



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: 4 repeat lessors  
 Lease Application Number (assigned by WRD): IL-1291

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., Suite 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 St  
 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 Dist, 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(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: Apr 1 - Oct 31

If an irrigation right, total number of acres to be leased: 107.97

Total acre-feet of storage to be leased, if applicable: n/a

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) 0.825 Time period: Apr 1-May1/Oct 1-Nov 1

Season 2 (cfs) 1.103 Time period: May 1-15 / Sept 15-Oct 1

Season 3 (cfs) 2.080 Time period: May 15-Sept 15

Maximum duty associated with subject water rights (ac-ft): 714.11

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): 588.83

Instream rate in cfs (may be up to the same as the rate identified in Sec 1.5): 0.741 -season 1

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

Rate in CFS: 0.993 - season 2

Rate in CFS: 1.840 - 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.

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, SENE, 985 feet N and 617 feet W from the E 1/4 corner of section 29 to the mouth of the Deschutes 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 Apr 1 through Oct 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 Nov 1, 2013.

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: *Angene Butterfield* Date: 4/5/13  
Swalley Irrigation District

Lessee: *Genevieve Hubert* Date: 4/9/13  
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

7/23/2012

**This table will calculate flow rate factors and duty for Swalley Irrigation District  
Instream Leases & Transfers**

Canal Diversion - Enter Total Number of Acres to be Leased Instream Here	107,970	Parks USFS Hendrix Starwood	
Direct Diversion - Enter Total Number of Acres to be Leased Instream Here			
Starting Point - Direct Diversion total acres	105,310		
Starting Point - Canal Diversion total acres	4404,865		
Starting Point	Full Right	Direct Diversion only	Canal Diversion only
	Starting Point - Rate	Starting Point - Rate	Starting Point - Rate
Season 1	34,384	0.723	33,661
Season 2	45,979	0.968	45,011
Season 3	86,636	1.795	84,841
Duty	297,081,640	575,056	29,133.58

\*Approximate starting point

**For Primary Water Right - Certificate 74145  
For Canal Diversion Only**

Rate (CFS) associated with leased rights for Section 1.5 of the Lease Application Form	Rate and duty identified in this section includes the 43% transmission loss allowed by decree
Full Rate	Duty (AF) associated with leased right for Section 1.5 of the Lease Application Form
Season 1*	Duty AF/Acre* = 6.61
Season 2*	
Season 3*	

\* Note - The rates and duty identified have been proportion to prevent enlargement of the right and to reflect the amount at which the diversion should be reduced. (for example, S3 = starting canal rate divided by 4441.765 canal acres)

Rate and volume identified in this section do not include the 43% transmission loss	Volume (AF) leased instream for Section 2.2 of the Lease Application Form
Rate (CFS) leased instream for Section 2.2 of the Lease Application Form	Duty (decree) AF/Acre = 5.46
Full Rate	Total = 589.58
Season 1	# of Days in each Season 61 AF/ Season 89.65
Season 2	30 59.09
Season 3	123 448.90
	597.64

<b>Additional Conditions to Prevent Injury for Section 2.2 of the Lease Application Form</b>			
	# days	AF/Season	
Season 1*	55	80.84	
Season 2	30	59.09	
Season 3	123	448.90	
Season total =	208		Does not exceed duty
<b>Water protected instream: April 1 through October 25</b>			

\* Note - The number of days that water may be protected instream in Season 1 has been reduced on prevent enlargement of the right. The instream rates identified in this section are based upon the face value of the water right minus 43%.





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 Water Resources Department  
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# Application for Instream Lease

## Attachment 5: Pooled Water Right Holder 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: SL-11 and L-811  
 Lease Application Number (assigned by WRD): IL-1291

This Lease is with:

**Lessor #1 (Water Right Holder):**

Name Starwood Homeowner's Assoc.  
 Mailing address 64915 Starwood Drive  
 City, State, Zip Code Bend, OR 97701  
 Telephone number 541-317-9488  
 Email address \_\_\_\_\_

If additional water right holders, enter water right holder information below

Swalley Irrigation District  
64672 Cook Ave., Suite 1  
Bend, OR 97701      kathy@swalley.com

Note: The section numbering associated with this form corresponds to that found on the "Standard Instream Lease Application" form. The "Pooled Lease" form and "Pooled Water Right Holder" form(s) are used to provide the same information as the "Standard Instream Lease Application" form. Consequently, the numbering on this form is not always sequential.

### ~I~ Water Right Holder and Water Right Information

- 1.1 Lessor #1 is the water right holder, or authorized agent for property described in Section 1.5. 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.
- 1.3 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 Right(s) Proposed to be Leased Instream.** Water right holder proposes to lease the water rights shown on the map attached as Exhibit 5-B and described as follows:  
 [This information may be included on Exhibit 5-A, or an additional map may be attached. Crosshatch the area of water rights being leased. Attached map(s) must identify water right holder, township, range, section and ¼ ¼, tax lot number, map orientation and scale.]

The first right to be leased identified in Section 1.3 is further described as follows:

Certificate Number: 74145

(If you need to enter another leased right, please use the Additional Water Right Form for Pooled Water Right Holder.)

T	R	Sec	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.	16	12	27	nsw	00099	5.8	IRR	8	9/1/1899	IL-SL-11
2.	16	12	28	swse	00099	1.27	IRR	10	9/1/1899	IL-
3.	16	12	28	nese	00099	6.9	IRR	10	9/1/1899	IL-SL-11
4.	16	12	28	sese	00099	.17	IRR	10	9/1/1899	IL-*SL-11
5.										IL-

Total number of acres, if for irrigation (or other acre equivalent use), by certificate and priority date: 14.14 acres IRR (most of this previously leased in SL-11, which was originally submitted as L-914). \*161228 sese 0.17 was previously leased in SL-11. The rest of the acres in Starwood have been farmed within the last 5 years.

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

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

- 2.3 **Term of lease.** This lease shall terminate on Nov 1, 2013. (If there is a conflict between the Pooled Lease Form and this form, the Pooled Lease Form will be the official term of the lease.)

### ~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.

Lessor #1: Scott Virbey, President Date: 3-21-13  
Starwood Homeowner's Assoc.

