



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): IL-1072

This Lease is between:

**Lessor #1:**

Name Fred and Jonnie Justesen  
Mailing address 59720 Twin Lakes Road  
City, State, Zip Code Grass Valley, OR 97029  
Telephone number 541-333-2311 (Fred's)  
Email address \_\_\_\_\_

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

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

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

Name \_\_\_\_\_  
Mailing address \_\_\_\_\_  
City, State, Zip Code \_\_\_\_\_  
Telephone number \_\_\_\_\_  
Email address \_\_\_\_\_

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**APR 26 2010**

**WATER RESOURCES DEPT  
SALEM, OREGON**

**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 4 S, Range 13 E, Section 10 and Tax Lot number 4S 13E 10 401. 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.

- 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. 47968

- 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.: 49768

Priority date: July 28, 1976 Type of use: Log Deck Sprinkling and Fire Suppression System

Legal Season of Use: January 1 to December 31

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 4 S, R 13 E, Section 10, NW $\frac{1}{4}$  NE $\frac{1}{4}$  - \_\_\_\_\_ acres to be leased

Enter additional places of use here, using format above:

Section 10, SW $\frac{1}{4}$  NE $\frac{1}{4}$

Section 10, SE $\frac{1}{4}$  NE $\frac{1}{4}$

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

Number of acres being leased, if for irrigation: -----

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

Maximum rate associated with the right to be leased (cfs): 0.87

(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): \_\_\_\_\_

(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:

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 [SEE INSTREAM LEASE L-15] 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:

Mayfield Spring in the White River  
Tributary to Deschutes 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 may be processed to be protected at the POD: From POD, 165' S AND 275' W from NE Cor Sec 16, at approximately RM 8, to the mouth of White River

Maximum volume in acre-feet:

Rate in cfs: 0.87

(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 December 31, 2014.

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.

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**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:

- \$400 for an application with four or more landowners or four or more water rights.
- \$250 for all other applications.

Lessor : *And Gusterson* Date: *4-8-2010*

Lessor : *Jonnie Lane Gusterson* Date: *4-8-2010*

For additional Lessors, type in space for signature and date

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

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

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SECTION 10 T.4S. R.13E. W.M.  
WASCO COUNTY

1" = 400'

THIS MAP WAS PREPARED FOR  
ASSESSMENT PURPOSE ONLY

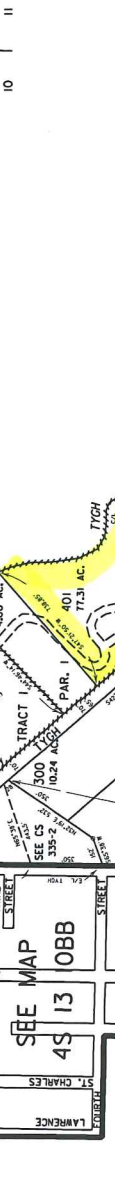


SCALE IN FEET

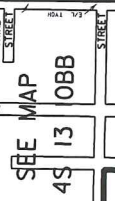
4 3  
9 10

3 2  
10 11

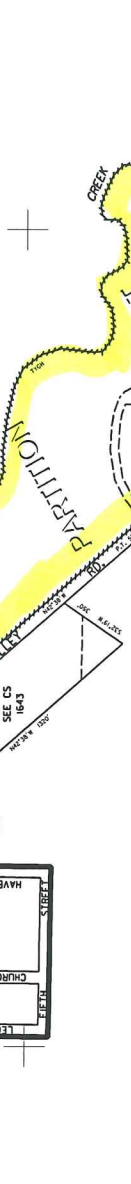
SEE MAP 4S 13



SEE MAP  
4S 13  
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SEE MAP 4S 13



SEE MAP 4S 13

SEE MAP 4S 13 II

PARCEL 2  
2000-020

1-3

SEE MAP 4S 13

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PARCELS 900,  
1000 & 1000

PARCEL 1200

571,000

3 2  
10 11

SEE MAP 4S 13

1" = 400'

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ASSESSMENT PURPOSE ONLY



SCALE IN FEET

4 3  
9 10

3 2  
10 11

SEE MAP 4S 13

1" = 400'

THIS MAP WAS PREPARED FOR  
ASSESSMENT PURPOSE ONLY



SCALE IN FEET

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9 10

SEE MAP 4S 13 15

1,927,000

9 10  
16 15

SEE MAP 4S 13 15

SEE MAP 4S 13 15

SEE MAP 4S 13 15

SEE MAP 4S 13 15

STATE OF OREGON

COUNTY OF WASCO

CERTIFICATE OF WATER RIGHT

This Is to Certify, That MOUNTAIN FIR LUMBER COMPANY, INC.

