



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-680

This Lease Agreement is between:

Lessor #1:

(Name) LM Cattle (Owens Family)
 (Mailing address) 1561 Arch Way
 (City, State, Zip Code) Chico, CA 95973
 (Telephone number) (530) 200-2644

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, Suite 302
 (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 33 S, Range 7.5 E, Section 8, 9 and Tax Lot number 1500, 1800, 300 and Lots 1, 2, 3, 4. 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 _____.

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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. 1091, 1094, 1108

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.: 1091

Priority date: April 1 1898 Type of use: Irrigation, Domestic, and Stock

Legal Season of Use: April 1 to October 1 (for irrigation)

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 , 1/4 1/4 - acres to be leased

Enter additional places of use here, using format above:

All irrigation water will be leased instream, but 0.5cfs of stockwater will be diverted for stock use. The certificate does not split the rate or duty between irrigation water and stock water.

T33S, R7.5E, Section 8:

~~NE1/4 SE1/4, 40 acres to be leased~~

SE1/4 SE1/4, 30 acres to be leased

removed from lease 7/25/05

T33S, R7.5E, Section 9:

NE1/4 SW1/4, 40 acres to be leased

NW1/4 SW1/4, 40 acres to be leased

SW1/4 SW1/4, 40 acres to be leased

SE1/4 SW1/4, 40 acres to be leased

~~NW1/4 SE1/4, 7 acres to be leased~~

SW1/4 SE1/4, 24 acres to be leased

removed from lease 7/25/05

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

Number of acres being leased, if for irrigation: 261 214

Acre-feet of storage, if applicable: 0

Maximum rate associated with subject water rights (cfs): 2.26 cfs from 4/1 to 7/20 and 1.63 cfs from 7/21 to 10/1

2.67

1.54

(Use additional lines if there is more than one rate associated with the water right.) 642

Maximum duty associated with subject water rights (ac-ft): 783 AF (3 AF per acre)

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

Conditions or other limitations, if any: none

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:

- 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: Mark Owens Date: 6/28/05
LM Cattle Co. (Mark Owens)

For additional Lessors, type in space for signature and date

Lessee: Shannon Peterson Date: 06-23-05
Klamath Basin Rangeland Trust (Shannon Peterson)

Other Attachments as Needed:

- 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

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

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Anna Creek
Tributary to Agency Lake in the Klamath Basin.

Wood R.

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): The water will be protected from the POD (not listed on the certificate) in T33S, R7.5E, Sec8, NE1/4 of SE1/4

Maximum volume in acre-feet: 590.88 642.0

Rate in cfs: 2.7 cfs from 04/01 to 07/20, 1.1 cfs from 07/21 to 10/01

(Use the section below to indicate a more restrictive period of use than allowed by the water right.)

2.05

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, 2005.

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

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.: 1094

Priority date: 1892 Type of use: irrigation, domestic, and stock

Legal Season of Use (if not listed on the certificate): April 1 - 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 1/4 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 S, R W,, Section , 1/4 1/4 - acres to be leased

Enter additional places of use here, using format above:

T 33 S, R 7.5 W, Section 9

NE 1/4 of NW 1/4 - 24 acres to be leased

SE 1/4 of NW 1/4 - 34 acres to be leased

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

Number of acres, if for irrigation: 58

Acre-feet of storage, if applicable: 0.853

Rate associated with leased rights (cfs): 1 cfs from 04/01 to 07/20 and 0.5 cfs from 07/21 to 10/01

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

Duty associated with leased rights (AF): 174 (3 AF per acre)

(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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Section 2.2, cont.

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

Anna [Annie] Creek

Tributary to Agency Lake in the Klamath Basin.

Wood R

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: The water will be protected at the POD (not identified on the certificate) from Anna [Annie] Creek at R 33S, T 7.5W, Section 5, NE 1/4 of SW 1/4.

Total volume in acre-feet: 174 AF will be protected instream

Rate in cfs: 1 cfs from 04/01 to 07/20 and 0.5 cfs from 07/21 to 10/01 will be protected instream

0.51

0.42

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):



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.: 1108

Priority date: 1892 Type of use: irrigation, domestic, and stock

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 1/4 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 , 1/4 1/4 - acres to be leased

Enter additional places of use here, using format above:

T 33S, R 7.5W, Section 8, NE1/4 of NE1/4 - 40 acres to be leased

SE1/4 of NE1/4 - 40 acres to be leased

T 33S, R 7.5W, Section 9, NW1/4 of NW1/4 - 40 acres to be leased

SW1/4 of NW1/4 - 40 acres to be leased

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

Number of acres, if for irrigation: 160

Acre-feet of storage, if applicable: ^{2,001}

Rate associated with leased rights (cfs): 1.63 from 04/01-07/20 and 5.82 from 07/21-10-01 ^{1,001}

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

Duty associated with leased rights (AF): 480 (3 AF pre acre)

(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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Section 2.2, cont.

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

Anna Creek

Tributary to Agency Lake in the Klamath Basin. ^{Wood R}

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): The water will be protected at the POD (not identified on the certificate) from Anna [Annie] Creek at R 33S, T 7.5W, Section 8, NE1/4 of SW1/4.

Total volume in acre-feet: 480

Rate in cfs: 1.63 from 04/01-07/20 and 5.82 from 07/21-10-01 ^{1.53} ^{1.0}

Conditions to prevent injury, if any:

None

Additional Information

- The instream flow will be allocated on a daily average basis up to the described rate from ____ through ____.
- Other (describe): _____