



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**

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Optional Identification by Lessor/Lessee: \_\_\_\_\_

Lease Application Number (assigned by WRD): IL 1328

JUN 28 2013

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

SALEM, OR

This Lease is between:

**Lessor #1:**

Name Wayne Spicer

Mailing address 345 Stratford Lane

City, State, Zip Code Roseburg, OR 97471

Telephone number 541-430-8480 Cell : 541-672-5339 Home \_\_\_\_\_

E-mail address\*\* wspicer2@gmail.com

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

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

Name \_\_\_\_\_

Mailing address \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

Telephone number \_\_\_\_\_

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

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

**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 26 S, Range 6 W, Section 23C and Tax Lot number 3200. 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 \_\_\_\_\_, 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). 79515, R-14349

- 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.: 79515

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

Legal Season of Use: March 1 - October 31

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.	26S	6W	23	SESW	3200	4.5	Irrigation		3/22/1982	IL-223
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): 4.5 acres

Acre-feet of storage, if applicable: N/A

Maximum rate associated with the right to be leased (cfs): .056 cfs

(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): 11.25 acft

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

Conditions or other limitations, if any: \_\_\_\_\_ **SALEM, OR**

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- 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

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**2.2 Instream use created by lease of the water right described in Section 1.5.**

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The instream use to be created is described as follows:

In the North Umpqua River SALEM, OR  
 Tributary to Umpqua River in the Umpqua Basin.

Instream volume in acre-feet (may be up to the same as the duty identified in Sec 1.5): 11.25

Instream rate in cfs (may be up to the same as the rate identified in Sec 1.5): .056 cfs

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

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

Describe the proposed reach (an instream reach generally begins at the POD and generally ends at the mouth of the source creek/river). If possible list the reach by river mile): POD at RM 3.5 to confluence with the Umpqua River.

Please check this box if you are not sure of the proposed reach and want water to be protected within a reach below the POD, if possible.

(If no reach is identified or the above box is not checked, and there is only one POD listed on the certificate, the lease may be processed to be protected at the POD.)

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

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

- None
- The instream flow will be allocated on a daily average basis up to the described rate from July 23 through October 31.
- 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 October 31, 2017.

**2.4 Flow protection.** The Trustee will regulate use of water from the source, subject to prior appropriation and the agency enforcement guidance, to assure the water is delivered to the point of diversion, and through the reach past junior downstream users, so long as flow is sufficient to meet the demand under priority date of the new instream use (see Section 2.2).

As part of regulation activities the watermaster or a designee has access to the point of diversion and place of use for the water rights involved in this lease. No party is required to continuously measure the flow of the waterway described in Section 2.2.

### **~III~ Other Information**

- 3.1 Accuracy.** The Undersigned Lessor(s) and Lessee(s) declare that, to the best of their knowledge and belief, the information contained in this application is true, correct and complete. If after the lease order is signed, any information is determined to be false, the lease order may be modified or terminated. The lease only exercises the water rights being leased, for the term of the lease. It shall not be construed to overcome any claim that the water right may otherwise be subject to forfeiture for nonuse pursuant to ORS 540.610 during the period of time prior to the execution of the lease.
- 3.2 Lease.** Lessor(s) and Lessee(s) agree to lease the water rights listed in Section(s) 1.5 for instream use for the term of this lease through Lessee to the Trustee, the Oregon Water Resources Department, pursuant to the provisions of ORS 537.348(2) and OAR 690-077.
- 3.3 Precedent.** If a right which has been leased is later proposed to be leased again or transferred to an instream use under ORS 537.348 and OAR 690-077 a new injury review shall be required, and a prior lease shall not set a precedent for the amount of water to be leased or transferred instream.
- 3.4 Suspension of original use.** During the period of the lease, the water right holder agrees to suspend use of water allowed under the subject water rights and under any water right that is supplemental to the subject water rights.
- 3.5 Termination provision.**
- For multiyear leases, the Lessor(s) shall have the option of terminating the lease each year with written notice to the Department. The lease may be terminated at any time during the calendar year. However, if the termination request is received less than 30-days prior to the period of allowed instream use or after the period of allowed use has begun for the water right(s) being leased, water may not be used under the right(s) leased until the following calendar year, unless the Director determines that enlargement would not occur. The Department may also require:
    - Written notice to the Department;
    - Consent by all parties to the lease; and/or
    - Written notice to the Watermaster's office.
  - For multiyear leases, the lessor shall not have the option of terminating the lease, without consent by all parties to the lease.
- 3.6 Modification to prevent injury.** Allocation of water to the instream use described in Section 2.2 during the term of this lease is not reasonably expected to cause injury to other rights to use water from the same source. If injury is found after this lease is signed, the lease may be modified or terminated to prevent injury.

