



State of Oregon  
Water Resources Department  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1266  
(503) 986-0900

# Application for Instream Lease Pooled Lease Form

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](http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml).

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

Optional Identification by Lessor/Lessee: \_\_\_\_\_  
Lease Application Number (assigned by WRD): IL-909

This Lease is between:

#### Lessor #2: Irrigation District or Other Water Purveyor

Name Medford Irrigation District  
Mailing address 1340 Myers Lane  
City, State, Zip Code Medford, Oregon 97501  
Telephone number (541) 779-1462  
Email address medid@medfordid.org

The water right to be leased is located in Jackson 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

**RECEIVED**

APR 02 2008

WATER RESOURCES DEPT  
SALEM, OREGON

### ~I~ Water Right Holder and Water Right Information

1.2 Lessor #2 is the (Check one):

- Official representative of Medford Irrigation District, the irrigation district, which conveys water to the subject water rights.
- Another party with an interest in the subject water rights representing KOGAP Enterprises Inc.
- Not applicable.

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. 83381, and Supplementary under cert. 80578,81635,83383, P-4951

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.: 83381

Priority date: 7/23/1909 Type of use: Irrigation

Legal Season of Use: April 1 though October 1

If an irrigation right, total number of acres to be leased: 131.73

Total acre-feet of storage to be leased, if applicable: N/A

Maximum rate associated with subject water rights (cfs) being leased: 1.32 cfs(1/100)

If there is more than one rate associated with a water right, describe below:

Season 1 (cfs) \_\_\_\_\_ Time period: \_\_\_\_\_

Season 2 (cfs) \_\_\_\_\_ Time period: \_\_\_\_\_

Season 3 (cfs) \_\_\_\_\_ Time period: \_\_\_\_\_

Maximum duty associated with subject water rights (ac-ft): 1.28

Conditions or other limitations, if any: None

If you need to enter another leased right, please use the additional water rights form.

**~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:

Little Butte Creek

Tributary to Rogue River in the Rogue 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): POD from North Fork Little Butte Creek is located 40 feet North and 620 feet West from the E1/4 Corner of Section 20, being within the SE1/4NE1/4 of feet South and 400 feet West from the E1/4 Corner of Section 29, being with in the NE1/4SE1/4 of Section 29, T36S,R2E.W.M.

Maximum volume in acre-feet: 260 a.f.

Rate in cfs: 1.32

(If more than one rate, describe the rate associated within each time period or instream reach.)

Rate in cfs: \_\_\_\_\_

Rate in cfs: \_\_\_\_\_

(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

**RECEIVED**

APR 02 2008

WATER RESOURCES DEPT FSD  
SALEM OREGON

- The instream flow will be allocated on a daily average basis up to the described rate from June 20 through September 30.
- Other (describe): \_\_\_\_\_

**2.3 Term of lease.** This lease shall terminate on October 31, 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.

### **~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 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 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.

**RECEIVED**  
APR 02 2008

**WATER RESOURCES DEPT  
SALEM OREGON**

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 #2: Carol Bradford Date: 3-19-08  
Carol Bradford, Medford Irrigation District Manager  
*for*

Kogap Enterprises Inc, Authorized Signatory  
Marvin Hackwell  
37-2W-28 tax lot #3600

Lessor: Marvin Hackwell Date: 3-19-08  
Marvin Hackwell, Kogap Enterprises Inc.

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

Attachment 5: Pooled Lease Water Right Holder Form

All above needed attachments are defined with attached "Exhibit A" tables

**RECEIVED**

APR 02 2008

WATER RESOURCES DEPT  
SALEM, OREGON

March 24, 2008

Aleta,

As we discussed today, please fill out this page associated with the MID/Kogap instream lease application. DO NOT use this modified form for any other applications. Thank you. Bob Rice



State of Oregon  
Water Resources Department  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1266  
(503) 986-0900

# Application for Instream Lease

Attachment 5: Pooled Water Right Holder Form

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

Lease Application Number (assigned by WRD): IL-907

This Lease is with:

**Lessor #1 (Water Right Holder):**

Name Medford Irrigation District  
Mailing address 1340 Myers Lane  
City, State, Zip Code Medford, Oregon 97501  
Telephone number (541) 779-1461  
Email address medid@medfordid.org

**Lessor #1 (Water Right Holder):**

Name Kogap Enterprises, Inc  
Mailing address 115 W. Stewart Ave.  
City, State, Zip Code Medford, Oregon 97501  
Telephone number (541) 776-6500  
Email address \_\_\_\_\_

**RECEIVED**

APR 02 2008

**WATER RESOURCES DEPT  
SALEM, OREGON**

Note: The section numbering associated with this form corresponds to that found on the "Standard Instream Lease Application" form. The "Pooled Lease" form and "Pooled Water Right Holder" form(s) are used to provide the same information as the "Standard Instream Lease Application" form. Consequently, the numbering on this form is not always sequential.

