



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](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-1241

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

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  
E-mail address\*\* kathy@swalley.com

#### Lessee (if different than Oregon Water Resources Department):

Name Deschutes River Conservancy  
Mailing address 700 NW Hill Street  
City, State, Zip Code Bend, OR 97701  
Telephone number 541-382-4077

E-mail address\*\* gen@deschutesriver.org

**\*\*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.**

#### 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.

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SALEM, OREGON TACS**

- 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(s). 74145

- 1.4 Are some or all of the lands being leased part of a Conservation Reserve Enhancement Program.  Yes  No or other Federal Program: \_\_\_\_\_

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

(If you need to enter another leased right, please use the additional water right form for pooled instream lease.)

Priority date: 9/1/1899 Type of use: IRR

Legal Season of Use: April 1 - Oct 31

If an irrigation right, total number of acres to be leased: 22.45 ac

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) 0.172 Time period: Season 1

Season 2 (cfs) 0.229 Time period: Season 2

Season 3 (cfs) 0.432 Time period: Season 3

Maximum duty associated with subject water rights (ac-ft): 148.48

Conditions or other limitations, if any: \_\_\_\_\_

**~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 for the water right described in Section 1.5.**

In the Deschutes River  
Tributary to Columbia River in the Columbia  
Basin.

Instream volume in acre-feet (may be up to the same as the duty identified in Sec 1.5): 122.50

Instream rate in cfs (may be up to the same as the rate identified in Sec 1.5): 0.154 Season 1

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

Rate in CFS: 0.206 Season 2

Rate in CFS: 0.383 Season 3

(If not certain of the instream rate or volume, please contact the Department for more information on how to fill out this section of the application).

- Instream use protected at the point of diversion (POD).  
 Or within a proposed reach.

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Describe the proposed reach (an instream reach generally begins at the POD and generally ends at the mouth of the source creek/river). If possible list the reach by river mile): From Swalley main canal T17S, R12E, WM Section 29, SENE to the mouth of the Deschutes River

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 certificate, the lease may be processed to be protected at the POD.)

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: \_\_\_\_\_

**Conditions to prevent injury, if any (use this section to indicate a more restrictive period of use than allowed by the water right):**

- 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): \_\_\_\_\_

(Note: The Department may identify additional conditions to prevent injury and/or enlargement.)

**2.3 Term of lease.** This lease shall terminate on November 1, 2012.

**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;
  - 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 #2: *Stephanie Butterfield* Date: 4/23/2012  
Swalley Irrigation District

Lessee: *Genevieve Hubert* Date: 4/23/2012  
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

*5 landowners  
22.45 ac Pooled Lease*



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

# Application for Instream Lease

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

Optional Identification by Lessor/Lessee: \_\_\_\_\_  
 Lease Application Number (assigned by WRD): IL-1741

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

This Lease is between:

**Lessor #1:**

Name Lot 700CO, LLC  
 Mailing address 1501 NE Medical Center Dr  
 City, State, Zip Code Bend, OR 97701  
 Telephone number 541-350-0692  
 E-mail address\*\* \_\_\_\_\_

**Lessor #2, 3, etc. (provide same information as identified above)**

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

**Lessee (if different than Oregon Water Resources Department):**

Name Deschutes River Conservancy  
 Mailing address PO Box 1560  
 City, State, Zip Code Bend, OR 97709  
 Telephone number 541-382-4077  
 E-mail address\*\* gen@deschutesriver.org

\*\*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.

**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 17 N, Range 12 W, Section 08 and Tax Lot number 0700. 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(s). 74145

1.4 Are some or all of the lands being leased part of a Conservation Reserve Enhancement Program.  Yes  No or other Federal program: \_\_\_\_\_

**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

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

Legal Season of Use: April 1 - November 1

Is the entire water right certificate being leased?  Yes  No

If no, list below 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.

	T	R	Seet	¼ ¼	Tax Lot	Acres	Type of Use	*Page #	*Priority Date	*Previous Lease #
*(Identify pertinent page numbers of certificate, if certificate is greater than 10 pages; identify priority date, if there is more than one on the certificate. If any portion of the right proposed to be leased was leased previously, the previous lease number may be identified. Identification of a previous lease is optional.)										
1.	17	12	08	SE/SW	00700	8.50	IRR	16	9-1-1899	IL-
2.										IL-
3.										IL-
4.										IL-
5.										IL-

[Attached maps must identify the water right holder, township, range, section, ¼ ¼, tax lot number, map orientation, and scale.]

Total number of acres being leased, if for irrigation (or other acre equivalent uses): 8.50

Acre-feet of storage, if applicable: \_\_\_\_\_

Maximum rate associated with the right to be leased (cfs): Season 1: 0.065 cfs, Season 2: 0.087, Season 3: 0.164

(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 = 56.22/af

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

Conditions or other limitations, if any: \_\_\_\_\_

1.6 **Validity of rights to be leased as described in Section 1.5 of this form and on any Additional Water Right Form.** 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

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- 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 of the water right described in Section 1.5.**

The instream use to be created is described as follows:

In the Deschutes River  
Tributary to Columbia River in the Columbia Basin.

Instream volume in acre-feet (may be up to the same as the duty identified in Sec 1.5): 46.35

Instream rate in cfs (may be up to the same as the rate identified in Sec 1.5):

Season 1: 0.058 cfs / Season 2: 0.078 cfs / Season 3: 0.145cfs

(If not certain of the instream rate or volume, please contact the Department for more information on how to fill out this section of the application).

- Instream use protected at the point of diversion (POD).  
 Or within a proposed reach.

Describe the proposed reach (an instream reach generally begins at the POD and generally ends at the mouth of the source creek/river). If possible list the reach by river mile): From the POD at Swalley Main Canal, T17S, R12E, WM Section 29, SE/NE, 985 feet N and 617 feet W from the E 1/4 corner of section 29 to the mouth of the Desthutes River at RM 0.

