



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

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

Optional Identification by Lessor/Lessee: Mitigation Project 21.1 acres
 (lease of T-9835 / MP-29 which is on hold)

Lease Agreement Number (assigned by WRD): U-179 / 100 - 11

This Lease Agreement is between:

Lessor #1:

(Name) Emmett Ranch, LLC
 (Mailing address) P.O. Box 1830
 (City, State, Zip Code) Bend, OR 97709
 (Telephone number) 541-322-9528

Lessor #2, 3, etc.

LaPine Cooperative Water Association
PO Box 97
LaPine, OR 97739

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) P.O. Box 1560
 (City, State, Zip Code) Bend, OR 97709
 (Telephone number) 541-382-4077

Trustee:

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

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~I~ Ownership and Water Right Information

- 1.1 Lessor #1 is the owner, or authorized agent for owner of property located at: Township 22 S, Range 10 E, Section 34 and Tax Lot number 4100. 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.
- 1.2 Lessor #2 is the (Check one):
 - Not applicable
 - Official representative of LaPine Cooperative Water Association, 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 lands being leased, list all water rights appurtenant to the lessor's property. Indicate if there are any supplemental or overlying rights.

Oct 2003

Certificate No. 72196

- 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.: 72196

Priority date: 1900 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 $\frac{1}{4}$ $\frac{1}{4}$ 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 22 S, R 10 E, Section 34, SW $\frac{1}{4}$ SW $\frac{1}{4}$ - 10.10 acres to be leased

Enter additional places of use here, using format above:

Taxlot #4100

T 22 S, R 10 E, Section 34, SE 1/4 SW 1/4-11.00 acres to be leased

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

Number of acres being leased, if for irrigation: 21.10

Acre-feet of storage, if applicable: NA

Maximum rate associated with subject water rights (cfs):

0.26 (1/80 of 1 cfs/acre) from April 1 to May 23

0.53 (1/40 of 1 cfs/acre) from May 23 to August 20

0.26 (1/80 of 1 cfs/acre) from August 20 to November 1

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

Maximum duty associated with subject water rights (ac-ft): 84.4 (Not to exceed 4 ac-ft/acre)

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

Conditions or other limitations, if any: NA

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 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).

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~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

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

Little Deschutes River
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 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): From POD at SW1/4 SW1/4, Section 34, T 23S, R 9E, W.M., 550 ft North and 1150 ft East from the SW Corner, Section 34 to Lake Billy Chinook
Maximum volume in acre-feet: 84.4 (Not to exceed 4 ac-ft/acre)

Rate in cfs:

0.261 cfs (~~1/80 of 1 cfs~~)²⁴ May 1 to May 23
0.261 cfs (~~1/80 of 1 cfs~~) May 23 to August 20
0.262 cfs (~~1/80 of 1 cfs~~) August 20 to October 10

(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 May 1 through October 10.
- 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 November 1, 2010.

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.

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~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.

~II~ Instream Water Right Information

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Maximum volume in acre-feet: 84.4 (Not to exceed 4 ac-ft/acre)

Rate in cfs:

0.370 cfs June 1 to August 20

0.248 cfs August 20 to October 10

(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 June 1 through October 10.
- Other (describe): _____

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

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~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.
- 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 (April 1), 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.