For additional Lessors, type in space for signature and date  
Swalley Irrigation District - pooled form

Suzanne Butterfield

3-25-13

Other Attachments As Needed:

- Exhibit 5-A: Tax Lot Map. (See instructions.)
- Exhibit 5-B: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. Exhibits 5-A and 5-B may be combined into a single map. (See instructions.)
- Exhibit 5-C: 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 of this form is checked)



**Exhibit 5-D: Split Season Instream Use Form**

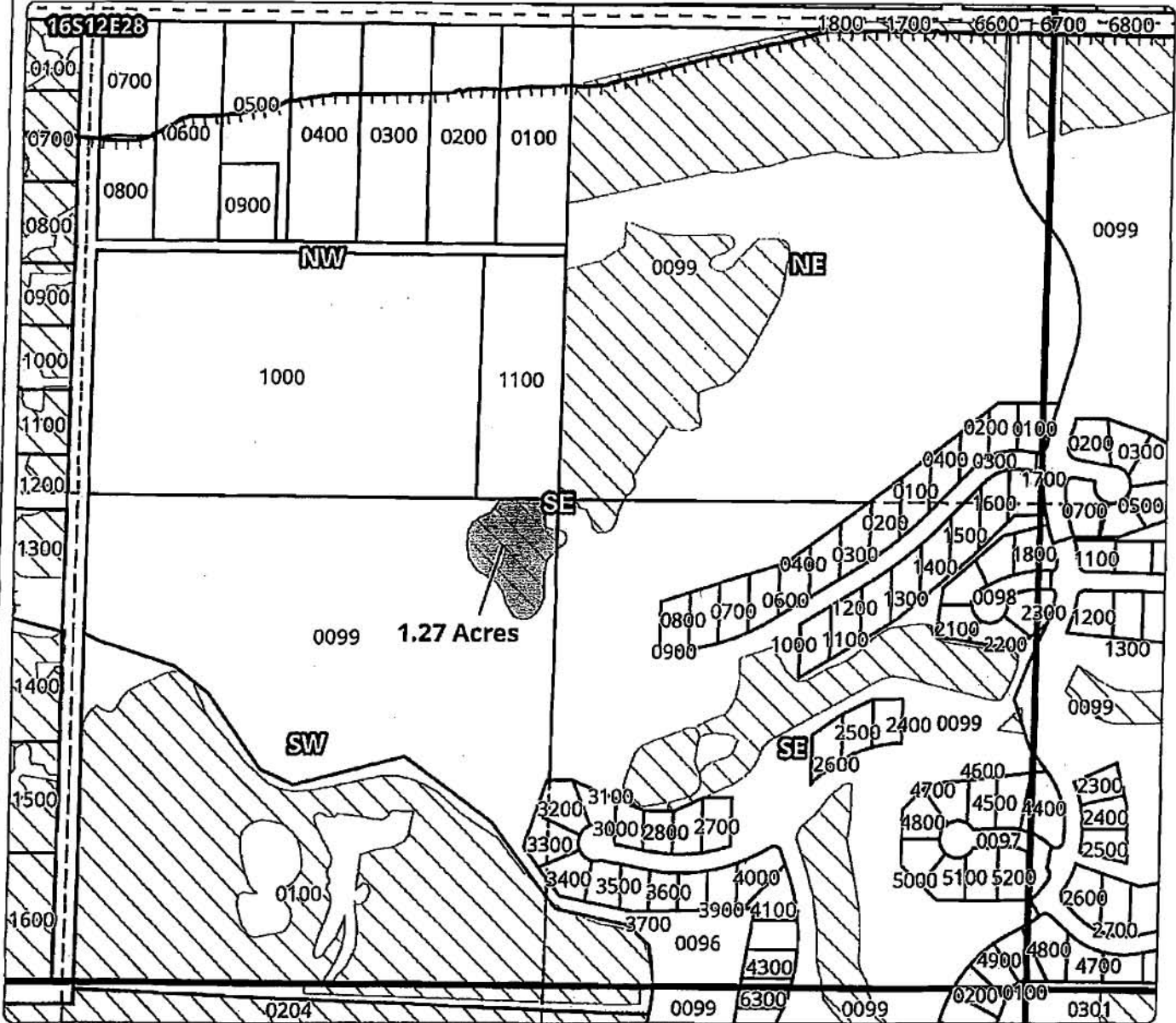
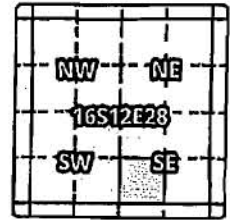
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# Swalley Irrigation District