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

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

Lessor #1: Wayne Spicer *Wayne Spicer* Date: 6/25/2013  
Wayne Spicer

For additional Lessors, type in space for signature and date

\_\_\_\_\_

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

\_\_\_\_\_

Other Attachments as Needed:

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

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

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

Attachment 4: Split Season Instream Use Form

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**Attachment 1**  
**Short - Term Water Right Lease Agreement**  
**Tax Lot Map of Lessor's Property**

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\* - - Property Data Selection Menu - -  
 Owner: SPICER, WAYNE M & DONNA M TR  
 Prop ID : R51995 (7424.13) (216571) SPICER FAMILY TRUST  
 Map Tax Lot: 26-06W-23C-03200 345 STRATFORD ALNE  
 Legal : P.P. 1997-21, PARCEL 1, ACRES 5.00 ROSEBURG, OR 97471

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Situs : 360 STRATFORD LN Year Built :  
 ROSEBURG, OR 97471 Living Area:  
 Name(s) : 2012 Roll Values  
 Area : 00402 RMV Land Non-LSU \$ 0 (+)  
 Sale Info : 02/19/13 \$0 RMV Land LSU \$ 175,750 (+)  
 Deed Type : QC RMV Improvements \$ 3,119 (+)  
 Instrument: 2013-3985 RMV Total \$ 178,869 (=)  
 2012 Tax Status \* No Taxes Due \* Land LSU \$ 1,763  
 Current Levied Taxes : 17.93 Total Exemptions \$ 0  
 Special Assessments : M5 Net Value \$ 5,134  
 M50 Assd Value \$ 1,763

(AD) Alt Disp	(Y) primary	(SE) condary	(L) and/Impr
(O)wnership	(H)istory	(W) Spec Assmt	(.) More

