

RECEIVED  
OVER THE COUNTER

Nov 2004



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**  
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/publication/reports/index.shtml](http://www.wrd.state.or.us/publication/reports/index.shtml).*

Pursuant to ORS 537.348(2) and OAR 690-077-0077

RECEIVED

APR 22 2005

WATER RESOURCES DEPT  
SALEM, OREGON

Optional Identification by Lessor/Lessee: \_\_\_\_\_  
Lease Agreement Number (assigned by WRD): L-635

This Lease Agreement is between:

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

(Name) Tumalo Irrigation District  
(Mailing address) 64697 Cook Ave.  
(City, State, Zip Code) Bend, OR 97701  
(Telephone number) 541-382-3053  
(Email address) tid@tumalo.org

**Lessor #3:**

(Name) Central Oregon Irrigation District  
(Mailing address) 2598 N. Hwy. 97  
(City, State, Zip Code) Redmond, OR 97756  
(Telephone number) 541-548-6047  
(Email address) transfers@coid.org

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

**Lessee (if different than Oregon Water Resources Department):**

(Name) Deschutes River Conservancy  
(Mailing address) PO Box 1560  
(City, State, Zip Code) Bend, OR 97709  
(Telephone number) 541-382-4077 ext. 14  
(Email address) laura@deschutesrc.org

**Trustee:**

Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
(503) 986-0900

**~I~ Ownership and Water Right Information**

1.2 Lessor #2 is the (Check one):

- Official representative of Tumalo Irrigation District & Central Oregon Irrigation District, the irrigation district, which conveys water to the subject water rights.
- Another party with an interest in the subject water rights representing \_\_\_\_\_.

APR 22 2005

WATER RESOURCES DEPT  
SALEM, OREGON

Not applicable.

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. 76358 (primary) & 76714 (supplemental)

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.: 76358

Priority date: 10/31/1900 & 12/02/1907 Type of use: Irrigation

Legal Season of Use: April 1 to November 1

If an irrigation right, total number of acres to be leased: 2.0

Total acre-feet of storage to be leased, if applicable: 0

Maximum rate associated with subject water rights (cfs) being leased: \_\_\_\_\_

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

Season 1 (cfs) 0.025 (1900) Time period: 4/1-5/1 & 10/1-11/1

Season 2 (cfs) 0.033 (1900) Time period: 5/1-5/15 & 9/15-10/1

Season 3 (cfs) 0.044 (1900) & 0.018 (1907) Time period: 5/15-9/15

Maximum duty associated with subject water rights (ac-ft): 19.82

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, 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:

Deschutes River

Tributary to Columbia in the Deschutes 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): COID POD #11 to Lake Billy Chinook

Maximum volume in acre-feet: 10.90

Rate in cfs: Season 1: 0.14 (1900)

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

Rate in cfs: Season 2: 0.018 (1900)

APR 22 2005

Rate in cfs: Season 3: 0.024 (1900) & 0.010 (1907)

WATER RESOURCES DEPT  
SALEM, OREGON

**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 November 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**

**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 #2: Edmund M. Daniels Date: 4-19-05

Lessor #3: Josie Clark Date: 4-11-05  
Central Oregon Irrigation District

Lessee: [Signature] Date: 4-12-05  
Deschutes River Conservancy.

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 1.6 is checked)
- Attachment 4: Split Season Instream Use Form
- Attachment 5: Pooled Lease Landowner Form

**RECEIVED**

APR 22 2005

WATER RESOURCES DEPT  
SALEM OREGON



State of Oregon  
Water Resources Department  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1271  
(503) 986-0900

# Additional Water Right Form for Pooled Instream Lease

**RECEIVED**

APR 22 2005

WATER RESOURCES DEPT  
SALEM OREGON

A summary of review criteria and procedures that are generally applicable to these applications is available at [www.wrd.state.or.us/publication/reports/index.shtml](http://www.wrd.state.or.us/publication/reports/index.shtml).

~I~

### Section 1.2 continued from Pooled District Form.

**Subject Water Rights.** District and Landowners propose to lease the water rights listed in Attachment 5.

The right(s) to be leased are further described as follows:

Certificate No.: 76714

Priority date: February 28, 1913 Type of use: Supplemental

Legal Season of Use (if not listed on the certificate): \_\_\_\_\_

If an irrigation right, total number of acres to be leased: 2.0

Total acre-feet of storage to be leased, if applicable: 0

Rate associated with leased rights (cfs): \_\_\_\_\_

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

Rate associated with leased rights (cfs): \_\_\_\_\_

Rate associated with leased rights (cfs): \_\_\_\_\_

Duty associated with leased rights (AF): 19.82

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

Duty associated with leased rights (AF): \_\_\_\_\_

Duty associated with leased rights (AF): \_\_\_\_\_

Conditions or other limitations, if any: None

~II~

### Section 2.2 continued from Pooled District Form.

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

(Crane Prairie Reservoir) Deschutes River  
Tributary to Columbia River in the Deschutes 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 may be processed to be protected at the point of diversion): POD #11 to Lake Billy Chinook

