



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-572

This Lease Agreement is between:

Lessor #1:

(Name) Robert F. Brown
 (Mailing address) PO Box 559
 (City, State, Zip Code) Ft. Klamath, OR 97626
 (Telephone number) (541) 381-2261

Lessor #2, 3, etc.

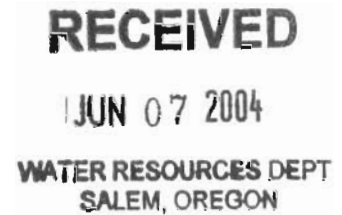
The water right to be leased is located in Klamath County.

Lessee (if different than Oregon Water Resources Department):

(Name) Klamath Basin Rangeland Trust
 (Mailing address) 340 A Street, Ste. 201
 (City, State, Zip Code) Ashland, OR 97520
 (Telephone number) (541) 488-4822

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 34 S, Range 6 E, Section 1 and 2 and T33S R6E section 35 and Tax Lot number 72619. 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. 10928 and 10929

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.: 10928

Priority date: 1888 and 1890 Type of use: irrigation

Legal Season of Use: April 1 to October 1

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:

All water rights associated with the lessor's property are included in this lease and will be dried up. Some water rights shown on the certificate are owned by an adjacent landowner and are not included in this lease. The lands that will be dried up as part of this lease include:

1888 Priority Date (water source is Springs and Crane Creek)

T 33S, R 6E, Section 35: NW1/4 SE1/4 - 39.3 acres, SW1/4 SE1/4 - 40.0 acres, SE1/4 SE1/4 - 15 acres.

1890 Priority Date (water source is Sevenmile Creek)

T 33S, R 6E, Section 35: NE1/4 SE1/4 - 40.0 acres, SE1/4 SE1/4 - 25 acres.

Page _____ (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres being leased, if for irrigation: 159.3 total acres. Acreage to be irrigated by 1888 water rights is 94.3, and acreage to be irrigated by the 1890 water rights is 65.0.

Acre-feet of storage, if applicable: 0

Maximum rate associated with subject water rights (cfs): Maximum rate under 1888 rights from Springs and Crane Creek (94.3 acres) are: 1.89cfs from 4/1 to 7/20 and 1.18cfs from 7/21 to 10/1.

Maximum rate under 1890 rights from Sevenmile Creek (65 acres) are: 1.30cfs from 4/1 to 7/20 and 0.81cfs from 7/21 to 10/1.

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

Maximum duty associated with subject water rights (ac-ft): 796.5 AF total duty. Total duty for 1888 rights is 471.5AF, and total duty for the 1890 rights is 325AF.

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

Conditions or other limitations, if any: none.

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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).

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~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

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

Springs, Crane Creek and Sevenmile Creek
Tributary to Agency Lake in the Klamath 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 water will be protected at the appropriate POD's which include:

Maximum volume in acre-feet: For Sevenmile Creek (1890) the total volume protected is 325 AF, and for Crane Creek and Springs (1888) the total volume protected is 471 AF.

Rate in cfs: For Sevenmile Creek (1890) 1.30cfs will be protected from 5/1 through 7/20, and 0.81cfs will be protected from 7/21 up to 10/1.

For Crane Creek (1888) 1.88cfs will be protected from 5/1 through 7/20, and 1.18cfs will be protected from 7/21 up to 10/1. If sufficient water to meet these protections is not available from Crane Creek, the necessary additional water will be protected from the springs.

(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): _____

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, 2004.
- 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 (____), 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: RF Brown
Robert F. Brown

Date: June 4, 04

For additional Lessors, type in space for signature and date

Lessee: Christ A. Lambert, Christen A. Lambert Date: 6/3/2004
Klamath Basin Rangeland Trust Executive Director

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).
- 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 1.5 is checked)
- Attachment 4: Split Season Instream Use Form

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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.: 10929

Priority date: 1889 and 1891 Type of use: irrigation, domestic, and stock use

Legal Season of Use (if not listed on the certificate): April 1 to October 1

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:

Some water rights shown on the certificate are owned by an adjacent landowner and are not included in this lease. The southern 30 acres of the property located in T 34S, R 6E, Section 1, Lot 20 (1889) will remain irrigated (the northern 10 acres will be dry) and all 20 irrigated acres in T 34S, R 6E, Section 2, Lot 17 (1889) will continue to be irrigated. All acreage in Lot 10 on the west side of Sevenmile Creek will continue to be irrigated (1891), as will the southern 20 acres in Lot 11 (1889), all within T 34S, R 6E, Section 1.

The lands that will be dried up as part of this lease include:

1889 Priority Date (water source is Mare's Egg Spring, Springs and Crane Creek)

T 34S, R 6E, Section 1: Lot 5 - 39.6ac, Lot 6- 39.2ac, Lot 11 - southern 20 acres, Lot 12 - 40.0 ac, Lot 13 - 40.0ac, Lot 20 - 10.0ac. With an 1891 Priority Date (Sevenmile Creek) 1.6 acres of Lot 7.

T 34S, R 6E, Section 2: Lot 1 - 26.2ac, Lot 2 - 26.1ac, Lot 3 - 25.6ac, , Lot 6 - 40.0ac, Lot 7 - 40.0ac, Lot 8 - 40.0ac, Lot 9 - 35.0ac, Lot 10 - 20.0ac, Lot 16 - 30.0ac, and Lot 24 - 20.0ac. All with 1889 Priority Date (water source is Mare's Egg Spring, Springs and Crane Creek)

Page (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres, if for irrigation: Total acreage is 491.7. Acreage to be irrigated under the 1889 water rights is 490.1, and acreage to be irrigated under the 1891 water rights is 1.6.

Acre-feet of storage, if applicable: 0

Rate associated with leased rights (cfs): Maximum rate under 1889 rights from Mares Egg Spring, Springs and Crane Creek (490.1 acres) are: 9.80cfs from 4/1 to 7/20 and 6.13cfs from 7/21 to 10/1.

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Maximum rate under 1891 rights from Sevenmile Creek (1.6 acres) are: 0.032cfs from 4/1 to 7/20 and 0.020cfs from 7/21 to 10/1.

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

Duty associated with leased rights (AF): 2458.5AF total duty. Total duty for 1889 rights is 2450.5AF, and total duty for the 1891 rights is 8AF.

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

Conditions or other limitations, if any: none.

Section 2.2, cont.

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

Mare's Egg Spring, Springs, Crane Creek and Sevenmile Creek
Tributary to Agency Lake in the Klamath 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): Protect at the various POD's which are not described on the certificate.

Total volume in acre-feet: For Sevenmile Creek (1891) the total volume protected is 8AF, and for Crane Creek and Springs (1889) the total volume protected is 2449.9AF.

Rate in cfs: For Sevenmile Creek (1891) 0.032cfs will be protected from 5/1 through 7/20, and 0.020cfs will be protected from 7/21 up to 10/1.

For Mares Egg Spring (1889) 9.8cfs will be protected from 5/1 through 7/20, and 6.13cfs will be protected from 7/21 up to 10/1. If sufficient water to meet these protections is not available from Mares Egg Spring, the necessary additional water will be protected from Crane Creek or the other Springs.

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): ____

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