



State of Oregon
Water Resources Department
725 Summer Street NE, Suite 400
Salem, Oregon 97301-1271
(503) 986-0900

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WATER RESOURCES DEPT
SALEM, OREGON

Application for Short-Term Instream Lease

A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/publication/reports/index.shtml.

Pursuant to ORS 537.348(2) and OAR 690-077-0077

Optional Identification by Lessor/Lessee: _____
Lease Agreement Number (assigned by WRD): 2-689

This Lease Agreement is between:

Lessor #1:

(Name) Central Oregon Resource Area BLM
(Mailing address) 3050 NE 3rd St.
(City, State, Zip Code) Prineville, OR 97754
(Telephone number) (541) 416-6747
(Email address) Anna_K_Smith@or.blm.gov

Lessor #2, 3, etc.

The water right to be leased is located in Wasco 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 N.E., Suite "A"
Salem, OR 97301-1271
(503) 986-0900

~I~ Ownership and Water Right Information

1.1 Lessor #1 is the owner, or authorized agent for owner of property located at: Township 7 S, Range 19 E, Section 20,29 and Tax Lot number 100. 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. 75836 (confirmed remaining from C38666) overlain by a portion of 38665, which is being leased instream

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.: 75836

Priority date: Novembe 2, 1959 Type of use: irrigation

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.

See attachment

Place of use: T ___ S, R ___ E, 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: 39.4 ^{36.8} ~~289~~

Acre-feet of storage, if applicable: _____

Maximum rate associated with subject water rights (cfs): 0.48 ^{0.46}

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

Maximum duty associated with subject water rights (ac-ft): 197 ¹⁸⁹

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

Conditions or other limitations, if any: NA

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

Recreation and scenic attraction

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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 River 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): 7.0S-19.0E Sec 20 NESW

Maximum volume in acre-feet: 174.2 ¹⁸⁹

Rate in cfs: 0.27 at the point of diversion (reduced from total cert diversion rate of 0.48 cfs to 56% of total to account for the return flows as a condition to prevent injury) ^{0.96}

The instream flow reach is as follows in cfs:

Month	Original	POD RM 102	McDonald Ferry Station RM 21	Cottonwood Bridge RM 40
Apr	0.27		0.04	0.09
May	0.27		0.03	0.08
June	0.27		0.07	0.11
July	0.27		0.06	0.11
Aug	0.27		0.00	0.06
Sept	0.27		0.00	0.04

(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 total volume of water leased has been reduced by 56% to account for return flows. In addition, evaporative losses were included in the reach calculations.

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, 2010.

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, 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 (NA), 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: Dorothy A. Dippsey Date: 9/14/05
Acting for
Christina M Welch
Central Oregon Resource Area Manager BLM

For additional Lessors, type in space for signature and date

Lessee: _____ Date: _____

Other Attachments as Needed:

- Attachment 1: Tax Lot Map of Lessor's Property (required if landowner is not the sole landowner to lands for which the subject water rights are appurtenant)
- Attachment 2: Detailed map illustrating lands under subject rights to be leased (required if only part of a right is being leased instream).

Instructions for the Standard Instream Leasing Form

When Do I Use This Form?

Most individuals will use the “Standard Lease Form”. If you wish to lease more than one water right, then also use the “Additional Water Rights Form” for each additional water right to be leased. For more information on the different types of Lease Forms go to <http://www.wrd.state.or.us/programs/stewardship/forms/Instructions/Overall.pdf>.

Instructions for Completing a Lease Form

Lease Agreement Number: Water Resources Department staff in Salem will assign this number.

Required Parties to the Lease

Lessors: The lessor is the owner, or an authorized agent, of the property where, during the term of the lease:

- Water use will be suspended; or
- Water stored in a reservoir will be released for instream use.

If the lands to which the subject water rights are attached fall within the boundaries of an irrigation district or other water purveyor, as defined in ORS Chapters 545, 547, 552, 553, or 554, that organization must be a party to the lease and should be listed as lessor #2.

Spouses and immediate family can all be listed as lessor #1. If another individual or organization also has an ownership in the rights being leased, they should be listed as Lessor #2, #3, etc.

Lessee: The Lessee is normally an organization, agency or individual who may compensate (or provide other consideration of value to) the Lessor for leasing the subject right for instream use.

Trustee: The Trustee is the Oregon Water Resources Department. If a person leases a

right to the State without third party involvement, the Department will also be considered the Lessee.

Other Parties: Private ditch companies, mortgage holders and others may have an interest in the lease. The legally required parties may, at their discretion, add other parties as co-lessors.

Section One

1.1 Provide the legal description for the lands being leased. Attachment 1, Tax Lot Map of Lessor’s Property, is only needed if a portion of the water right is appurtenant to lands owned by others. Tax lot maps can be found at <http://www.gis.state.or.us/data/ormap/statemap.htm>.

1.2 Identify who is Lessor #2, #3, etc., if necessary. If this section does not apply, indicate so.

1.3 Provide an inventory of all of the water rights attached to the property. Water rights information may be found at <http://stamp.wrd.state.or.us/apps/wr/wrinfo/wrinfo.php>. List all supplemental, as well as all primary rights, even if the supplemental rights are still in permit status. Indicate if the supplemental rights are not being leased instream.

Only water right certificates can be leased instream, with the exception that a secondary right to use stored water, even if in permit status, can be leased. If this type of permit is being leased, indicate that it is a permit and list its number.

1.4 Indicate if some or all of the lands are enrolled in the federal Conservation Reserve Enhancement Program. The Department will send a copy of the lease application and the associated order to the Farm Services Administration.