



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

Application for Instream Lease Pooled Lease Form

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.

Pursuant to ORS 537.348(2) and OAR 690-077

Optional Identification by Lessor/Lessee: Swalley & RF Wilson
Lease Application Number (assigned by WRD): IL-1183

This Lease is between:

Lessor #2: Irrigation District or Other Water Purveyor

Name Swalley Irrigation District
Mailing address 64672 Cook Ave., Ste. 1
City, State, Zip Code Bend, OR 97701
Telephone number 541-388-0658
Email address kathy@swalley.com

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

Lessee (if different than Oregon Water Resources Department):

Name Deschutes River Conservancy
Mailing address P.O. Box 1560
City, State, Zip Code Bend, OR 97709
Telephone number 541-382-4077
Email address gen@deschutesriver.org

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

1.2 Lessor #2 is the (Check one):

- Official representative of Swalley Irrigation District, the irrigation district, which conveys water to the subject water rights.
- Another party with an interest in the subject water rights representing _____.
- Not applicable.

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. 74145

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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.: 74145

Priority date: Sept 1, 1899 Type of use: Irrigation

Legal Season of Use: April 1 – Nov 1

If an irrigation right, total number of acres to be leased: 10.00

Total acre-feet of storage to be leased, if applicable: _____

Maximum rate associated with subject water rights (cfs) being leased: _____

If there is more than one rate associated with a water right, describe below:

Season 1 (cfs) 0.076 Time period: _____

Season 2 (cfs) 0.102 Time period: _____

Season 3 (cfs) 0.193 Time period: _____

Maximum duty associated with subject water rights (ac-ft): 6.61/ac = 66.14

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Conditions or other limitations, if any: _____

If you need to enter another leased right, please use the additional water rights form.

~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:

Deschutes River

Tributary to Columbia River in the Columbia 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 will 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): Swalley Main Canal, T17S, R12E, Sect 29 SE/NE to mout of the Deschutes River.

Maximum volume in acre-feet: 54.47AF

Rate in cfs: _____

(If more than one rate, describe the rate associated within each time period or instream reach.)

Rate in cfs: Season 1: 0.069

Rate in cfs: Season 2: 0.092

Rate in cfs: Season 3: 0.170

(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 April 1 through October 25.

Other (describe): _____

2.3 **Term of lease.** This lease shall terminate on November 1, 2011.

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 short term 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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Pooled Lease Form / 3

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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 #2: *Suzanne Butterfield* Date: 6-9-11
Swalley Irrigation District

Lessee: *Genevieve Huscut* Date: 6/10/2011
Deschutes River Conservancy

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

Attachment 5: Pooled Lease Water Right Holder Form

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SALEM, OREGON



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

Application for Instream Lease

Pooled Lease - Water Right Holder

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.

Pursuant to ORS 537.348(2) and OAR 690-077

Optional Identification by Lessor/Lessee: _____
Lease Application Number (assigned by WRD): IL-1183

This Lease is between:

Lessor #1:

Name Swalley Irrigation District
Mailing address 64672 Cook Ave., Ste 1
City, State, Zip Code Bend, OR 97701
Telephone number 541-388-0658
Email address kathy@swalley.com

Lessor #2, 3, etc.

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

Lessee (if different than Oregon Water Resources Department):

Name Deschutes River Conservancy
Mailing address P.O. Box 1560
City, State, Zip Code Bend, OR 97709
Telephone number 541-382-4077
Email address gen@deschutesriver.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 17S, Range 12E, Section 08 and Tax Lot number 02200. 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 Swalley Irrigation District, 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. 74145

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.: 74145

Priority date: Sept 1, 1899 Type of use: Irrigation

Legal Season of Use: April 1 - Nov 1

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 1/4 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:

T17S, R12E, Section 08 NW/SE 1/4 - Tax lot - 02200 acres to be leased .10, Page 17

T17S, R12E, Section 08 SW/SE 1/4 - Tax lot - 02200 acres to be leased 1.90, Page 17

T17S, R12E, Section 08 SW/SE 1/4 - Tax lot - 02300 acres to be leased 5.00, Page 17

Number of acres being leased, if for irrigation: 7.00

Acre-feet of storage, if applicable: _____

Maximum rate associated with the right to be leased (cfs): Season 1: 0.053 cfs,

Season 2: 0.072 cfs, Season 3: 0.135

(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): 6.61/ac = 46.30 AF

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

Conditions or other limitations, if any: _____

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:

Deschutes River

Tributary to Columbia River in the Columbia 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):

Swalley Main Canal, T17S, R12E, Sect 29, SENE to mouth of the Deschutes River.

Maximum volume in acre-feet: 5.46 AF/=38.08 AF

Rate in cfs: Season 1: 0.048, Season 2: 0.064, Season 3: 0.119

(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 April 1 through October 25.
- 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 November 1, 2011.

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.

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~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.