- 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 certificate, the lease may be processed to be protected at the POD.)

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: \_\_\_\_\_

**Conditions to prevent injury, if any (use this section to indicate a more restrictive period of use than allowed by the water right):**

- 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): \_\_\_\_\_

(Note: The Department may identify additional conditions to prevent injury and/or enlargement.)

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, 2012.

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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;
  - 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.

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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: Heidi Estwood, member Date: 3/23/12  
Lot 700CO, LLC/Authorized Signer

\_\_\_\_\_  
Date: \_\_\_\_\_

For additional Lessors, type in space for signature and date

Lessor #2: Signature Butterflyed Date: 4-9-12  
Swalley Irrigation District

Lessee: \_\_\_\_\_ Date: \_\_\_\_\_  
Deschutes River Conservancy

Other Attachments as Needed:

Attachment 1: Tax Lot Map. (See instructions.)

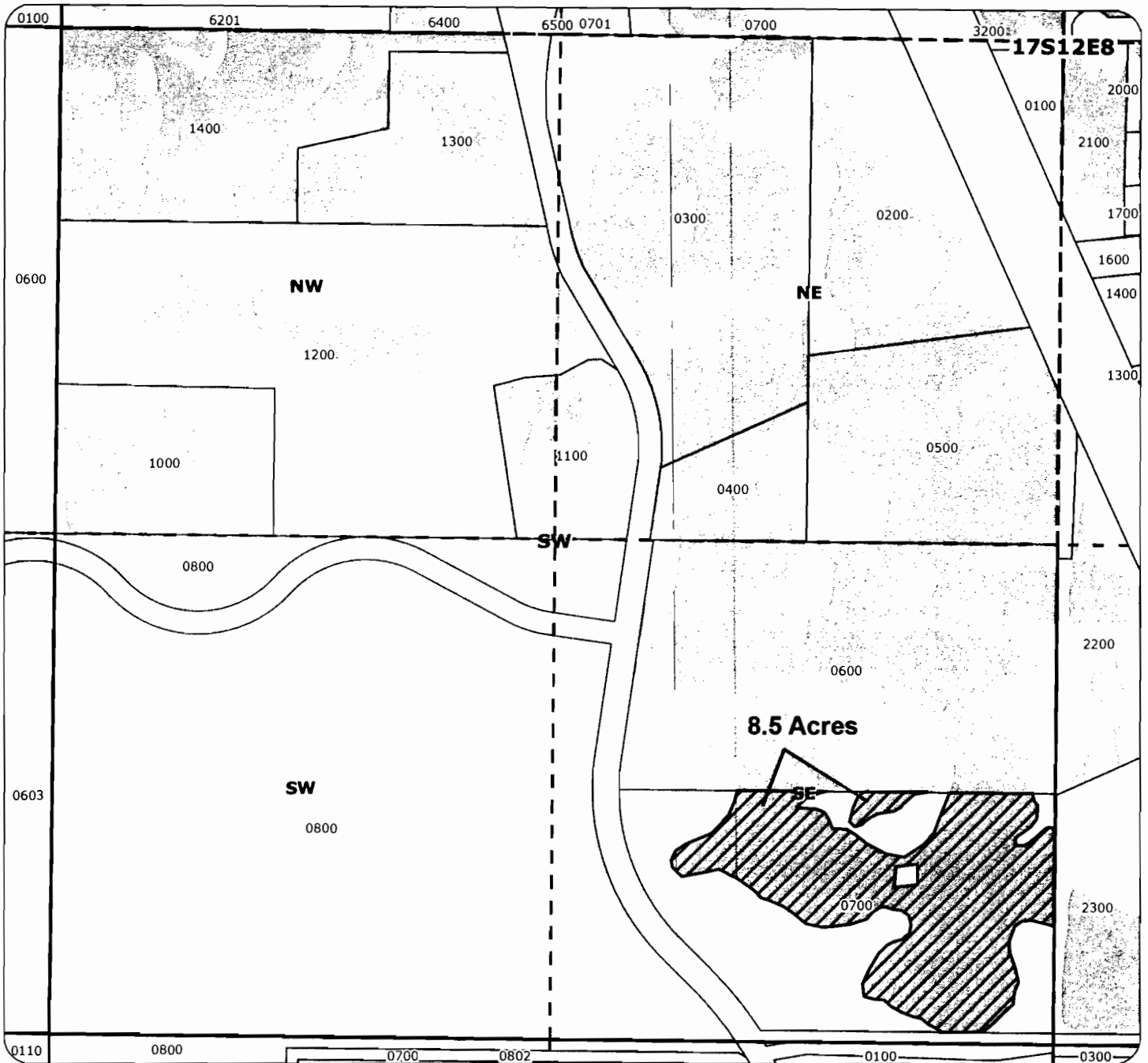
Attachment 2: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. (See instructions.)

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

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# 2012 Swalley Irrigation District Instream Lease Map



## Application for 1-year Instream Lease Primary: Certificate 74145



Proposed Lease of  
Irrigation Rights

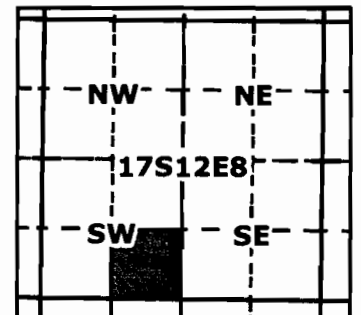
Certificate 74145

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For:  
Lot 700CO, LLC  
Taxlot 700 - 8.5 Acres  
in 17S12E8SESW  
Total Lease of 8.5 Acres



1 inch = 400 feet



Geo-Spatial Solutions, Inc.