## Application for Instream Lease

Cert #: 74145

For: Starwood Homeowner's Association



### 1 YEAR INSTREAM LEASE MAP

Taxlot 99, 16S12E28SWSE: 1.27 Acres OFF, 0 Acres Remaining

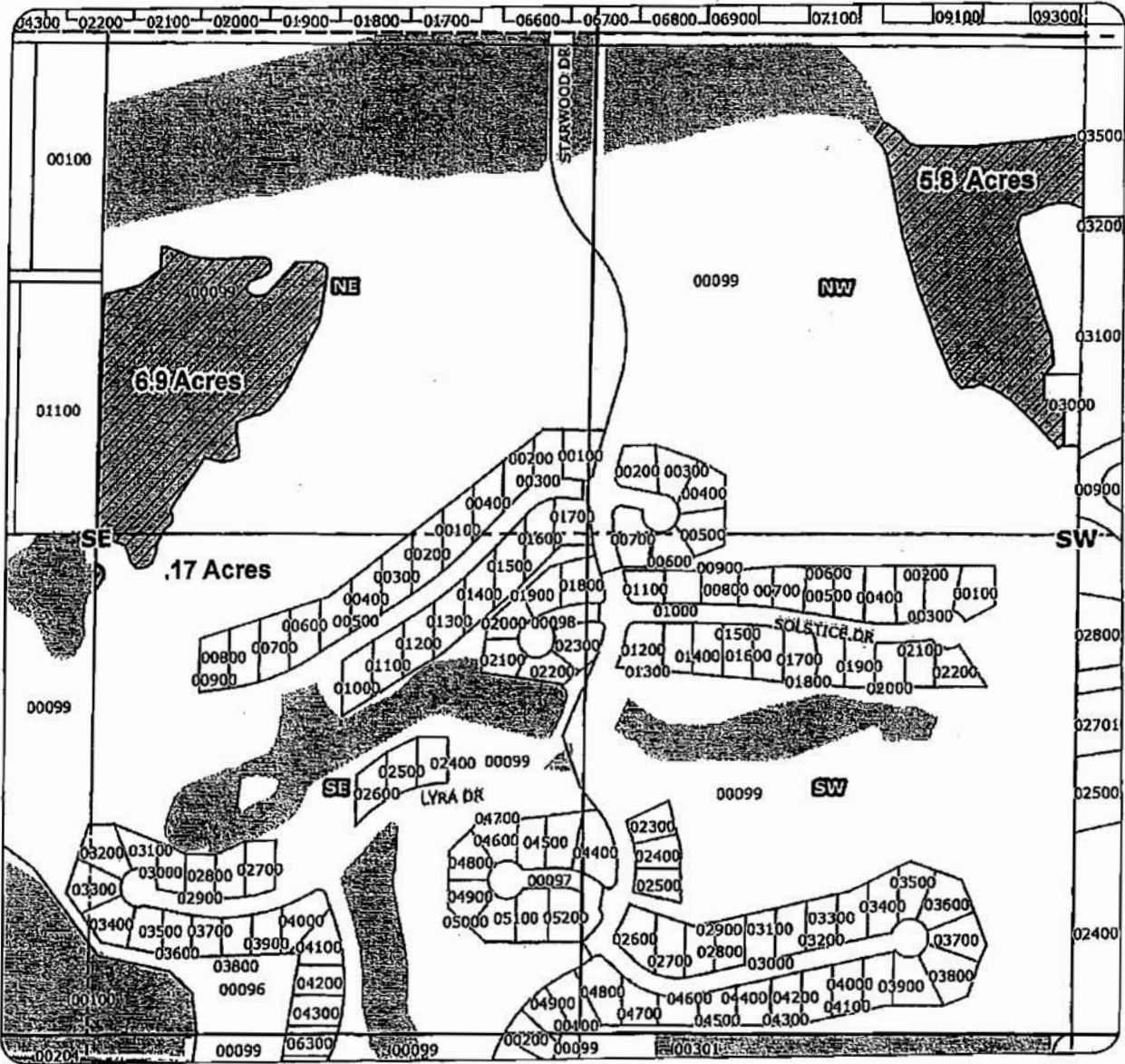
- Point of Diversion
- ▬ Canals
- ▭ Taxlots
- ▨ Lease
- ▧ Cert 74145



1 Inch = 400 feet  
April 2013



# 2013 Swalley Irrigation District Instream Lease Map



## Application for Instream Lease

for

Starwood Homeowner's Association

taxlot 99- 5.8 acres

in 161227NSW

taxlot 99- 6.9 acres



in 161228NESE

taxlot 99- .17 acres

in 161228SESE

Total lease of

12.87 acres

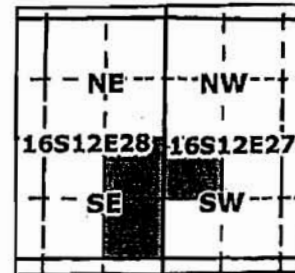
-  Proposed Lease of Irrigation Rights
-  Water Rights



Geo-Spatial Solutions, Inc.

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

Date Created: March 2008



1 Inch equals 400 feet

February 13, 2012



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

# Application for Instream Lease

## Attachment 5: Pooled Water Right Holder Form

A summary of review criteria and procedures that are generally applicable to these applications is available at [www.wrd.state.or.us/CWRD/PUBS/forms.shtml](http://www.wrd.state.or.us/CWRD/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-1291

This Lease is with:

**Lessor #1 (Water Right Holder):**

Name Betty Jean Hendrix % Brenda Hendrix  
Mailing address 8876 SW Waverly Drive PO Box 1445  
City, State, Zip Code Tigard OR 97224 Florence, OR, 97439  
Telephone number 503-819-1097 or 541-815-2807  
Email address oregonhomes@comcast.net Grannyb2003@msn.com

If additional water right holders, enter water right holder information below

Swalley Irrigation District  
64672 Cook Ave., Suite 1  
Bend, OR 97701 kathy@swalley.com

Note: The section numbering associated with this form corresponds to that found on the "Standard Instream Lease Application" form. The "Pooled Lease" form and "Pooled Water Right Holder" form(s) are used to provide the same information as the "Standard Instream Lease Application" form. Consequently, the numbering on this form is not always sequential.

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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 Right(s) Proposed to be Leased Instream.** Water right holder proposes to lease the water rights shown on the map attached as Exhibit 5-B and described as follows:  
 [This information may be included on Exhibit 5-A, or an additional map may be attached. Crosshatch the area of water rights being leased. Attached map(s) must identify water right holder, township, range, section and 1/4 1/4, tax lot number, map orientation and scale.]

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Certificate Number: 74145

(If you need to enter another leased right, please use the Additional Water Right Form for Pooled Water Right Holder.)

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.	17	12	8	nesw	300	8.0	IRR	16	9/1/1899	IL-SL-11
2.										IL-
3.										IL-
4.										IL-
5.										IL-

Total number of acres, if for irrigation (or other acre equivalent use), by certificate and priority date: 8.0 acres IRR, previously leased in pooled SL-11 (which was originally submitted and assigned lease L-914)

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

- 1.6 **Validity of rights to be leased as described in Section 1.5 of this form and any Additional Water Right Form for Pooled Water Right Holder.** 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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### ~II~ Instream Water Right Information

- 2.3 **Term of lease.** This lease shall terminate on Nov 1, 2013. (If there is a conflict between the Pooled Lease Form and this form, the Pooled Lease Form will be the official term of the lease.)

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- 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



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    - Written notice to the Department;
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    - Written notice to the Watermaster's office.
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Lessor #1: Betty Jean Hendrix Date: 3/20/2013  
Betty Jean Hendrix

For additional Lessors, type in space for signature and date  
Swalley Irrigation District - pooled form

