

# 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: Oxbow Conservation A Lease Application Number (assigned by WRD): TL-9/2	
This Lease is between:	
Lessor #1:  Name Confederated Tribes of the Warm Springs Reservation of O  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	- VECEIAED
Trustee:	<b>APR</b> 0 9 <b>2008</b>
Oregon Water Resources Department	WATER RESUURCES DEPT
725 Summer Street NE, Suite A SALEM OREGON	
Salem, OR 97301-1266 (503) 986-0900	
~I~ Water Right Holder and Water Righ	t Information
2 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	
1.1 Lessor #1 is the water right holder, or authorized agent for property located at: Township 1011 N, Range 3334 and Tax Lot number Sec. 5/6: 200; Sec. 36: 1600 appurtenant to these lands is also appurtenant to lands own included in this application, then Attachment 1 (tax lot may	W, Section 36, 5, 6  If the water right sed by others who are not

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.
1.0	Indicate if there are any supplemental or overlying rights.
	Certificate No. 25093
	Certificate No. 25260 Cortificate No. 2045  APR 0 9 2008
	Certificate No. 5945
	Certificate No. 25088 WATER RESOURCES DEPT SALEM OREGON
1.4	Are some or all of the lands being leased part of a Conservation Reserve Enhancement
1.4	Program. X Yes No
	110g.tam.
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.: 25093
	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 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 S, R E, Section, 4-4 dark acres to be leased
	Enter additional places of use here, using format above:
	Enter additional places of use note, using formal above.
	Page (Identify page number of certificate, if certificate is greater than 10 pages.)
	Number of acres being leased, if for irrigation: 13.2
	Acre-feet of storage, if applicable: n/a
	Maximum rate associated with the right to be leased (cfs): 0.33 cfs April and May, 0.165
	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): 13.2 acre-feet per month
	during April and May not to exceed 52.8 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: 10.3 acres of the 13.2 acres identified in this
	certificate are being enrolled in the Conservation Reserve Enhancement Program.
If vo	ou need to enter another leased right, please use the additional water rights form.
11 ) 0	a need to enter another reased right, preuse use the additional viater 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

APR 0 9 2008
WATER RESUURCES DEPT
SALEM OREGON

2.1	Public use. This lease will increase streamflows that will benefit:
	<ul> <li>Conservation, maintenance and enhancement of aquatic and fish life, wildlife, and fish and wildlife habitat</li> <li>Pollution abatement</li> <li>Recreation and scenic attraction</li> </ul>
2.2	Instream use created by lease. The instream use to be created is described as follows:
	Beaver 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 indicated on the adjucation map in T10S, R34E, Section 31, NW1/4 SW1/4 to the mouth of Beaver Creek.  Maximum volume in acre-feet: 52.8  Rate in cfs: 0.165  (Use the section below to indicate a more restrictive period of use than allowed by the water right.)
	<ul> <li>Conditions to prevent injury, if any: <ul> <li>None</li> <li>The instream flow will be allocated on a daily average basis up to the described rate from April 23 through September 30.</li> <li>Other (describe):</li> </ul> </li> </ul>
	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 <u>September 30, 2012</u> .
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

### ~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

continuously measure the flow of the waterway described in Section 2.2.

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 then 30-
		days prior to the period of allowed instream use or after the period of allowed use has
RECE	IVE	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
APR 0 9	2008	enlargement would not occur. The Department may also require:
		Written notice to the Department with original signatures;
ERRESUL SALEM O	BECUN	Consent by an parties to the rease, and or
GPILLETTI O		• 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.
;		<b>Modification to prevent injury.</b> 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:
,	J. /	\$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 ado	litional Lessors, type in space for signature and date

Lessee:

Date:

COUNTY OF

GRANT

# CERTIFICATE OF WATER RIGHT

This Is to Certify, That W. A. DEWITT

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 STATE ENGINEER, in Volume 15, at page 1, 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 Sept. 30, measured at point of diversion. A description of the lands irrigated under such right, and to which the water is appurtenant (or, if for other purposes, the place where such water is put to beneficial use), is as follows:

3.2 acres in SEINEL 10.0 acres in NEISEL Section 36, T. 10 S., R. 33 E., W. M.