[www.geospatialsolutions.com](http://www.geospatialsolutions.com)

Date Created: March 2012



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

February 13, 2012

# 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-1241

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

This Lease is between:

**Lessor #1:**

Name RPCC Company, LLC  
 Mailing address 1501 NE Medical Center Dr  
 City, State, Zip Code Bend, OR 97701  
 Telephone number 541-350-0692  
 E-mail address\*\* \_\_\_\_\_

**Lessor #2, 3, etc. (provide same information as identified above)**

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

**Lessee (if different than Oregon Water Resources Department):**

Name Deschutes River Conservancy  
 Mailing address PO Box 1560  
 City, State, Zip Code Bend, OR 97709  
 Telephone number 541-382-4077  
 E-mail address\*\* gen@deschutesriver.org

**\*\*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.**

**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 17 N, Range 12 W, Section 08 and Tax Lot number 0600. 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(s). 74145

1.4 Are some or all of the lands being leased part of a Conservation Reserve Enhancement Program.  Yes  No or other Federal program: \_\_\_\_\_

**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

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

Legal Season of Use: April 1 - November 1

Is the entire water right certificate being leased?  Yes  No

If no, list below 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.

T	R	Sect	¼ ¼	Tax Lot	Acres	Type of Use	*Page #	*Priority Date	*Previous Lease #	
*(Identify pertinent page numbers of certificate, if certificate is greater than 10 pages; identify priority date, if there is more than one on the certificate. If any portion of the right proposed to be leased was leased previously, the previous lease number may be identified. Identification of a previous lease is optional.)										
1.	17	12	08	SE/SW	00600	12.00	IRR	16	9-1-1899	IL-
2.										IL-
3.										IL-
4.										IL-
5.										IL-

[Attached maps must identify the water right holder, township, range, section, ¼ ¼, tax lot number, map orientation, and scale.]

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Total number of acres being leased, if for irrigation (or other acre equivalent uses): 12.00

Acre-feet of storage, if applicable: \_\_\_\_\_

Maximum rate associated with the right to be leased (cfs): Season 1: 0.092 cfs, Season 2: 0.123, Season 3: 0.231

(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 = 79.37/af

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

Conditions or other limitations, if any: \_\_\_\_\_

1.6 **Validity of rights to be leased as described in Section 1.5 of this form and on any Additional Water Right Form.** 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 of the water right described in Section 1.5.**

The instream use to be created is described as follows:

In the Deschutes River  
Tributary to Columbia River in the Columbia Basin.

Instream volume in acre-feet (may be up to the same as the duty identified in Sec 1.5): 65.27

Instream rate in cfs (may be up to the same as the rate identified in Sec 1.5):

Season 1: 0.082 cfs / Season 2: 0.110 cfs / Season 3: 0.204 cfs

(If not certain of the instream rate or volume, please contact the Department for more information on how to fill out this section of the application).

- Instream use protected at the point of diversion (POD).  
 Or within a proposed reach.

Describe the proposed reach (an instream reach generally begins at the POD and generally ends at the mouth of the source creek/river). If possible list the reach by river mile): From the POD at Swalley Main Canal, T17S, R12E, WM Section 29, SE/NE, 985 feet N and 617 feet W from the E 1/4 corner of section 29 to the mouth of the Desthutes River at RM 0.

- 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 certificate, the lease may be processed to be protected at the POD.)

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: \_\_\_\_\_

**Conditions to prevent injury, if any (use this section to indicate a more restrictive period of use than allowed by the water right):**

- 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): \_\_\_\_\_

(Note: The Department may identify additional conditions to prevent injury and/or enlargement.)

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, 2012.

**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;
- 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.

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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: Heidi I. Estrom, manager Date: 3/23/12  
RPCC Company, LLC/ Authorized Signer

\_\_\_\_\_  
Date: \_\_\_\_\_

For additional Lessors, type in space for signature and date

Lessor #2: Sharon Butterfield Date: 4-9-12  
Swalley Irrigation District

Lessee: \_\_\_\_\_ Date: \_\_\_\_\_  
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).

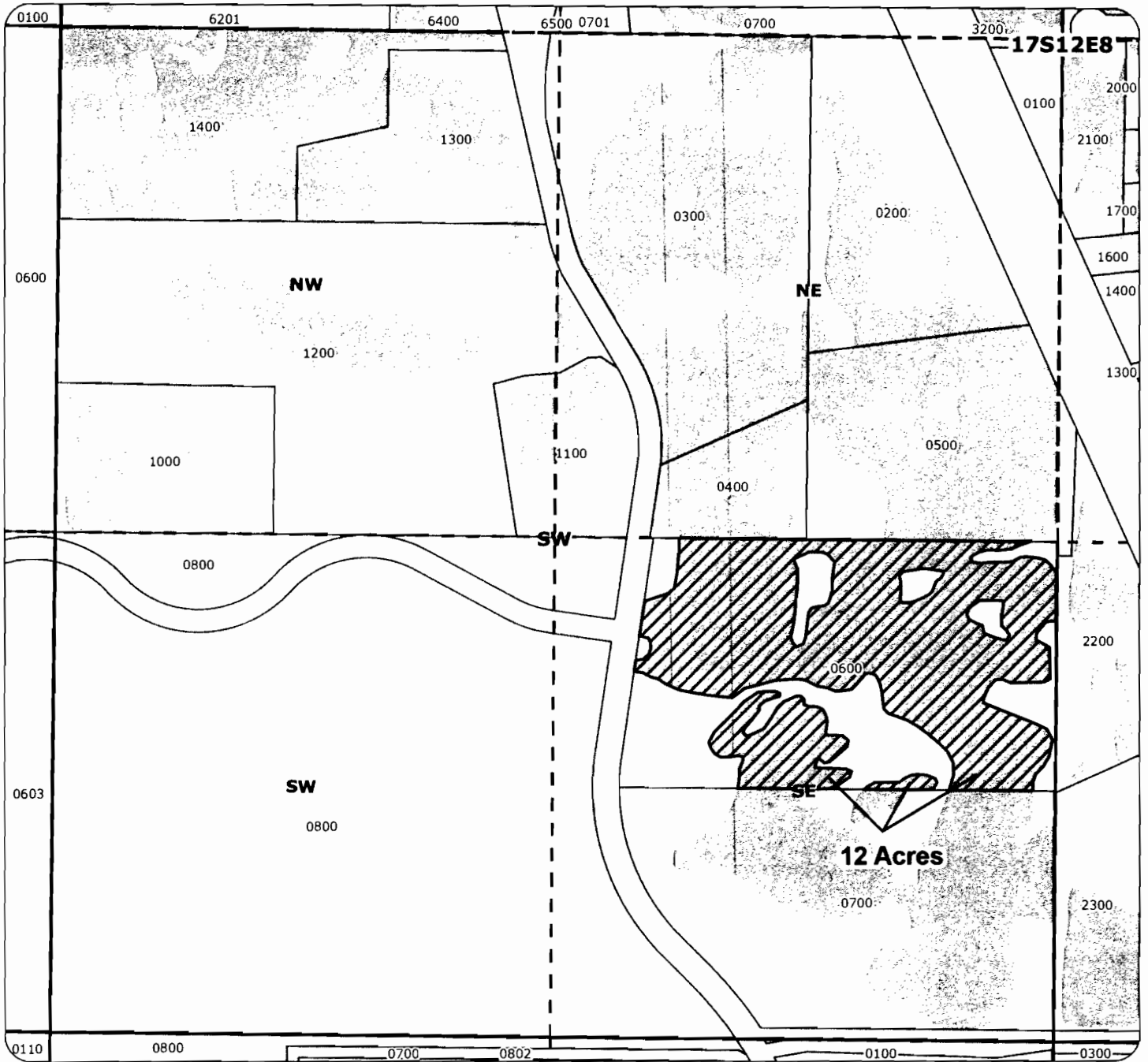
Attachment 4: Split Season Instream Use Form

