



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: Forrest Conservation Area
Lease Application Number (assigned by WRD): IL-913

This Lease is between:

Lessor #1:

Name Confederated Tribes of the Warm Springs Reservation of Oregon
Mailing address John Day Basin Office, 68073 Highway 26
City, State, Zip Code Prairie City, Oregon 97869
Telephone number (541) 421-3931
Email address oxbowca@ortelco.net

Lessor #2, 3, etc.

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

Lessee (if different than Oregon Water Resources Department):

Name _____
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 11 S, Range 3435 E, Section 13, 18, 19, 20 and Tax Lot number Sec. 13: 3, 6, 500; Sec. 18: 3, 4; Sec. 19: 5, 6, 500; Sec. 20: 500, 500A3. 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. 55745

Certificate No. 82406

Certificate No. 55744

Certificate No. 55743 (supplemental)

Certificate No. 7653

Certificate No. 82405 (supplemental)

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.: 55745

Priority date: 1902 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 ___ S, R ___ E, 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: 15.4

Acre-feet of storage, if applicable: n/a

Maximum rate associated with the right to be leased (cfs): 0.385 cfs April to June 1, 0.193 cfs June through September.

(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): 15.4 acre-feet per month during April and May not to exceed 61.6 acre-feet for the entire season

(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

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- ☐ 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:

Caribou (Dead Cow Gulch) Creek

Tributary to Middle Fork John Day River in the John Day 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): Reach will be from the POD as described on the Certificate as SW 1/4 Sec. 18, T.11S., R.35E., W.M.; to the mouth of Dead Cow Gulch.

Maximum volume in acre-feet: 61.6

Rate in cfs: 0.193

(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 April 24 through September 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:  Date: 4-2-08

For additional Lessors, type in space for signature and date

Lessee: _____ Date: _____

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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SALEM OREGON**

STATE OF OREGON

COUNTY OF

GRANT

CERTIFICATE OF WATER RIGHT

This Is to Certify, That

OREGON LUMBER COMPANY A UTAH CORP.
BY W. J. ECCLES, VICE PRESIDENT

of Baker, State of Oregon, has
a right to the use of the waters of Caribou Creek (Dead Cow Gulch)

a tributary of Middle Fork John Day River for the purpose of
irrigation of 15.4 acres

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for
Grant County, and the said decree entered of record at Salem, in the Order Record of
the WATER RESOURCES DIRECTOR, in Volume 15, at page 461; that the priority of the right
thereby confirmed dates from 1902

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 1/40 cubic foot
per second per acre irrigated to June 1 and 1/80 cubic foot per second per
acre thereafter; further limited to one acre-foot per calendar month to June 1
and four acre-feet per acre during season April 1 to September 30, measured at
point of diversion

The point of diversion is located in the SW 1/4, Section 18, T11S, R35E, WM.

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

1.0 acre Lot 3 (NW 1/4 SW 1/4)
13.4 acres Lot 4 (SW 1/4 SW 1/4)
1.0 acre SE 1/4 SW 1/4
Section 18
Township 11 South, Range 35 East, WM

This certificate describes that portion of the water right confirmed by the
prior certificate recorded at page 25660, Volume 18, State Record of Water
Right Certificates, NOT canceled by the provisions of an order of the Water
Resources Director entered on January 21, 1987.

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.

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 Water Resources Director, affixed

this date March 6, 19 87

/s/ William H. Young

Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 51, page 55745

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