



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.

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

Optional Identification by Lessor/Lessee: _____
Lease Application Number (assigned by WRD): IL-839

This Lease is between:

Lessor #1:

Name CCJC, LLC and Alice W. Harper + Richard E. Harper
Mailing address P.O. Box 8
City, State, Zip Code one, Oregon 97843
Telephone number 541-454-2871
Email address harprz@yahoo.com

Lessor #2, 3, etc.

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

Lessee (if different than Oregon Water Resources Department):

Name _____
Mailing address _____
City, State, Zip Code _____
Telephone number _____
Email address _____

Trustee:

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

~I~ Water Right Holder and Water Right Information

1.1 Lessor #1 is the water right holder, or authorized agent for water right holder of the property located at: Township 1 and 2 S, Range 22 E, Section 30, 32 (T1S), and 5 (T2S) and Tax Lot number 1700, 1302 and for 25 22 E 49. 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.

BR per Alice Harper on phone message of
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- 1.2 Lessor #2 is the (Check one):
 Not applicable
 Official representative of _____, 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. 83288

- 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.: 83288

Priority date: September 25, 1975 Type of use: Irrigation

Legal Season of Use: April 1 - September 30

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 _____, R _____, Section _____, _____¼ _____¼ - _____ acres to be leased

Enter additional places of use here, using format above:

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

Number of acres being leased, if for irrigation: 30.4

Acre-feet of storage, if applicable: NA

Maximum rate associated with the right to be leased (cfs): 0.76

(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): 121.6

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

Conditions or other limitations, if any: _____

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 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 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:

Rock Creek

Tributary to John Day River in the John Day 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 #1 at

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 S	22 E	WM	5	SE NE	1350 FEET SOUTH AND 1350 FEET EAST FROM N1/4 CORNER OF SECTION 5

to the mouth of Rock Creek

Maximum volume in acre-feet: 121.6

Rate in cfs: 0.76

(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 13 through September 30.
- 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 September 30, 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

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 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 *Richard E. Hays - Sue Mathis* Date: 6/6/07

For additional Lessors, type in space for signature and date

Lessee: *CSC, LLC by [Signature]* Date: 6-6-07

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STATE OF OREGON
COUNTY OF GILLIAM
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

HARRISON M. WEATHERFORD
PO BOX 591
CONDON, OR 97823

confirms the right to use the waters of ROCK CREEK, a tributary of the JOHN DAY RIVER for IRRIGATION of 30.4 ACRES.

This right was perfected under Permit S-39171. The date of priority is SEPTEMBER 25, 1975. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.76 CUBIC FOOT PER SECOND or its equivalent in case of rotation, measured at the point of diversion.

The points of diversion are located as follows:

POD #	Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Survey Coordinates
5	1 S	22 E	WM	30	SW SE			2300 FEET SOUTH AND 1400 FEET EAST FROM C1/4 CORNER, SECTION 30
4	1 S	22 E	WM	32	NW NW			1000 FEET SOUTH AND 180 FEET EAST FROM NW CORNER, SECTION 32
3	1 S	22 E	WM	32	NE SW			1950 FEET NORTH AND 450 FEET WEST FROM S1/4 CORNER, SECTION 32
2	2 S	22 E	WM	5	NW NE	2		280 FEET SOUTH AND 800 FEET EAST FROM N1/4 CORNER, SECTION 5
1	2 S	22 E	WM	5	SE NE			1350 FEET SOUTH AND 1350 FEET EAST FROM N1/4 CORNER, SECTION 5

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 4.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW


This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

A description of the place of use to which this right is appurtenant is as follows:

IRRIGATION								
FROM POD #	Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
4 OR 5	1 S	22 E	WM	31	NW NE			0.7
2 OR 3	1 S	22 E	WM	32	SW NW			0.4
2 OR 3	1 S	22 E	WM	32	NE SW			11.4
2 OR 3	1 S	22 E	WM	32	NW SW			5.6
1	2 S	22 E	WM	5	NW NE	2		10.3
2	2 S	22 E	WM	5	NW NE	2		2.0

