



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-867

This Lease is between:

Lessor #1:

Name US Fish & Wildlife Service
Mailing address 911 NE 11th Avenue
City, State, Zip Code Portland, Oregon 97232-4181
Telephone number 503-231-6251
Email address Dar_Crammond@fws.gov

Lessor #2, 3, etc.

Not Applicable

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

Lessee (if different than Oregon Water Resources Department):

Name Not Applicable
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 2 S, Range 1 W, Section 20 and Tax Lot number 100, 200, 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.

BR
9/10/07 see email

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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. _____

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.: 8117

Priority date: 12/5/1928 Type of use: Irrigation

Legal Season of Use: Irrigation Season

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 2 S, R 1 W, Section 20, SE $\frac{1}{4}$ SE $\frac{1}{4}$ - 17.00 acres to be leased

Enter additional places of use here, using format above:

T2S, R1W, Section 20, NE 1/4 SE 1/4 - 13 acres

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

Number of acres being leased, if for irrigation: 30 acres

Acre-feet of storage, if applicable: _____

Maximum rate associated with the right to be leased (cfs): 0.38 cfs

(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): _____

(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 Tualatin River in the Willamette Basin.

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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): SE 1/4 SE 1/4, Section 20, T2S, R1W, WM; NE 1/4 SE 1/4, Section 20, T2S, R1W, WM

Maximum volume in acre-feet: _____

Rate in cfs: 0.38 cfs

(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 04/01 through 09/30.
- 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, 2012.

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: T. Wang Date: 8/28/07
Agent, US Fish & Wildlife Service

For additional Lessors, type in space for signature and date

Lessee: _____ Date: _____

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Other Attachments as Needed:

Attachment 1: Tax Lot Map. (See instructions.)

Attachment 2: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. (See instructions.)

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

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United States Department of the Interior

FISH AND WILDLIFE SERVICE

Documentation of Water Right Utilization

I, Christopher Lapp, in my capacity as Deputy Refuge Manager
mailing address 19255 S.W. Pacific Highway, Sherwood, OR 97140

telephone number (503) 625-5944, say:

Water Right Certificate #: 8117

1. I attest that water was used during the previous five years on

the entire authorized place of use of the water right; or

a portion of the authorized place of use of the water right.

2. My knowledge of the exercise or status of the water right is based on (check one):

Personal observation

Professional expertise

3. My knowledge is specific to the use of water at the following locations:

Township		Range		Mer	Sec	¼ ¼ Section		Gov't Lot or DLC	Acres (if applicable)
2	S	1	W		20	SE 1/4	SE 1/4		17
2	S	1	W		20	NE 1/4	SE 1/4		13

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4. The water right was exercised for the authorized purpose described below (e.g., crops grown):
Irrigation of cool season pasture grass under cooperative farming agreement.

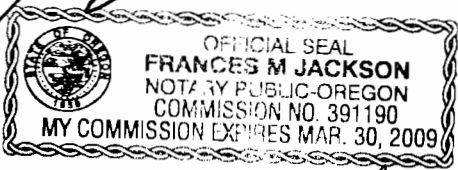
5. The water delivery system used to apply water as authorized by the right is described below:

A hard hose traveling gun irrigation system was used. A pump was installed at the respective POD's and the irrigation gun cart was pulled out some distance from the traveler. The hose reel was then slowly "reeled in" as the sprinkler gun was in operation giving us the ability to irrigate the entire authorized place of use of the water right.

6. Attached documentation supporting the above statements:

Digital photos _____

[Handwritten Signature]
Signature _____



Frances M. Jackson

8/7/07
Date _____

08/09/07

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STATE OF OREGON
COUNTY OF WASHINGTON
CERTIFICATE OF WATER RIGHT

This is to Certify, That **Edw. F. Peterson**

of **Sherwood**, 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 **Rock Creek** a tributary of **Tualatin River** for the purpose of **Irrigation** under Permit No. **8840** 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 **December 5, 1928**;

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 **0.38 cubic foot per second**;

The point of diversion is located in the ~~SE 1/4~~ ^{NE 1/4} of Section **20**, Township **2 S**, Range **17 W**, W. M. The use hereunder for irrigation shall conform to such reasonable rotation system as may be ordered by the proper state officer.

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 in case of rotation.

A description of the lands irrigated under the right hereby confirmed, and to which such right is appurtenant (if for irrigation or any other purpose), is as follows: **17 acres in the SE 1/4, 15 acres in the NE 1/4, Section 20, Township 2 South, Range 1 West of the Willamette Meridian in Washington County, Oregon.**

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

After the expiration of fifty years from the date of this certificate or on the expiration of any federal power license issued in connection with this right, and after not less than two years notice in writing to the holder hereof, the State of Oregon, or any municipality thereof, shall have the right to take over the dams, plants and other structures and all appurtenances thereto which have been constructed for the purpose of devoting to beneficial use the water rights specified herein, upon condition that before taking possession the State or municipality shall pay not to exceed the fair value of the property so taken, plus such reasonable damages, if any, to valuable, serviceable and dependable property of the holder of this certificate, not taken over, as may be caused by the severance therefrom of the property taken in accordance with the provisions of section 5728, Oregon Laws.

