to Lake Billy Chinook
 Maximum volume in acre-feet: Priority 1900 - 10.90 AF
 Rate in cfs: Priority 1900: Season 1 - .014 cfs (April 1-May 1, Oct 1-26)
 (Use the section below to indicate a more restrictive period of use than allowed by the water right.)
 Rate in cfs: Season 2 - .018 cfs (May 1-15, Sept 15 - Oct 1)
 Rate in cfs: Season 3 - .034 cfs (May 15 - Sept 15)

Conditions to prevent injury, if any:

- None
- The instream flow will be allocated on a daily average basis up to the described rate from _____ through _____.
- 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 26, 2006.

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

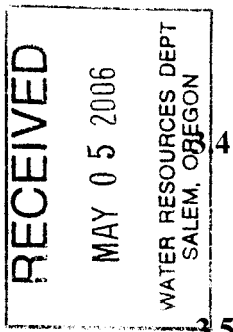
3.1 Accuracy. The Undersigned Lessor/s, Lessee and Trustee declare that, to the best of their knowledge and belief, the information contained in this lease is true, correct and complete. If after the lease is signed, any information is determined to be false, the lease may be modified or terminated. This 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. All Lessors agree to lease the water rights listed in 1.4 for instream use for the term of this Agreement through Lessee to Trustee, the Oregon Water Resources Department, pursuant to the provisions of ORS 537.348(2) and OAR 690-077-0077.

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- 0070 or OAR 690-077-0075 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.

Suspension of original use. During the period of the lease, the owner 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. In the event that a supplemental water right is not part of this lease, it may be subject to forfeiture.

3.5 Termination provision.



- For multiyear leases, lessor shall have the option of terminating the lease each year, prior to the lease being exercised (_____), with 30 day written notice to the Department.
- For multiyear leases, lessor shall not have the option of terminating the lease each year, prior to the lease being exercised, with written notice to the Department.

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. Effective October 1, 2003, pursuant to ORS 536.050 (1)(v) (2003 SB 820), 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.

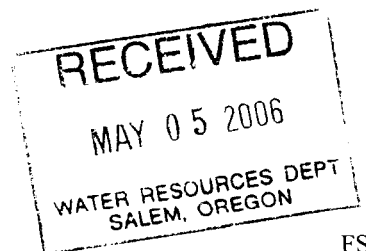
Lessor #2: *[Signature]* Date: 5-3-06
Tumalo Irrigation District

Lessor #3: *[Signature]* Date: 28 April 2006
Central Oregon Irrigation District

Lessee: *[Signature]* Date: April 25, 2006
Deschutes River Conservancy

Other Attachments as Needed:

- Attachment 1: Tax Lot Map of Lessor's Property (required if landowner is not the sole landowner to lands for which the subject water rights are appurtenant)
- Attachment 2: Detailed map illustrating lands under subject rights to be leased (required if only part of a right is being leased instream).
- 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 Landowner Form





State of Oregon
Water Resources Department
 725 Summer Street NE, Suite A
 Salem, Oregon 97301-1271
 (503) 986-0900

Application for Short-Term
Instream Lease
 Attachment 5: Pooled Landowner Form

A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/publication/reports/index.shtml.

Pursuant to ORS 537.348(2) and OAR 690-077-0077

Optional Identification by Lessor/Lessee: L06.24
 Lease Agreement Number (assigned by WRD): L-738

This Lease Agreement is between:

Lessor #1 (Landowner):

(Name) Brooks Resources Corporation
 (Mailing address) 409 NW Franklin Ave.
 (City, State, Zip Code) Bend, OR 97701
 (Telephone number) (541)382-1662
 (Email address) _____

If additional landowners, enter landowner information below

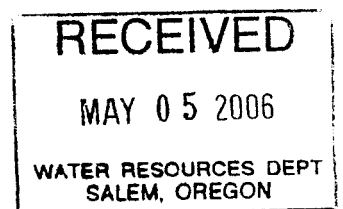
Note: The numbering associated with this form corresponds to that found on the "Standard Instream Lease Application" form. The "Pooled Lease" form and "Pooled Landowner" form(s) are used to provide the same information as the "Standard Instream Lease Application" form. Consequently, the numbering on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

