



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

Application for District Instream Lease

Part 1 of 4 – Minimum Requirements Checklist

This Application to be used for water rights in the name of or conveyed by an Irrigation District (or similar organization) Complete Parts 1 through 4 and any required attachments	OWRD # _____
	District # _____

Check all items included with this application. (N/A = Not Applicable)

Yes N/A **Pooled Lease**-a lease with more than one **Lessor** (Landowner/water right interest holder)

Fee in the amount of:

<input type="checkbox"/> \$450.00 for a lease involving four or more landowners or four or more water rights
<input type="checkbox"/> \$300.00 for all other leases
<input type="checkbox"/> Check enclosed <u>or</u>
<input type="checkbox"/> Fee Charged to customer account _____ (<i>Account name</i>)

Part 1 – Completed Minimum Requirements Checklist

Part 2 – Completed District and Other Party Signature Page

Part 3 – Completed Place of Use and Lessor Signature Page

(Include a separate **Part 3** for each Lessor.)

Part 4 – Completed Water Right and Instream Use Information

(Include a separate **Part 4** for each Water Right.)

How many Water Rights are included in the lease application? _____ (# of rights)

List each water right to be leased instream here: _____

Yes N/A **Other water rights**, if any, appurtenant to the **lands** involved in the lease application and not proposed to be leased instream.

List those other water rights here: _____

Yes No Conservation Reserve Enhancement Program **CREP** – Are some or all of the lands to be leased part of CREP or another Federal program (list here: _____)?

Required Attachments:

Yes N/A Instream lease application map(s). More than one QQ and property may be included on each map. A map is **not** required if an entire right is being leased or if the right is for use of municipal or quasi-municipal water use. The map should include the following:

- A north arrow and map scale (no smaller than 1" = 1320').
- Label township, range, section and quarter-quarter (QQ).
- If an irrigation right, the numbers of acres to be leased in each quarter-quarter identify and hachure/shade to differentiate between the acreage being leased and any remaining. If the place of use has more than one priority date, source stream, and/or point of diversion you **must identify each with separate hachuring or shading** and label.
- Tax lot lines and numbers must be included on the map and should clearly identify the property(s) involved.

Yes N/A **If the Lessor(s) is not** the deeded land owner, include one of the following:

- A notarized statement from the land owner consenting to the lease and a copy of the recorded deed; or
- A water right conveyance agreement and a copy of the recorded deed for the landowner at the time the water right was conveyed; or
- Other documentation.

Yes N/A If the right has **not** been used in the last five years; provide supporting documentation indicating why a right (or portion thereof) is **not** subject to forfeiture.

Part 2 of 4 – District and other party Signature

Term of the Lease: The lease is requested to begin in: month _____ year _____ and end: month _____ year _____.	
Public use: Check the public use(s) this lease will serve (as defined by ORS 537.332): <input type="checkbox"/> Conservation, maintenance and enhancement of aquatic, fish and wildlife, fish and wildlife habitat and any other ecological values. <input type="checkbox"/> Recreation <input type="checkbox"/> Pollution abatement <input type="checkbox"/> Navigation	Termination provision (for multiyear leases): The parties to the lease request (choose one): <input type="checkbox"/> a. The option of terminating the lease prior to expiration of the full term with written notice to the Department by the Lessor(s) and/or Lessee. <input type="checkbox"/> b. The option of terminating the lease prior to expiration of the full term, with consent by all parties to the lease. <input type="checkbox"/> c. The parties would not like to include a Termination Provision. (See instructions for limitations to this provision)
Additive/Replacing Relationship to other instream water rights: Instream leases are generally additive to other existing instream water rights created as a result of instream leases and transfers and/or allocations of conserved water. Since instream leases are also generally senior to other instream rights created through a state agency process or conversion of minimum flows, they generally replace a portion of these junior instream rights. If you would like this lease to relate to other instream water rights differently than described above, please check this box. <input type="checkbox"/> And attach an explanation of your intent.	
Precedent: If a right which has been leased is later proposed to be leased again or later transferred or become part of an allocation of conserved water project, a new injury review shall be required. An instream lease shall not set a precedent on a future transaction.	
Validity of the rights to be leased: <input type="checkbox"/> The water right(s) to be leased have been used under the terms and conditions of the right(s) during the last five years or have been leased instream; or <input type="checkbox"/> The water right(s) have not been used for the last five years according to the terms and conditions of the rights. However, the water right(s) is not subject to forfeiture under ORS 540.610(2). Documentation describing why the water right is not subject to forfeiture has been provided.	