WITNESS the signature of the State Engineer,

affixed this **10th** day
of **September**, **1929**

Rhea Lupor

State Engineer.

Recorded in State Record of Water Right Certificates, Volume **8**, page **8117**

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
Tualatin River NWR -- Place of Use for C. 8117

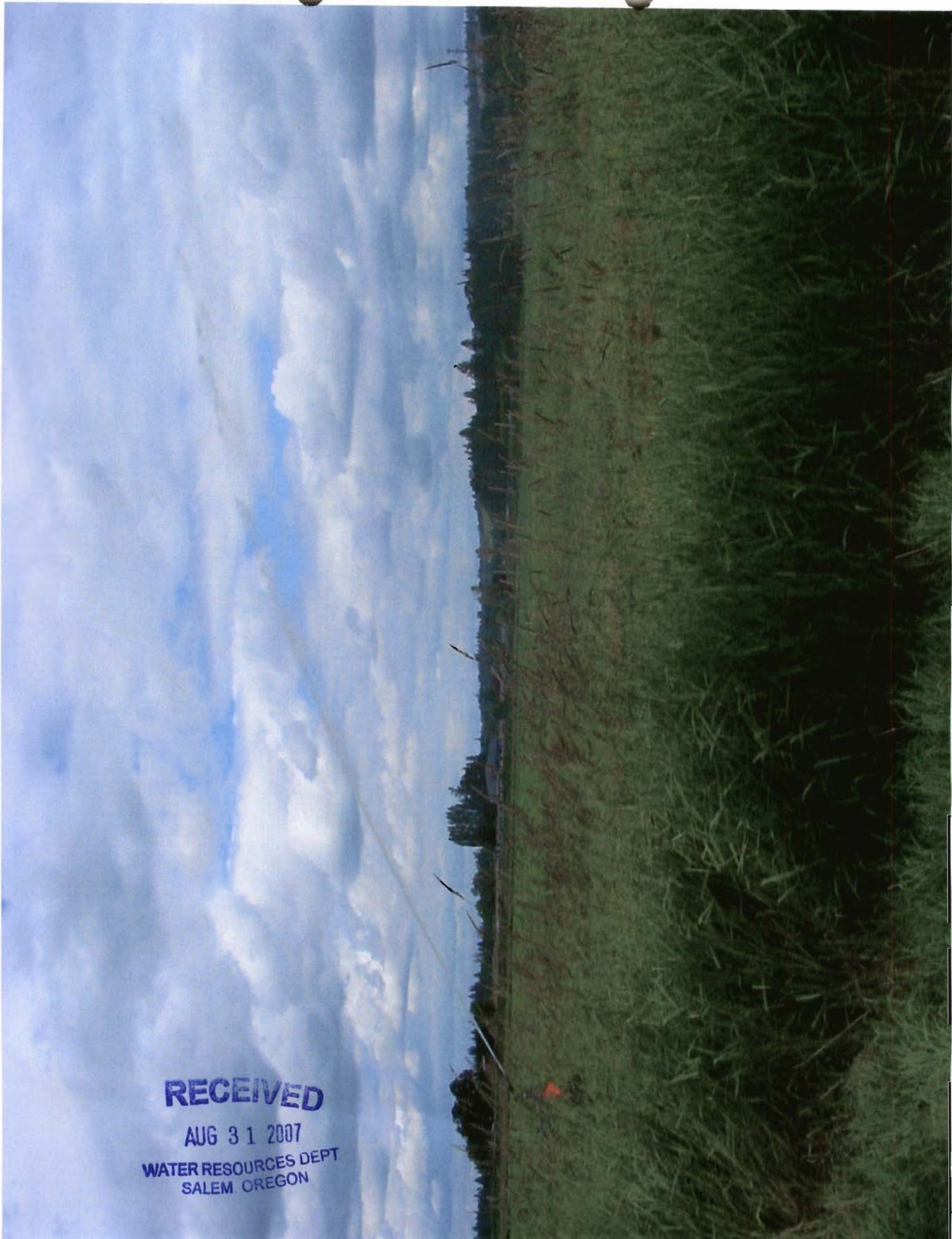


0 250 500 1,000 Feet

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Legend

-  Point of Diversion
-  Place of Use
-  Inholding
-  Tualatin River NWR Boundary



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