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 - 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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3.7 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: Suzanne Butterfield
Swalley Irrigation District

Date: 6-9-11

For additional Lessors, type in space for signature and date

Lessee: Genevieve Helbert
Deschutes River Conservancy

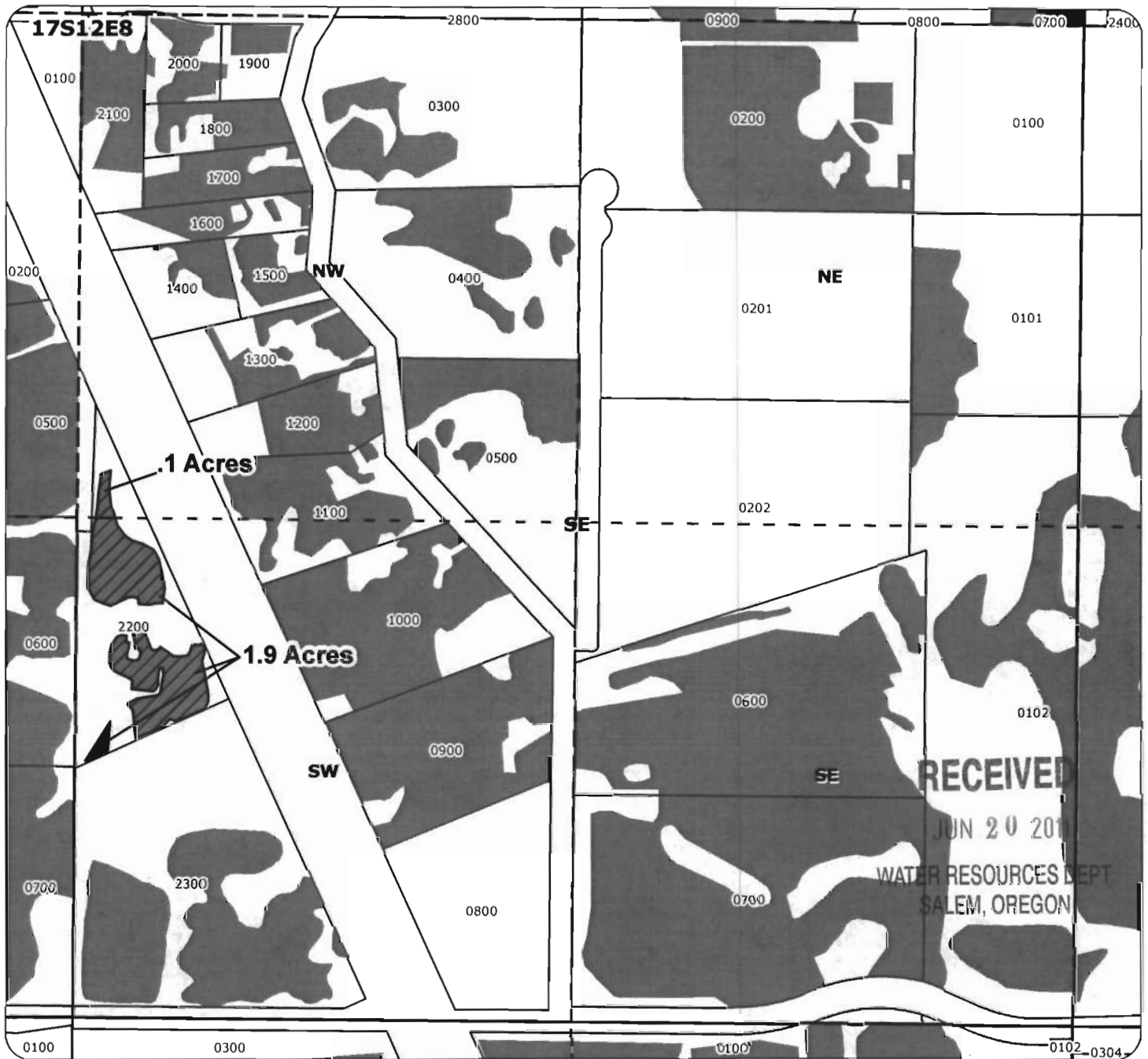
Date: 6/10/2011

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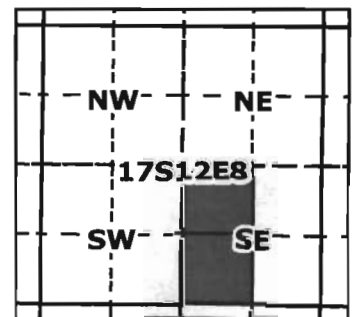
2011 Swalley Irrigation District Instream Lease Map



Application for 1-year Instream Lease Primary: Certificate 74145

-  Proposed Lease of Irrigation Rights
-  Certificate 74145

For:
 MF Cooley 2, LLC
 Taxlot 2200 - .1 Acres
 0 Acres Remaining on Taxlot 2200
 in 17S12E8NWSE
 Taxlot 2200 - 1.9 Acres
 0 Acres Remaining on Taxlot 2200
 in 17S12E8NSWSE
 Total Lease of 2 Acres



