



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-1082

This Lease is between:

**Lessor #1:**  
Name The Shumway Conservancy, LLC; c/o Lindsay Winsor  
Mailing address 224 SE 20<sup>th</sup> Place  
City, State, Zip Code Milton-Freewater, OR 97862  
Telephone number 541-938-5716  
Email address lwinsor07@yahoo.com

**Lessor #2, 3, etc.**  
N/A

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

**Lessee (if different than Oregon Water Resources Department):**  
Name The Freshwater Trust  
Mailing address 65 SW Yamhill St, Ste: 200  
City, State, Zip Code Portland, OR 97204  
Telephone number 503-222-9091 x 24  
Email address natasha@thefreshwatertrust.org

**Trustee:**  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1266  
(503) 986-0900

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**~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 & 5 N, Range 36 E, Section 5, 6 & 31 and Tax Lot numbers 1400 & 700. 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. 84974

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.: 84974

Priority date: 12/31/1895 Type of use: Irrigation

Legal Season of Use: not defined

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 ¼ ¼ 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 5 N, R 36 E, Section 31, SW ¼ SE ¼ - 5.1 acres to be leased

Enter additional places of use here, using format above:

T 4N, R 36E, Section 5, SW ¼, NW ¼ - 4.5 acres to be leased

T 4N, R 36E, Section 6, SE ¼, NE ¼ - 10.7 acres to be leased

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

Number of acres being leased, if for irrigation: 20.3

Acre-feet of storage, if applicable: N/A

Maximum rate associated with the right to be leased (cfs): .76 cfs

(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): N/A

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

Conditions or other limitations, if any: N/A

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:

Couse Creek

Tributary to Walla Walla River in the Umatilla 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): The reach will begin at the POD on Couse Creek at approximately river mile 2.2 and extend to the Couse Creek's confluence with the Walla Walla River at approximately river mile 48.5. The reach will continue as far down the Walla Walla River as possible without injury or enlargement.

Maximum volume in acre-feet: none

Rate in cfs: .76

(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 3/1 through 7/15
- Other (describe): \_\_\_\_\_

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If you need to enter more instream uses, please use the additional water rights form.

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**2.3 Term of lease.** This lease shall terminate on October 31, 2010.

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**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:

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

Lessor #1: Lindsay Wilson Date: 21 June 2010

For additional Lessors, type in space for signature and date

Lessee: [Signature] Date: 6/14/10

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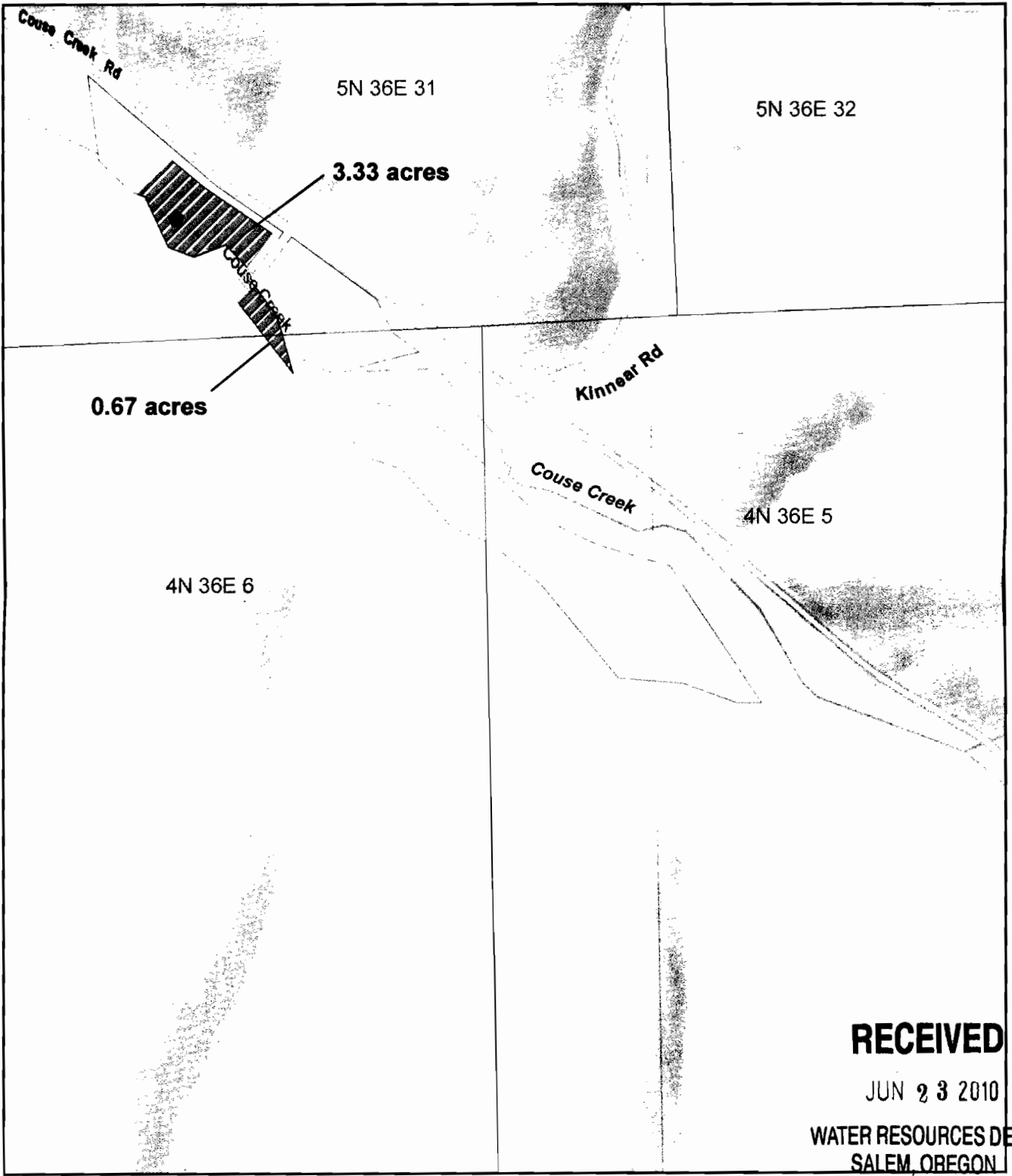
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The  
Freshwater  
Trust™



# Shumway (Cert:84974) Lease Map 2010

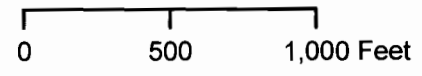


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-  Residence
-  4 Acres - Not to be included in lease



Map completed June 7, 2010



July 9, 2009

Affidavit of Use

I, Lindsay Winsor, Property Manager for Shumway Conservancy, LLC, declare the following to be true:

I personally participated in and managed the application of water from Couse Creek to the entire 24.3 acres addressed by Water Right Certificate 84974 (formerly Certificate # 13208) over the period May 12, 2008 through July 1, 2008. The water was used in our effort to restore land that had been overgrazed to a stable, low-weed grass cover. Part of the land is enrolled in the CRP or CCRP programs. Other parts are being managed in the same manner as the CRP land. Water was also applied to a large garden and lawn area and the perimeter around that area to create a fire suppression space around structures.

We began to apply water as soon as the system was readied by Pendleton Grain Growers staff. We ended when the grass began to go significantly dormant due to heat about July 1 because continued application of water in that situation would benefit the weeds more than the grass. A total of 7.411 acre feet was applied.

The delivery system is described in the attached Claim of Beneficial Use filed with the Oregon Water Resources Department in July, 2008.

I have attached two photographs of water being applied as well as copies of bills for diesel fuel for the power generator for the system.

Signed,

*Lindsay Winsor*  
Lindsay Winsor  
224 SE 20<sup>th</sup> Place  
Milton-Freewater, OR 97862

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**ACKNOWLEDGMENT**

State of Oregon  
County of Umatilla  
On this 13 day of July, 2009, Lindsay Winsor  
personally appeared before me,  
— who is personally known to me,  
— whose identity I verified on the basis of \_\_\_\_\_,  
— whose identity I verified on the oath/affirmation of \_\_\_\_\_,  
a credible witness.  
to be the signer of the foregoing document, and he/she acknowledge that he/she signed it.  
*Jana. Nored*  
My Commission Expires: 1/24/2011 Notary Public