of P.O. Box 248, Tygh Valley, State of Oregon, 97063, has made proof to the satisfaction of the Water Resources Director, of a right to the use of the waters of Mayfield Spring

a tributary of White River for the purpose of log deck sprinkling; fire suppression system

under Permit No. 40955 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 July 28, 1976 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 0.87 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 NE 1/4 NE 1/4, Section 16, T. 4 S., R. 13 E., W. M., 165 feet South and 275 feet West from the NE Corner, Section 16

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 ----- of one cubic foot per second per acre,

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:

NW 1/4 NE 1/4
SW 1/4 NE 1/4
SE 1/4 NE 1/4
Section 10
T. 4 S., R. 13 E., W. M.

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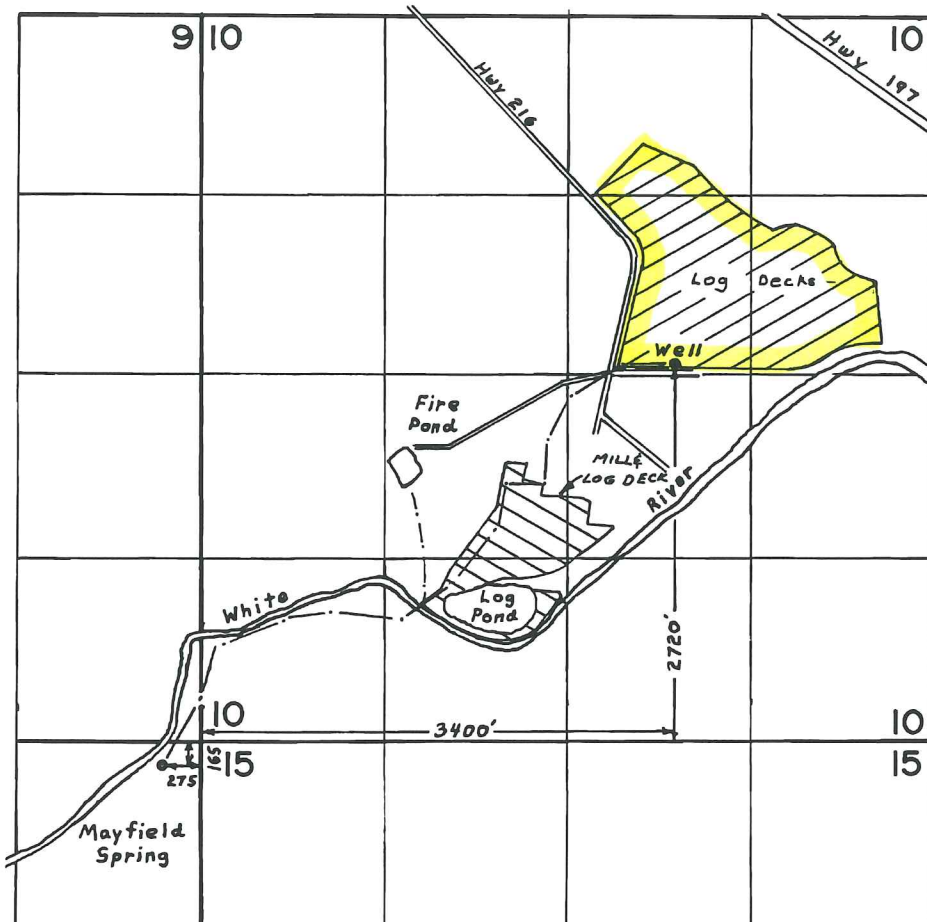
The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described and is subject to the existing minimum flow policies established by the Water Policy Review Board.

WITNESS the signature of the Water Resources Director, affixed



this date. April 30, 1979

[Signature]
Water Resources Director

# T.4S. R.13E., W.M.



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 App'l. 54579 & G-7453  
 App'l. 49623 & Tr. 2691

## FINAL PROOF SURVEY UNDER

Transfer No. 2691  
 G-7453                      G-6945  
 49623                      36160

Application No. 54579 Permit No. 40955  
 IN NAME OF

MOUNTAIN FIR LUMBER CO., INC.

Surveyed SEP. 14 1977, by L.H. NUNN