~I~ Ownership and Water Right Information

- 1.1 Lessor #1 is the owner, or authorized agent for owner of property located at: Township 17, Range 11, Section 24 and Tax Lot number 00200. If the water right appurtenant to these lands is also appurtenant to lands owned by others, then Attachment 1, (tax lot map of lessor's property) needs to be included.
- 1.3 For the lands being leased, list all water rights appurtenant to the lessor's property. Indicate if there are any supplemental or overlying rights.

 Certificate No. Primary 76358, Supplemental 76714
- 1.4 Are some or all of the lands being leased part of a Conservation Reserve Enhancement Program. Yes No
- 1.5 **Subject Water Rights.** Landowner proposes to lease the water rights shown on the map attached as Exhibit 5-B (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 property owner, Township, Range, Section and ¼ ¼, tax lot number, map orientation and scale.

Field Code Changed
 Field Code Changed



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.	17	11	24	nwne	00200	2.0	IRR	76358	104 10/31/1900, 12/2/1907
2.									
3.									
4.									
5.									

Total number of acres, if for irrigation, by certificate and priority date: 2.0
 Acre-feet of storage, if applicable: _____

Conditions or other limitations, if any: _____

If you need to enter another leased right, please use the Additional Landowner Water Rights Form.

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

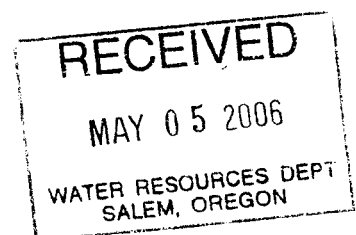
- The water has been used over the past five years according to the terms and conditions of the owner's water right certificate or as an instream water right or
- The water has not been used over the past five years according to the terms and conditions of the owner's water right certificate, however 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 October 15, 2006. (If there is a conflict between the Pooled District Form and this form, the Pooled District Form will be the official term of the lease.)

~III~ Other Information

- 3.1 Accuracy.** The Undersigned Lessor/s, Lessee and Trustee declare that, to the best of their knowledge and belief, the information contained in this lease is true, correct and complete. If after the lease is signed, any information is determined to be false, the lease may be modified or terminated. This 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.** All Lessors agree to lease the water rights listed in 1.4 for instream use for the term of this Agreement through Lessee to Trustee, the Oregon Water Resources Department, pursuant to the provisions of ORS 537.348(2) and OAR 690-077-0077.
- 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 690-077-0070 or OAR 690-077-0075 a



3.4 **Suspension of original use.** During the period of the lease, the owner 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. In the event that a supplemental water right is not part of this lease, it may be subject to forfeiture.

3.5 **Termination provision.**

- For multiyear leases, lessor *shall* have the option of terminating the lease each year, prior to the lease being exercised (_____), with 30 day written notice to the Department provided by the Irrigation District, Other Water Purveyor or Lessee (if different than Department). The lessor must contact the Irrigation District, Other Water Purveyor, or Lessee (if different than Department) to indicate their interest in terminating the lease agreement.
- For multiyear leases, lessor *shall not* have the option of terminating the lease each year, prior to the lease being exercised, with written notice to the Department.

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: 3/8/06
Brooks Resources Corp., Jade Mayer, CFO

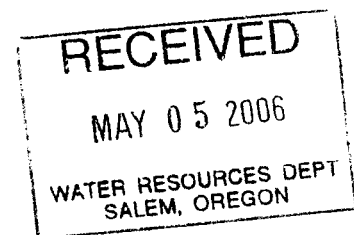
For additional Lessors, type in space for signature and date

