



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

# 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](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): TL-953

This Lease is between:

**Lessor #1:**

Name Edward J. Cooley  
Mailing address PO Box 642  
City, State, Zip Code Elkton, OR 97436  
Telephone number 541-584-2693  
Email address edcooley@rosenet.net

**Lessor #2, 3, etc.**

none

The water right to be leased is located in Douglas 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**

1.1 Lessor #1 is the water right holder, or authorized agent for water right holder of the property located at: Township 23 S, Range 8 W, Section 13 and Tax Lot number 4032.01,4033.00,4033.03,4033.11. 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.

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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. Indicate if there are any supplemental or overlying rights.

Certificate No. 46155,79461

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.: 46155

Priority date: 12/8/1969 Type of use: Irrigation

Legal Season of Use: not described in certificate

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:

\_\_\_\_\_

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

Number of acres being leased, if for irrigation: 1.4

Acre-feet of storage, if applicable: na

Maximum rate associated with the right to be leased (cfs): 0.02

(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): 3.5

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

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

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 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

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:

Mehl Creek River

Tributary to Umpqua in the Umpqua 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): From POD to mouth of Mehl Creek

Maximum volume in acre-feet: 3.5

Rate in cfs: 0.02

(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 31, 2013.

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 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 #1: \_\_\_\_\_

*Ed Cooley*

Date: \_\_\_\_\_

*7/28/2008*

For additional Lessors, type in space for signature and date  
\_\_\_\_\_

Lessee: \_\_\_\_\_

Date: \_\_\_\_\_



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# Additional Water Right Form Standard Application for Instream Lease

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## ~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.: 79461

Priority date: 8/12/80 Type of use: Irrigation and 2 domestic

Legal Season of Use (if not listed on the certificate): not described in certificate

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. Include a map (Attachment 3) showing the lands that will not receive water.

Place of use: T 23 S, R 8 W, Section 13, NE  $\frac{1}{4}$  NW  $\frac{1}{4}$  - 7.30 acres to be leased

Enter additional places of use here, using format above:

All irrigation is included except the 2 domestic uses which include 0.5 acres of garden each.

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

Number of acres, if for irrigation: 7.3 included in lease

Acre-feet of storage, if applicable:                     

Rate associated with leased rights (cfs): 0.12

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

Duty associated with leased rights (AF): 18.25

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

Conditions or other limitations, if any:                     

## ~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:

Mehl Creek River

Tributary to Umpqua in the Umpqua 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): From POD to mouth of Mehl Creek

Maximum volume in acre-feet: 18.25

Rate in cfs: 0.12

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

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

July 28, 2008

Laura Smedaker,

Regarding certificates 46155 and 79461.

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**WATER RESOURCES DEPT  
SALEM, OREGON**

I am applying for all of my irrigation rights to be leased instream. I am not leasing the two domestic rights along with 0.5 acres of garden space each. The domestic rights are for 0.01 CFS each from the unnamed stream and where deficient from Mehl Creek.

After I have received the Certificate for Transfer T-8568 I will apply to have the transferred irrigation rights made instream. My CREP contract obligations require me to do this in this manner.

Enclosed is a check for \$100.

Thank you for your help with this matter.

A handwritten signature in cursive script that reads "Ed Cooley". The signature is written in black ink and is positioned to the right of the printed name.

Edward J. Cooley





## STATE OF OREGON

COUNTY OF DOUGLAS

## CERTIFICATE OF WATER RIGHT

**This Is to Certify, That** WILLIAM & LUCILLE P. COOLEY

of 886 West 31st St., Long Beach, State of California, 90806, has made proof to the satisfaction of the Water Resources Director, of a right to the use of the waters of Mehl Creek

a tributary of Umpqua River for the purpose of irrigation of 1.4 acres

under Permit No. 34809 and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from December 8, 1969 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 0.02 cubic foot per second

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the Lot 2 (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ), Section 13, T. 23 S., R. 8 W., W. M., 480 feet South and 850 feet East from the N $\frac{1}{4}$  corner of Section 13.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2 $\frac{1}{2}$  acre feet per acre for each acre irrigated during the irrigation season of each year,

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

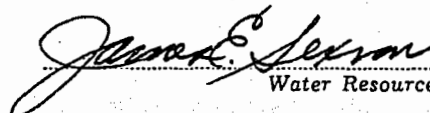
A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

1.4 acres Lot 2 (NW $\frac{1}{4}$  NE $\frac{1}{4}$ )  
Section 13  
T. 23 S., R. 8 W., W. M.