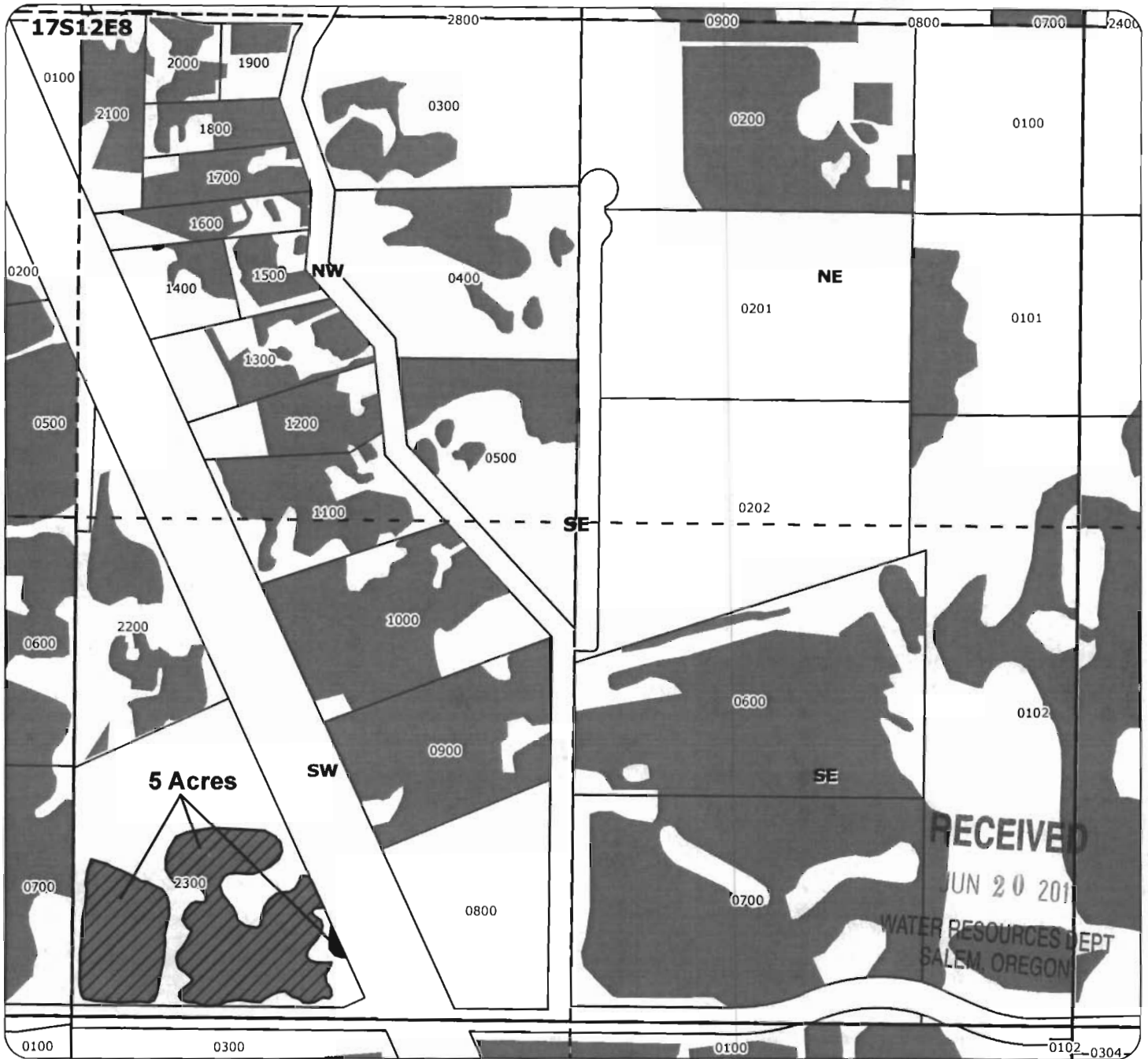
1 inch = 400 feet





Geo-Spatial Solutions, Inc.
www.geospatialsolutions.com

Date Created: June 2011

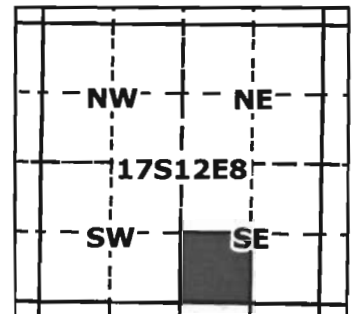
2011 Swalley Irrigation District Instream Lease Map



Application for 1-year Instream Lease Primary: Certificate 74145

-  Proposed Lease of Irrigation Rights
-  Certificate 74145

For:
 MF Cooley 1, LLC
 Taxlot 2300 - 5 Acres
 0 Acres Remaining on Taxlot 2300
 in 17S12E8SWSE
 Total Lease of 5 Acres



1 inch = 400 feet



Geo-Spatial Solutions, Inc.
www.geospatialolutions.com

Date Created: May 2011

**Water Right Transfer Supplemental Form A
AFFIDAVIT ATTESTING TO THE USE OF WATER**

State of Oregon)
) ss
 County of Deschutes)

I, Janet Lee, in my capacity as General Manager,
 mailing address 64672 Cook Ave., Suite 1, Bend, OR 97701
 telephone number (541) 388-0658, being first duly sworn depose and say:

1. I attest that:

- Water was used during the previous five years on the entire authorized place of use of the water right proposed for transfer as described on the accompanying transfer application, or
- The water right is not subject to forfeiture and documentation that a presumption of forfeiture for non-use would be rebutted under ORS 540.610(2) is attached.