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Lessor #1: _____

John A. Short / Emmett Ranch, LLC

Date: 3-8-06

For additional Lessors, type in space for signature and date

Manager, LaPine Cooperative Water District

Date: April 24, 2006

Lessee: Genevieve Hubert
Program Manager, DRC-Deschutes Water Exchange

Date: 8/March/2006

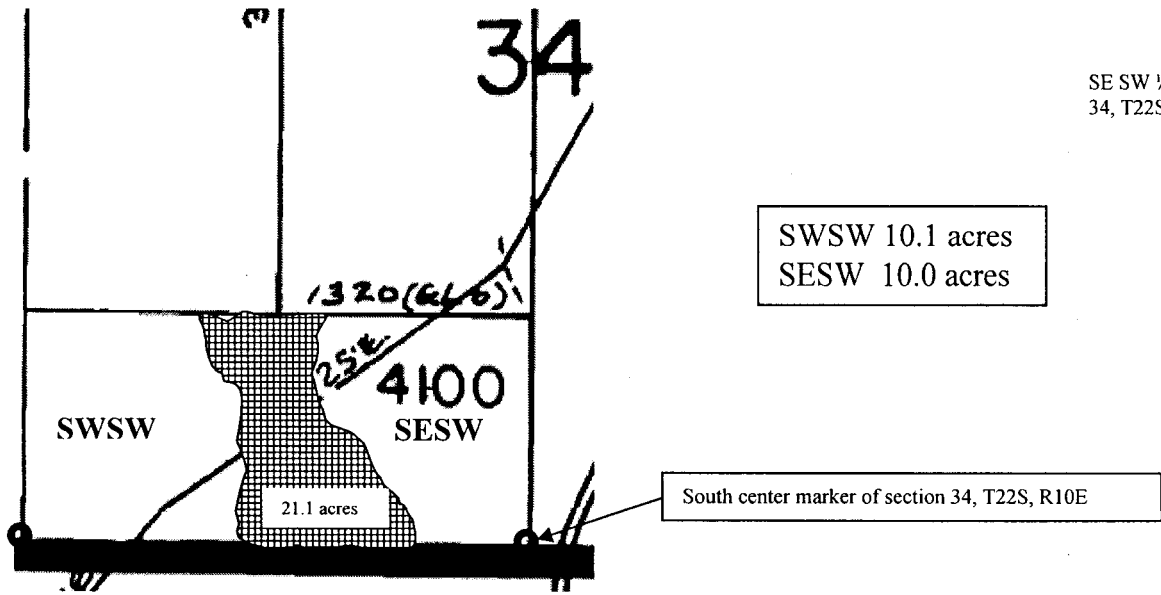
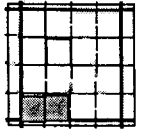
Other Attachments as Needed:

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 1.5 is checked)
- Attachment 4: Split Season Instream Use Form

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Attachment 2



Surface Water Right Map
For
Emmett Ranch, LLC

Certificate 72196, Priority 1900



Leased Acreage



Approximate Marker Location

T22S R10E Section 34, SE & SW¼, SW ¼, Tax Lot 4100

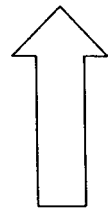
1 inch equals 1000 feet

February 28, 2006

Deschutes Irrigation, LLC

P.O. Box 1830
Bend, OR 97709
541-322-9528
shortsales@usa.com

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Season	Days/Season	rate (cfs)	a-f/day	Total a-f
Spring		0.00	0	0.00
Summer	1-Jun 20-Aug	81.00	0.37	59.34
Fall	20-Aug 10-Oct	51.00	0.248	25.04
132.00				84.38 Total

max duty duty/days cfs/day
84.4 0.394393 0.199188

8/20/2006	80.00
6/1/2006	80.00
10/10/2006	51.00
8/20/2006	51.00

29 ac 4 AF duty Season	rate	acres	rate
5/23/2006	52.00 days	21.1	0.0125
4/1/2006	52.00 days	21.1	0.0125
8/20/2006	89.00 days	21.1	0.0250
5/23/2006	89.00 days	21.1	0.0250
11/1/2006	73.00 days	21.1	0.0125
8/20/2006	73.00 days	21.1	0.0125

Spring	1-Apr	23-May	52.00	0.196	0.38808	20.18
Summer	23-May	20-Aug	89.00	0.2	0.396	35.24
Fall	20-Aug	1-Nov	73.00	0.2	0.396	28.91
84.33						84.33

max duty
84.4

John Short

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