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SALEM OREGON

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 State Engineer, affixed

this lst day of May , 19 59

LEWIS A. STANLEY

State Engineer

Recorded in State Record of Water Right Certificates, Volume 17, page 25093



# Additional Water Right Form Standard 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.

# ~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.: <u>25260</u>
Priority date: 1890 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 ¼ ¼, 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 11 S, R 34 E, Section 5, SW 1/4 NW 1/4 - 0.43 acres to be leased Enter additional places of use here, using format above: T11S, R34E Section 5, SE1/4NW1/4 - 2.5 acres to be leased
T11S, R34E Section 5, NE1/4SW1/4 - 1.4 acres to be leased
Page (Identify page number of certificate, if certificate is greater than 10 pages.)
1 tigo (xacinity page named of continuate, it continuate is greater than 10 pages.)
Number of acres, if for irrigation: 4.33 leased, 17.2 total for water right
Acre-feet of storage, if applicable: N/A
Rate associated with leased rights (cfs): 0.108 cfs April and May, 0.054 cfs June through September.
(Use additional lines if there is more than one rate associated with the water right.)
Duty associated with leased rights (AF): 4.33 acre-feet per month during April and May not to exceed 17.32
acre-feet for the entire season.  (Use additional lines if there is more than one duty associated with the water right.)
(Use additional lines if there is more than one duty associated with the water right.)
Conditions or other limitations, if any: None APR 0 9 2008
~II~ Instream Water Right Information WATER RESOURCES DEP SALEM OREGON
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:
Granite Boulder Creek
Tributary to Middle Fork 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):
Reach will be from the POD indicated on the adjucation map in T10S, R34E, Section 32,
SW1/4NE1/4 to the mouth of Granite Boulder Creek
Maximum volume in acre-feet: 17.32
Rate in cfs: 0.054 cfs (Use the section below to indicate a more restrictive period of use than allowed by the water right.)
(Use the section below to indicate a more restrictive period of use than allowed by the water right.)

Co	onditions to prevent injury, if any:
	None
$\boxtimes$	The instream flow will be allocated on a daily average basis up to the described rate from
	April 23 through September 30
	Other (describe):

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WATER RESUURCES DEPT
SALEM OREGON

COUNTY OF CRANT

## CERTIFICATE OF WATER RIGHT

This Is to Certify, That ESTATE OF J. S. GUTTRIDGE

of Prairie City

, State of Oregon

, has a right to the use of

the waters of

Cranite Boulder Creek

Tree oat 1

for the purpose of

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 STATE ENGINEER, in Volume 15 , at page 461; that the priority of the right thereby confirmed dates from 1890

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 Sept. 30, measured at point of diversion.

A description of the lands irrigated under such right, and to which the water is appurtenant

(or, if for other purposes, the place where such water is put to beneficial use), is as follows:

7.4 acres in SWANWA
8.4 acres in SEANWA
1.4 acres in NEASWA
Section 5.
T. 11 S., R. 34 E., W. M.

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WATER RESOURCES DEPT SALEM OREGON

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 State Engineer, affixed

this 1st 'day of

May

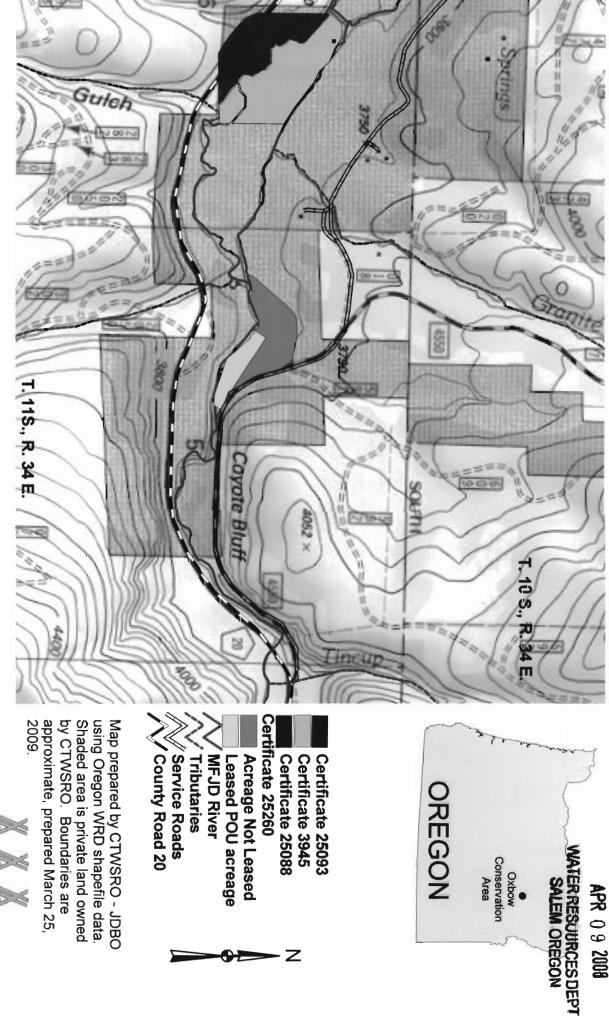
, 19 **59** .