2. My knowledge of the exercise or status of the water right is based on (check one):

- Personal observation
- Professional expertise

3. My knowledge is specific to the use of water at the following locations:

Township		Range		Mer	Sec	¼ ¼ Section	Gov't Lot or DLC	Acres (if applicable)
17	S	12	E	WM	08	NW/SE	02200	.10
17	S	12	E	WM	08	SW/SE	02200	1.90

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(continues on reverse side)

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more space. Supporting documentation must be attached.

4. The water right was exercised for the authorized purpose described below (e.g., crops grown):

pasture.

5. The water delivery system used to apply water as authorized by the right is described below:

turned out from the Riley sub-lateral into a pipe.

6. One or more of the following documentation supporting the above statements is attached:

- Copy of a water right certificate that was issued within the last five years (not a remaining right certificate),
- Copies of receipts from sales of irrigated crops or for expenditures relating to the use of water,
- Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers,
- Dated aerial photographs of the lands or other photographs containing sufficient detail to establish the location and date of the photograph,
- Dedicated power usage records or receipts,
- Other: _____

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SALEM, OREGON

Karl Dankler
Signature of Affiant

3/24/09
Date

Signed and sworn to (or affirmed) before me this 24 day of March, 2009.



Kathy Ferguson
Notary Public for Oregon

My Commission Expires: 1-5-2010

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more space. Supporting documentation must be attached.



WIN

After recording, return to:
MICHAEL J. FLURY
855 PONDEROSA AVE
JACKSON, WY 83001

Until change, tax statement shall
be sent to:
(SAME AS ABOVE)

Ch

BARGAIN AND SALE DEED

MFJ DEVELOPMENT, INC

hereinafter called grantor, does hereby grant, bargain, sell and convey unto

MF COOLEY 1, LLC

hereinafter called grantee, unto grantee's heirs, successors and assigns, all of that certain real property with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, situated in the County of Deschutes, State of Oregon, described as follows, to-wit:

SEE ATTACHED EXHIBIT A

(113076)

To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever.

The true and actual consideration for this conveyance is other value or property.

In construing this deed and where the context so requires, the singular includes plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.

In Witness Whereof, the grantor has executed this instrument this 15th day of January, 2007

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352.

MFJ DEVELOPMENT, INC

[Signature]
BY: MICHAEL J. FLURY

STATE OF Wyoming, County of Teton ss.

This instrument was acknowledged before me on January 15, 2007 by
MICHAEL J. FLURY.

[Signature]
Notary Public for Wyoming, Teton County

My commission expires: 2/15/2007

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JUN 5 2007

WATER RESOURCES DEPT
SALEM, OREGON

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THIS DOCUMENT FILED FOR RECORD BY
DESCHUTES COUNTY TITLE COMPANY AS AN
ACCOMMODATION ONLY. IT HAS NOT
BEEN EXAMINED AS TO ITS EXECUTION OR
AS TO ITS EFFECT UPON THE TITLE.

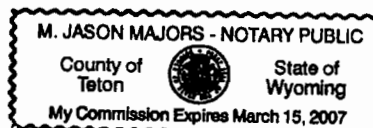


Exhibit A

Parcel 1

That Portion of the West half of the Southeast Quarter of Section 8, Township 17 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon, lying Southerly and Westerly from the Southerly and Westerly right-of-way line of the U.S. Highway 20 as now located.

EXCEPTING THEREFROM that portion of the Southeast Quarter of said Section 8, described as follows:

Beginning at the South Quarter corner of said Section 8; thence North $0^{\circ}07'17''$ West, 655.80 feet along the midsection line to the true point of beginning; thence North $0^{\circ}07'17''$ West, 1066.44 feet to the Southerly right-of-way line of Highway 20; thence South $25^{\circ}07'28''$ East, 966.50 feet; thence South $64^{\circ}52'32''$ West, 450.75 feet to the point of beginning.

ALSO EXCEPTING THEREFROM the right-of-way of Cooley Road as shown on the Deschutes County Assessor's map.

ALSO EXCEPTING THAT PORTION conveyed to Oregon State Department of Transportation, Highway Division recorded September 28, 1992 in Book 277, Page 1651 of Deschutes County Official Records.

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SALEM, OREGON



After Recording Return To:
SWALLEY IRRIGATION DISTRICT
64672 Cook Avenue, Suite 1
Bend, Oregon 97701

QUITCLAIM DEED
FOR TRANSFER OF INTEREST IN A WATER RIGHT

Grantor, MF Cooley 1, LLC/ Michael Flury, Sole Member releases and quitclaims to Swalley Irrigation District (SID) all rights, title and interest in the following: By this agreement and signed transfer application form, Grantor, the owner of the lands listed in Exhibit A, release their claim and responsibility for 5.00 acres of Swalley Irrigation District water right that are appurtenant to the lands listed in Exhibit A, to Swalley Irrigation District. Swalley Irrigation District may elect to complete the transfer application and submit it to the Water Resources Department for approval of use of the water right at a new location and/or use. Swalley Irrigation District may attach this agreement to the Oregon Water Resources Department's lease form and file with the District's annual Short Term Water Right Lease Agreement.

