

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 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: 6 new lessors  
Lease Application Number (assigned by WRD): IL-1299

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

RECEIVED BY OWRD

APR 15 2013

SALEM, OR

**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: 11,930

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

Season 2 (cfs) 0.122 Time period: May 1-15 / Sept 15-Oct 1

Season 3 (cfs) 0.230 Time period: May 15-Sept 15

Maximum duty associated with subject water rights (ac-ft): 78.90

RECEIVED BY OWRD

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

APR 15 2013

~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

SALEM, OR

- 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): 65.03

Instream rate in cfs (may be up to the same as the rate identified in Sec 1.5): 0.082 -season 1

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

Rate in CFS: 0.110 - season 2

Rate in CFS: 0.203 - 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: Suzanne Buttacused Date: 4/5/13  
Swalley Irrigation District

Lessee: Genevieve Hubert Date: 4/9/2013  
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	11.930
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

Lawrence  
Dimeo  
Alcala  
City Bend  
"Johnson"  
Ellefson/OWEN

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	29708.640	575.056	29133.58

\*Approximate starting point

**For Primary Water Right - Certificate 74146  
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)

Rates and volumes 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 = 65.14	
Season 1	# of Days in each Season	AF/ Season
Season 2	61	9.92
Season 3	30	6.55
	123	49.53
		66.00

Additional Conditions to Prevent Injury for Section 2.2 of the Lease Application Form			
	# days	AF/Season	
Season 1*	55	8.95	
Season 2	30	6.55	
Season 3	123	49.53	
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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# 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-1299

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

This Lease is between:

**Lessor #1:**

Name Gary Dimeo  
Mailing address 19590 SW Shaw Street  
City, State, Zip Code Aloha, OR 97007  
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:**

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725 Summer Street NE, Suite A  
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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

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  $\frac{1}{4}$   $\frac{1}{4}$  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	Sec	$\frac{1}{4}$ $\frac{1}{4}$	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	SW/S W	04800	2.33	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,  $\frac{1}{4}$   $\frac{1}{4}$ , tax lot number, map orientation, and scale.]

Total number of acres being leased, if for irrigation (or other acre equivalent uses): 2.33

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

Maximum rate associated with the right to be leased (cfs): Season 1: 0.018, Season 2: 0.024, Season 3: 0.045

(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): 15.41

(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): 6.61 ac  
=12.76 af

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

Season 1: 0.016 cfs / Season 2: 0.021 cfs / Season 3: 0.040cfs

(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, 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 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 #1: *Gary Dimeo* Date: 2-25-13  
Gary Dimeo

For additional Lessors, type in space for signature and date

Lessor #2: *Suzanne Butterfield* Date: 2-27-13  
Swalley Irrigation District

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

Other Attachments as Needed:

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

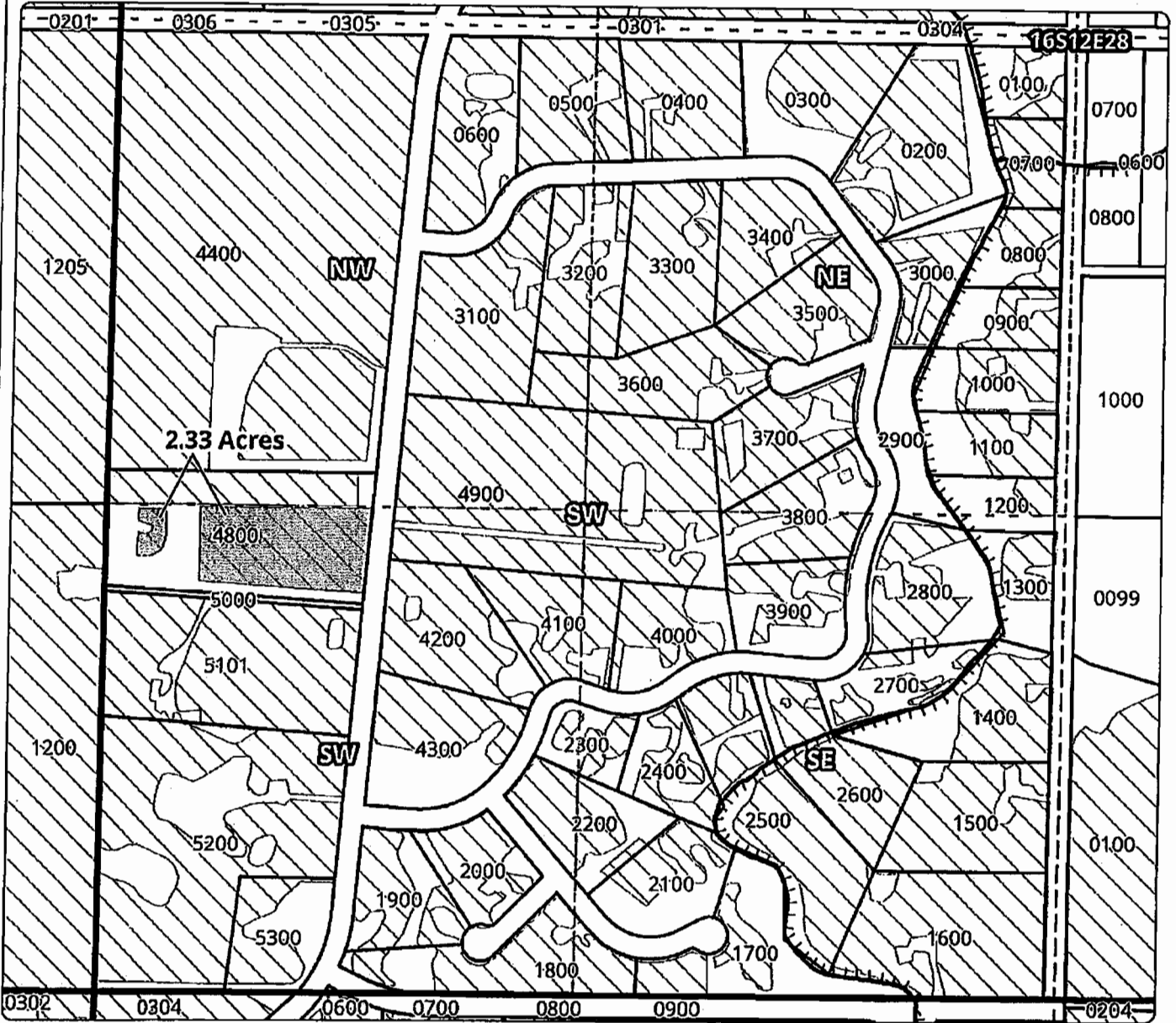
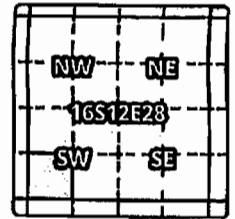
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Attachment 4: Split Season Instream Use Form