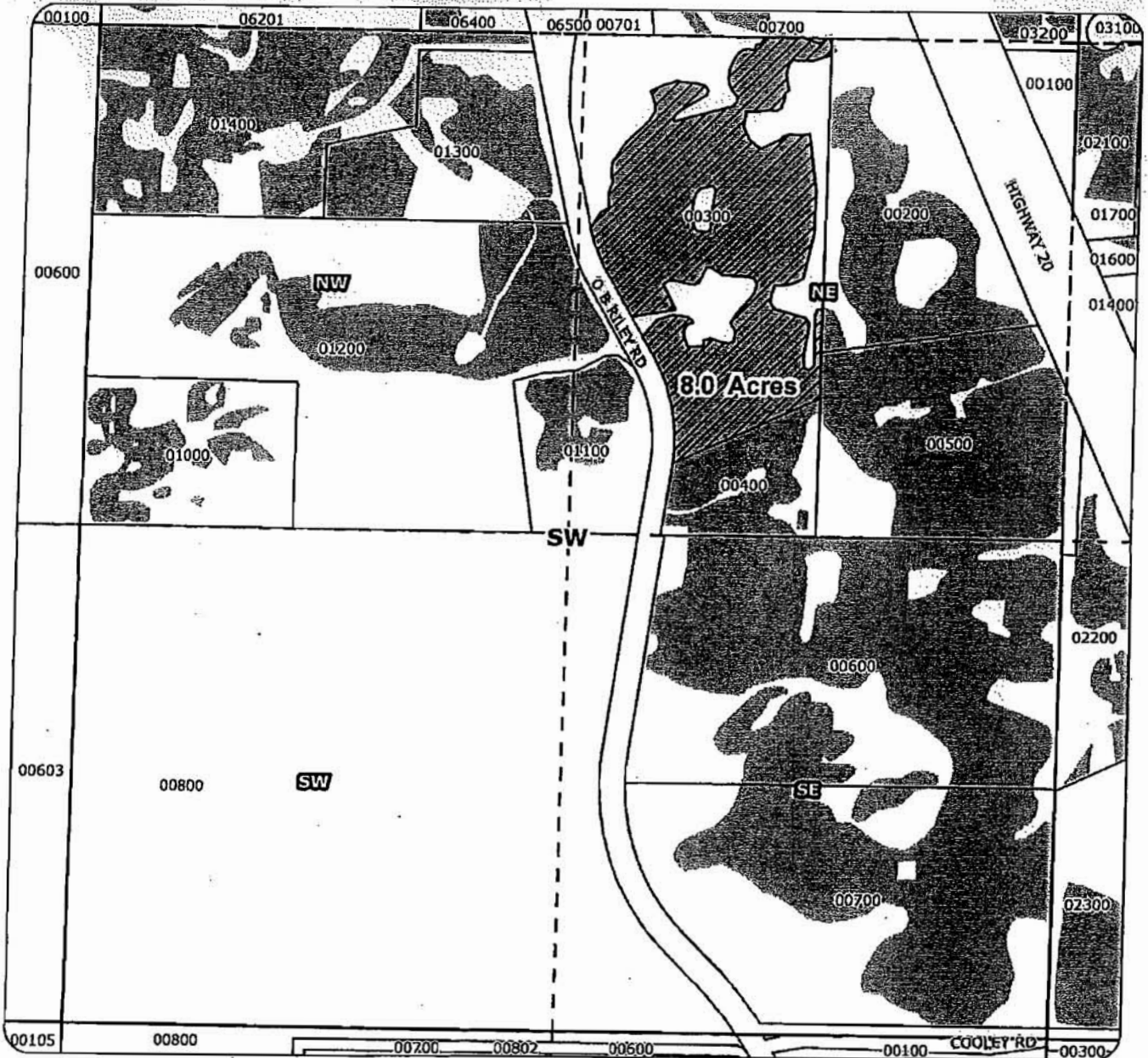
Suzanne Beuthefeld

3-25-13



Other Attachments As Needed:

- Exhibit 5-A: Tax Lot Map. (See instructions.)
- Exhibit 5-B: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. Exhibits 5-A and 5-B may be combined into a single map. (See instructions.)
- Exhibit 5-C: 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 of this form is checked)

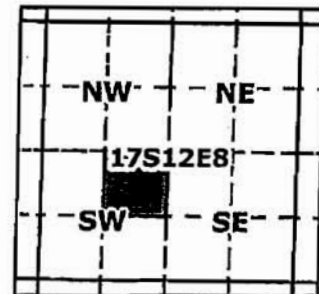
# 2008 Swalley Irrigation District Instream Lease Map



## Application for Instream Lease

-  Proposed Lease of Irrigation Rights
-  Water Rights

for  
 Betty Hendrix  
 taxlot 300- 8.0 acres  
 in 171208NESW  
 Total lease of  
 8.0 acres



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

Date Created: March 2008



1 inch equals 400 feet

February 13, 2012



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

# Application for Instream Lease

## Attachment 5: Pooled Water Right Holder 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/forins.shtml](http://www.wrd.state.or.us/OWRD/PUBS/forins.shtml).

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

Optional Identification by Lessor/Lessee: \_\_\_\_\_  
Lease Application Number (assigned by WRD): IL-1291

This Lease is with:

**Lessor #1 (Water Right Holder):**

Name USDA Forest Service - Deschutes National Forest  
Mailing address 63095 Deschutes Market Road  
City, State, Zip Code Bend, OR 97701  
Telephone number 541-383-5512  
Email address jpallen@fs.fed.us

If additional water right holders, enter water right holder information below

Swalley Irrigation District  
64672 Cook Ave., Suite 1  
Bend, OR 97701 kathy@swalley.com

Note: The section numbering associated with this form corresponds to that found on the "Standard Instream Lease Application" form. The "Pooled Lease" form and "Pooled Water Right Holder" form(s) are used to provide the same information as the "Standard Instream Lease Application" form. Consequently, the numbering on this form is not always sequential.

### ~I~ Water Right Holder and Water Right Information

- 1.1 Lessor #1 is the water right holder, or authorized agent for property described in Section 1.5. 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.
- 1.3 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 Right(s) Proposed to be Leased Instream.** Water right holder proposes to lease the water rights shown on the map attached as Exhibit 5-B and described as follows:

[This information may be included on Exhibit 5-A, or an additional map may be attached. Crosshatch the area of water rights being leased. Attached map(s) must identify water right holder, township, range, section and 1/4 1/4, tax lot number, map orientation and scale.]

The first right to be leased identified in Section 1.3 is further described as follows:

Certificate Number: 74145

(If you need to enter another leased right, please use the Additional Water Right Form for Pooled Water Right Holder.)

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.	17	12	23	nwnw	1800	4.2	IRR	23	9/1/1899	IL-SL-10
2.	17	12	23	swnw	1800	5.98	IRR	23	9/1/1899	IL-SL-10
3.										IL-
4.										IL-
5.										IL-

Total number of acres, if for irrigation (or other acre equivalent use), by certificate and priority date: 10.18 acres IRR. Previously leased as a split season lease SL-10 that started the process as L-951

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

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

**2.3 Term of lease.** This lease shall terminate on Nov 1, 2013. (If there is a conflict between the Pooled Lease Form and this form, the Pooled Lease Form will be the official term of the lease.)

