



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

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MAY 07 2015

SALEM, OR
 Part 1 of 4 - Minimum Requirements Checklist

Application for
 Instream Lease

Complete Part 1 through 4 and include the required attachments Fill in or check boxes as indicated. (N/A= Not Applicable)	OWRD # <u>IL - 1474</u>
	Fee- <u>300⁰⁰</u>

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

Check all items included with this application. (N/A = Not Applicable)

Yes **Part 1** – Completed Minimum Requirements Checklist and Application Fee

Fees	<input type="checkbox"/> \$450.00 for a lease involving four or more landowners or four or more water rights	<input checked="" type="checkbox"/> \$300.00 for all other leases
	<input checked="" type="checkbox"/> Check enclosed <u>or</u> <input type="checkbox"/> Fee Charged to customer account _____ (account name)	

Yes **Part 2** – Completed Instream Lease Application Map Checklist.

Yes **Part 3** – Completed Water Right and Instream Use Information
 Include a separate **Part 3** for **each water right**

Yes **Part 4** – Completed Instream Lease Provisions and Signatures

Yes **How many water rights are leased? 2 List them here: 9950 and 9984**
 Include a separate **Part 3** for each **water right**.

Yes N/A **Other Water Rights**, if any, appurtenant to the lands involved in the lease application and not proposed to be leased instream?
List those other water rights here: _____

Yes No Conservation Reserve Enhancement Program (**CREP**). Are some or all of the lands to be leased part of CREP or another Federal program (list here: _____)?

Attachments:

Yes N/A **Map:** Instream Lease map requirements (see Part 2 of this application)

Yes N/A **Tax Lot Map:** If a portion of the water right *not included in the lease* is appurtenant to lands owned by others, a tax lot map must be included with the lease application. The tax lot map should clearly show the property involved in the lease.

Yes N/A Supporting documentation describing why a right (or portion thereof) is valid and not subject to forfeiture even though the right has not been exercised for five or more consecutive years. This information only needs to be provided if the checkbox has been checked to identify that the water right has not been used in the last five years and is not subject to forfeiture (See Part 4 of 4).

Yes N/A If the Lessor (water right holder) is not the deeded landowner - provide one of the following.

- A notarized statement from the landowner consenting to the lease and a copy of the recorded deed; or.
- A water right conveyance agreement and a copy of the recorded deed for the landowner at the time the water right was conveyed; or
- Other documentation which provides authority to pursue the lease absent consent of the landowner.

Part 2 of 4 – Instream Lease Application Map Checklist

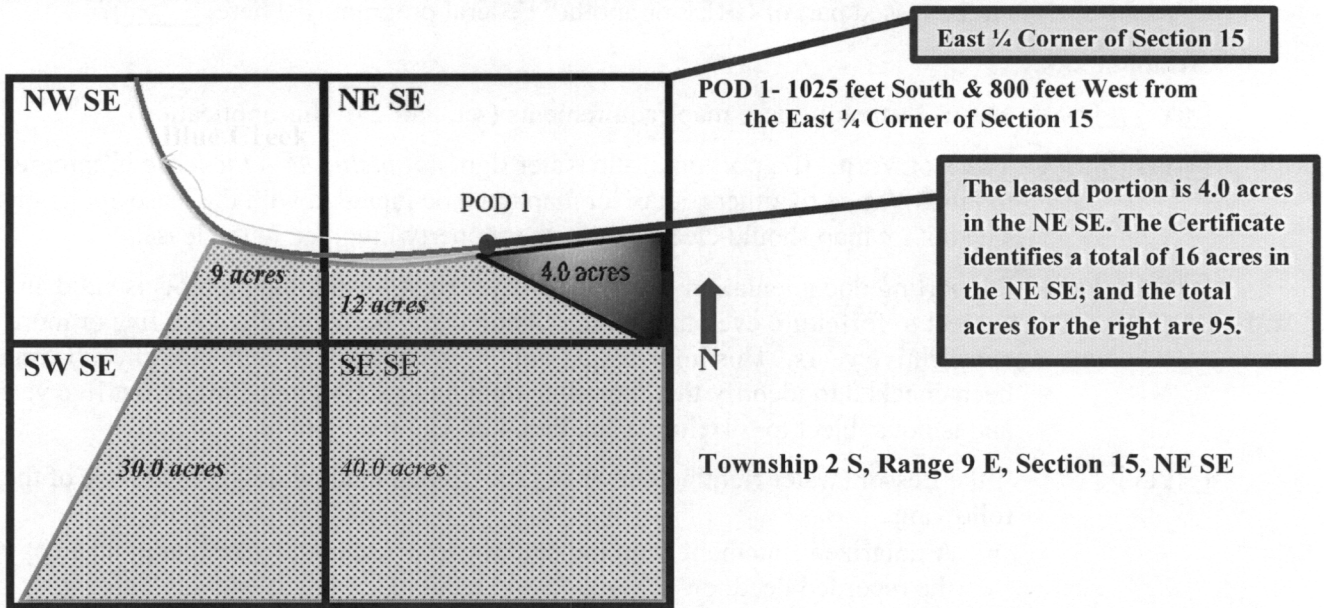
A Map is generally required for each water right not leased in its entirety

The application map (if required) should include all the items listed below and match the existing water right(s) of record. Check all boxes that apply.