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# 2012 Swalley Irrigation District Instream Lease Map



## Application for 1-year Instream Lease Primary: Certificate 74145



Proposed Lease of  
Irrigation Rights

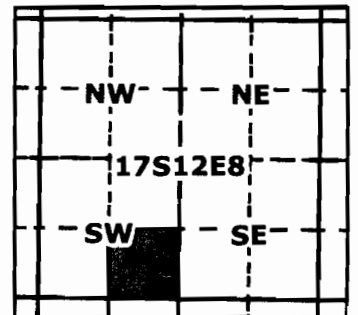
Certificate 74145

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For:  
RPCC Company, LLC  
Taxlot 600 - 12 Acres  
in 17S12E8SESW  
Total Lease of 12 Acres



1 inch = 400 feet



Geo-Spatial Solutions, Inc.  
[www.geospatialsolutions.com](http://www.geospatialsolutions.com)

Date Created: March 2012





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

February 13, 2012

# 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-1241

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

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  
 E-mail address\*\* \_\_\_\_\_

**Lessor #2, 3, etc. (provide same information as identified above)**

**Lessee (if different than Oregon Water Resources Department):**

Name Deschutes River Conservancy  
 Mailing address PO Box 1560  
 City, State, Zip Code Bend, OR 97709  
 Telephone number 541-382-4077  
 E-mail address\*\* gen@deschutesriver.org

\*\*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.

**Trustee:**

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

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 SALEM, OREGON**

**~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 16 N, Range 12 \_\_\_\_\_ W, Section 28 and Tax Lot number 00700 \_\_\_\_\_. 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(s). 74145

1.4 Are some or all of the lands being leased part of a Conservation Reserve Enhancement Program.  Yes  No or other Federal program: \_\_\_\_\_

**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

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

Legal Season of Use: April 1 - November 1

Is the entire water right certificate being leased?  Yes  No

If no, list below 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.

T	R	Sect	1/4 1/4	Tax Lot	Acres	Type of Use	*Page #	*Priority Date	*Previous Lease #	
*(Identify pertinent page numbers of certificate, if certificate is greater than 10 pages; identify priority date, if there is more than one on the certificate. If any portion of the right proposed to be leased was leased previously, the previous lease number may be identified. Identification of a previous lease is optional.)										
1.	16	12	2	NE/S W	00700	.50	IRR	09	9-1-1899	IL-
2.										IL-
3.										IL-
4.										IL-
5.										IL-

[Attached maps must identify the water right holder, township, range, section, 1/4 1/4, tax lot number, map orientation, and scale.]

Total number of acres being leased, if for irrigation (or other acre equivalent uses): .50

Acre-feet of storage, if applicable: \_\_\_\_\_

Maximum rate associated with the right to be leased (cfs): Season 1: 0.004cfs, Season 2: 0.005, Season 3: 0.010

(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 = 3.31 af

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

Conditions or other limitations, if any: \_\_\_\_\_

1.6 **Validity of rights to be leased as described in Section 1.5 of this form and on any Additional Water Right Form.** 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

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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 of the water right described in Section 1.5.**

The instream use to be created is described as follows:

In the Deschutes River  
Tributary to Columbia River in the Columbia Basin.

Instream volume in acre-feet (may be up to the same as the duty identified in Sec 1.5): 5.46/af  
/2.83 af

Instream rate in cfs (may be up to the same as the rate identified in Sec 1.5):  
Season 1: 0.003 cfs / Season 2: 0.002 cfs / Season 3: 0.009cfs

(If not certain of the instream rate or volume, please contact the Department for more information on how to fill out this section of the application).

- Instream use protected at the point of diversion (POD).
- Or within a proposed reach.

Describe the proposed reach (an instream reach generally begins at the POD and generally ends at the mouth of the source creek/river). If possible list the reach by river mile): From the POD at Swalley Main Canal, T17S, R12E, WM Section 29, SE/NE, 985 feet N and 617 feet W from the E 1/4 corner of section 29 to the mouth of the Desthutes River at RM 0.

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 certificate, the lease may be processed to be protected at the POD.)