By entry of this deed, grantor hereby notifies any subsequent purchaser of the lands listed in Exhibit A that grantor, as owner of the subject land, approved the transfer (including a change in the place and type of use and point of diversion) of the water rights that are appurtenant to the subject land; and that upon completion of a transfer, by election of SID, the subject land no longer will have an appurtenant water right, if the transfer includes a change in the place of use.

Furthermore, upon signing of this agreement and the accompanying transfer application MF Cooley 1, LLC / Michael Flury, Sole Member, shall no longer be liable for any district assessment or charges pertaining to the 5.00 acres of water right incurred after the date of signing. The water right in question is further described as a portion of certificate # 74145, priority of 1899, located:

T17S-R12E, WM-SEC 08-SW/SE-02300,

This agreement is binding upon the heirs, executors, administrators, successors, and permitted assigns of the parties to this agreement. Consideration for this Quitclaim is \$5,000.00

Grantor:

Date 12/29/08

MF Cooley 1, LLC / Michael Flury, Sole Member

Date _____

State of ~~Oregon~~ Wyoming SS.

County of ~~Deschutes~~ Teton

Personally appeared Michael Flury and acknowledged the forgoing instrument to be his / her voluntary act and deed.



My commission expires 1-29-2010

Swalley Irrigation District:

Date 1/29/09

Janet L. Lee, Manager

State of Oregon SS.

County of Deschutes

Personally appeared, Janet L. Lee as Manager for Swalley Irrigation District, and acknowledged the forgoing instrument to be her voluntary act and deed.



My commission expires 1-5-2010

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SALEM, OREGON

MF Cooley 1, LLC
Account # 2208

EXHIBIT A

Total Water Rights: 2.00 Acres

Legal Description:	Taxlot	Serial#	WR Acres:
T17S-R12E-WM-SEC 08-SW/SE-02300	171208D002300	113076	5.00

PARCEL 1 (Deschutes County Assessor's Map 17-12-08D-2300):

That portion of the West Half of the Southeast Quarter (W1/2SE1/4) of Section Eight (8), Township Seventeen (17) South, Range Twelve (12), East of the Willamette Meridian, Deschutes County, Oregon, lying Southerly and Westerly from the Southerly and Westerly right-of-way line of the U.S. Highway 20 as now located.

EXCEPTING THEREFROM that portion of the Southeast Quarter (SE1/4) of said Section Eight (8), described as follows: Beginning at the South quarter corner of said Section 8; thence North 0°07'17" West, 655.80 feet along the midsection line to the true point of beginning; thence North 0°07'17" West, 1066.44 feet to the Southerly right-of-way line of Highway 20; thence South 25°7'28" East, 966.50 feet; thence South 64°52'32" West, 450.75 feet to the point of beginning.

ALSO EXCEPTING THEREFROM the right-of-way of Cooley Road as shown on the Deschutes County Assessor's Map.

ALSO EXCEPTING THAT PORTION conveyed to Oregon State Department of Transportation, Highway Division recorded September 28, 1992 in Book 277, Page 1651, of Deschutes County Official Records.

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JUN 27 2011

WATER RESOURCES DEPT
SALEM, OREGON

District Internal Notice:

State of Oregon
WATER RESOURCES DEPARTMENT
NOTICE OF DISTRICT PERMANENT TRANSFER
(ORS 540.580)

DISTRICT: **Swalley Irrigation District**
ADDRESS: **64672 Cook Avenue, Suite 1, Bend, OR 97701**
PHONE: **541/388-0658**

1. **WATER RIGHT: Swalley Irrigation District**
CERTIFICATE(S): #74145 PRIORITY DATE: September 1, 1899

2. **TYPE OF CHANGE: PERMANENT CHANGE IN PLACE OF USE**

3. **APPLICANT**
NAME: MF Cooley 1, LLC
Michael Flury, Sole Member
ADDRESS: 63649 Hwy 20, Bend, OR 97701

4. **LOCATION OF USE**
AUTHORIZED POINT OF DIVERSION:
N 985' & W 617' from the East ¼ corner, SE/NE of Section 29, T17S, R12E.W.M. (diversion for Swalley's canal system), Additional district diversion: NW1/4SE1/4, Section 14, T.15S., R. 12E,W.M.; 2170 feet North and 1350 feet West from the SE Corner of Section 14.

LOCATION OF AUTHORIZED PLACE OF USE (Off Lands)

Township	Range	Section	¼ ¼	Tax Lot	# of acres irrigated	Other Use
17S	12E	08	SW/SE	02300	5.00	Irr

5. **RECIPIENT**
NAME: Swalley Irrigation District for use by:
ADDRESS: 64672 Cook Ave, Ste 1, Bend, OR 97701

6. LOCATION OF PROPOSED USE (On Lands)

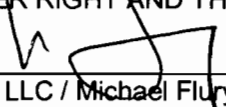
Township	Range	Section	¼ ¼	Tax Lot	# of acres irrigated	Other Use

7. **EXHIBITS** : Maps showing the location of the present and proposed irrigated lands (*On & Off Maps*)

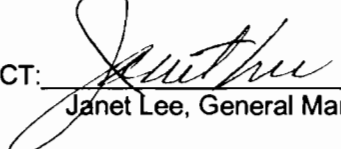
Swalley Irrigation District hereby certifies that the applicant and recipient are the deed holders of subject properties; that our files are complete with a copy of the recorded documents; that the applicant's land has been irrigated within the last five years, and that applicant and recipient hereby authorize the transfer proposed herein.