LEWIS A. STANLEY

State Engineer

Recorded in State Record of Water Right Certificates, Volume 17 , page 25260

# Proposed Leases of Water Rights on the Oxbow Conservation Areaeceived





Certificate 25088 Certificate 3945

Acreage Not Leased Leased POU acreage

Service Roads

Map prepared by CTWSRO - JDBO using Oregon WRD shapefile data. approximate, prepared March 25, 2009. Shaded area is private land owned by CTWSRO. Boundaries are



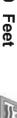
6000 Feet

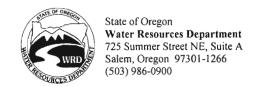
4000

2000

0

2000





# Additional Water Right Form Standard 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.

## ~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.: 25088	
Priority date: 1886 Type of use: Irrigation	
Legal Season of Use (if not listed on the certificate): April 1 through September 3	0
Is the entire water right certificate being leased? $\boxtimes$ Yes $\square$ No	0
If no, list the acres to be leased by legal description of township, range, so	ection and ¼¼ which
will be dried up as part of this lease. Include a map (Attachment 3) show	-
not receive water.	
Place of use: TS, RE, Section,1/41/4	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.)	
rage (Identity page number of certificate, it certificate is greater than 10 pages.)	)
Number of acres, if for irrigation: 15.5	
Acre-feet of storage, if applicable: N/A	
Rate associated with leased rights (cfs): 0.388 M.F. John Day River and .388 Big Bu	itte Creek
(Use additional lines if there is more than one rate associated with the water right.)	
Duty associated with leased rights (AF): 15.5 AF during any calendar month and not	t to exceed 62 AF for Big
Butte Creek, and 77.5AF for MFJD River in season.	
(Use additional lines if there is more than one duty associated with the water right.)	RECEIVED
Conditions or other limitations, if any: None	APR 0 9 2008
~II~ Instream Water Right Information	WATER RESUURCES DEPT SALEM OREGON
Section 2.2 continued from Standard Application for Short-Term Instream	
Instream use created by lease. The instream use to be created is described a	
Middle Fork John Day River and Big Butte Creek	
Tributary to North Fork John Day River in the John Day Basir	1.
Describe the point of diversion (POD) and any associated reach(es) of the ins	O
created. If possible list the reach by river mile. If no reach is identified, and	•
listed on the certificate, the lease may be processed to be protected at the POI	
POD is listed on the certificate, then the POD and any associated reach(es) m	•
Reach for MF John Day River will be only at the MF John Day River POD; 1	reach for Big Butte
Creek will be from the Butte POD to the mouth of Big Butte Creek.	1.00 . 7.0 . 7.1
Maximum volume in acre-feet: 15.5 AF during any calendar month and not t	o exceed 62 AF for Big
Butte Creek, and 77.5AF for MFJD River in season.	
Rate in cfs: 0.258 for Butte Creek, 0.258 for MFJD River	
(Use the section below to indicate a more restrictive period of use than allowed by the water	right.)

Co	nditions to prevent injury, if any:
	None
$\boxtimes$	The instream flow will be allocated on a daily average basis up to the described rate from
	June 2 through September 30 for Butte Creek and
	May 3 through September 30 for Middle Fork John Day River
	Other (describe):



COUNTY OF

GRANT

# CERTIFICATE OF WATER RIGHT

This Is to Certify, That

ADDA M. DEWITT

of ·

Austin

, State of Oregon

, has a right to the use of

the waters of

Middle Fork John Day River and Big Butte Creek

for the purpose of

Irrigation, Domestic and Stock

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for County, and the said decree entered of record at Salem, in the Order Record of the STATE ENGINEER, in Volume 15, at page 461, that the priority of the right thereby confirmed dates from 1886

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

#### See Below

A description of the lands irrigated under such right, and to which the water is appurtenant (or, if for other purposes, the place where such water is put to beneficial use), is as follows:

15.5 acres in Swhmeh Section 6, T. 11 S., R. 34 E., W. M.