Total volume (AF): 1.94

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

Total volume (AF): \_\_\_\_\_

Total volume (AF): \_\_\_\_\_

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

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

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

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

**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): \_\_\_\_\_



State of Oregon  
 Water Resources Department  
 725 Summer Street NE, Suite A  
 Salem, Oregon 97301-1271  
 (503) 986-0900

Nov 2004

Application for Short-Term  
**Instream Lease**  
 Attachment 5: Pooled Landowner Form

RECEIVED  
 OVER THE COUNTER

A summary of review criteria and procedures that are generally applicable to these applications is available at [www.wrd.state.or.us/publication/reports/index.shtml](http://www.wrd.state.or.us/publication/reports/index.shtml).

Pursuant to ORS 537.348(2) and OAR 690-077-0077

Optional Identification by Lessor/Lessee: L05.06  
 Lease Agreement Number (assigned by WRD): \_\_\_\_\_

This Lease Agreement is between:

**Lessor #1 (Landowner):**

(Name) Albert R. Jacobs Trust, Albert R. Jacobs, Trustee  
 (Mailing address) 5 Lakeshore Drive  
 (City, State, Zip Code) Rancho Mirage, CA 92270  
 (Telephone number) (760)568-9151  
 (Email address) \_\_\_\_\_

If additional landowners, enter landowner information below

Note: The numbering associated with this form corresponds to that found on the "Standard Instream Lease Application" form. The "Pooled Lease" form and "Pooled Landowner" 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~ Ownership and Water Right Information**

1.1 Lessor #1 is the owner, or authorized agent for owner of property located at: Township 17, Range 11, Section 24 and Tax Lot number 00301. 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.

Field Code Changed  
 Field Code Changed

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. Primary 76358, Supplement 76714

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.** Landowner proposes to lease the water rights shown on the map attached as Exhibit 5-B (this information may be included on Exhibit 5-A, or an additional map may be attached). (Crosshatch the area of water rights being leased). Attached map(s) must identify property owner, Township, Range, Section and 1/4, tax lot number, map orientation and scale.

RECEIVED  
 APR 22 2005  
 WATER RESOURCES DEPT  
 SALEM, OREGON

T	R	Sect	¼ ¼	Tax Lot	Acres	Type of Use	Certificate #	Page(s) #	Priority*	
*(Identify pertinent page number of certificate, if certificate is greater than 10 pages; identify priority date if there is more than one per certificate)										
1.	17	11	24	nwne	00301	2.0	irr	76358	104	10/31/1900
2.										12/2/1907
3.										
4.										
5.										

Total number of acres, if for irrigation, by certificate and priority date: 2.0  
 Acre-feet of storage, if applicable: \_\_\_\_\_

Conditions or other limitations, if any: \_\_\_\_\_

If you need to enter another leased right, please use the Additional Landowner 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).

**~II~ Instream Water Right Information**

**2.3 Term of lease.** This lease shall terminate on October 15, 2005. (If there is a conflict between the Pooled District Form and this form, the Pooled District Form will be the official term of the lease.)

**~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.

**RECEIVED**

APR 22 2005

WATER RESOURCES DEPT  
 SALEM OREGON

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 provided by the Irrigation District, Other Water Purveyor or Lessee (if different than Department). The lessor must contact the Irrigation District, Other Water Purveyor, or Lessee (if different than Department) to indicate their interest in terminating the lease agreement.
- 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.

Lessor #1: Albert R. Jacobs Date: Mar 7<sup>TH</sup> 05  
Albert R. Jacobs Trust, Albert R. Jacobs, Trustee

For additional Lessors, type in space for signature and date

Lessor #2: \_\_\_\_\_ Date: \_\_\_\_\_  
Tumalo Irrigation District

Lessee: \_\_\_\_\_ Date: \_\_\_\_\_  
Deschutes Resources Conservancy

Other Attachments As Needed:

- Exhibit 5-A: Tax Lot Map of Landowner's Property
- Exhibit 5-B: Detailed map illustrating lands under subject rights to be leased [Exhibits 5-A and 5-B may be combined into a single map]
- Exhibit 5-C: 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 of this form is checked)
- Exhibit 5-D: Split Season Instream Use Form

**RECEIVED**

APR 22 2005

WATER RESOURCES DEPT  
SALEM, OREGON





State of Oregon  
**Water Resources Department**  
 725 Summer Street NE, Suite A  
 Salem, Oregon 97301-1271  
 (503) 986-0900

## Additional Water Right Form For Pooled Landowner **Instream Lease**

*A summary of review criteria and procedures that are generally applicable to these applications is available at  
[www.wrd.state.or.us/publication/reports/index.shtml](http://www.wrd.state.or.us/publication/reports/index.shtml).*

~I~

### Section 1.1 continued from Pooled Leasing Landowner Form.

**Subject Water Rights.** Landowner proposes to lease the water rights shown on the map attached as Exhibit 5-B (this information may be included on Exhibit 5-A, or an additional map may be attached).  
 (Crosshatch the area of water rights being leased).