NOTICE IS HEREBY GIVEN that this proposed change is subject to the approval of the Water Resources Department and that the Water Resources Department may reject the transfer or may require mitigation to avoid injury to other water right holders.

SWALLEY IRRIGATION DISTRICT AND APPLICANT, HEREBY SWEAR THAT THE ABOVE NOTICE FOR TRANSFER OF WATER RIGHT AND THE STATEMENTS MADE ARE TRUE AND CORRECT.

APPLICANT:  12/29/08
MF Cooley 1, LLC / Michael Flury, Sole Member Date

CO-APPLICANTS: _____ Date

DISTRICT:  1/2/09
Janet Lee, General Manager of Swalley Irrigation District Date

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JUN 29 2011

WATER RESOURCES DEPT
SALEM, OREGON

**Water Right Transfer Supplemental Form A
AFFIDAVIT ATTESTING TO THE USE OF WATER**

State of Oregon)
) ss
 County of Deschutes)

I, Janet Lee, in my capacity as General Manager,
 mailing address 64672 Cook Ave., Suite 1, Bend, OR 97701
 telephone number (541) 388-0658, being first duly sworn depose and say:

1. I attest that:

- Water was used during the previous five years on the entire authorized place of use of the water right proposed for transfer as described on the accompanying transfer application, or
- The water right is not subject to forfeiture and documentation that a presumption of forfeiture for non-use would be rebutted under ORS 540.610(2) is attached.

2. My knowledge of the exercise or status of the water right is based on (check one):

- Personal observation
- Professional expertise

3. My knowledge is specific to the use of water at the following locations:

Township		Range		Mer	Sec	¼ ¼ Section	Gov't Lot or DLC	Acres (if applicable)
17	S	12	E	WM	08	SW/SE	02300	5.00

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WATER RESOURCES DEPT
SALEM, OREGON

(continues on reverse side)

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more space. Supporting documentation must be attached.

4. The water right was exercised for the authorized purpose described below (e.g., crops grown):

pasture

5. The water delivery system used to apply water as authorized by the right is described below:

turned out from the Riley sub-lateral
from a headgate end into a pipe.

6. One or more of the following documentation supporting the above statements is attached:

- Copy of a water right certificate that was issued within the last five years (not a remaining right certificate),
- Copies of receipts from sales of irrigated crops or for expenditures relating to the use of water,
- Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers,
- Dated aerial photographs of the lands or other photographs containing sufficient detail to establish the location and date of the photograph,
- Dedicated power usage records or receipts,
- Other: _____

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K. D. Blankin

Signature of Affiant

3/24/09

Date

WATER RESOURCES DEPT
SALEM, OREGON

Signed and sworn to (or affirmed) before me this 24 day of March, 2009.



Kathy Ferguson
Notary Public for Oregon

My Commission Expires: 1-5-2010

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more space. Supporting documentation must be attached.

District Internal Notice:

State of Oregon
WATER RESOURCES DEPARTMENT
NOTICE OF DISTRICT PERMANENT TRANSFER
(ORS 540.580)

DISTRICT: **Swalley Irrigation District**
ADDRESS: **64672 Cook Avenue, Suite 1, Bend, OR 97701**
PHONE: **541/388-0658**

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2. **TYPE OF CHANGE: PERMANENT CHANGE IN PLACE OF USE**

3. **APPLICANT**
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Michael Flury, Sole Member
ADDRESS: 63649 Hwy 20, Bend, OR 97701

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AUTHORIZED POINT OF DIVERSION:
N 985' & W 617' from the East ¼ corner, SE/NE of Section 29, T17S, R12E.W.M. (diversion for Swalley's canal system), Additional district diversion: NW1/4SE1/4, Section 14, T.15S., R. 12E,W.M.; 2170 feet North and 1350 feet West from the SE Corner of Section 14.

LOCATION OF AUTHORIZED PLACE OF USE (Off Lands)

Township	Range	Section	¼ ¼	Tax Lot	# of acres irrigated	Other Use
17S	12E	08	NW/SE	02200	.10	Irr
17S	12E	08	SW/SE	02200	1.90	Irr

5. **RECIPIENT**
NAME: Swalley Irrigation District for use by:
ADDRESS: 64672 Cook Ave, Ste 1, Bend, OR 97701

6. LOCATION OF PROPOSED USE (On Lands)

Township	Range	Section	¼ ¼	Tax Lot	# of acres irrigated	Other Use

7. **EXHIBITS** : Maps showing the location of the present and proposed irrigated lands (*On & Off Maps*)

Swalley Irrigation District hereby certifies that the applicant and recipient are the deed holders of subject properties; that our files are complete with a copy of the recorded documents; that the applicant's land has been irrigated within the last five years, and that applicant and recipient hereby authorize the transfer proposed herein.

NOTICE IS HEREBY GIVEN that this proposed change is subject to the approval of the Water Resources Department and that the Water Resources Department may reject the transfer or may require mitigation to avoid injury to other water right holders.