Middle Fork John Day River:

1/40 cubic foot per second per acre irrigated from April 1 to Sept. 30; further limited to one acre-foot per acre per calendar month; total of five acre-feet per acre for season, measured at point of diversion.

Big Butte Creek:

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 Sept. 30, measured at point of diversion.

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WATER RESOURCES DEPT SALEM OREGON

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 State Engineer, affixed

this 1st day of

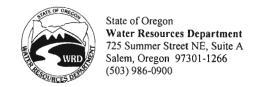
May

, <sup>19</sup> 59

LEAIS A. STANLEY....

State Engineer

Recorded in State Record of Water Right Certificates, Volume 17 , page 25088



# Additional Water Right Form Standard 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.

Section 1.5 continued from Standard Application for Instream Lease.

# ~I~ Water Right Holder and Water Right Information

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.: 3945
Priority date: 1919 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 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: Ts, RE, Section,'/4/4 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: 10 RECEIVED
Acre-feet of storage, if applicable: N/A
Rate associated with leased rights (cfs): 0.125 APR 0 9 2008
(Use additional lines if there is more than one rate associated with the water right.)
Duty associated with leased rights (AF): 40 WATER RESOURCES DEPT
(Use additional lines if there is more than one duty associated with the water right.)  SALEM OREGON
Conditions or other limitations, if any: <u>Duty not specified in Certificate</u> , but 4 AF per acre per season
s typical for this area of the John Day Basin, and treated as implied for the purpose of this lease
~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:
Big Butte Creek
Tributary to Middle Fork 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):
Reach will be from the existing POD in T11S, R34E, Section 5, SW1/4NE1/4 to the mouth of (Big)
Butte Creek
Maximum volume in acre-feet: 40
Rate in cfs: 0.125 (Use the section below to indicate a more restrictive period of use than allowed by the water right.)
(Ose the section below to indicate a more restrictive period of use than anowed by the water right.)

Conditions to prevent injury, if any:		
	None	
$\boxtimes$	The instream flow will be allocated on a daily average basis up to the described rate from	
	April 23 through September 30	
	Other (describe):	

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APR 0 9 2008
WATER RESUURCES DEPT
SALEM OREGON

**COUNTY OF** 

GRANT . . . . . .

# CERTIFICATE OF WATER RIGHT

This is to Certify, That

MRS. A. M. DOWNT A CO. Company Co.

, State of. , has made proof. Oregon to the satisfaction of the STATE WATER BOARD of Oregon, of a right to the use of the waters of Big Butte Creek

for the purpose of a tributary of Middle Fork John Day under Permit No. 4266 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon and duly confirmed by order of the STATE WATER BOARD of Oregon, made and entered of record in the Record of Proceedings of said Board, at Salem, in Volume 1. , at page 461 , on the 15th day of February ,1923; that the priority of the right hereby confirmed dates from October 20, 1919 that the priority of the right hereby confirmed dates from

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 0.125 cubic feet per second, or its equivalent in case of rotation. The use hereunder for irrigation shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the lands under such right, and to which the water hereby confirmed is appurtenant, or, if for other purposes, the place where such water is put to beneficial use, is 10 acres in the Southwest quarter of Northeast quarter of Section . , Six, Township Eleven South, Range Thirty-four East of Willamette Meridian, in Grant County, Oregon.



APR 0 9 2008

WATER RESOURCES DEP SALEM OREGON

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

Rights to the use of water for power purposes are limited to a period of forty years from the date of priority of the right, as herein set forth, subject to a preference right of renewal under the laws existing at the date of the expiration of the right for power purposes, as hereby confirmed and limited.

WITNESS the seal and signature of the State

Water Board, affixed this dan

, 1923 February

STATE WATER BOARD

(Seal of State Water Board)

: Attest: R. W. POTTER

Recorded in State Record of Water Right Certificate, Volume 5 page 3945 .

