



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

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September 9, 2002

SUBJECT: Water Rights and Lands Enrolled under CREP

Dear Water Right Holder:

The purpose of this letter is to clarify that individuals holding water rights appurtenant to lands enrolled in the Conservation Reserve and Enhancement Program (CREP) will not lose those water rights due to non-use during the time their lands are enrolled in the program.

In most circumstances, if a water right is not exercised for five consecutive years, the water right is subject to forfeiture. If the lands are enrolled in the Federal Conservation Reserve Program (which includes CREP), then forfeiture of appurtenant water rights is rebutted for those lands during the enrollment period. For more information, see ORS 540.610(2)(e) at <http://www.leg.state.or.us/ors/540.html>.

While water rights appurtenant to lands enrolled in CREP are not subject to forfeiture during the enrollment period, landowners may want to consider leasing or temporarily transferring their water rights for instream use during CREP enrollment. A water right that is leased or temporarily transferred instream is considered to be beneficially used during the term of the lease. Therefore, water users who are at risk of forfeiture of their water rights due to non-use may find instream leases or temporary transfers instream to be good management options that also provide flows for fish and wildlife, scenic values, and improved water quality.

Landowners interested in leasing their water rights instream, especially those signing up for irrigated rental rates under CREP, can contact the local watermaster (<http://www.wrd.state.or.us/staff/index.shtml>) to help them determine if their water rights can be leased instream or transferred temporarily instream. Instream lease application forms and instructions can be found at <http://www.wrd.state.or.us/programs/stewardship/index.shtml>. Lease terms can be from one to five years, and an easy one-page renewal form is available. A time-limited instream transfer of a water right is also available to CREP enrollees. Time-limited transfers use the standard transfer form available at <http://www.wrd.state.or.us/publication/pdfs/transferapp99.pdf>.

Sincerely,

Tom Paul  
Administrator  
Field Services Division