# Swalley Irrigation District Application for Instream Lease

Cert #: 74145  
For: Gary Dimeo



## 1 YEAR INSTREAM LEASE MAP

Taxlot 4800, 16S12E28SWSW: 2.33 Acres OFF, 0 Acres Remaining

- Point of Diversion
- TTT Canals
- Taxlots
- ▨ Lease
- ▩ Cert 74145



1 Inch = 400 feet  
March 2013





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Optional Identification by Lessor/Lessee: 6 new lessors  
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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.**

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- 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 \_\_\_\_\_.
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Certificate No(s). 74145

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**1.5 Water Rights Proposed to be Leased Instream.**

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(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: 11,930

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

Season 2 (cfs) 0.122 Time period: May 1-15 / Sept 15-Oct 1

Season 3 (cfs) 0.230 Time period: May 15-Sept 15

Maximum duty associated with subject water rights (ac-ft): 78.90

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): 65.03

Instream rate in cfs (may be up to the same as the rate identified in Sec 1.5): 0.082 -season 1

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

Rate in CFS: 0.110 - season 2

Rate in CFS: 0.203 - 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.

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**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: Suzan Buttigieg Date: 4/5/13  
Swalley Irrigation District

Lessee: Shenene Hubert Date: 4/9/2013  
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 →		11,930		
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	29708,640	675,056	29,133,58	

Lawrence  
Dimeo  
Alcala  
City Bend  
"Johnson"  
Ellefson/OWEN

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

\* 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)

Rates and volumes 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
	Total =	65.14
	Full Rate	# of Days in each Season
Season 1		61
Season 2		30
Season 3		123
		AF/ Season
		9.92
		6.55
		49.53
		66.00

Additional Conditions to Prevent Injury for Section 2.2 of the Lease Application Form			
	# days	AF/Season	
Season 1*	55	8.95	
Season 2	30	6.55	
Season 3	123	49.53	
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%.





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

# 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): \_\_\_\_\_

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

This Lease is between:

**Lessor #1:**

Name Gary Dimeo  
 Mailing address 19590 SW Shaw Street  
 City, State, Zip Code Aloha, OR 97007  
 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

**~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

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  $\frac{1}{4}$   $\frac{1}{4}$  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	$\frac{1}{4}$ $\frac{1}{4}$	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	SW/S W	04800	2.33	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,  $\frac{1}{4}$   $\frac{1}{4}$ , tax lot number, map orientation, and scale.]

Total number of acres being leased, if for irrigation (or other acre equivalent uses): 2.33

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

Maximum rate associated with the right to be leased (cfs): Season 1: 0.018, Season 2: 0.024, Season 3: 0.045

(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): 15.41

(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): 6.61 ac  
=12.76 af

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

Season 1: 0.016 cfs / Season 2: 0.021 cfs / Season 3: 0.040cfs

(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, 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 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 #1: *Gary Dimeo* Date: 2-25-13  
Gary Dimeo

