



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-849

This Lease is between:

Lessor #1:

Name Rick Stanley
 Mailing address PO Box 466
 City, State, Zip Code Fossil, OR 97830
 Telephone number 541-763-2234
 Email address _____

Lessor #2, 3, etc.

The water right to be leased is located in Wheeler ^{BR} County.

Lessee (if different than Oregon Water Resources Department):

Name Oregon Water Trust
 Mailing address 522 SW 5th Ave 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
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~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 6 S, Range 19 E, Section 7, 8, 17, 18 and Tax Lot number 300, 500, 1200. 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.

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. 4949, 47034, 24961, 66497

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.: 4949

Priority date: 12/29/1919 Type of use: irrigation

Legal Season of Use: April 1 through 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 $\frac{1}{4}$ $\frac{1}{4}$ 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 ____, R ____, Section __, $\frac{1}{4}$ $\frac{1}{4}$ - _____ 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: 48.1

Acre-feet of storage, if applicable: _____

Maximum rate associated with the right to be leased (cfs): .61

(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): 240.5

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

Conditions or other limitations, if any: The 48.1 acres identified on this certificate are the same 48.1 acres identified in Certificate 66497. The water right under certificate 66497 is meant to add to, but not be supplemental to, the water under this certificate. The result will be 0.6 cfs with a 1983 priority date under certificate 66497 and 0.6 cfs with a 1919 priority date under this certificate.

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).

~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:

John Day River

Tributary to Columbia 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): To be protected as a reach from the POD (2008.5 feet South, 21 degrees West of the quarter corner between Sections 17 and 18 in T. 6 S., R. 19 E., W.M.) to the mouth of the John Day River.

Maximum volume in acre-feet: 240.5

Rate in cfs: 0.61

(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 _____ through _____.
- Other (describe): The instream lease of the water rights should begin on June 22nd and run through the end of the irrigation season at the full rate allowed by the certificate so as not to exceed the total season duty limit.

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:  Date: 6/14/07
Rick Stanley

For additional Lessors, type in space for signature and date

Lessee:



David Pilz for the Oregon Water Trust

Date:

5/31/07



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Additional Water Right Form Standard Application for Instream Lease

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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.: 66497

Priority date: 8/11983 Type of use: irrigation and supplemental irrigation

Legal Season of Use (if not listed on the certificate): April 1 through September 30

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 $\frac{1}{4}$ $\frac{1}{4}$, 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 _____, _____ $\frac{1}{4}$ _____ $\frac{1}{4}$ - _____ 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: 56.4 primary, 4.9 supplemental

Acre-feet of storage, if applicable: _____

Rate associated with leased rights (cfs): 0.21 cfs from Butte Creek with deficiency in supply made up from John Day River; 0.12 cfs from John Day River for supplemental irrigation; 0.60 cfs from John Day River; for a total of 0.93 cfs.

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

Duty associated with leased rights (AF): 33.2 acre feet for 8.3 acres with Butte Creek water rights; 265 acre feet for 48.1 acres with John Day rights.

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

Conditions or other limitations, if any: The 48.1 acres identified on the certificate as "Tract 3" are the same 48.1 acres identified in Certificate 4949. In certificate 4949, the rate is limited to 1/80 cfs per acre. The water right in this certificate is meant to add to, but not be supplemental to, the water under certificate 4949. The result will be 0.6 cfs with a 1983 priority date under certificate 66497 and 0.6 cfs with a 1919 priority date under certificate 4949.

~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:

Butte Creek and John Day River Creek

Tributary to John Day River and Columbia 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): The instream right in Butte Creek is to be protected from the POD at approximately river mile 0.1 ("Diversion 3" on the certificate: 1000 feet south and 180 feet east of the East 1/4 corner of section

7) to the mouth. The instream right in the John Day River is to be protected from the POD at approximately river mile 97 ("Diversion 2" on the Certificate: 1000 feet north and 2700 feet east of the east 1/4 corner of section 7.

Maximum volume in acre-feet: 298.2

Rate in cfs: 0.21 cfs from Butte Creek; 0.60 cfs from John Day River.

(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 _____ through _____.

Other (describe): The instream lease of the Butte Creek water rights should begin on July 12 and run through the end of the irrigation season at 0.21 cfs so as not to exceed the total season duty limit. The instream lease of the John Day River water rights should begin on June 22 at 0.6 cfs so as not to exceed the total season duty limit.



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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.: 47034

Priority date: 9/7/1965 Type of use: irrigation

Legal Season of Use (if not listed on the certificate): April 1 through September 30

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 $\frac{1}{4}$ $\frac{1}{4}$, 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 _____, _____ $\frac{1}{4}$ _____ $\frac{1}{4}$ - _____ 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: 17.5

Acre-feet of storage, if applicable: _____

Rate associated with leased rights (cfs): 0.44 primary

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

Duty associated with leased rights (AF): 87.5 primary

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

Conditions or other limitations, if any: _____

~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:

John Day River

Tributary to Columbia 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): The primary right to be protected as a reach from the POD (NW 1/4 SW 1/4, Section 7, T. 6 S, R. 19 E., W.M., 590 feet South and 1020 feet East from C 1/4 Corner, Section 7) at approximately river mile 98 to the mouth.

Maximum volume in acre-feet: 87.5

Rate in cfs: 0.45

(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 6/22 through 9/30.
- Other (describe): _____



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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.: 24961

Priority date: 1887 Type of use: irrigation, domestic and stock

Legal Season of Use (if not listed on the certificate): April 1 through September 30

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: 46.9

Acre-feet of storage, if applicable:

Rate associated with leased rights (cfs): 1.17 cfs to June 1, 0.59 cfs from June 1 through September 30th
(Use additional lines if there is more than one rate associated with the water right.)

Duty associated with leased rights (AF): 46.9 acre feet per month from April 1 to June 1, 4 acre feet total for the season.

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

Conditions or other limitations, if any:

~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:

Butte 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): The instream right to be protected from the POD at approximately river mile 0.5 to the mouth.

Maximum volume in acre-feet: 187.6

Rate in cfs: 1.17 cfs before June 1, 0.59 cfs after June 1 through September 30.

(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 _____ through _____.

Other (describe): The instream lease of the water rights should begin on April 22nd and run through the end of the irrigation season at 0.59 cfs so as not to exceed the total season duty limit.