T	R	Sect	¼ ¼	Tax Lot	Acres	Type of Use	Certificate #	Page(s) #	Priority*
*(Identify pertinent page number of certificate, if certificate is greater than 10 pages; identify priority date if there is more than one per certificate)									
1.	17	11	24	nwne	00301	2.0	irr	76714Sup	2/28/1913
2.									
3.									
4.									
5.									
6.									
7.									
8.									
9.									
10.									

[Attached map(s) must identify property owner, Township, Range, Section and ¼ ¼, tax lot number, map orientation and scale.]

Total number of acres, if for irrigation, by certificate and priority date: 2.0

Acre-feet of storage, if applicable: \_\_\_\_\_

**RECEIVED**  
**APR 22 2005**  
**WATER RESOURCES DEPT**  
**SALEM, OREGON**

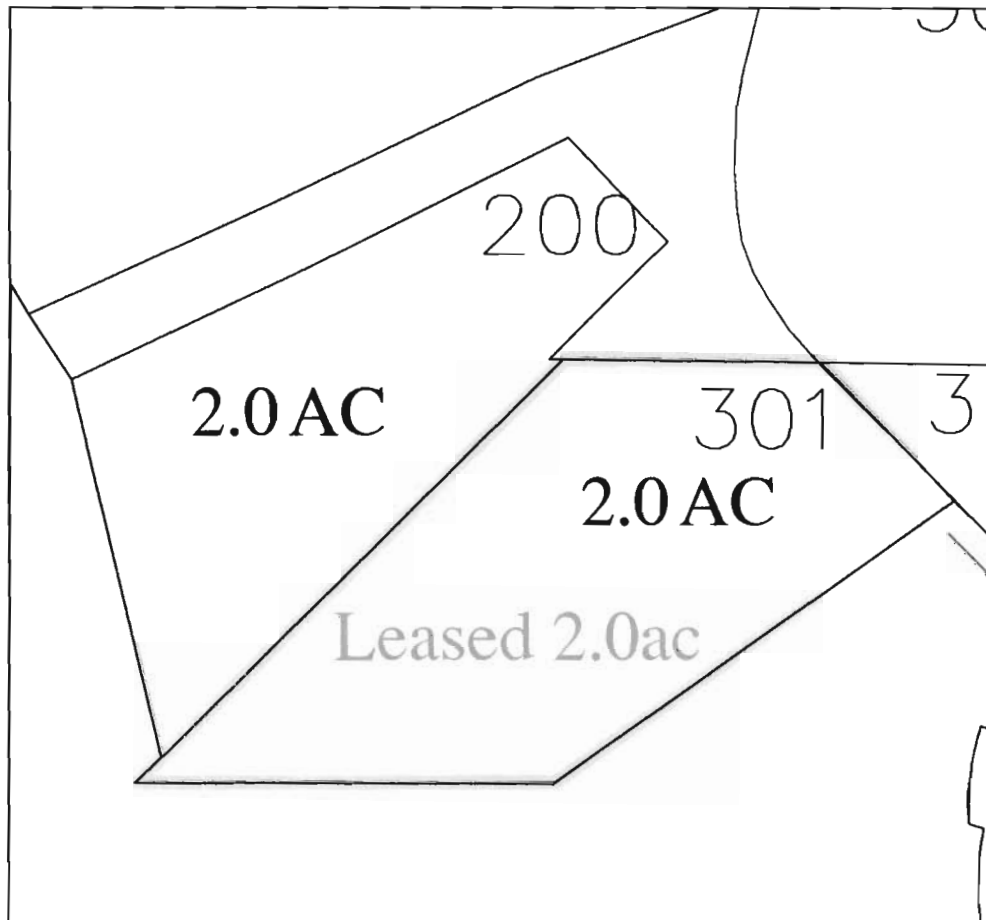
# TUMALO IRRIGATION DISTRICT IN-STREAM LEASED WATER RIGHTS SURVEY

FOR  
Jacobs Trust

**RECEIVED**

APR 22 2005

WATER RESOURCES DEPT  
SALEM, OREGON



  
Certificate #'s  
74146, and 74147

  
Certificate #  
76106

  
JP-1999

  
JP-1998

  
In-Stream Lease

INITIAL: *JB*

LOCATED IN THE NW1/4 OF THE NE 1/4  
OF SECTION 24, T.17 S., R.11 E., W.M.  
TAX LOTS # 0301  
DESCHUTES COUNTY, OREGON



SCALE: 1" = 200'

Prepared By: Tumalo Irrigation District, 64697 Cook Ave, Bend, Oregon 97701 541-382-3053