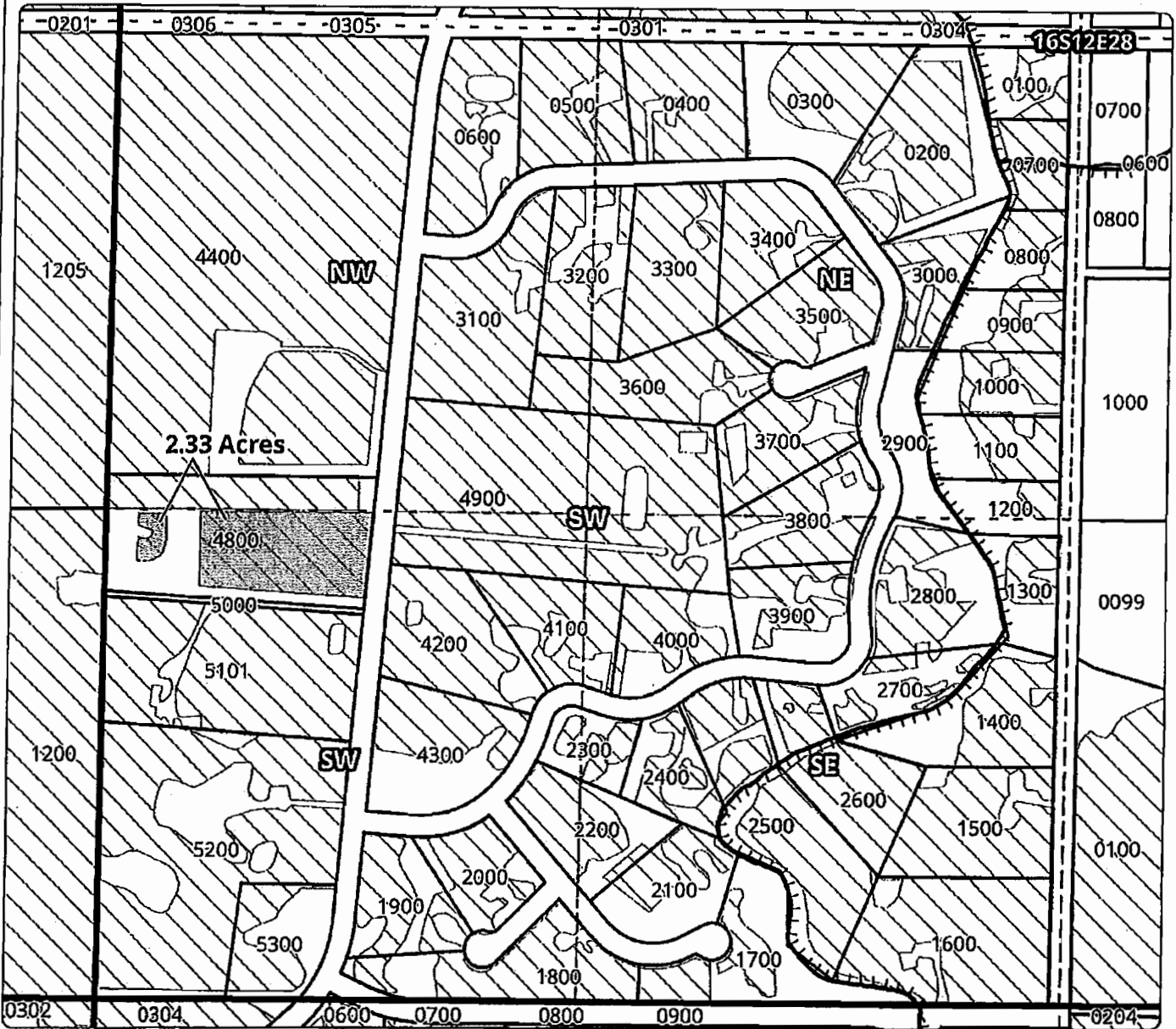
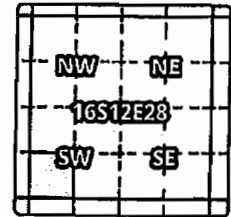
For additional Lessors, type in space for signature and date  
Lessor #2: *Suzanne Butterfield* Date: 2-27-13  
Swalley Irrigation District

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

# Swalley Irrigation District Application for Instream Lease

Cert #: 74145  
For: Gary Dimeo



## 1 YEAR INSTREAM LEASE MAP

Taxlot 4800, 16S12E28SWSW: 2.33 Acres OFF, 0 Acres Remaining

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





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-1299

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

This Lease is between:

**Lessor #1:**

Name Gary & Floyd Lawrence  
 Mailing address 748 NE Seward Ave.  
 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

RECEIVED BY OWRD

APR 15 2013

SALEM, OR

**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

**~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 26 and Tax Lot number 00200. If the water right appurtenant to these lands is also



State of Oregon  
 Water Resources Department  
 725 Summer Street NE, Suite A  
 Salem, Oregon 97301-1266  
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# 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-1299

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

This Lease is between:

**Lessor #1:**

Name Gary & Floyd Lawrence  
 Mailing address 748 NE Seward Ave.  
 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:**

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 725 Summer Street NE, Suite A  
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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 26 and Tax Lot number 00200. 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.	16	12	26	SW/S W	000200	3.50	IRR	7	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): 3.50

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

Maximum rate associated with the right to be leased (cfs): Season 1: 0.027, Season 2: 0.036, Season 3: 0.067

(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): 23.15

(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): 6.61 ac  
=19.16 af

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

Season 1: 0.024 cfs / Season 2: 0.032 cfs / Season 3: 0.060cfs

(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, 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 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 #1: *Gary Lawrence* Date: 2/26/13  
Gary Lawrence

*Floyd Lawrence* Date: 2-25-13  
Floyd Lawrence

For additional Lessors, type in space for signature and date

Lessor #2: *Suzanne Butterfield* Date: 2/27/13  
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.)