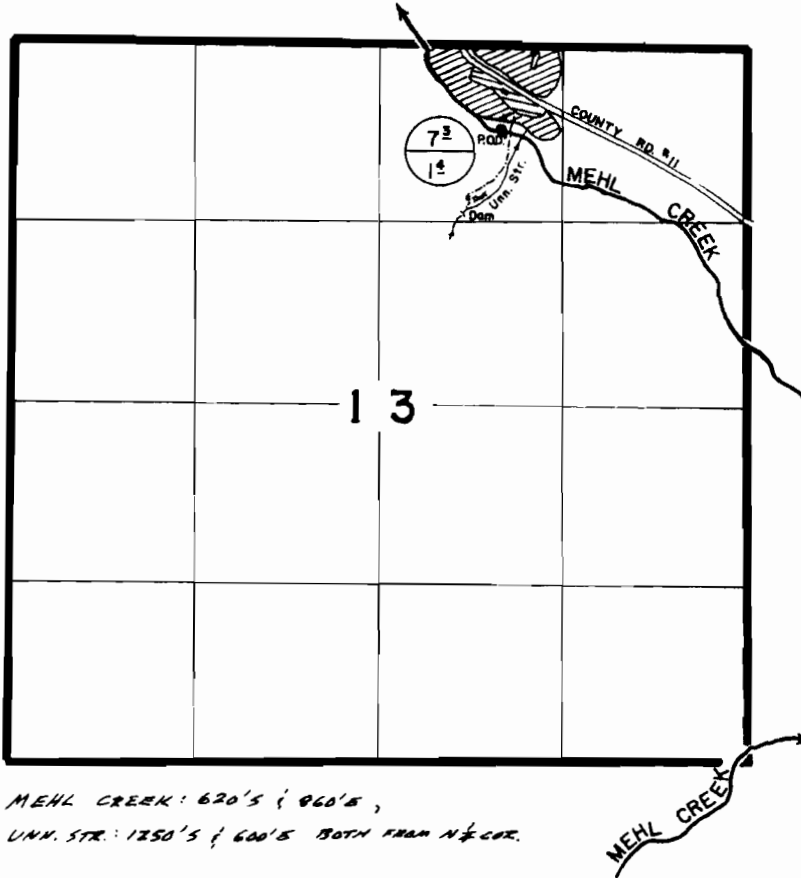
The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described, and is subject to the existing minimum flow policies established by the Water Policy Review Board.

WITNESS the signature of the Water Resources Director, affixed

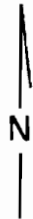
this date. August 10, 1978

  
Water Resources Director

T. 23 S., R. 8 W. W.M.



Scale 1" = 1320'