Enter Option from Above or <RET> to Exit: \_\_

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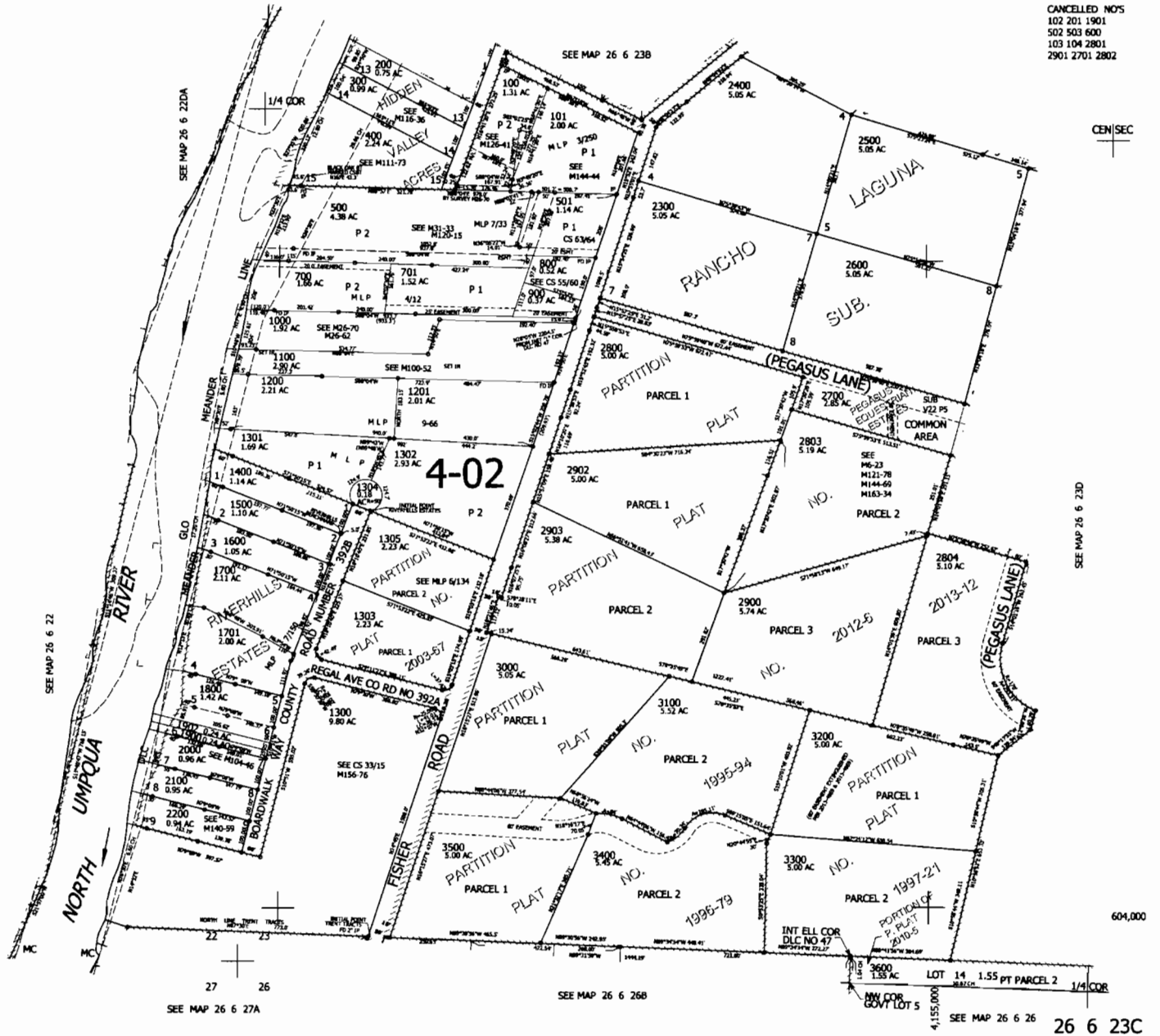
THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY.

SW1/4 SEC.23 T.26S. R.6W. W.M.  
DOUGLAS COUNTY  
1" = 200'

REVISED ON  
4-8-13

26 6 23C

CANCELLED NO'S  
102 201 1901  
502 503 600  
103 104 2801  
2901 2701 2802



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Wayne M. Spicer and Donna M. Spicer  
345 Stratford Lane  
Roseburg, OR 97471

Grantor's Name and Address

Wayne M. Spicer and Donna M. Spicer, Trustees  
The Spicer Family Trust dated February 19, 2013  
345 Stratford Lane  
Roseburg, OR 97471

Grantee's Name and Address

Until requested otherwise, send all tax statements to (Name, Address, Zip):  
Wayne M. Spicer and Donna M. Spicer, Trustees  
The Spicer Family Trust dated February 19, 2013  
345 Stratford Lane  
Roseburg, OR 97471