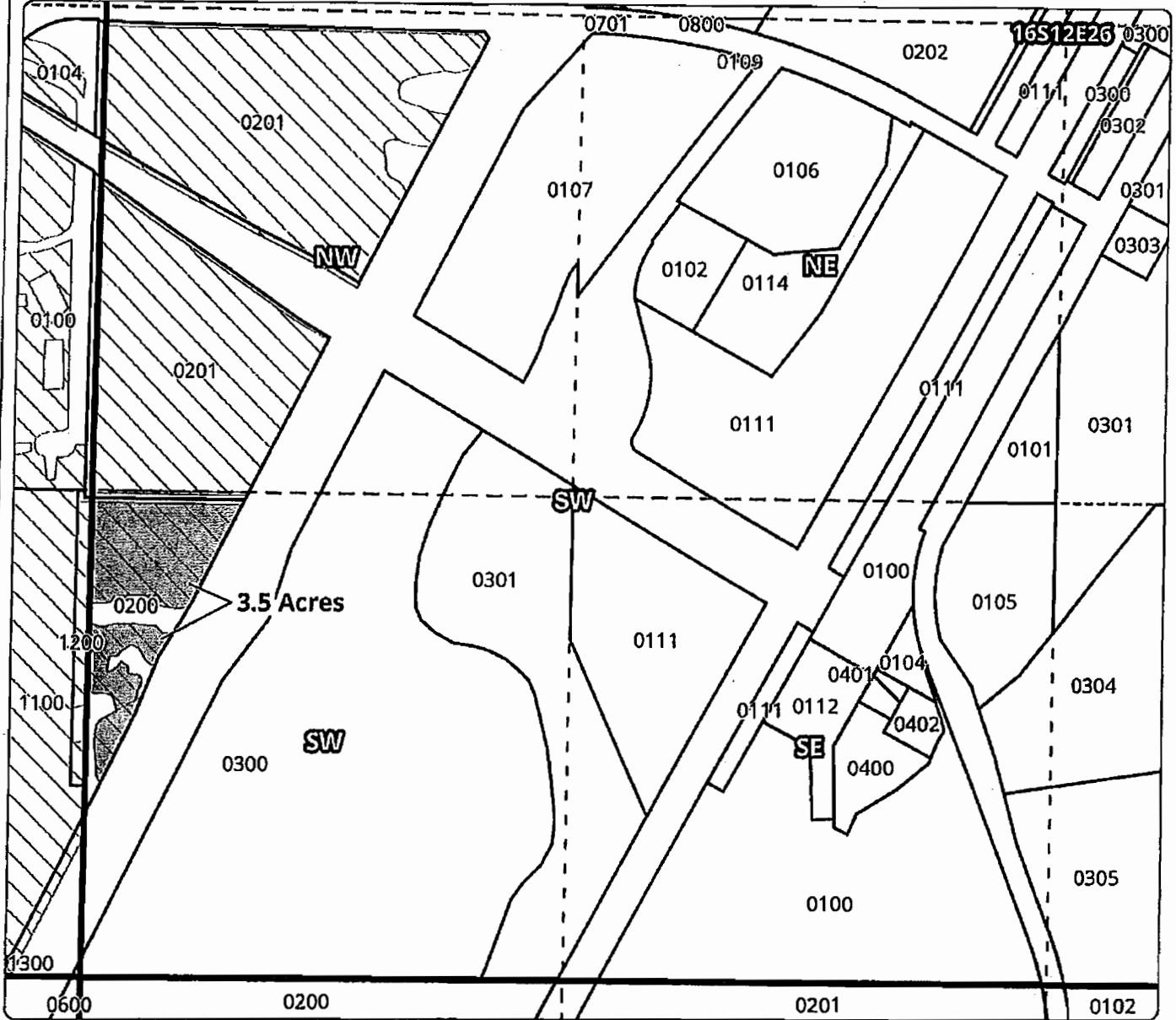
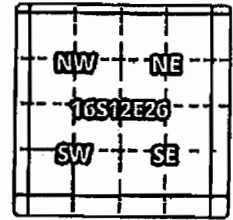
Attachment 3: Supporting documentation indicating why a right is valid and not subject to forfeiture even though the right has not been exercised for five or more consecutive years (required if the second box in Section 1.6 is checked).

Attachment 4: Split Season Instream Use Form

# Swalley Irrigation District Application for Instream Lease

Cert #: 74145

For: Gary & Floyd Lawrence



## 1 YEAR INSTREAM LEASE MAP

Taxlot 200, 16S12E26SWSW: 3.5 Acres OFF, 0 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

A summary of review criteria and procedures that are generally applicable to these applications is available at [www.wrd.state.or.us/QWRD/PUBS/forms.shtml](http://www.wrd.state.or.us/QWRD/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-1299

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

This Lease is between:

**Lessor #1:**

Name City of Bend  
Mailing address 710 NW Wall Street  
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

### ~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 22 and Tax Lot number 00100. 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	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	NE/SE	00100	1.00	IRR		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): 1.00

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

Maximum rate associated with the right to be leased (cfs): Season 1: 0.008 Season 2: 0.010

Season 3: 0.019

(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

(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): 6.61ac  
=5.45 af

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

Season 1: 0.007 cfs / Season 2: 0.090cfs / Season 3: 0.017cfs

(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 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 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, 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 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 #1: \_\_\_\_\_  
City of Bend

Date: 2/28/13

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

For additional Lessors, type in space for signature and date

Lessor #2: \_\_\_\_\_  
Swalley Irrigation District

Date: 3/18/13

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.)