SWALLEY IRRIGATION DISTRICT AND APPLICANT, HEREBY SWEAR THAT THE ABOVE NOTICE FOR TRANSFER OF WATER RIGHT AND THE STATEMENTS MADE ARE TRUE AND CORRECT.

APPLICANT: MF Cooley 2, LLC / Michael Flury, Sole Member 12/29/08 (Date)

CO-APPLICANTS: _____ (Date)

DISTRICT: Janet Lee, General Manager of Swalley Irrigation District 1/14/09 (Date)

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JAN 30 2009

WATER RESOURCES DEPT
SALEM, OREGON



After recording, return to:
MICHAEL J. FLURY
855 PONDEROSA AVE
JACKSON, WY 83001

Until change, tax statement shall
be sent to:
(SAME AS ABOVE)

BARGAIN AND SALE DEED

MICHAEL J. FLURY

hereinafter called grantor, does hereby grant, bargain, sell and convey unto

MF COOLEY 2, LLC

hereinafter called grantee, unto grantee's heirs, successors and assigns, all of that certain real property with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, situated in the County of Deschutes, State of Oregon, described as follows, to-wit:

SEE ATTACHED EXHIBIT A

(113075)

To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever.

The true and actual consideration for this conveyance is other value or property.

In construing this deed and where the context so requires, the singular includes plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.

In Witness Whereof, the grantor has executed this instrument this 15th day of JANUARY 2007

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352.

[Signature]
MICHAEL J. FLURY

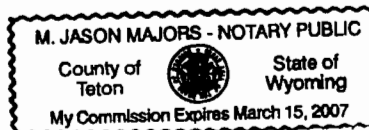
STATE OF Wyoming, County of Teton) ss.

This instrument was acknowledged before me on January 15, 2007 by
MICHAEL J. FLURY.

[Signature]
Notary Public for Wyoming Teton County

My commission expires: 3/15/2007

THIS DOCUMENT FILED FOR RECORD BY
DESCHUTES COUNTY TITLE COMPANY AS AN
ACCOMMODATION ONLY. IT HAS NOT
BEEN EXAMINED AS TO ITS EXECUTION OR
AS TO ITS EFFECT UPON THE TITLE.



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JUN 20 2011

WATER RESOURCES DEPT
SALEM, OREGON

EXHIBIT A

Parcel 2

In Township 17 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon:

Section 8: That portion of the Southeast Quarter of said section, described as follows:

Beginning at the South Quarter corner of Section 8; thence North 0°07'17" West, 655.80 feet along the midsection line to the true point of beginning; thence North 0°07'17" West, 1066.44 feet to the Southerly right-of-way line of Highway 20; thence South 25°07'28" East, 966.50 feet; thence South 64°52'32" West, 450.75 feet to the point of beginning.

EXCEPTING that portion conveyed October 27, 1983 in Book 31, Page 366.

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JUN 29 2011

WATER RESOURCES DEPT
SALEM, OREGON



D-D Cnt=1 Stn=25 TM
\$10.00 \$11.00 \$10.00 \$5.00

After Recording Return To:
SWALLEY IRRIGATION DISTRICT
64672 Cook Avenue, Suite 1
Bend, Oregon 97701

QUITCLAIM DEED
FOR TRANSFER OF INTEREST IN A WATER RIGHT

Grantor, **MF Cooley 2, LLC/ Michael Flury, Sole Member** releases and quitclaims to **Swalley Irrigation District (SID)** all rights, title and interest in the following: By this agreement and signed transfer application form, Grantor, the owner of the lands listed in Exhibit A, release their claim and responsibility for **2.00 acres** of Swalley Irrigation District water right that are appurtenant to the lands listed in **Exhibit A**, to Swalley Irrigation District. Swalley Irrigation District may elect to complete the transfer application and submit it to the Water Resources Department for approval of use of the water right at a new location and/or use. Swalley Irrigation District may attach this agreement to the Oregon Water Resources Department's lease form and file with the District's annual Short Term Water Right Lease Agreement.

By entry of this deed, grantor hereby notifies any subsequent purchaser of the lands listed in Exhibit A that grantor, as owner of the subject land, approved the transfer (including a change in the place and type of use and point of diversion) of the water rights that are appurtenant to the subject land; and that upon completion of a transfer, by election of SID, the subject land no longer will have an appurtenant water right, if the transfer includes a change in the place of use.

Furthermore, upon signing of this agreement and the accompanying transfer application **MF Cooley 2, LLC / Michael Flury, Sole Member**, shall no longer be liable for any district assessment or charges pertaining to the **2.00 acres** of water right incurred after the date of signing. The water right in question is further described as a portion of certificate # 74145, priority of 1899, located:

T17S-R12E, WM-SEC 08-NWISE-02200, T17S-R12E, WM-SEC 08-SWISE-02200,

This agreement is binding upon the heirs, executors, administrators, successors, and permitted assigns of the parties to this agreement. Consideration for this Quitclaim is \$2,000.00

Grantor:

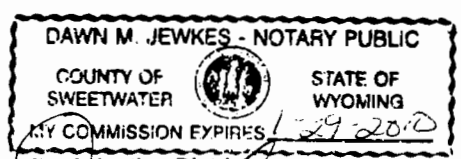
Date 12/29/08

MF Cooley 2, LLC / Michael Flury, Sole Member

Date _____

State of ~~Oregon~~ Wyoming SS.
County of ~~Deschutes~~ Teton

Personally appeared Michael Flury and acknowledged the forgoing instrument to be his / her voluntary act and deed.