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: \_\_\_\_\_

**Conditions to prevent injury, if any (use this section to indicate a more restrictive period of use than allowed by the water right):**

- 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): \_\_\_\_\_

(Note: The Department may identify additional conditions to prevent injury and/or enlargement.)

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, 2012.

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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;
    - 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.

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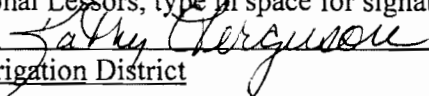
APR 26 2012

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SALEM, OREGON

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:  Date: 04 10 12  
Edward A. Hansen

For additional Lessors, type in space for signature and date  
Lessor #2:  Date: 4-16-12  
Swalley Irrigation District

Lessee: \_\_\_\_\_ Date: \_\_\_\_\_  
Deschutes River Conservancy

Other Attachments as Needed:

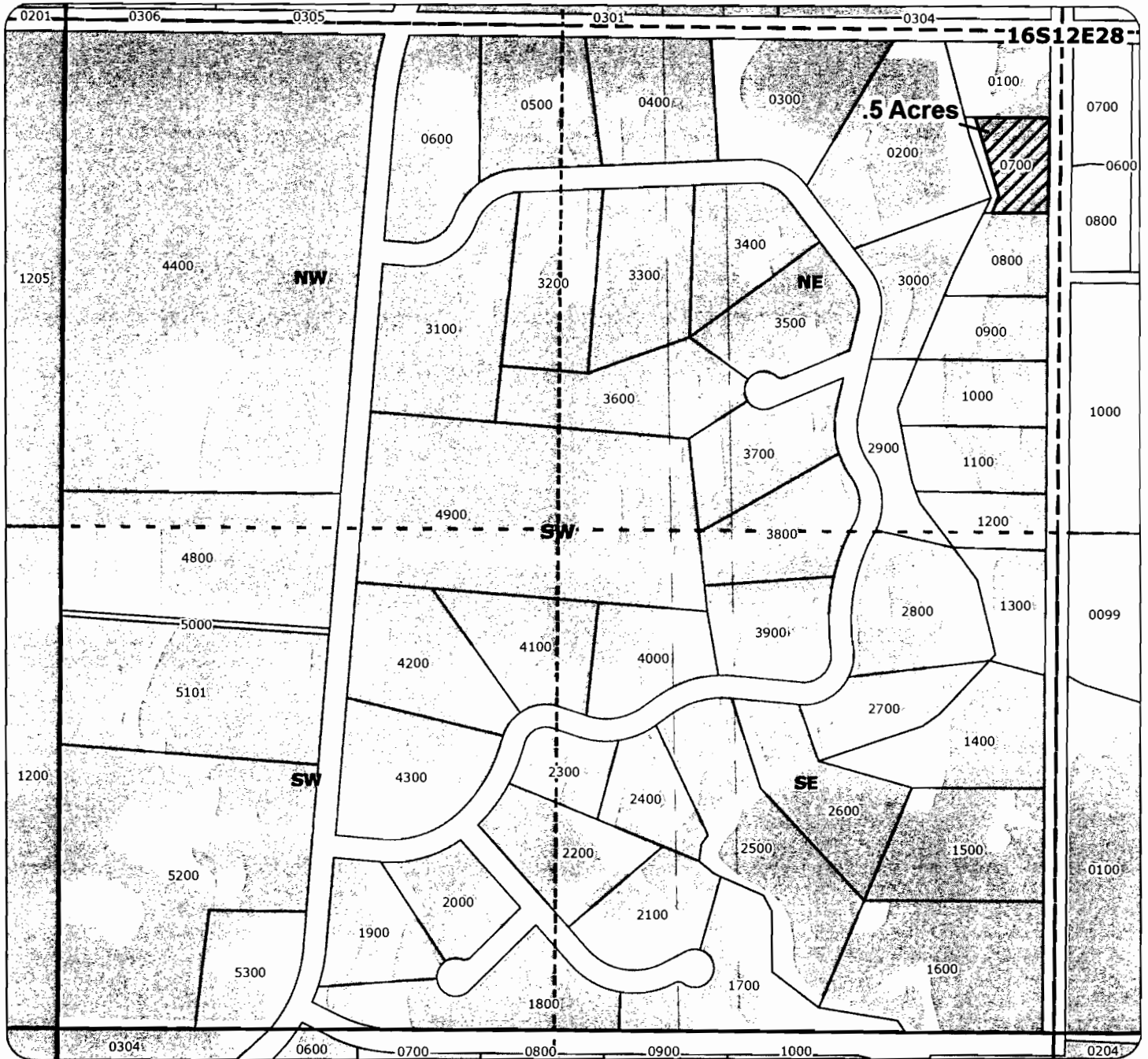
- Attachment 1: Tax Lot Map. (See instructions.)
- Attachment 2: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. (See instructions.)
- Attachment 3: Supporting documentation indicating why a right is valid and not subject to 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

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# 2012 Swalley Irrigation District Instream Lease Map



## Application for 1-year Instream Lease Primary: Certificate 74145



Proposed Lease of  
Irrigation Rights

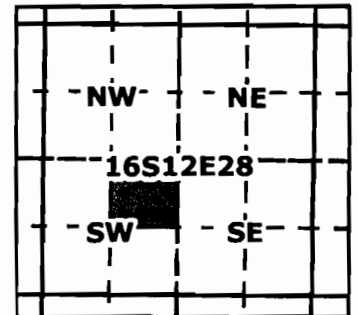
Certificate 74145

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WATER RESOURCES DEPT  
SALEM, OREGON

For:  
Edward Hansen  
Taxlot 700 - .5 Acres  
in 16S12E28NESW  
Total Lease of .5 Acres



1 inch = 400 feet



Geo-Spatial Solutions, Inc.  
[www.geospatialolutions.com](http://www.geospatialolutions.com)

Date Created: April 2012



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

*Printed by [Signature]*  
 February 13, 2012

# 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-1241

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

This Lease is between:

