



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-853

This Lease is between:

Lessor #1:

Name R D Jensen

Mailing address 14773 East Evans Creek Road

City, State, Zip Code Rogue River, Oregon 97537

Telephone number 541-582-1604

Email address rflmn@msn.com

Lessor #2, 3, etc.

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

Lessee (if different than Oregon Water Resources Department):

Name Oregon Water Trust

Mailing address 522 SW Fifth Avenue, Suite 825

City, State, Zip Code Portland, Or. 97204

Telephone number 503-525-0141

Email address steve@owt.org

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 34 S, Range 3 W, Section 33 and Tax Lot number 1000, 1201 and also 35S, 3W, S4, Tax lots 301 and 400. 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.

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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. 16125, 50907, 34514, 43252

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.: 16125

Priority date: 1874 Type of use: irrigation

Legal Season of Use: April 1 through October 31

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 1/4 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 ____, R ____, Section __, __1/4 __1/4 - _____ 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: 4

Acre-feet of storage, if applicable: na

Maximum rate associated with the right to be leased (cfs): 0.10

(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): no duty limitation

(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:

Neathammer Gulch Creek
Tributary to Evans Creek in the Rogue 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): The POD is in the SW SW of section 33, T 34 S, R 3 W. The instream reach will be from the POD, at approximately stream mile 0.3, to the mouth of Neathammer Gulch (also known as Neathammer Creek).

Maximum volume in acre-feet: 18 (at 4.5 ac-ft/ac)

Rate in cfs: 0.10

(Use the section below to indicate a more restrictive period of use than allowed by the water right.)

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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 1 through September 30.
- Other (describe): An applied duty of 4.5 ac-ft per acre will be utilized for the purpose of the instream lease to be consistent with permitted rights in the area.

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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 1, 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.

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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.

X Lessor #1: R.D. Jensen Date: 13 June 07
R D Jensen

For additional Lessors, type in space for signature and date

Lessee: Stephen Parrott for OWT Date: 6-10-07
Oregon Water Trust



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

Additional Water Right Form
Standard 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.

~I~ Water Right Holder and Water Right Information

Section 1.5 continued from Standard Application for Instream Lease.

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.: 50907

Priority date: December 1, 1923

Type

of use: irrigation

Legal Season of Use (if not listed on the certificate): April 1 through October 31

Is the entire water right certificate being leased? [X] Yes [] No

If no, list the acres to be leased by legal description of township, range, section, and 1/4 1/4, which will be dried up as part of this lease. Include a map (Attachment 3) showing the lands that will not receive water.

Place of use: T N, R W, Section , 1/4 1/4 - 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, if for irrigation: 1.9

Acre-feet of storage, if applicable: na

Rate associated with leased rights (cfs): 0.024

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

Duty associated with leased rights (AF): 8.55

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

Conditions or other limitations, if any: na

~II~ Instream Water Right Information

Section 2.2 continued from Standard Application for Short-Term Instream Lease.

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

Evans Creek

Tributary to Rogue River in the Rogue 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): The POD is located in the SE SW, Section 34, T34S, R3W, WM, the Carter Ditch - 530 feet north and 790 feet west from S1/4 Corner, Section 34. The instream right will be protected at the POD only, at approximately stream mile 14.

Maximum volume in acre-feet: 8.55

Rate in cfs: 0.024

(Use the section below to indicate a more restrictive period of use than allowed by the water right.)

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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 31.
- Other (describe): _____

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~I~ Water Right Holder and Water Right Information

Section 1.5 continued from Standard Application for Instream Lease.

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.: 34514

Priority date: May 10, 1965 Type of use: irrigation

Legal Season of Use (if not listed on the certificate): April 1 through October 31

Is the entire water right certificate being leased? Yes No

If no, list the acres to be leased by legal description of township, range, section, and 1/4 1/4, which will be dried up as part of this lease. Include a map (Attachment 3) showing the lands that will not receive water.

Place of use: T _____ N, R _____ W, Section _____, _____ 1/4 _____ 1/4 - _____ 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, if for irrigation: 1.2

Acre-feet of storage, if applicable: na

Rate associated with leased rights (cfs): 0.02

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

Duty associated with leased rights (AF): 5.4

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

Conditions or other limitations, if any: na

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~II~ Instream Water Right Information

Section 2.2 continued from Standard Application for Short-Term Instream Lease.

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

Neathammer Gulch Creek

Tributary to Rogue River in the Rogue 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): The POD is located in the NE SW, Section 33, T34S, R3W, WM, 1370 feet north and 1800 feet east from the SW Corner, Section 33. The instream right will be protected from the POD, at approximately stream mile 0.3, to the mouth of Neathammer Gulch (also known as Neathammer Creek).

Maximum volume in acre-feet: 5.4

Rate in cfs: 0.02

(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 31.
- Other (describe): _____

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~I~ Water Right Holder and Water Right Information

Section 1.5 continued from Standard Application for Instream Lease.

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.: 43252

Priority date: September 25, 1969

Type of use: irrigation and supplemental irrigation

Legal Season of Use (if not listed on the certificate): April 1 through October 31

Is the entire water right certificate being leased? [X] Yes [] No

If no, list the acres to be leased by legal description of township, range, section, and 1/4 1/4, which will be dried up as part of this lease. Include a map (Attachment 3) showing the lands that will not receive water.