SIGNATURES

The undersigned declare that the information contained in this application is true and accurate.

Date: _____

Signature of Co-Lessor

Printed name (and title): _____
 Business/organization name: _____
 Mailing Address (with state and zip): _____
 Phone number (include area code): _____
 **E-mail address: _____

Date: _____

Signature of Co-Lessor

Printed name (and title): _____
 Business/organization name: _____
 Mailing Address (with state and zip): _____
 Phone number (include area code): _____
 **E-mail address: _____

See next page for additional signatures.

Date: _____

Signature of Lessee

Printed name (and title): _____

Business/organization name: _____

Mailing Address (with state and zip): _____

Phone number (include area code): _____

**E-mail address: _____

**** BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED TO THE LESSOR**

Part 3 of 4 – Place of Use – Lessor Information and Signatures

**Complete Table 1 Identify water right(s) proposed to be leased instream
Provide a separate Part 3 for each Lessor (water right interest holder/landowner)**

Table 1

Irrigation District or other Water Purveyor Name: _____

Specify Water Right, Priority Date, point of diversion(s) (POD), place of use, tax lot, gov't lot/DLC, acres to be leased, original use type, certificate page number, and any previous lease.

If not enough room below, you may add rows (see instructions) or create a spreadsheet/table (matching Table 1) and attach.

Any attached table should include reference to the Lessor.

Water Right #	Priority Date	POD #	Twp	Rng	Sec	Q-Q	Tax Lot	Gov't Lot/DLC #	Acres	Use	Page #	Previous Lease #

Any additional information about the right: _____

Farm Deferral Tax Status: Counties make the determination of whether a property qualifies for the farm use assessment without consideration of whether the lands have an associated water right which is leased instream. If you have questions regarding the farm use assessment you should contact your local county assessor. You should contact your County for any weed ordinance and management requirements.

The undersigned declare:

1. I/We agree during the term of this lease to suspend use of water allowed under the water right(s) involved in the lease as well as and any other appurtenant primary or supplemental water right(s); and
2. I/We certify are the lessor(s) (water right interest holder) of the water right(s) in Table 1. If not the deeded land owner, I/we have obtained consent from the deeded land owner and/or have provided documentation of authorization to pursue the instream lease; and
3. I/We affirm that the information in this application is true and accurate.

_____ Date: _____

Signature of Lessor

Printed name (and title): _____ Business name, if applicable: _____

Mailing Address (with state and zip): _____

Phone number (include area code): _____ **E-mail address: _____

_____ Date: _____

Signature of Lessor

Printed name (and title): _____ Business name, if applicable: _____

Mailing Address (with state and zip): _____

Phone number (include area code): _____ **E-mail address: _____

Part 4 of 4 – Water Right and Instream Use Information

Use a separate Part 4 for each water right to be leased instream

Table 2

Use Table 2 to illustrate the totals for the water right proposed to be leased instream (based on Part 3 of 4) Water Right # _____

Total rate and volume by priority date, POD, use and acreage as appropriate considering the right to be leased. If not enough room below, you may add rows (see instructions) or create a spreadsheet (matching Table 2 and clearly labeled) and attach.
(cfs = cubic feet per second and af = acre-feet)

Priority Date	POD #	Use	Acres	Other Information (such as conditions/limitations on the right)	Rate (cfs)	Volume (af)