Douglas County Official Records  
Patricia K. Hitt, County Clerk

2013-003985



\$41.00

DEED-QCD Cnt=1 Stn=13 CAROL  
\$5.00 \$11.00 \$15.00 \$10.00

02/21/2013 12:27:57 PM

**QUITCLAIM DEED**

KNOW ALL BY THESE PRESENTS that, Wayne M. Spicer and Donna M. Spicer, herein called grantor, for the consideration hereinafter stated, does hereby remise, release and forever quitclaim unto Wayne M. Spicer and Donna M. Spicer, Trustees of the Spicer Family Trust dated February 19, 2013, hereinafter called grantee, and unto grantee's heirs, successors and assigns, all of the grantor's right, title and interest in that certain rel property, with the tenements, hereditaments and appurtenances therunto belonging or in any way appertaining, situated in Douglas County, State of Oregon, described as follows:

Parcel 1 of PARTITION PLAT NO. 1997-21, Surveyor's Records of Douglas County, OR (Recorder's #97-3919)

TOGETHER WITH easements for access, utility and storm drain described in LAND PARTITION 1995-94, LAND PARTITION 1996-79 and LAND PARTITION 1997-21, Surveyor's Records of Douglas County, OR (Recorder's # 95-18350, 96-20130 and 97-3919)

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

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 0.00. However, the actual consideration consists of or includes other property or value given or promised which is part of the consideration.

In construing this deed, where the context so requires, the singular includes the plural, and all grammatical changes shall be made so that this deed shall apply equally to corporations or individuals.

IN WITNESS WHEREOF, the grantor has executed this instrument this 19th day of February, 2013.

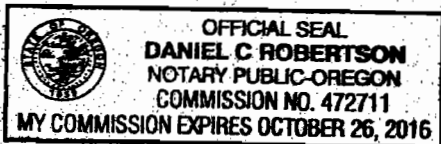
BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING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

Wayne M. Spicer

Donna M. Spicer

STATE OF OREGON, County of Douglas ) ss

This instrument was acknowledged before me on this 19th day of February, 2013 by Wayne M. Spicer and Donna M. Spicer



Notary Public for Oregon

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**Attachment 2**  
**Short - Term Water Right Lease Agreement**  
**Leased Right Map**