## ~I~ Water Right Holder and Water Right Information

1.1 Lessor #1 is the water right holder, or authorized agent for property described in Section 1.5. 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. **See Attachment "1"**

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).

Lessor #1: Carol Bradford Date: March 28, 08  
Carol Bradford, for Medford Irrigation District



State of Oregon  
Water Resources Department  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1266  
(503) 986-0900

# Application for Instream Lease Pooled Lease Form

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](http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml).

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

Optional Identification by Lessor/Lessee: \_\_\_\_\_  
Lease Application Number (assigned by WRD): \_\_\_\_\_

This Lease is between:

#### Lessor #2: Irrigation District or Other Water Purveyor

Name Medford Irrigation District  
Mailing address 1340 Myers Lane  
City, State, Zip Code Medford, Oregon 97501  
Telephone number (541) 779-1462  
Email address medid@medfordid.org

The water right to be leased is located in Jackson 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

1.2 Lessor #2 is the (Check one):

- Official representative of Medford Irrigation District, the irrigation district, which conveys water to the subject water rights.
- Another party with an interest in the subject water rights representing KOGAP Enterprises Inc.
- Not applicable.

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. 83381, and Supplementary under cert. 80578,81635,83383

**RECEIVED**  
**MAR 21 2008**  
**WATER RESOURCES DEPT**  
**SALEM, OREGON**  
FSD

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.: 83381

Priority date: 7/23/1909 Type of use: Irrigation

Legal Season of Use: April 1 through October 1

If an irrigation right, total number of acres to be leased: 128.18

Total acre-feet of storage to be leased, if applicable: N/A

Maximum rate associated with subject water rights (cfs) being leased: 1.28 cfs(1/100)

If there is more than one rate associated with a water right, describe below:

Season 1 (cfs) \_\_\_\_\_ Time period: \_\_\_\_\_

Season 2 (cfs) \_\_\_\_\_ Time period: \_\_\_\_\_

Season 3 (cfs) \_\_\_\_\_ Time period: \_\_\_\_\_

Maximum duty associated with subject water rights (ac-ft): 1.28

Conditions or other limitations, if any: None

If you need to enter another leased right, please use the additional water rights form.

**~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:

Little Butte Creek  
Tributary to Rogue River in the Rogue 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): POD from North Fork Little Butte Creek is located 40 feet North and 620 feet West from the E1/4 Corner of Section 20, being within the SE1/4NE1/4 of feet South and 400 feet West from the E1/4 Corner of Section 29, being with in the NE1/4SE1/4 of Section 29, T36S,R2E.W.M.

Maximum volume in acre-feet: 260 a.f.

Rate in cfs: 1.28

(If more than one rate, describe the rate associated within each time period or instream reach.)

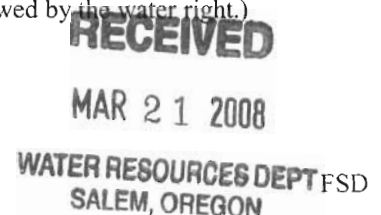
Rate in cfs: \_\_\_\_\_

Rate in cfs: \_\_\_\_\_

(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 June 20 through September 30.
- Other (describe): \_\_\_\_\_

**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.

### ~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.

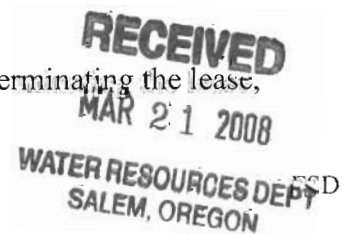
**3.2 Lease.** Lessor(s) and Lessee(s) agree to lease the water rights listed in Section(s) 1.5 for instream use for the term of this lease through Lessee to the Trustee, the Oregon Water Resources Department, pursuant to the provisions of ORS 537.348(2) and OAR 690-077.

**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 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 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 #2: Carol Bradford Date: 3-19-08  
Carol Bradford, Medford Irrigation District Manager  
*for*

Kogap Enterprises Inc., Authorized Signatory  
Marvin Hackwell  
37-2W-28 tax lot #3600

Lessor: Marvin Hackwell Date: 3-19-08  
Marvin Hackwell, Kogap Enterprises Inc.

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

Attachment 5: Pooled Lease Water Right Holder Form

All above needed attachments are defined with attached "Exhibit A" tables

**RECEIVED**  
MAR 21 2008  
WATER RESOURCES DEPT  
SALEM, OREGON