**~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.

Lessor #1:  Date: 2/28/13  
USDA Forest Service - Deschutes National Forest

For additional Lessors, type in space for signature and date

Swalley Irrigation District - pooled form

Kathy Ferguson

3-29-0

Other Attachments As Needed:

Exhibit 5-A: Tax Lot Map. (See instructions.)

Exhibit 5-B: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. Exhibits 5-A and 5-B may be combined into a single map. (See instructions.)

Exhibit 5-C: 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 of this form is checked)



**Exhibit 5-D: Split Season Instream Use Form**

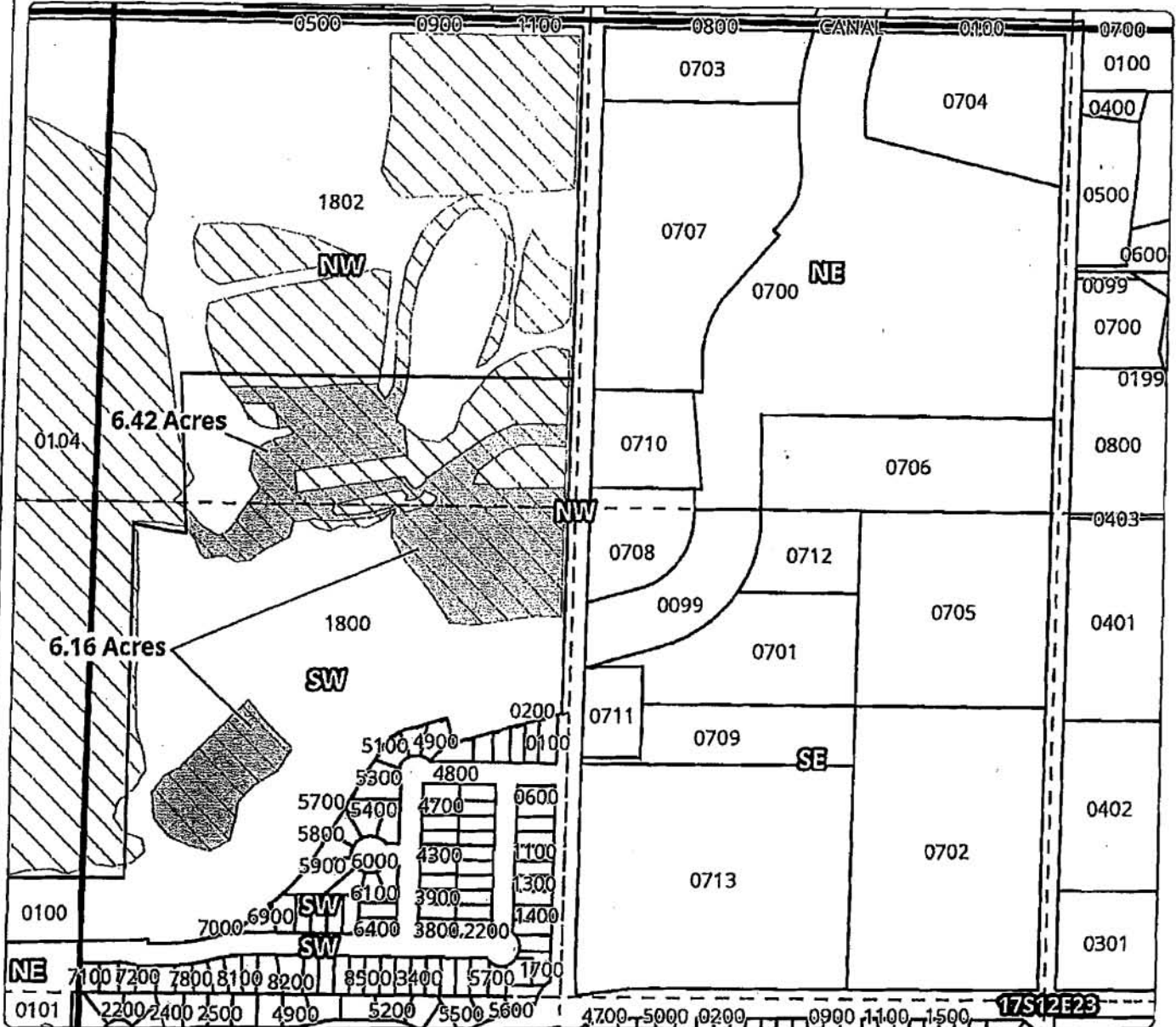
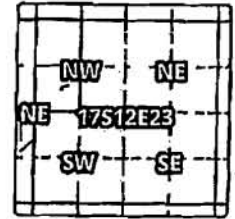
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# Swalley Irrigation District

## Application for Instream Lease

Cert #: 74145

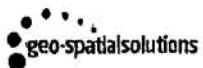
For: U.S. Forest Service



### 1 YEAR INSTREAM LEASE MAP

Taxlot 1800, 17S12E23NWNW: 6.42 Acres OFF, 2.22 Acres Remaining  
 Taxlot 1800, 17S12E23SWNW: 6.16 Acres OFF, 0.18 Acres Remaining

- Point of Diversion
- ▬ Canals
- Taxlots
- ▨ Lease
- ▧ Cert 74145



1 Inch = 400 feet  
 March 2013



February 13, 2012



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

# Application for Instream Lease

## Attachment 5: Pooled Water Right Holder 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-1291

This Lease is with:

Lessor #1 (Water Right Holder):  
Name Bend Parks and Recreation District  
Mailing address 1675 NW Simpson  
City, State, Zip Code Bend, OR 97702  
Telephone number 541-389-7275  
Email address Dave Crowther / dave@bendparksandrec.org

If additional water right holders, enter water right holder information below  
Swalley Irrigation District  
64672 Cook Ave., Suite 1  
Bend, OR 97701 kathy@swalley.com

Note: The section numbering associated with this form corresponds to that found on the "Standard Instream Lease Application" form. The "Pooled Lease" form and "Pooled Water Right Holder" form(s) are used to provide the same information as the "Standard Instream Lease Application" form. Consequently, the numbering on this form is not always sequential.