### Lessor #1:

Name Gary Lawrence/Floyd Lawrence  
 Mailing address 748 NE Seward Avenue  
 City, State, Zip Code Bend, OR 97701  
 Telephone number 541-420-8522  
 E-mail address\*\* \_\_\_\_\_

### Lessor #2, 3, etc. (provide same information as identified above)

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

### Lessee (if different than Oregon Water Resources Department):

Name Deschutes River Conservancy  
 Mailing address PO Box 1560  
 City, State, Zip Code Bend, OR 97709  
 Telephone number 541-382-4077  
 E-mail address\*\* gen@deschutesriver.org

**\*\*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.**

### Trustee:

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

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**WATER RESOURCES DEPT  
 SALEM, OREGON**

## ~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 16 N, Range 12 W, Section 27 and Tax Lot number 1200. 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(s). 74145

1.4 Are some or all of the lands being leased part of a Conservation Reserve Enhancement Program.  Yes  No or other Federal program: \_\_\_\_\_

**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

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

Legal Season of Use: April 1 - November 1

Is the entire water right certificate being leased?  Yes  No

If no, list below 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.

	T	R	Sect	1/4 1/4	Tax Lot	Acres	Type of Use	*Page #	*Priority Date	*Previous Lease #
*(Identify pertinent page numbers of certificate, if certificate is greater than 10 pages; identify priority date, if there is more than one on the certificate. If any portion of the right proposed to be leased was leased previously, the previous lease number may be identified. Identification of a previous lease is optional.)										
1.	16	12	27	SE/SE	01200	.70	IRR	8	9-1-1899	IL-
2.										IL-
3.										IL-
4.										IL-
5.										IL-

[Attached maps must identify the water right holder, township, range, section, 1/4 1/4, tax lot number, map orientation, and scale.]

Total number of acres being leased, if for irrigation (or other acre equivalent uses): .70

Acre-feet of storage, if applicable: \_\_\_\_\_

Maximum rate associated with the right to be leased (cfs): Season 1: 0.005 cfs, Season 2: 0.007, Season 3: 0.013

(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 = 4.63/af

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

Conditions or other limitations, if any: \_\_\_\_\_

**1.6 Validity of rights to be leased as described in Section 1.5 of this form and on any Additional Water Right Form.** 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

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WATER RESOURCES DEPT  
 SALEM, OREGON



- 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 of the water right described in Section 1.5.

The instream use to be created is described as follows:

In the Deschutes River  
Tributary to Columbia River in the Columbia Basin.

Instream volume in acre-feet (may be up to the same as the duty identified in Sec 1.5): 3.84

Instream rate in cfs (may be up to the same as the rate identified in Sec 1.5):

Season 1: 0.005 cfs / Season 2: 0.006 cfs / Season 3: 0.012 cfs

(If not certain of the instream rate or volume, please contact the Department for more information on how to fill out this section of the application).

- Instream use protected at the point of diversion (POD).  
 Or within a proposed reach.

Describe the proposed reach (an instream reach generally begins at the POD and generally ends at the mouth of the source creek/river). If possible list the reach by river mile): From the POD at Swalley Main Canal, T17S, R12E, WM Section 29, SE/NE, 985 feet N and 617 feet W from the E 1/4 corner of section 29 to the mouth of the Desthutes River at RM 0.

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 certificate, the lease may be processed to be protected at the POD.)

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: \_\_\_\_\_

### Conditions to prevent injury, if any (use this section to indicate a more restrictive period of use than allowed by the water right):

- 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): \_\_\_\_\_

(Note: The Department may identify additional conditions to prevent injury and/or enlargement.)

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, 2012.

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;
  - 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.

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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: *Gary Lawrence* Date: 3-26-12  
Gary Lawrence

*Floyd Lawrence* Date: 3-26-12  
Floyd Lawrence

For additional Lessors, type in space for signature and date

Lessor #2: *Suzanne Butterfield* Date: 4-9-12  
Swalley Irrigation District

Lessee: \_\_\_\_\_ Date: \_\_\_\_\_  
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).