Place of use: T ___ N, R ___ W, Section ____, ___ 1/4 ___ 1/4 - ___ 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, if for irrigation: 4.4 (primary) 8.4 supplemental

Acre-feet of storage, if applicable: na

Rate associated with leased rights (cfs): 0.16 (max combined rate for primary and supplemental)

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

Duty associated with leased rights (AF): 19.8

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

Conditions or other limitations, if any: 1/80th cfs per acre

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~II~ Instream Water Right Information

Section 2.2 continued from Standard Application for Short-Term Instream Lease.

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

Evans Creek

Tributary to Rogue River in the Rogue 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): The POD is located in the NE NW, Section 4, T 35S, R 3W, WM, POD#1 - 70 feet south and 1850 feet east; POD#2 - 240 feet south and 1450 feet east; both from the NW corner, Section 4, T35S, R3W, WM. The instream right will be protected at POD #1 only, at approximately stream mile 14.

Maximum volume in acre-feet: 19.8

Rate in cfs: 0.055 primary rights only

(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 31.
- Other (describe): _____

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WATER RESOURCES DEPT
SALEM, OREGON

STATE OF OREGON

COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

This Is to Certify That Dan Neathammer

of Rogus River, State of Oregon, has a right to the use of
the waters of Neathammer Gulch, a tributary of Evans Creek
for the purpose of irrigation of 4 acres,

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for Jackson County, and the said decree entered of record at Salem, in the Order Record of the STATE ENGINEER, in Volume 4, at page 1; that the priority of the right thereby confirmed dates from 1874;

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.10 cubic foot per second.

A description of the lands irrigated under such right, and to which the water is appurtenant (or, if for other purposes, the place where such water is put to beneficial use), is as follows:

4 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$
Section 33,
T. 34 S., R. 3 W., W. M.

And said right shall be subject to all other conditions and limitations contained in said decree.
The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer, affixed

this 30 day of September, 19 19 .

CHAS. E. STRICKLIN
State Engineer

Recorded in State Record of Water Right Certificates, Volume 13, page 16125

STATE OF OREGON

COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

This Is to Certify, That J. W. NEATHAMER

of Rogue River, State of Oregon 97537, has made proof to the satisfaction of the Water Resources Director, of a right to the use of the waters of Evans Creek

a tributary of Rogue River for the purpose of irrigation of 1.9 acres

under Permit No. 6124 and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from December 1, 1923.

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.024 cubic foot per second

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 34, T34S, R3W, WM, Carter Ditch - 530 feet North and 790 feet West from S $\frac{1}{4}$ Corner, Section 34.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre,

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

1.9 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$
Section 4
Township 35 South, Range 3 West, WM

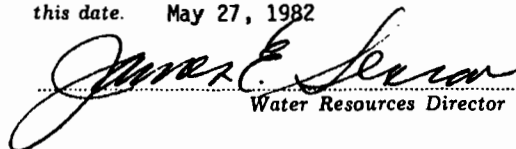
This certificate describes that portion of the water right confirmed by the prior certificate recorded at page 37661, Volume 29, State Record of Water Right Certificates, NOT canceled by the provisions of an order of the Water Resources Director entered January 11, 1982.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described and is subject to the existing minimum flow policies established by the Water Policy Review Board.

WITNESS the signature of the Water Resources Director, affixed

this date. May 27, 1982


Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 45, page 50907

STATE OF OREGON
COUNTY OF JACKSON
CERTIFICATE OF WATER RIGHT

This Is to Certify, That

DON L. FOWLER, DON A. FOWLER, and
JEAN C. FOWLER

of 185 Scenic Drive, Ashland, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of Neathammer Gulch

a tributary of Evans Creek (Rogue River) for the purpose of irrigation of 1.2 acres

under Permit No. 30466 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from May 10, 1965

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.02 cubic foot per second

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 33, T. 34 S., R. 3 W., W. M. Diversion point located 1370 feet North and 1800 feet East from the SW Corner, Section 33.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed $\frac{1}{4}$ acre feet per acre for each acre irrigated during the irrigation season of each year;

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

1.2 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$
Section 33
T. 34 S., R. 3 W., W. M.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer, affixed

this date. December 29, 1967

.....CHRIS L. WHEELER

State Engineer

STATE OF OREGON

COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

This Is to Certify, That DON A. FOWLER AND ELWYN L. ROWE

of 14773 E. Evans Creek Road, Rogue River, State of Oregon, 97537, has made proof to the satisfaction of the Water Resources Director, of a right to the use of the waters of Evans Creek

a tributary of Rogue River for the purpose of irrigation of 4.4 acres and supplemental irrigation of 8.4 ras

under Permit No. 34699 and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from

September 25, 1969 that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.16 cubic foot per second

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 4, T. 35 S., R. 3 W., W. M., #1-70 feet South and 1850 feet East; #2-240 feet South and 1450 feet East; both from the NW Corner, Section 4, T. 35 S., R. 3 W., W. M.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed $4\frac{1}{2}$ acre feet per acre for each acre irrigated during the irrigation season of each year, provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein,

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

Supplemental
5.2 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$
3.2 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$
Section 33
T. 34 S., R. 3 W., W. M.

Primary
3.0 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$
1.4 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$
Section 33
T. 34 S., R. 3 W., W. M.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described, and is subject to the existing minimum flow policies established by the Water Policy Review Board.

WITNESS the signature of the Water Resources Director, affixed

this date.

July 6, 1976

James E. Saxson
Water Resources Director