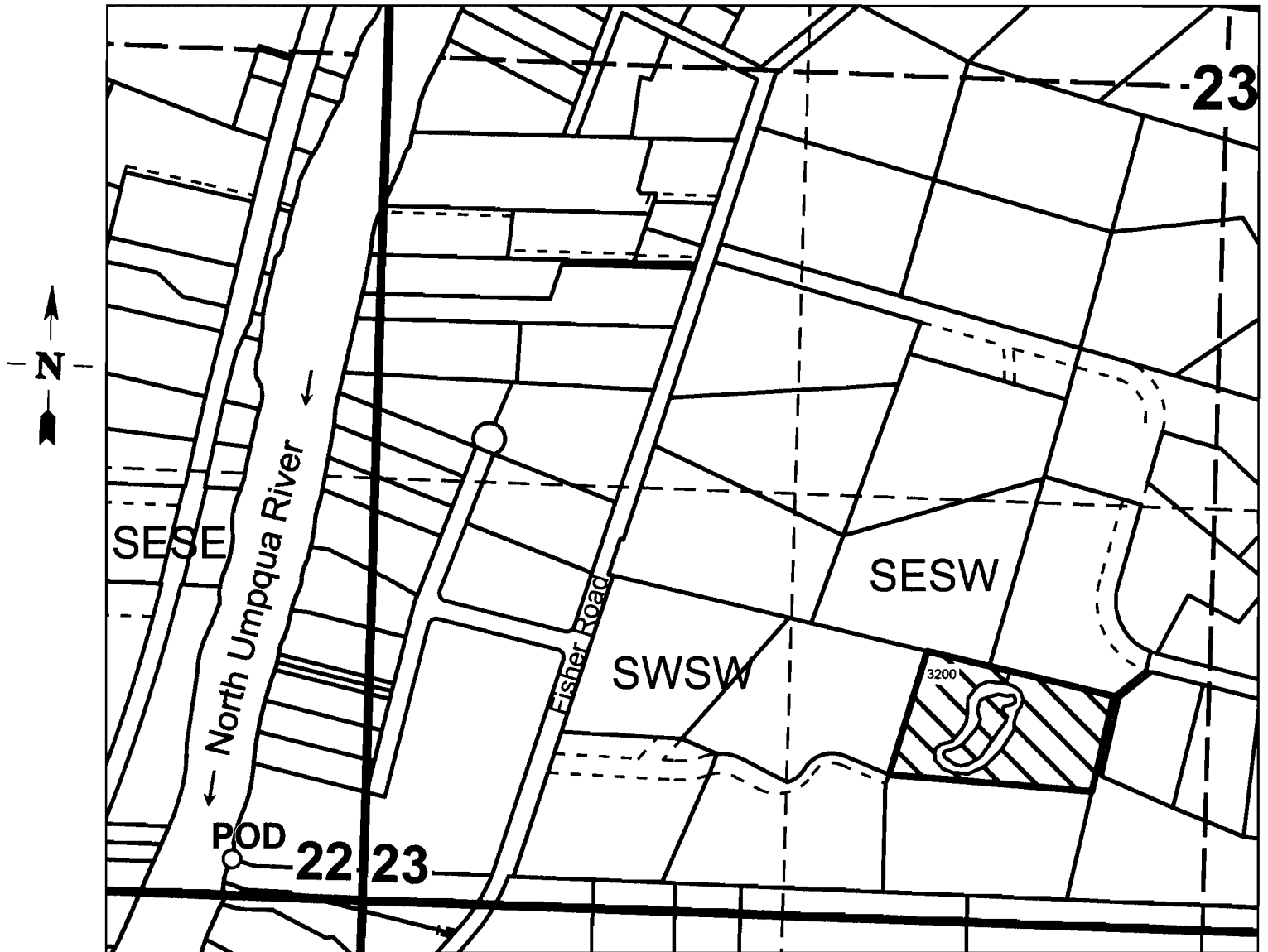
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SW 1/4 Sec.23 T.26S. R.6W.  
Douglas County  
Scale 1" = 500'

Instream Lease Application Map for  
Wayne Spicer



The Point of Diversion is located 120 ft. north and 450 ft. west from  
the SE corner of Section 22.



4.5 acres to be leased - Permit 46773

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STATE OF OREGON  
COUNTY OF DOUGLAS  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

JOE G. MACHADO, JR.  
2349 FISHER ROAD  
ROSEBURG, OREGON 97470

confirms the right to use the waters of NORTH UMPQUA RIVER, a tributary of the UMPQUA RIVER, for IRRIGATION OF 30.9 ACRES.

This right was perfected under Permit 46773. The date of priority is MARCH 22, 1982. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.38 CUBIC FOOT PER SECOND or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

SE¼ SE¼, SECTION 22, T 26 S, R 6 W, W.M.; 120 FEET NORTH AND 450 FEET WEST FROM THE SE CORNER OF SECTION 22.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2¼ acre-feet for each acre irrigated during the irrigation season of each year.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

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A description of the place of use to which this right is appurtenant is as follows:

SW¼ SW¼ 16.0 ACRES  
 SE¼ SW¼ 14.9 ACRES  
 BOTH AS PROJECTED WITHIN DLC 47  
 SECTION 23  
 TOWNSHIP 26 SOUTH, RANGE 6 WEST, W.M.

