

Program Overview

Oregon's instream leasing program provides a voluntary means to aid the restoration and protection of streamflows. This arrangement provides benefits to both water right holders and to instream values by providing water users with options that protect their water rights while leasing for instream benefits.

Instream benefits

Water users who are at risk of forfeiture of their water rights due to non-use may find instream leases to be a good management option. Instream water rights provide flows for fish and wildlife, scenic values, and improved water quality.

Eligible Water Rights

Most existing water rights are eligible to lease to instream use. However, to transfer water to instream uses, the transfer must not injure other existing water rights.



The instream lease program allows water right holders a way to protect water rights that are currently unused while also providing instream benefits.

Certificates and court decreed rights for surface water and water stored in a reservoir are eligible to lease to instream use. Water that is saved for use through the allocation of conserved water program may also be leased, as well as secondary rights for stored water.

For More Information

Instream leasing activities are guided by Oregon Administrative Rules Chapter 690, Division 77. See reverse side for how to contact the Department. Additional information and instream leasing

options are available through the following non-profit organizations that lease water for instream purposes.

Oregon Water Trust
(503) 226-9055

Deschutes River Conservancy
(541) 382-4077

Klamath Basin Rangeland Trust
(541) 488-4822



State of Oregon
Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301

Instream Leasing Program

Instream Enhancement, Conservation, and Stewardship Programs

Using Oregon's Instream Leasing Program

Program overview in question and answer format



State of Oregon
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March 2006

Instream Leasing Program—Questions and Answers

What kinds of rights can be leased for instream use?

Water rights eligible to be leased are:

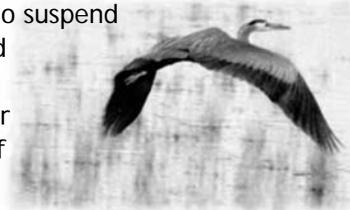
- Rights to use surface water and rights to store water in a reservoir which have been established by court decree and certificate.
- The conserver's portion of conserved water allocated under the Allocation of Conserved Water Program.
- Secondary rights to use stored water (permitted or certificated stored water rights may be leased).

How long can water rights be leased instream?

The length of term of an instream use lease cannot exceed five years or, in the case of irrigation rights, five irrigation seasons. However, leases may be renewed an unlimited number of times.

When leasing a primary right, can a supplemental right continue to be used?

No. Leases of rights for instream use will require the lessor to suspend use of both primary and supplemental sources under the subject water right during the term of the lease.



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What about leasing a supplemental right and continuing to use a primary right?

Only when the water right to be leased is for supplemental use of legally stored water. The supplemental right to store water, which the right holder would have to characterize as excess water, is eligible to be leased. This is the only instance in which use under the primary right can continue.



Can a portion of a water right be leased?

Yes, if "portion of a water right" is defined as the portion that irrigates a distinct tract of land which, will not receive water during the term of the lease. A portion of a water right is not a percentage of a total seasonal volume. In other words, a user cannot use less water than usual to irrigate the traditional number of acres and then lease the remaining volume of water, unless a "Split-Season Use Instream Lease" is involved and the instream and existing use occur at different times.

Can an irrigation right be leased for instream use once an irrigation season has begun?

A lease agreement can be executed midway through an irrigation season if it is submitted prior to July 1. However, if the original right has been used to irrigate lands, it cannot be used instream during the same season,

unless a "Split-Season Use Instream Lease" is involved. In this case, prior to water being used, the applicant must submit the lease application to the Department and must monitor and report the existing use). Thus, if irrigation has already taken place in a given season, a lease cannot take effect until the following irrigation season.

Does a "lease-created" instream use have to meet the same general criteria as one issued through the normal instream water right application process?

Yes. The new instream use must be consistent with the general provisions for instream water rights. The new instream use must serve a public use, as defined by rule (OAR 690-77-015). Allowable public uses include recreation, scenic attraction, aquatic and fish life, wildlife habitat and ecological values, pollution abatement and navigation.

What if an irrigation district plans to pool the water rights of several landowners for a single lease?

The irrigation district would submit a Pooled District Form to the Department. It must include landowner and water right information for each participating landowner. The Pooled Landowner Form serves as a contract between a



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landowner and an irrigation district.

The irrigation district would submit a completed Pooled Landowner Form for each participating landowner as an addendum to its own completed Pooled District Form.

Where to Get Help

If you are considering entering into an Instream Lease, contact the Oregon Water Resources Department office nearest you.

If you are not certain about the water rights proposed for leasing, your local Water Resources Department office can help. Department data files contain up-to-date copies of water rights and related maps.

For identifying existing water rights, be prepared to provide Department staff with the township, range and section in which the property associated with the water right is located. Field office representatives will work with you in confirming water rights and completing lease applications.

Contact the Department at:

(503) 986-0900

Visit the Department Website at:

www.wrd.state.or.us