



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: _____
 Lease Agreement Number (assigned by WRD): L-485

This Lease Agreement is between:

Lessor #1:

(Name) Bureau of Land Management, Prineville District
 (Mailing address) 3050 NE 3rd St.
 (City, State, Zip Code) Prineville, OR 97754
 (Telephone number) (541) 416-6700

Lessor #2, 3, etc.

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

Lessee (if different than Oregon Water Resources Department):

(Name) Not Applicable
 (Mailing address) _____
 (City, State, Zip Code) _____
 (Telephone number) _____

Trustee:

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

PAID
 CK NO. 1049
 DATE 1-12-04
\$100.00

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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 6 S, Range 19 E, Section 32 and Tax Lot number 1100 and 400. 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 _____, 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.

Certificate No. 25435, 47874

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.: 25435

Priority date: 1898 Type of use: Irrigation and Domestic

Legal Season of Use: April 1 to Sept 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 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: 21.1

Acre-feet of storage, if applicable: _____

Maximum rate associated with subject water rights (cfs): 0.5275

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

Maximum duty associated with subject water rights (ac-ft): 105.5

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

Conditions or other limitations, if any: _____

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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).

~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

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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 Columbia 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 will 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 original Point of Diversion is located at approximately River Mile 102. The reach extends to McDonald Ferry (RM 21) for ease of measurement, except for the month of September, when the reach ends at Cottonwood Bridge (RM 40).

Maximum volume in acre-feet: 105.5

Rate in cfs: 0.5275 April 22nd to June 1st, 0.2638 June 1st through September 30th.(see table under "Conditions to prevent injury, if any:")

(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 flow will be allocated on a daily average basis of 0.5275 cfs from April 22 to June 1st and 0.2638 cfs from June 1st through September 30th. The instream flow will be allocated on a daily average basis up to described, or until such time that the total duty for the irrigation season is met. The instream rate use period has been reduced to 162 days so that the total duty is not exceeded. Because of the system involved there are losses in the system, this loss is addressed in this lease by the following table.

POD RM 102 / McDnld Fray RM 21 / Cttnwd Brdg RM 40 /	loss in cfs per mile	/ Month
0.53 0.31 0.36 0.00263		April
0.53 0.30 0.36 0.00277		May
0.26 0.08 0.12 0.00228		June
0.26 0.07 0.12 0.00238		July
0.26 0.02 0.08 0.00304		Aug
0.26 0.00 0.05 0.00343		Sept

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, 2008.

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. 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 (____), 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.

Lessor #1: Christina M. Welch Date: 1/9/2004
Christina M Welch, Central Oregon Resource Area Manager, Prineville District BLM

For additional Lessors, type in space for signature and date

Lessee: _____ Date: _____

Additional Information

Section 1.4, (Standard Leasing Form) cont.

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.: 47874

Priority date: Aug 7, 1975 Type of use: Irrigation

Legal Season of Use (if not listed on the certificate): _____

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, and include a map (Attachment 3) showing the lands which 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: 21.9

Acre-feet of storage, if applicable: _____

Rate associated with leased rights (cfs): 0.55 cfs

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

Duty associated with leased rights (AF): 109.5 AF

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

Conditions or other limitations, if any: _____

Section 2.2, cont.

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

John Day River

Tributary to Columbia River in the Columbia River Basin.

Describe the point of diversion and any associated reach(es) of the instream use being created. If possible list the reach by river mile, if no reach is identified, the lease will be processed to be protected at the point of diversion): The original Point of Diversion is located at approximately River Mile 102. The reach extends to McDonald Ferry (RM 21) for ease of measurement, except for the month of September, when the reach ends at Cottonwood Bridge (RM 40).

Total volume in acre-feet: 109.5

Rate in cfs: 0.55 (see table under "Conditions to prevent injury, if any:")

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Additional Information

Conditions to prevent injury, if any:

- None
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- Other (describe): The instream flow will be allocated on a daily average basis of 0.5275 cfs from April 22 to June 1st and 0.2638 cfs from June 1st through September 30th. The instream flow will be allocated on a daily average basis up to described, or until such time that the total duty for the irrigation season is met. The instream rate use period has been reduced to 162 days so that the total duty is not exceeded. Because of the system involved there are losses in the system, this loss is addressed in this lease by the following table.

POD RM 102 /	McDnld Fry RM 21 /	Ctnwd Brdg RM 40 /	loss in cfs per mile /	Month
0.55	0.33	0.38	0.00263	April
0.55	0.32	0.38	0.00277	May
0.27	0.09	0.13	0.00228	June
0.27	0.08	0.13	0.00238	July
0.27	0.03	0.09	0.00304	Aug
0.27	0.00	0.06	0.00343	Sept

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