This certificate describes that portion of the water right confirmed by Certificate 76879, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered MAY 29 2002, approving Transfer Application 8880.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources

Director, affixed MAY 29 2002

  
 Paul R. Cleary, Director

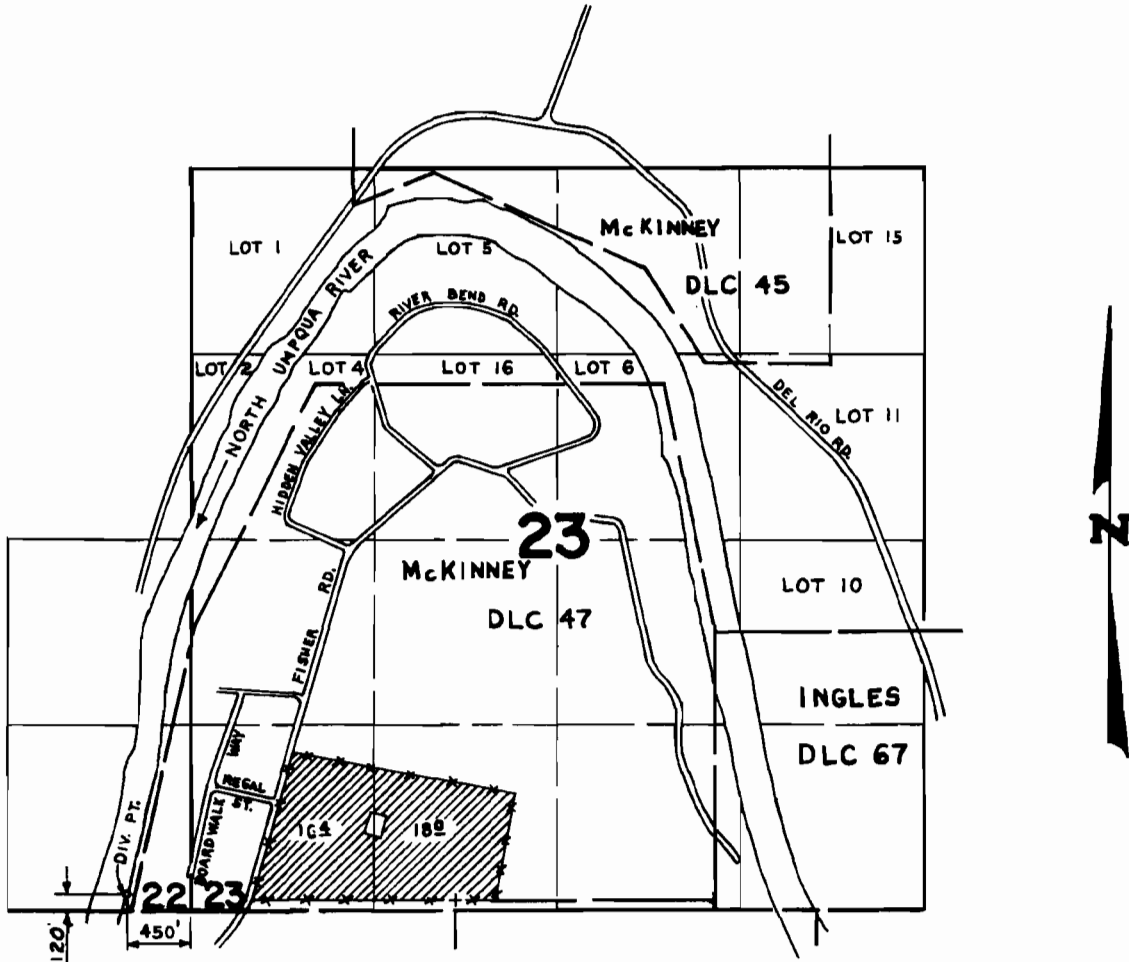
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Recorded in State Record of Water Right Certificates numbered 79515.

T.26S. R.6 W. W.M.



SCALE: 4" = 1 mile

**FINAL PROOF SURVEY**  
UNDER

Application No. 63422.. Permit No. 46773.....  
IN NAME OF

**JOE G. MACHADO JR.**.....

Surveyed DEC. 9. 1983, by L. CASHION.....

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P.T.S. W/FIELD FORM  
41019-278-106A