### -I- Water Right Holder and Water Right Information

- 1.1 Lessor #1 is the water right holder, or authorized agent for property described in Section 1.5. 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.
- 1.3 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 Right(s) Proposed to be Leased Instream.** Water right holder proposes to lease the water rights shown on the map attached as Exhibit 5-B and described as follows:

[This information may be included on Exhibit 5-A, or an additional map may be attached. Crosshatch the area of water rights being leased. Attached map(s) must identify water right holder, township, range, section and 1/4 1/4, tax lot number, map orientation and scale.]

The first right to be leased identified in Section 1.3 is further described as follows:

Certificate Number: 74145

(If you need to enter another leased right, please use the Additional Water Right Form for Pooled Water Right Holder.)

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.	17	12	22	nene	104	23.61	IRR	23	1899	IL-746
2.	17	12	22	nwne	104	4.25	IRR	23	1899	IL-746
3.	17	12	22	swne	104	9.28	IRR	23	1899	IL-746
4.	17	12	22	sene	104	12.39	IRR	23	1899	IL-746
5.	17	12	23	nwnw	1802	11.15	IRR	23	1899	IL-746
6.	17	12	23	swnw	1802	2.67	IRR	23	1899	IL-SL-10
7.	17	12	18	swse	00111	12.30	IRR	22	1899	IL-630

Tax lot  
104 prev.  
known as  
TL 102

Total number of acres, if for irrigation (or other acre equivalent use), by certificate and priority date: 75.65 TOTAL ACRES IRR.

Pine Nursery Acres (tax lots 104 and 1802 - were previously leased under 2 separate leases L-746 and SL-10). SL-10 started out as L-951. The Pine Nursery acres tax lots have also changed numbers since the original leases.

171218 swse tax lot 0111 previously leased by Elkins in L-630 as part of tax lot 105. This small piece sold to Bend Parks a couple of years ago.

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

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

**2.3 Term of lease.** This lease shall terminate on Nov 1, 2013. (If there is a conflict between the Pooled Lease Form and this form, the Pooled Lease Form will be the official term of the lease.)

**~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.
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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.
- 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.

Lessor #1: *Da & Helen* Date: 3-25-13  
Bend Park and Recreation District

For additional Lessors, type in space for signature and date  
Swalley Irrigation District - pooled form

*Kathy Ferguson*

3-29-13

Other Attachments As Needed:

Exhibit 5-A: Tax Lot Map. (See instructions.)



- Exhibit 5-B:** Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. Exhibits 5-A and 5-B may be combined into a single map. (See instructions.)
- Exhibit 5-C:** 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 of this form is checked)
- Exhibit 5-D:** Split Season Instream Use Form
-

## DISCLAIMER AND LIMITATION OF LIABILITY

Information on the Deschutes County Computer is not guaranteed to be accurate and may contain errors and omissions. Deschutes County provides NO WARRANTY AS TO THE MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE FOR ANY INFORMATION. Original records may differ from computer entries. If reliance upon computer record is intended, verification of information on source documents is required. User expressly acknowledges and agrees that the use of any information appearing on the Deschutes County Computer is at User's sole risk. Deschutes County shall not be liable for any direct, indirect, incidental, or consequential damages caused by mistakes, omissions, deletions, errors, defects, in any information, or any failure or delays in receiving information. The following property tax assessment data is updated nightly.

A new Dial application - Deschutes County Property Information - replaces this version of DIAL. It is more typical of contemporary web-based application offerings found on the Internet.

Account: 118097 Map/TL: R 1-017 171218 00 00111

See also: 109017

\* \* \* CURRENT Ownership Information ONLY

BEND METRO PARKS AND RECREATION DISTRICT  
BEND METRO PARKS & RECREATION DIST  
799 SW COLUMBIA ST  
BEND OR 97702

## NOTATIONS

Type: NON ZONED FARM LAND POTENTIAL ADDITIONAL TAX  
LIABILITY

Site Address: 63599 OB RILEY RD BEND 97701

## Assessor Property Description

Lot: Block:  
Code Splits: xxxx, xxxx

Prop Cls: 940 MA: 3 VA: 38 NH 000 Vol-Page: 2010-51142

Asmt Zone: UAR CDD Zone: FP (FLOOD PLAIN)

" :UAR10 (URBAN AREA RESERVE - 10 ACRE MINIMUM)

## NON - A S S E S S A B L E

\*\*\* Land Values \*\*\*

Asmt type	Acres	
W3 FARM USE UNZONED	1.50	DEFERRED
D7 FARM USE UNZONED	103.93	DEFERRED
D4 FARM USE UNZONED	6.00	DEFERRED
D6 FARM USE UNZONED	8.02	DEFERRED
*Total	119.45	

\*\*\*\*\* Values shown below are as of the Assessment Date, January 1 of each year \*\*\*\*\*

***	-----2012-----			-----2011-----		
	Total RMV	Maximum A.V.	Taxable A.V.	Total RMV	Maximum A.V.	Taxable A.V.
LND:	720,570			720,570		

SALES: --- 1 --- --- 2 ---  
 Date  
 Sale \$ 2604990\* 849250\*  
 Cndtn 03 34  
 Class 540 543  
 Inst # 2010-51142\* 1985-1071643  
 OthPcl 109017 109017  
 113051  
 113053  
 113078  
 118081  
 118082  
 118100  
 154839  
 164648

-----  
 Sales Detail Information  
 -----

Vol Page 2010-51142 Sales Date 12/23/10 Adjusted Sales Price \$2,604,990

Sales Code 03 GRANTEE/GRANTOR IS A POLITICAL SUBDIVISION

Grantor: Grantee:

ELKINS, EDWARD J & DORIS E  
 63613 OB RILEY RD  
 BEND OR 97701

\*\*\*\*\* Multiple Accounts on this Sale \*\*\*\*\*

\*\*\*  
 Site Address: 63599 OB RILEY RD BEND 97701

Acct 109017 Map/TL: R 1-003 171218 00 00111  
 MA: 3 VA: 38 Class: 540

\*\*\*  
 Site Address: 63599 OB RILEY RD BEND 97701

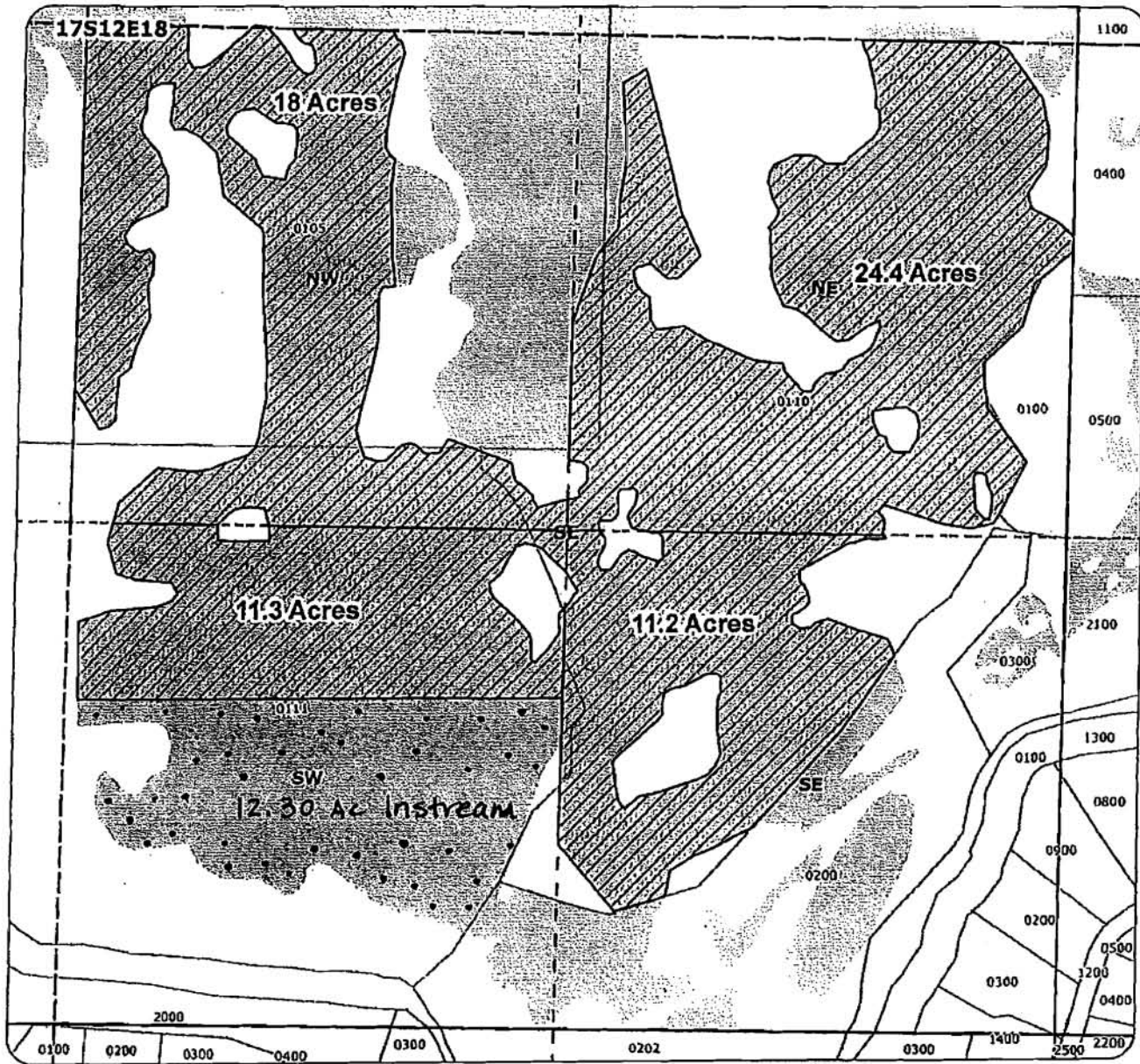
Acct 118097 Map/TL: R 1-017 171218 00 00111  
 MA: 3 VA: 38 Class: 540

-----  
 Vol Page 1985-1071643 Sales Date 10/18/85 Adjusted Sales Price \$849,250



Sales Code 34 CONFIRMED SALE ADJUSTED

Grantor: Grantee:

# 2013 Swalley Irrigation District Instream Lease Map



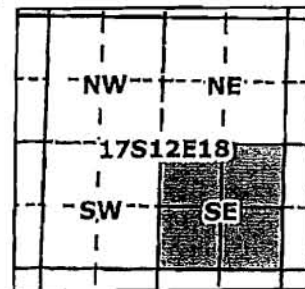
## Application for 1-year Instream Lease Primary: Certificate 74145

-  Proposed Lease of Irrigation Rights
-  Certificate 74145

For:  
Bend Parks & Rec.