Lessor #2: _____ Date: _____
Tumalo Irrigation District

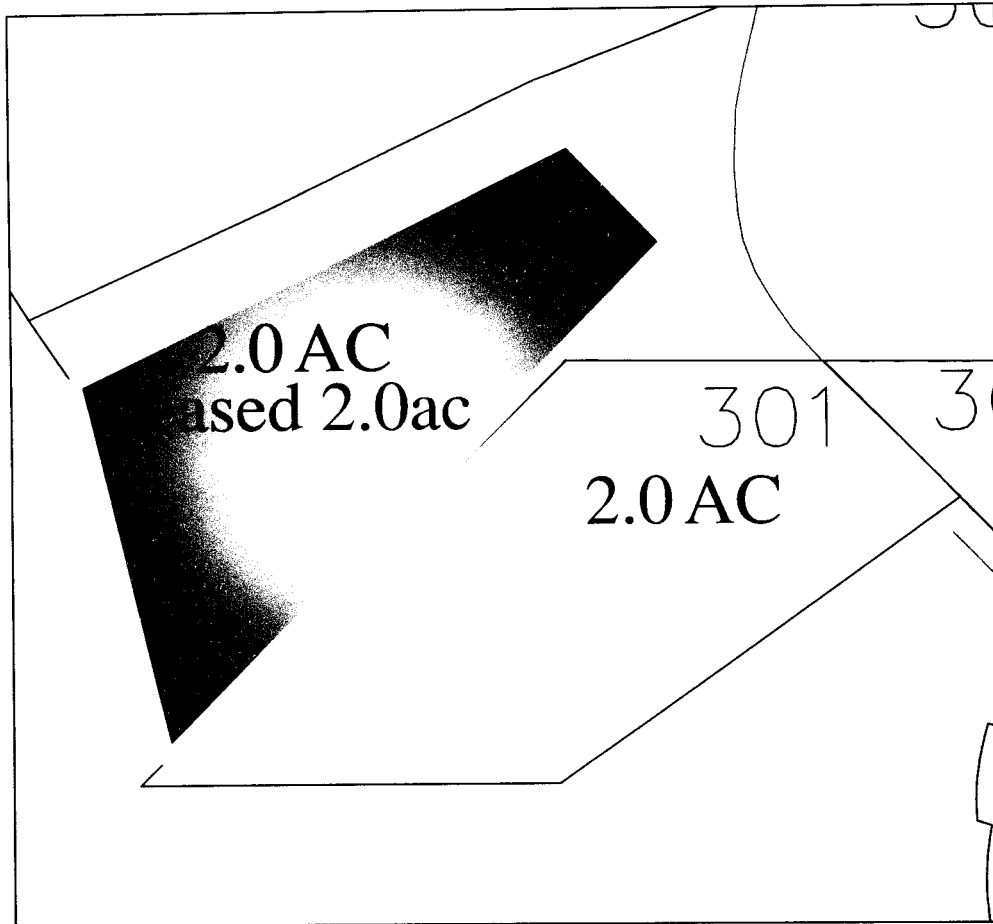
Lessee: _____ Date: _____
Deschutes River Conservancy

Other Attachments As Needed:

- Exhibit 5-A: Tax Lot Map of Landowner's Property
- Exhibit 5-B: Detailed map illustrating lands under subject rights to be leased [Exhibits 5-A and 5-B may be combined into a single map]
- 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







TUMALO IRRIGATION DISTRICT IN-STREAM LEASED WATER RIGHTS SURVEY FOR Brooks Resources Corporation



RECEIVED
MAY 05 2006
WATER RESOURCES DEPT
SALEM, OREGON



- 
 Certificate #'s
74146, and 74147
- 
 Certificate #
76106
- 
 JP-1999
- 
 JP-1998
- 
 In-Stream Lease

INITIAL: _____

LOCATED IN THE NW 1/4 OF THE NE 1/4
OF SECTION 24, T.17 S., R.11 E., W.M.
TAX LOTS # 0200
DESCHUTES COUNTY, OREGON



SCALE: 1" = 200'

Prepared By: Tumalo Irrigation District, 64697 Cook Ave, Bend, Oregon 97701 541-382-3053