My commission expires 1-29-2010

Swalley Irrigation District:

Date 1/9/09

Janet L. Lee, Manager

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JUN 20 2009

WATER RESOURCES DEPT
SALEM, OREGON

State of Oregon SS.
County of Deschutes

Personally appeared, Janet L. Lee as Manager for Swalley Irrigation District, and acknowledged the forgoing instrument to be her voluntary act and deed.



My commission expires 1-5-2010

MF Cooley 2, LLC
Account # 2222

EXHIBIT A

Total Water Rights: 2.00 Acres

Legal Description:	Taxlot	Serial#	WR Acres:
T17S-R12E-WM-SEC 08-NW/SE-02200	171208D002200	113075	.10
T17S-R12E-WM-SEC 08-SW/SE-02200	171208D002200	113075	1.90

PARCEL 2 (Deschutes County Assessor's Map 17-12-08D-2200):

In Township Seventeen (17), Range 12 East of the Willamette Meridian, Deschutes County, Oregon:

Section 8: That portion of the Southeast Quarter (SE1/4) of said section, described as follows:

Beginning at the South Quarter corner of said Section 8; thence North 0°07'17" West, 655.80 feet along the midsection line to the TRUE POINT OF BEGINNING; thence North 0°07'17" West, 1066.44 feet to the Southerly right-of-way line of Highway 20; thence South 25°07'28" East, 966.50 feet; thence South 64°52'32" West, 450.75 feet to the point of beginning.

EXCEPTING that portion conveyed October 27, 1983 in Book 31, Page 366.

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JUN 29 2011

WATER RESOURCES DEPT
SALEM, OREGON



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

September 1, 2009

Application for
Instream Lease
Pooled Lease - Water Right Holder

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.

Pursuant to ORS 537.348(2) and OAR 690-077

Optional Identification by Lessor/Lessee: _____
 Lease Application Number (assigned by WRD): IL-1183

This Lease is between:

Lessor #1:

Name R.F Wilson (Living Trust)
 Mailing address P.O. Box 99
 City, State, Zip Code Lyons, OR 97358
 Telephone number 503-859-2134
 Email address _____

Lessor #2, 3, etc.

Lessor #1:

Name Swalley Irrigation District
 Mailing address 64672 Cook Ave., Ste 1
 City, State, Zip Code Bend, OR 97701
 Telephone number 541-388-0658
 Email address kathy@swalley.com

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

Lessee (if different than Oregon Water Resources Department):

Name Deschutes River Conservancy
 Mailing address P.O. Box 1560
 City, State, Zip Code Bend, OR 97709
 Telephone number 541-382-4077
 Email address gen@deschutesriver.org

Trustee:

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

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SEP 2 2009

~I~ Water Right Holder and Water Right Information

WATER RESOURCES DEPT
 SALEM, OREGON

1.1 Lessor #1 is the water right holder, or authorized agent for water right holder of the property located at: Township 17S, Range 12E, Section 08 and Tax Lot number 01300. 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 Swalley Irrigation District, 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. 74145

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.: 74145

Priority date: Sept 1, 1899 Type of use: Irrigation

Legal Season of Use: April 1 – Nov 1

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:

T17S, R12E, Section 08 NW/SW¼ - Tax lot - 01300 acres to be leased 3.00, Page 16

Number of acres being leased, if for irrigation: 3.00

Acre-feet of storage, if applicable: _____

Maximum rate associated with the right to be leased (cfs): Season 1: 0.023 cfs,

Season 2: 0.031 cfs, Season 3: 0.058

(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): 6.61/ac = 19.84 AF

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

Conditions or other limitations, if any: _____

If you need to enter another leased right, please use the additional water rights form.

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WATER RESOURCES DEPT
SALEM, OREGON

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).

~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:

Deschutes River
Tributary to Columbia River in the Columbia 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):

Swalley Main Canal, T17S, R12E, Sect 29, SENE to mouth of the Deschutes River.

Maximum volume in acre-feet: 5.46 AF / AC = 16.40 AF

Rate in cfs: Season 1: 0.021, Season 2: 0.028, Season 3: 0.051

(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 April 1 through October 25th
- 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 November 1, 2011.

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.

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WATER RESOURCES DEPT
SALEM, OREGON

~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: RF Wilson
RF Wilson

Date: 6-6-11

For additional Lessors, type in space for signature and date

Lessee #2: Suzanne Butterfield
Swalley Irrigation District

Date: 6-9-11

Lessee #3: Genevieve Hubert
Deschutes River Conservancy

Date: 6/10/2011



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WATER RESOURCES DEPT
SALEM, OREGON
FSD

2011 Swalley Irrigation District Instream Lease Map



Application for 1-year Instream Lease Primary: Certificate 74145

-  Proposed Lease of Irrigation Rights
-  Certificate 74145

For:
RF Wilson
Taxlot 1300 - 3.0 Acres
0 Acres Remaining on Taxlot 1300
in 17S12E8NWSW
Total Lease of 3.0 Acres