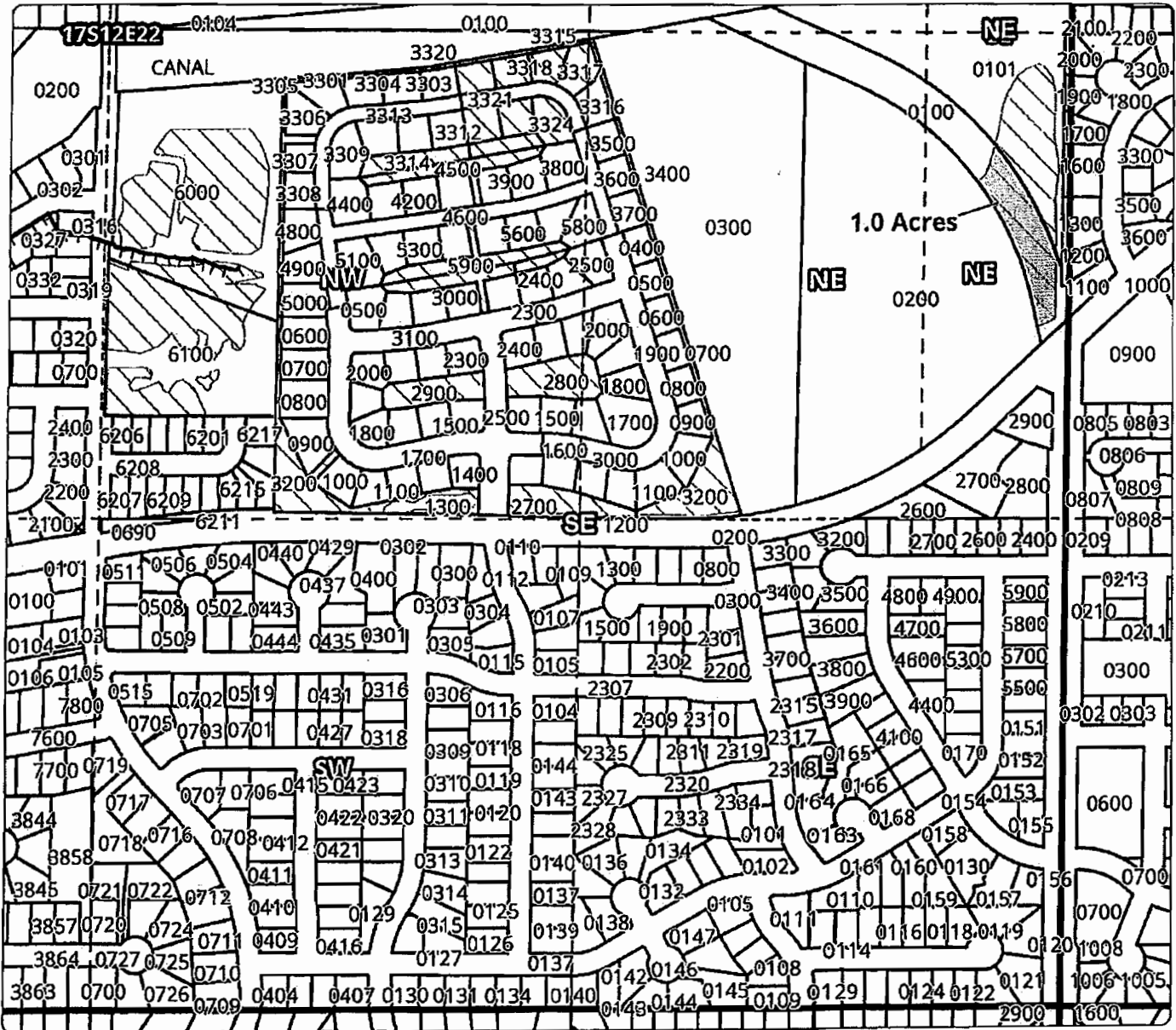
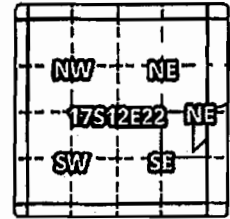
Attachment 3: Supporting documentation indicating why a right is valid and not subject to forfeiture even though the right has not been exercised for five or more consecutive years (required if the second box in Section 1.6 is checked).

Attachment 4: Split Season Instream Use Form

# Swalley Irrigation District

## Application for Instream Lease

Cert #: 74145  
 For: City of Bend



### 1 YEAR INSTREAM LEASE MAP

Taxlot 100, 17S12E22NESE: 1.0 Acres OFF, 0 Acres Remaining

- Point of Diversion
- Canals
- Taxlots
- Lease
- Cert 74145



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

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-1299

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

This Lease is between:

**Lessor #1:**

Name Luis Alcalá & Seana McKenzie Alcalá  
Mailing address 64660 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

## ~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 32 and Tax Lot number 00306. 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	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	32	SE/NE	00306	1.00	IRR	11	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): 1.65

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

Maximum rate associated with the right to be leased (cfs): Season 1: 0.013 Season 2: 0.017,

Season 3: 0.032

(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): 10.91

(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

- 2.3 **Term of lease.** This lease shall terminate on November 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 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.
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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.
  - 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.