12.30 Ac Instream



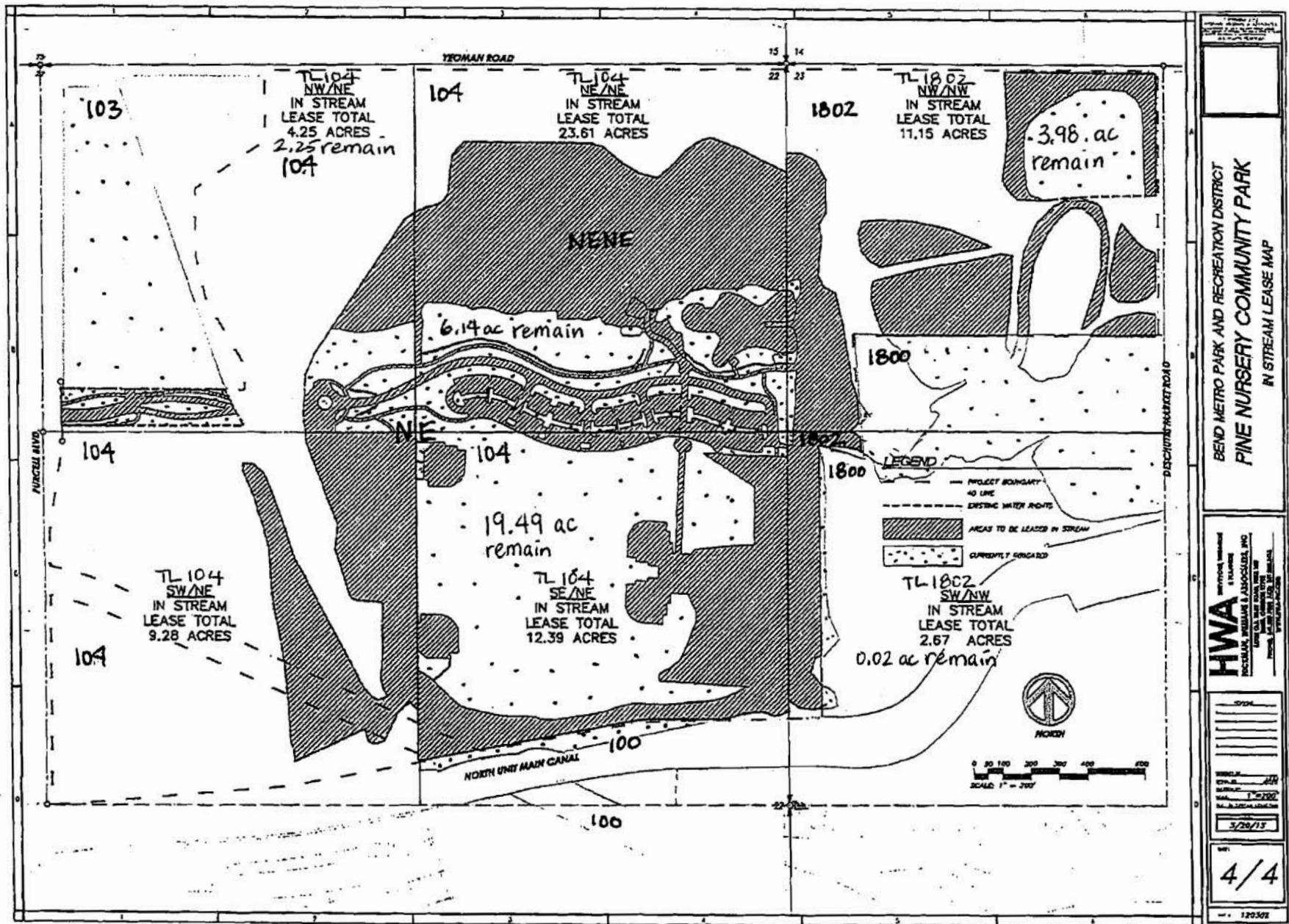
3111 Taxlot 111  
In 17S12E18SWSE

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

Date Created: March 2012



1 inch = 400 feet



**HWA**  
 HERRING WATSON & ASSOCIATES, INC.  
 1000 S. W. 10th Ave., Suite 100  
 Ft. Lauderdale, FL 33304  
 PHONE: 954.575.1100  
 FAX: 954.575.1101

DATE: \_\_\_\_\_

BY: \_\_\_\_\_

SCALE: 1" = 200'

3/29/17

4/4

120302

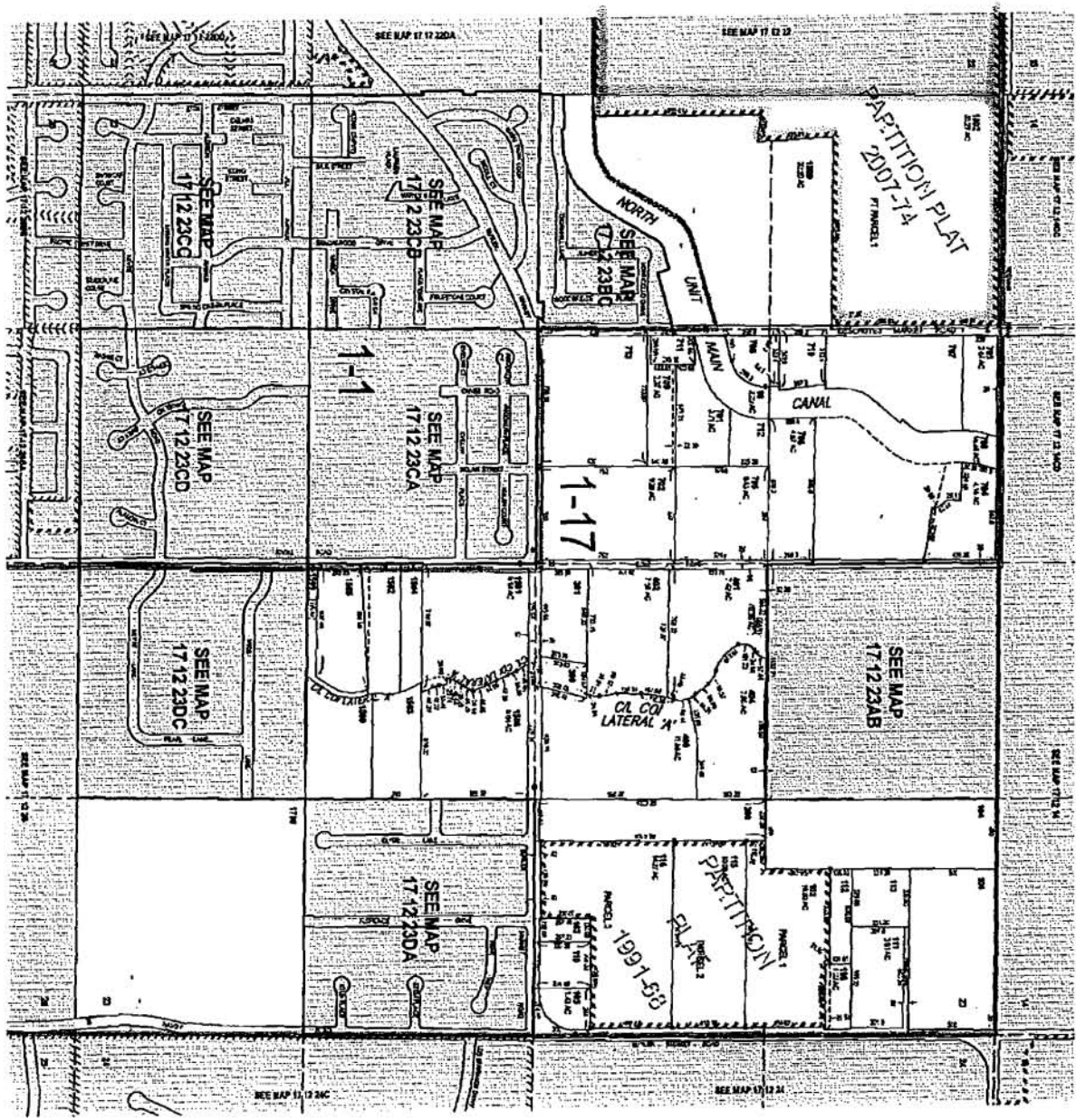




THIS MAP WAS PREPARED FOR  
ASSIGNMENT PURPOSES ONLY  
11/22/12

SECTION 23 T.17S. R.12E. W.M.  
DESCHUTES COUNTY  
1" = 400'

17 12 2300  
& INDEX



- Cancelled Maps
- 17 12 2300
  - 17 12 2301
  - 17 12 2302
  - 17 12 2303
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17 12 2300  
& INDEX