Total af from storage, if applicable: _____ AF or N/A

If the POD is not described on the certificate or, if there is more than one POD listed on the certificate, then the specific POD must be described:

Table 3

Instream Use created by the lease	River Basin: _____	River/Stream Name: _____ tributary to _____
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<p>Proposed Instream Reach: <input type="checkbox"/> A reach typically begins at the POD and ends at the mouth of the source stream: From the POD _____ to _____</p>	<p>Or Proposed Instream Point: <input type="checkbox"/> Instream use protected at the POD</p>
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OR Please check this box if you are not sure of the proposed reach and want water to be protected within a reach below the POD, if possible. If no reach is identified or the above box is not checked, and there is only one POD listed on the water right, the lease may be processed to be protected at the POD.)

Instream Portion: May not exceed the maximum rate/volume for the right (identified in Table 2)
 Use the table 3 to illustrate the instream rate, volume and instream period by priority date, POD, Use and acreage, as appropriate. If not enough room below, you may add rows (see instructions) or create a spreadsheet (clearly labeled and matching the below portion of Table 3) and attach.

Priority date	POD #	Use	Acres	Proposed Instream Period	Instream Rate (cfs)	Total instream volume (af)

OR Please check this box if you are not sure of the proposed rate, volume and instream period. As part of its review process, the Department will identify the appropriate instream rate, volume and period considering the water right(s) being leased and instream benefits.

Yes N/A **Conditions to avoid enlargement or injury to other water rights, if any, or other limitations:** list here _____
 Note: The Department may identify additional conditions to prevent injury and/or enlargement. _____

Any additional information about the proposed instream use: _____

District Lease Application Information and Instructions

Helpful Links

For assistance with your application contact the Watermaster or call 503-986-0900

Watermasters in Oregon	http://www.oregon.gov/owrd/docs/watermasterchart.pdf
Instream Leasing Forms	http://www.oregon.gov/owrd/pages/pubs/forms.aspx#instream
Fee Schedule	http://www.oregon.gov/owrd/pages/pubs/forms.aspx#fees
Water Rights Information Query	http://apps.wrd.state.or.us/apps/wr/wrinfo/
OAR: Chapter 690 Division 77	http://www.oregon.gov/owrd/law/docs/law/oar_690_077.pdf

Eligible Water Rights

Surface and Storage water rights subject to Instream Lease include:

1. Certificated rights.
2. Adjudicated rights evidenced by a court decree.
3. Permits or transferred rights upon which satisfactory proof has been made.
4. Conserver's portion of conserved water allocation under ORS 537.445 to 537.500.
5. Secondary water rights for the use of stored water.

A water right that has not been used for five or more years may no longer be valid under Oregon law. If the Department reasonably suspects the right may no longer be valid, an affidavit attesting to the use and supporting documentation may be required or the lease may be denied as incomplete. An irrigation district or other water purveyor may provide evidence for water right holders, verifying the delivery of water for the lands appurtenant to the rights to be leased. Municipal water rights, in general, are not subject to forfeiture. However, if you have any questions, please contact the Department for additional information and/or clarification.

Deadline for Submittal

A lease involving a water right with a seasonal use must be received prior to July 1. A lease involving a water right with a year round use must be received prior to October 1.

Other Water Rights

It is important to provide an inventory of *all water rights appurtenant* to the same lands involved in the lease application. These are rights that are not being included in the lease application. This includes other primary and supplemental rights, even if the rights are still in permit status.

Conservation Reserve Enhancement Program (CREP)

Indicate if some or all of the lands involved in the lease application are enrolled in the CREP program (or other similar Federal Program). The Department will send a copy of the order approving the lease to the Farm Services Administration and other associated parties. If lands involved in the lease are enrolled in another Federal Program, please provide the name of that program in the space provided in Part 1 of 4.

Term of the lease

The term of the lease can be no less than one calendar year and no more than five calendar years.