- 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): 6.61ac  
=8.92af

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

Season 1: 0.011 cfs / Season 2: 0.15cfs / Season 3: 0.028cfs

(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): \_\_\_\_\_

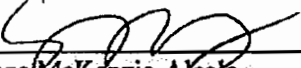
(Note: The Department may identify additional conditions to prevent injury and/or enlargement.)

If you need to enter more instream uses, please use the additional water rights form.

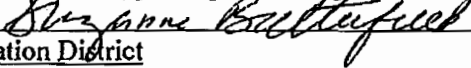
3.7 Fees. Pursuant to ORS 536.050, the following fee is included:

- \$400 for an application with four or more landowners or four or more water rights.  
 \$250 for all other applications.

Lessor #1:  Date: 3/6/2013  
Luis Alcala

 Date: 3/6/2013  
Seana McKenzie-Alcala

For additional Lessors, type in space for signature and date

Lessor #2:  Date: 3/7/2013  
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

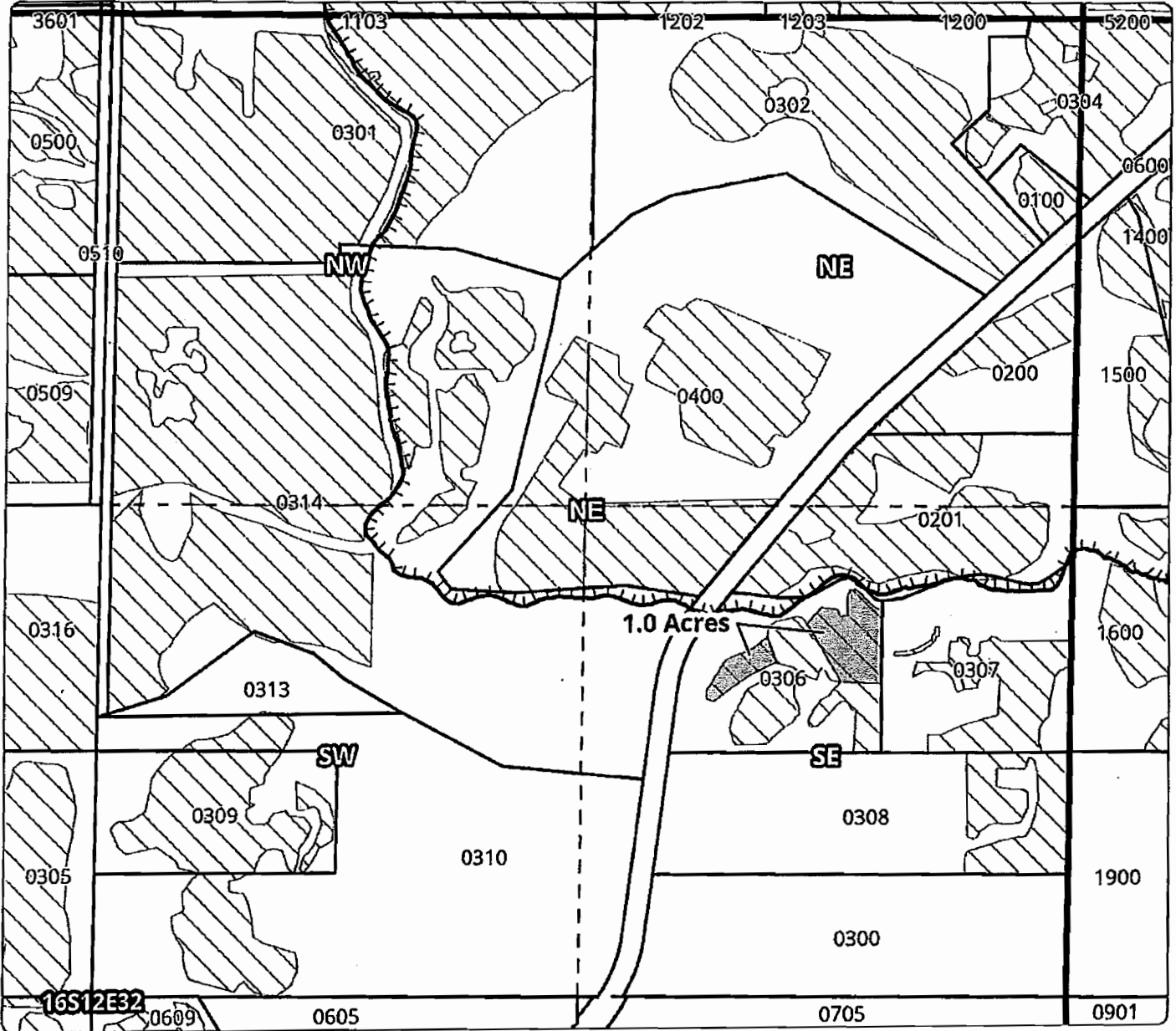
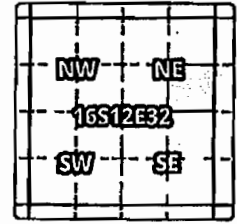