**FINAL PROOF SURVEY**  
UNDER

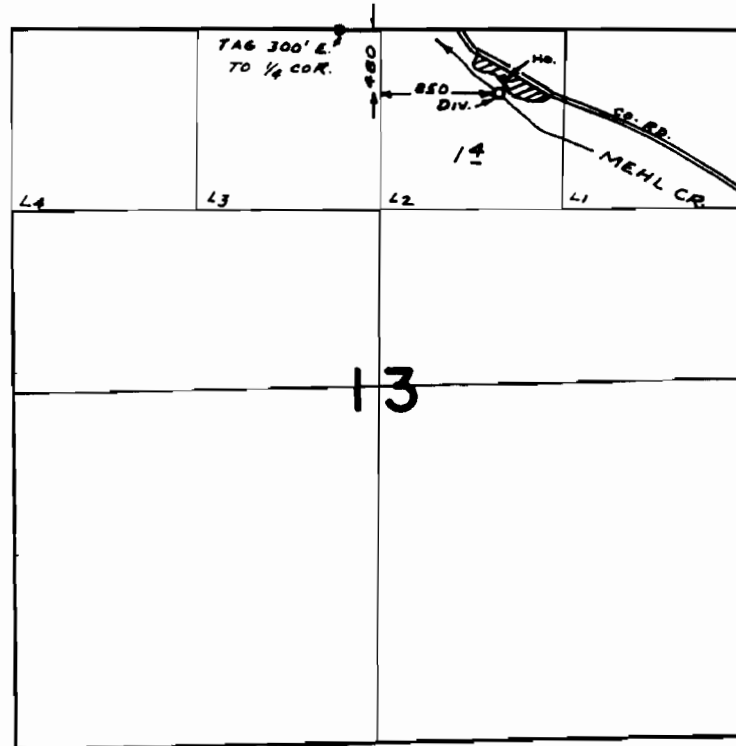
Application No. ~~60486~~ Permit No. 46290....  
IN NAME OF

..... EDWARD J. COOLEY .....

Surveyed Sept. 18., 1990, by J.M.Schmarde.  
May 17, 1994, B.S.James



# T.23 S.R.8 W.W.M.



## FINAL PROOF SURVEY UNDER

Application No. 46577 Permit No. 34809  
IN NAME OF

WILLIAM & LUCILLE P. CORLEY

Surveyed MAY 12, 1976, by R. MUCKEN

STATE OF OREGON  
COUNTY OF DOUGLAS  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

EDWARD J. COOLEY  
P.O. BOX 642  
ELKTON, OREGON 97436

confirms the right to use the waters of MEHL CREEK AND AN UNNAMED STREAM, a tributaries of the UMPQUA RIVER, for PRIMARY IRRIGATION OF 2.5 ACRES, SUPPLEMENTAL IRRIGATION OF 1.4 ACRES AND DOMESTIC USE FOR TWO FAMILIES.

This right was perfected under Permit 46290. The date of priority is AUGUST 12, 1980. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.061 CUBIC FOOT PER SECOND (CFS), BEING 0.01 CFS FROM THE UNNAMED STREAM WHEN AVAILABLE WITH ANY DEFICIENCY IN SUPPLY AT THE UNNAMED STREAM TO BE MADE UP BY DIVERSION OF WATER FROM MEHL CREEK FOR DOMESTIC USE FOR TWO FAMILIES, 0.031 CFS FROM MEHL CREEK WHEN AVAILABLE WITH ANY DEFICIENCY IN SUPPLY AT MEHL CREEK TO BE MADE UP BY DIVERSION OF WATER FROM THE UNNAMED STREAM FOR IRRIGATION OF 2.5 ACRES, AND 0.02 CFS FROM THE UNNAMED STREAM FOR THE SUPPLEMENTAL IRRIGATION OF 1.4 ACRES or its equivalent in case of rotation, measured at the points of diversion from the source.

The points of diversion are located as follows:

NW $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 13, T 23 S, R 8 W, W.M.; MEHL CREEK - 620 FEET SOUTH AND 860 FEET EAST; UNNAMED STREAM - 1250 FEET SOUTH AND 600 FEET EAST, BOTH FROM THE NORTH  $\frac{1}{4}$  CORNER OF SECTION 13.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a

diversion of not to exceed 2.5 acre-feet for each acre irrigated during the irrigation season of each year, provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant is as follows:

PRIMARY                      SUPPLEMENTAL  
NW¼ NE¼                      2.5 ACRES                      1.4 ACRES                      AND TWO DOMESTIC  
SECTION 13  
TOWNSHIP 23 SOUTH, RANGE 8 WEST, W.M.

This certificate describes that portion of the water right confirmed by Certificate 74501, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered APR 26 2002, approving Transfer Application 8568.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources

Director, affixed APR 26 2002

  
\_\_\_\_\_  
Paul Cleary, Director

Recorded in State Record of Water Right Certificates numbered 79461.