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

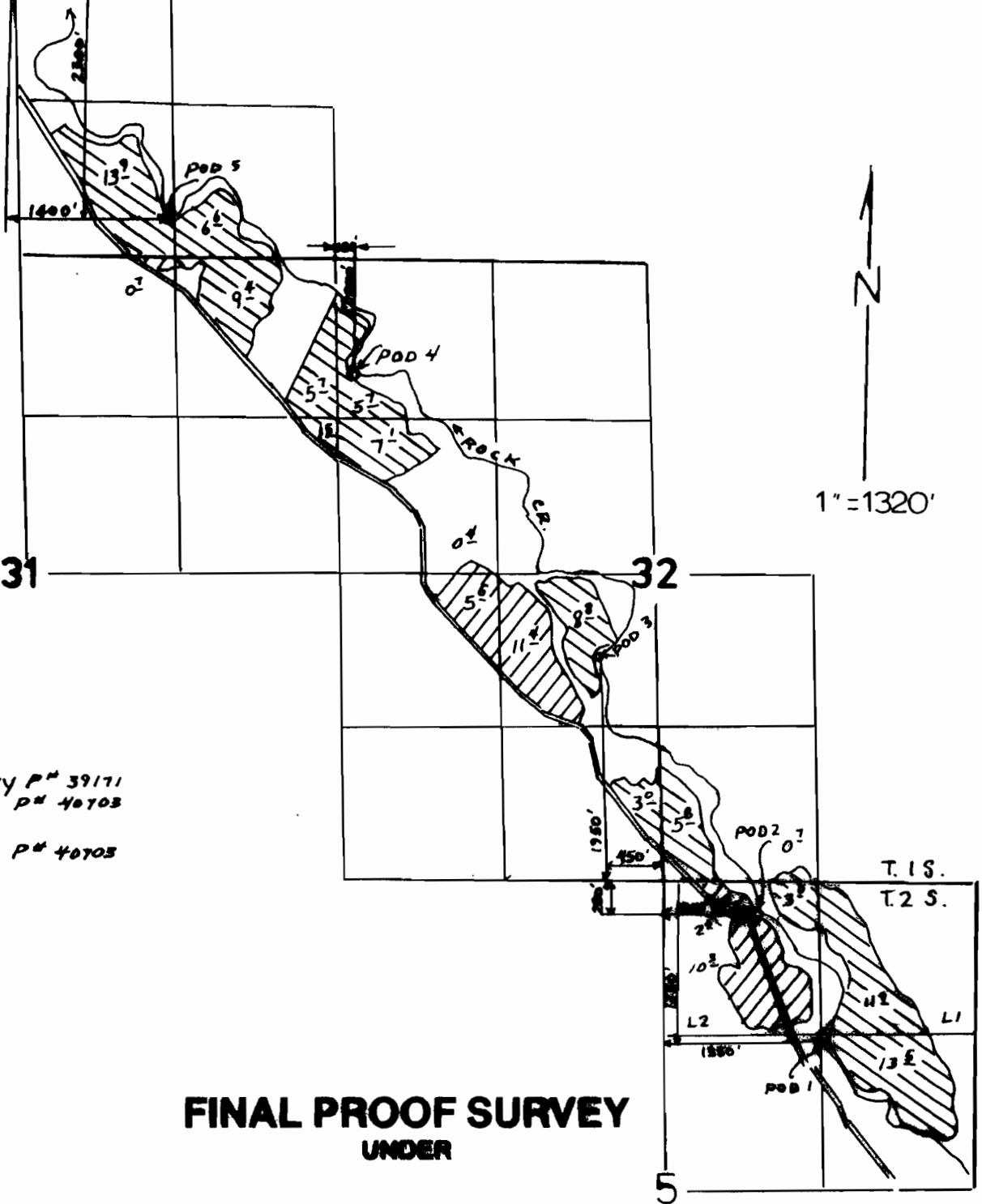
WITNESS the signature of the Water Resources Director, affixed APR 27 2007




 Phillip C. Ward, Director
 Water Resources Department

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T. 1 & 2 S., R 22 E., W.M.



 PRIMARY P# 39171
 Suppl. P# 40703
 Suppl. P# 40703

**FINAL PROOF SURVEY
UNDER**

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Application No. 53673. Permit No. 39171
 53773. 40703.....
 IN NAME OF

...HARRISON...M...WEATHERFORD...

Surveyed March 14, 2000, by J. MILLER..

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