Note: A lease may be renewed many times. See the link to Instream Leasing Forms above.

Termination provision

For multiyear leases, this provision gives the Lessor(s) and any Lessee an opportunity to request or prohibit an Instream Lease to terminate prior to the scheduled termination date. Unless otherwise specified, the Lessee, if there is one, has the same standing as the Lessor for management of the instream lease.

District Lease Application Information and Instructions

For instream leases submitted as Mitigation Projects in the Deschutes Groundwater Study Area, termination will be required by all parties to the lease and must be submitted to both the Salem and Bend OWRD offices.

Requests to terminate a lease, may be submitted by e-mail from the appropriate parties identified in the Final Order approving the lease application.

Additive / Replacing

- Water rights that are leased instream generally have senior priority dates. Instream rights created by an instream lease are then additive to other instream rights with senior priority dates created as a result of instream lease, transfer and/or allocation of conserved water.
- If there is an existing junior instream right created as a result of a state agency application process or conversation of minimum flows, the instream right created as a result of a lease will generally replace a portion of that existing right with an earlier (senior) priority date.
- However, applicants may request a different relationship to other instream rights than described above. For example, under certain conditions, if the priority date of the instream right to be created by the lease is junior to an existing instream right (created as a result of a state agency application process or minimum flow conversion), the new instream use could be additive to those existing instream rights. In this example, the applicant may need to submit additional information (such as a letter from ODFW, DEQ, or OPRD) describing the instream benefits of making the rights additive.

Parties to the Lease

- Lessor:** This is generally the landowner(s) and is referred to as the water right holder. All water right holders must sign the lease application. The lessor may also be someone that holds interest in the water right or another party that has been granted authorization by the landowner to leases the water right. If the Lessor is not the deeded landowner, additional information must be provided as specified in the application checklist (Minimum Requirements Checklist Part 1 of 4).
- Co-Lessor:** Irrigation districts (or other similar organizations) as defined in ORS Chapters 545, 547, 552, 553, or 554, which delivers water to the subject lands must be a party to the lease. If the source of water for the subject lands is stored water, then the owner/operator of the reservoir must also be party to the lease as Co-lessor.
- Lessee:** Individuals or organizations, which may provide compensation to the Lessor for the leasing of the subject water right instream. The Lessee may have, unless otherwise indicated, the same standing as the Lessor for all purposes regarding management and enforcement of the instream water right. 690-077-0076 (12)
- Trustee:** The Trustee is the Oregon Water Resources Department. If a person leases a right to the State without third party involvement, the Department will also be considered the Lessee.

Tables 1, 2 and 3

If needed, you may attach a table and label with appropriate table #.

- Include all the information from the given table(s). For Table 1 include the specific Lessor information. The Lessor signatures and certification language should still be on Part 3. However, on Part 3 you may reference an attached table for the specific Lessor.

District Lease Application Information and Instructions

Editing the Application Form

To add additional lines to tables within the forms or to copy and paste additional Part 3 & 4 pages, please **save the application form to your computer**. Unlock the document by using one of the following instructions for your Microsoft Word software version:

Microsoft Word 2007

- Unlock the document by clicking the **Review** tab, then click **Protect Document**, then click **Stop Protect**
- To relock the document, click **Editing Restrictions**, then click **Allow Only This Type of Editing**, select **Filling In Forms** from the drop-down menu, then check **Yes, Start Enforcing Protection**.

Microsoft Word 2010

- Unlock the document by clicking the **Review** tab, toggle the **Restrict Editing icon** at the upper right, then click **Stop Protect** at the bottom right. Then uncheck the “**Allow only this type of editing** in the document: **Filling in forms**” in the “Editing restrictions” section on the right-hand list of options.
- To relock the document, check the **Editing Restrictions/Allow Only This Type of Editing/Filling In Forms** box from the drop-down menu, then check **Yes, Start Enforcing Protection**. You do not need to assign a password for the editing restrictions.