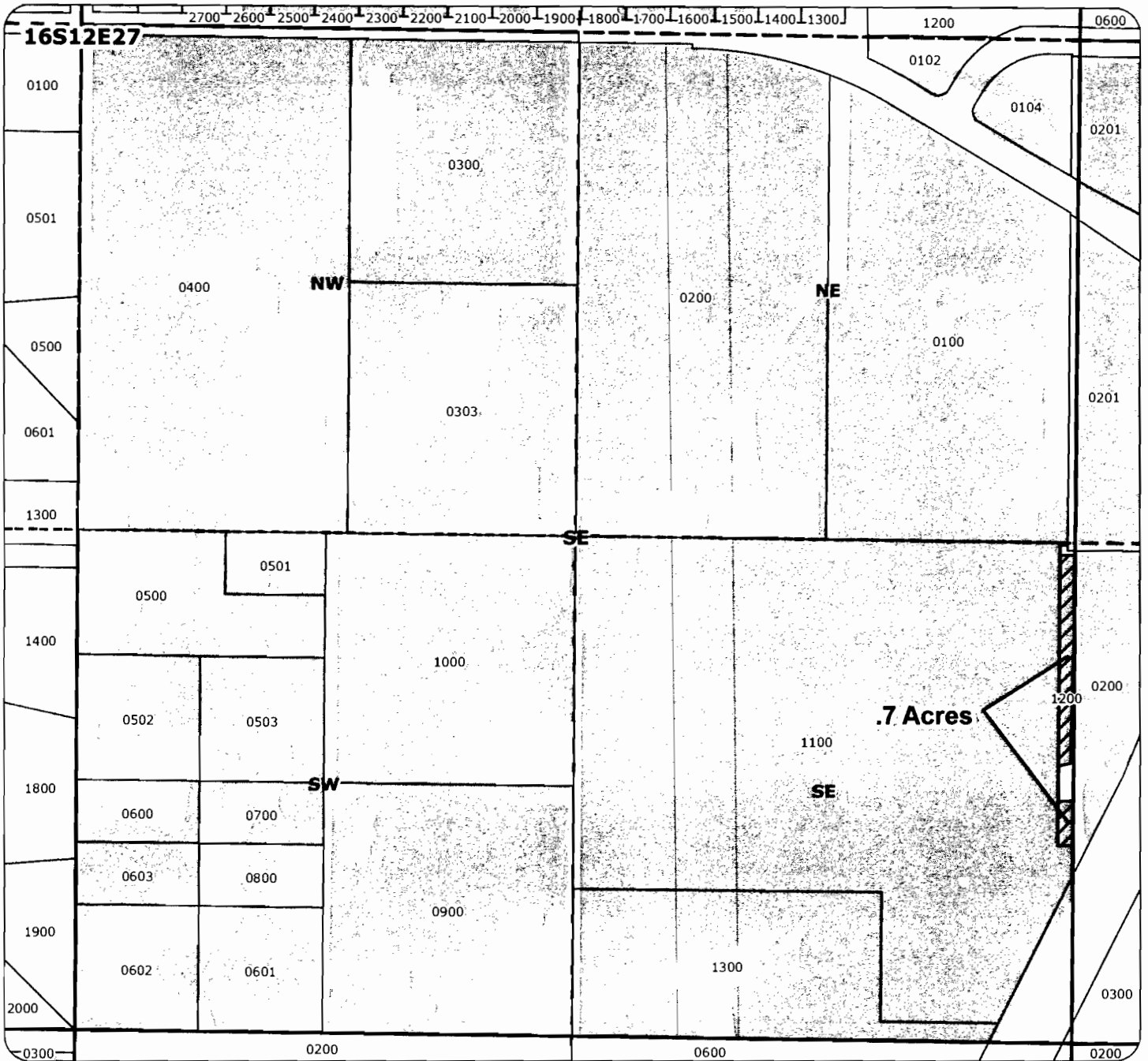
Attachment 4: Split Season Instream Use Form

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# 2012 Swalley Irrigation District Instream Lease Map



## Application for 1-year Instream Lease Primary: Certificate 74145



Proposed Lease of  
Irrigation Rights

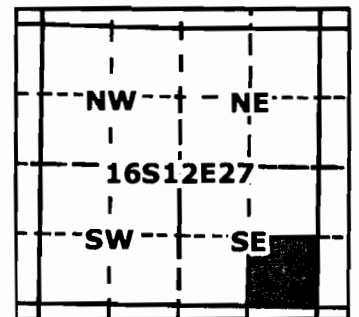
Certificate 74145

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For:  
Gary & Floyd Lawrence  
Taxlot 1200 - .7 Acres  
in 16S12E27SESE  
Total Lease of .7 Acres



1 inch = 400 feet



Geo-Spatial Solutions, Inc.  
[www.geospatialolutions.com](http://www.geospatialolutions.com)

Date Created: March 2012



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

Application for  
**Instream Lease**

February 13, 2012

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-1241

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

This Lease is between:

**Lessor #1:**

Name Gary Dimeo  
 Mailing address 64893 Old Bend Redmond Hwy  
 City, State, Zip Code Bend, OR 97701  
 Telephone number \_\_\_\_\_  
 E-mail address\*\* \_\_\_\_\_

**Lessor #2, 3, etc. (provide same information as identified above)**

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

**Lessee (if different than Oregon Water Resources Department):**

Name Deschutes River Conservancy  
 Mailing address PO Box 1560  
 City, State, Zip Code Bend, OR 97709  
 Telephone number 541-382-4077  
 E-mail address\*\* gen@deschutesriver.org

**\*\*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.**

**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 16 N, Range 12 W, Section 28 and Tax Lot number 04800. If the water right appurtenant to these lands is also

- 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(s). 74145

- 1.4 Are some or all of the lands being leased part of a Conservation Reserve Enhancement Program.  Yes  No or other Federal program: \_\_\_\_\_

**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

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

Legal Season of Use: April 1 - November 1

Is the entire water right certificate being leased?  Yes  No

If no, list below 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.

T	R	Seet	1/4 1/4	Tax Lot	Acres	Type of Use	*Page #	*Priority Date	*Previous Lease #	
*(Identify pertinent page numbers of certificate, if certificate is greater than 10 pages; identify priority date, if there is more than one on the certificate. If any portion of the right proposed to be leased was leased previously, the previous lease number may be identified. Identification of a previous lease is optional.)										
1.	16	12	28	NW/S W	04800	.75	IRR	09	9-1-1899	IL-
2.										IL-
3.										IL-
4.										IL-
5.										IL-

[Attached maps must identify the water right holder, township, range, section, 1/4 1/4, tax lot number, map orientation, and scale.]

Total number of acres being leased, if for irrigation (or other acre equivalent uses): .75

Acre-feet of storage, if applicable: \_\_\_\_\_

Maximum rate associated with the right to be leased (cfs): Season 1: 0.006cfs, Season 2: 0.008, Season 3: 0.014

(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 = 4.96 af

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

Conditions or other limitations, if any: \_\_\_\_\_

**Validity of rights to be leased as described in Section 1.5 of this form and on any Additional Water Right Form.** 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

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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 of the water right described in Section 1.5.**

The instream use to be created is described as follows:

In the Deschutes River  
Tributary to Columbia River in the Columbia Basin.

Instream volume in acre-feet (may be up to the same as the duty identified in Sec 1.5): 5.46/af  
/4.14 af

Instream rate in cfs (may be up to the same as the rate identified in Sec 1.5):  
Season 1: 0.005cfs / Season 2: 0.007 cfs / Season 3: 0.013cfs

(If not certain of the instream rate or volume, please contact the Department for more information on how to fill out this section of the application).

- Instream use protected at the point of diversion (POD).
- Or within a proposed reach.