# Swalley Irrigation District

## Application for Instream Lease

Cert #: 74145

For: Luis Alcala & Seana McKenzie Alcala



### 1 YEAR INSTREAM LEASE MAP

Taxlot 306, 16S12E32SENE: 1.0 Acres OFF, 1.5 Acres Remaining

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



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): FL-1299

This Lease is with:

Lessor #1 (Water Right Holder):

Name "Johnson", Wealey  
Mailing address 64560 Old Bend Redmond Hwy  
City, State, Zip Code Bend, OR 97701  
Telephone number \_\_\_\_\_  
Email address \_\_\_\_\_

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

~~Swalley Irrigation District  
64672 Oak 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	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.	16	12	32	nwse	701	3.6	IRR	12	9/1/1899	IL-
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: 3.6 acres IRR

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: *[Signature]* Date: 3/28/13

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

*Kathy Ferguson*

3/29/13

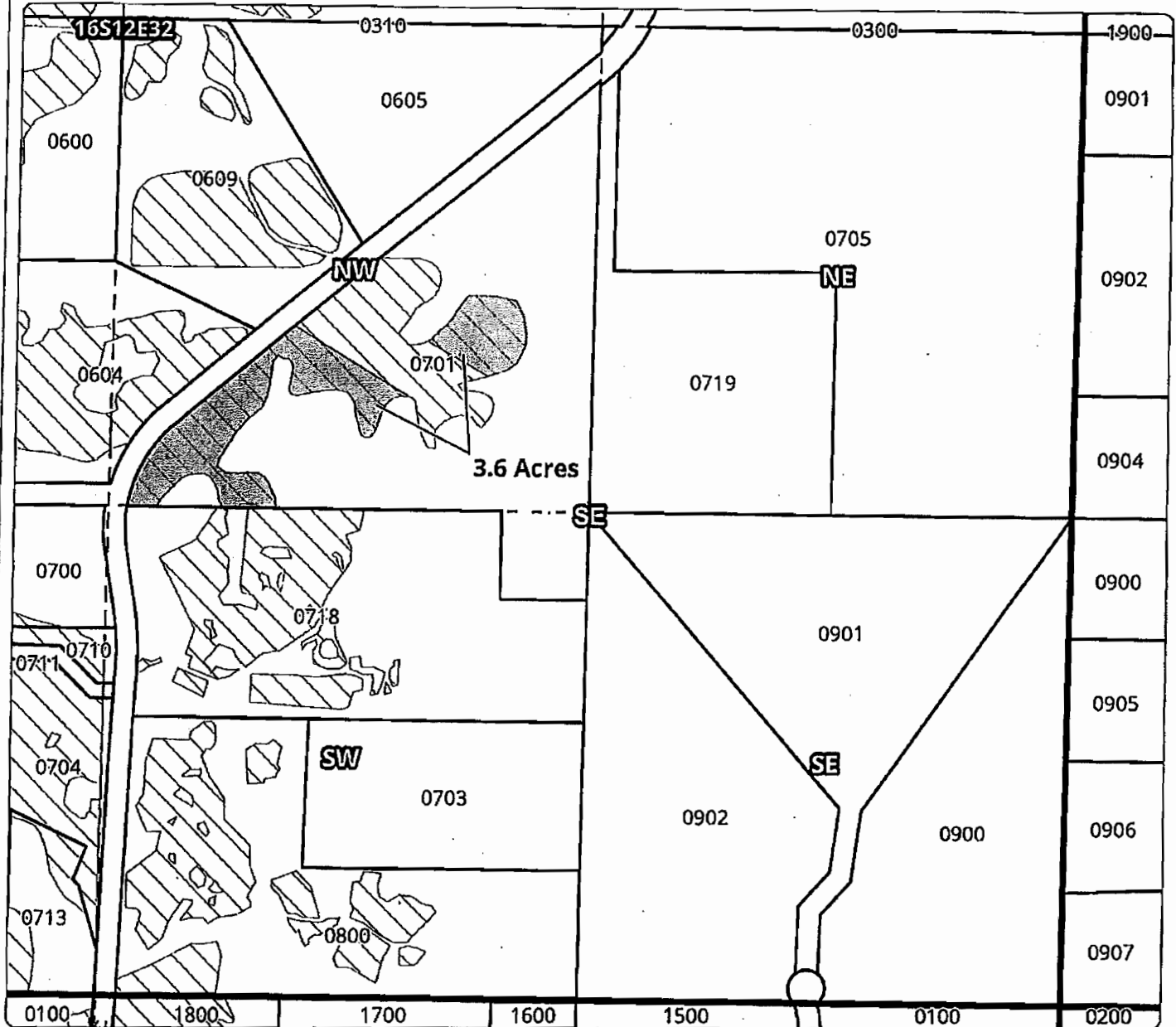
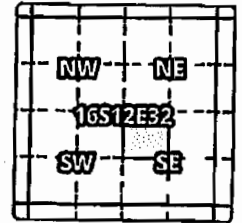
Other Attachments As Needed:

- 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

# Swalley Irrigation District

## Application for Instream Lease

Cert #: 74145  
 For: Wesley Johnson



### 1 YEAR INSTREAM LEASE MAP

Taxlot 701, 16S12E32NWSE: 3.6 Acres OFF, 2.4 Acres Remaining

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



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/QWRD/PUBS/forms.shtml](http://www.wrd.state.or.us/QWRD/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-1299

This Lease is with:

Lessor #1 (Water Right Holder):

Name OWEN Loan Servings, LLC for Garth & Lisa Ellefson  
Mailing address 1661 WORTHINGTON RD, SUITE 100  
City, State, Zip Code WEST PALM BEACH, FLORIDA - 33409  
Telephone number 866-952-6514 OPT-2  
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 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	Sec	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	08	swse	0900	0.50	IRR	17	9/1/1899	IL-
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: 0.5 acres IRR

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 certificates, 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.

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  - 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: Adrian Date: 05/04/2012  
 OWEN Loan Servicing, LLC for Garth and Lisa Ellefson

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

Suzanne Butterfield

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

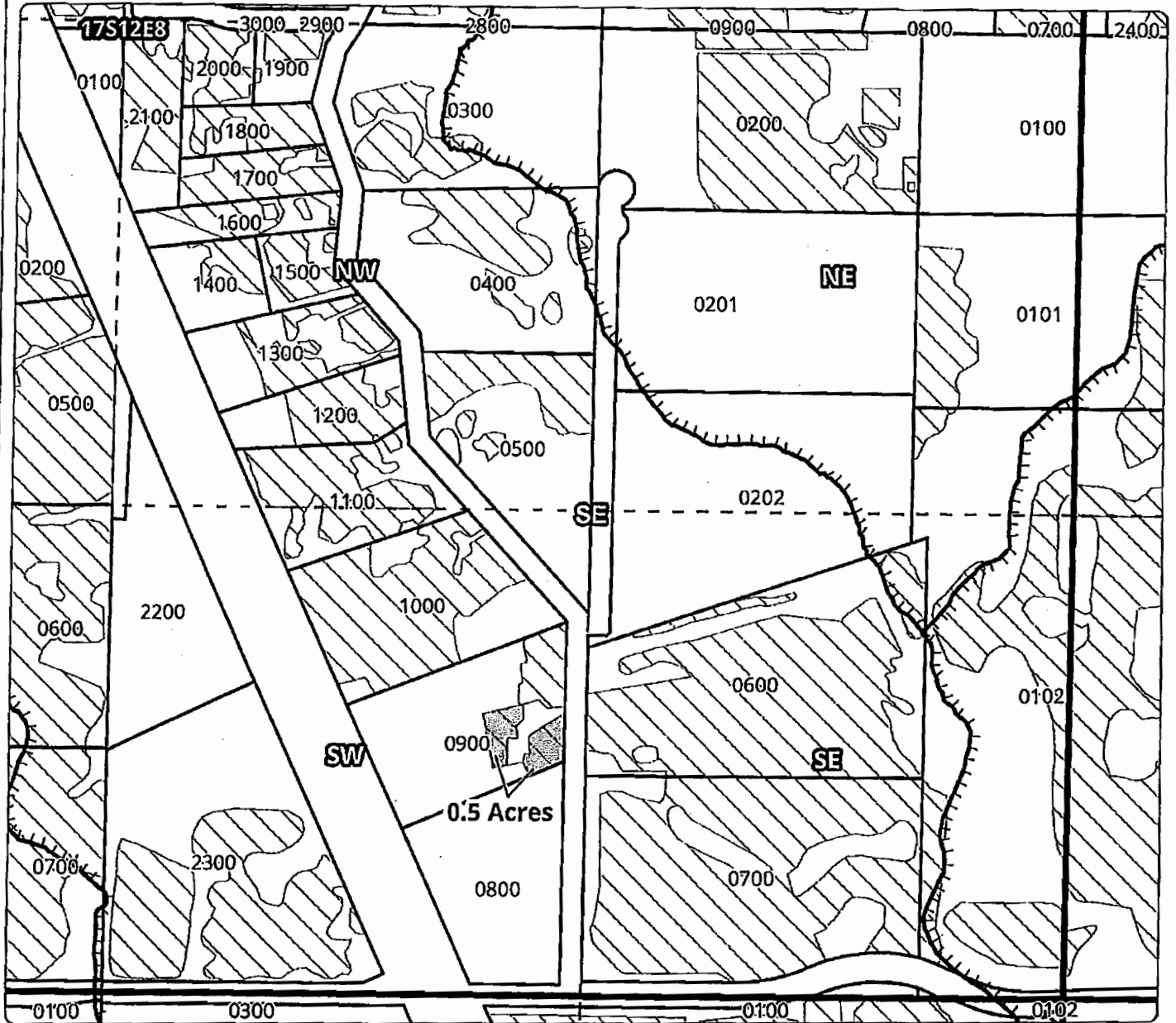
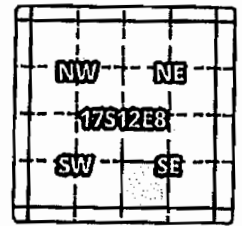


# Swalley Irrigation District

## Application for Instream Lease

Cert #: 74145

For: Garth & Lisa Ellefson



### 1 YEAR INSTREAM LEASE MAP

Taxlot 900, 17S12E8SWSE: 0.5 Acres OFF, 0.5 Acres Remaining

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