Describe the proposed reach (an instream reach generally begins at the POD and generally ends at the mouth of the source creek/river). If possible list the reach by river mile): From the POD at Swalley Main Canal, T17S, R12E, WM Section 29, SE/NE, 985 feet N and 617 feet W from the E 1/4 corner of section 29 to the mouth of the Desthutes River at RM 0.

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 certificate, the lease may be processed to be protected at the POD.)

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: \_\_\_\_\_

**Conditions to prevent injury, if any (use this section to indicate a more restrictive period of use than allowed by the water right):**

- 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): \_\_\_\_\_

(Note: The Department may identify additional conditions to prevent injury and/or enlargement.)

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, 2012.

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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;
    - 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.

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**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.**

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  - Written notice to the Department;
  - Consent by all parties to the lease; and/or
  - Written notice to the Watermaster's office.
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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 #2: *Suzanne Butterfield*  
Swalley Irrigation District

Date: 4/23/2012

Lessee: \_\_\_\_\_  
Deschutes River Conservancy

Date: \_\_\_\_\_

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

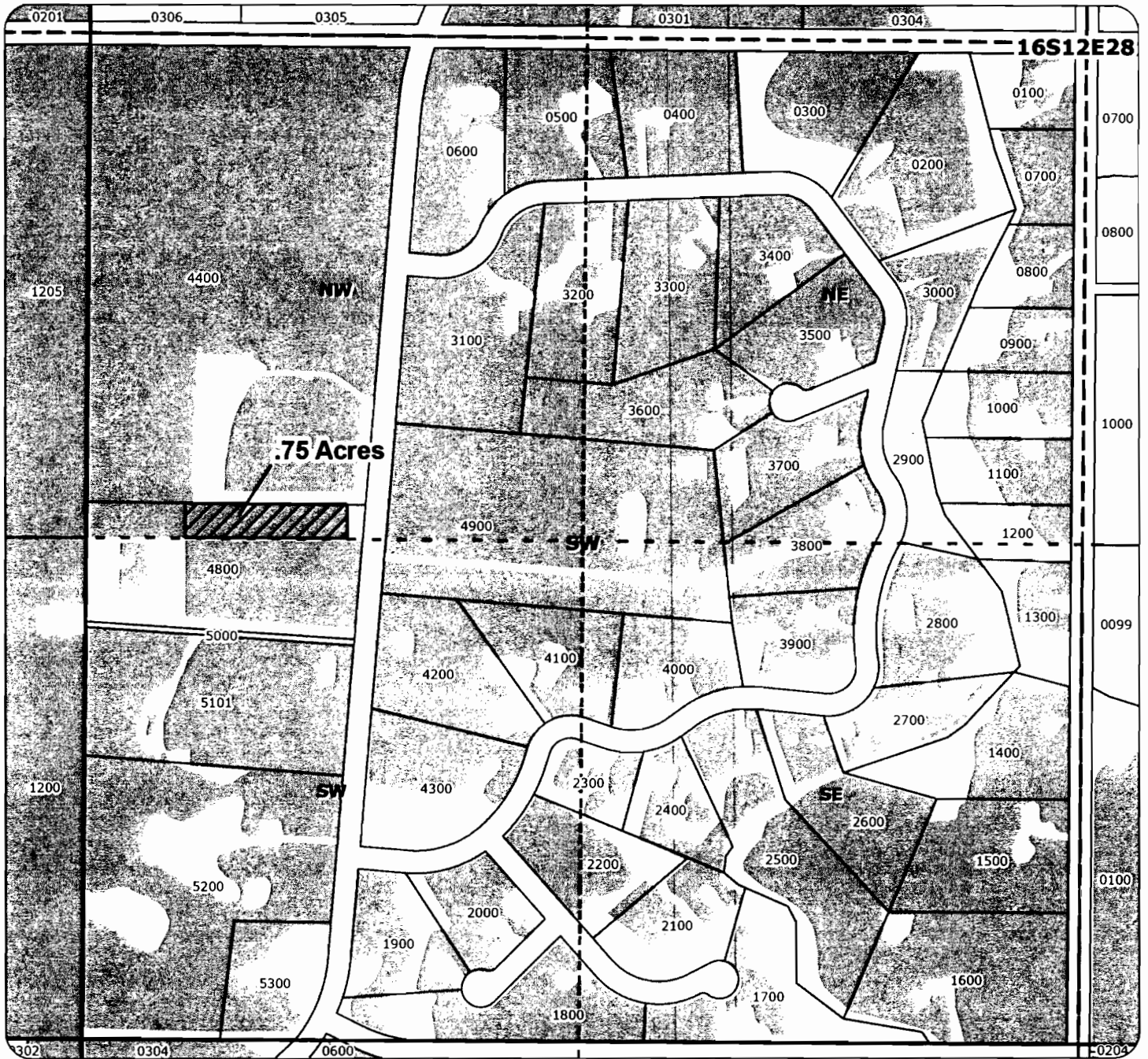
Attachment 5: Pooled Lease Water Right Holder Form

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# 2012 Swalley Irrigation District Instream Lease Map



## Application for 1-year Instream Lease Primary: Certificate 74145

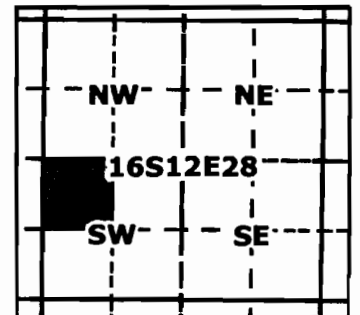
-  Proposed Lease of Irrigation Rights
-  Certificate 74145

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For:  
Gary Dimeo  
Taxlot 3500 - .75 Acres  
in 16S12E28NWSW  
Total Lease of .75 Acres



1 inch = 400 feet



**Geo-Spatial Solutions, Inc.**  
[www.geospatialolutions.com](http://www.geospatialolutions.com)

Date Created: April 2012