This should be a simple map. (See example below). A copy of a final proof survey map with the portion to be leased shaded or hachured in will also suffice.

- N/A A map is required for each water right not leased in its entirety. More than one QQ and property may be included on each map. A map is not required, if leasing the entire right or if the right to be leased is for municipal or quasi-municipal water use.
- The map should be of sufficient quality to be reproducible. Please do not use highlighters to mark items on the map as highlighters do not always copy.
- A North arrow and map scale (no smaller than 1" = 1320').
- Township, Range, Section, quarter quarter (QQ), and a clearly labeled survey corner.
- For irrigation or other similar use, the number of acres to be leased in each quarter-quarter clearly labeled and hachured to differentiate between the acres being leased and any remaining. If the place of use is broken down by more than one priority date, or source stream, and/or point of diversion you must identify each with separate hachuring and clearly label.
- If available, identify the existing point(s) of diversion.

EXAMPLE MAP (the darker shaded portion representing the portion leased instream)



Part 3 of 4 – Water Right and Instream Use Information

Use a separate Part 3 for each water right to be leased instream

Water Right Information

Water right # 9950

Table 1

Water Right Information: Provide a description of the originating water right to be leased. Also include your tax lot number(s). Fill in all applicable information. For example, if your water right has multiple points of diversion (POD) but they're not numbered, you do not need to include a number. If not enough room below, you may add additional rows (see instructions) or attach spreadsheet (matching Table 1). Please clearly label any attachments.

<input checked="" type="checkbox"/> If only leasing a portion of the right - complete Table 1 as indicated	<input type="checkbox"/> Entirety - If the entire water right is to be leased, skip to Table 3.
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Priority Date	POD #	Twp	Rng	Sec	Q-Q	Tax Lot	Gov't Lot/DLC	Acres	USE	Previous Lease # (if any)
EXAMPLE										
12/2/1901	3	2-S	9-E	15	NE SE	100	47	4.0	IR	IL-1100
see attached		-	-		-					
table		-	-		-					
		-	-		-					

Total Acres: 151.6

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Table 2

SALEM, OR

To illustrate the totals for the water right proposed to be leased instream

Total rate and volume by priority date, POD, use and acreage as appropriate considering the right to be leased. If not enough room below, you may add additional rows (see instructions) or attach spreadsheet (matching Table 2). Please clearly label any attachments. (cfs = cubic feet per second and af = acre-feet)

Priority Date	POD #	Use	Total Acres	Other Information (such as conditions/limitations on the right)	Total Rate (cfs)	Total Volume (af)
1876	1	IR	52.7	Rate 0.66cfs June 15 to Oct 1	1.32	158.1
7/11/1879	1	IR	92.58	Rate 1.16cfs June 15 to Oct 1	2.31	277.7
8/28/1883	1	IR	6.32	Rate 0.08cfs June 15 to Oct 1	0.16	19.0

Total af from storage, if applicable: _____ AF or N/A

Any additional information about the right: Rate is 1/40 cfs per acre from March 1 until June 15, and 1/80 cfs after

Table 3

Point of Diversion (POD) description: 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(s)** involved in the lease must be described. If not enough room below, you may add additional rows (see instructions) or attach spreadsheet (matching Table 3). Please clearly label any attachments.

POD #	Twp	Rng	Sec	Q-Q	DLC/ Gov't lot	Measured Distances, latitude/longitude coordinates, or river mile (if unknown you may indicate "unknown")
1	26-S	14-E	26	SE-SE		42°24'54.83"N 121° 1'3.49"W
	-	-		-		

Please check this box if you don't know the location of the POD(s) and want the Department to identify the location of the POD(s) for the purpose of the instream lease.

Table 1: Water Right Information
 Certificate: 9950

Priority Date	POD #	Twp	Rng	Sec	Q-Q	Tax Lot	Gov't Lot/DLC	Acres	USE	Previous Lease # (if any)
1876	1	36S	14E	26	SWNW	4500		28	IR	
1876	1	36S	14E	26	SENW	4500		24.7	IR	
7/11/1879	1	36S	14E	26	SWNE	4500		40	IR	
7/11/1879	1	36S	14E	26	SENE	4500		32.1	IR	
7/11/1879	1	36S	14E	26	NESE	4500		19.78	IR	
7/11/1879	1	36S	14E	26	SESE	4500		0.7	IR	
8/28/1883	1	36S	14E	26	NWSE	4500		6.32	IR	

Total Acres: 151.6

Part 3 of 4 cont. – Water Right and Instream Use Information

Instream Use Information

Table 4

Instream Use Created by the Lease						
River/ Stream Name: <u>South Fork Sprague</u> , tributary to <u>Sprague River</u>				River Basin: <u>Klamath</u>		
<p>Instream Portion: Use Table 4 to illustrate the instream rate, volume and instream period by priority date, POD (if more than one), Use (if more than one), and acreage as appropriate considering the right to be leased.</p> <p>If not enough room below, you may add additional rows (see instructions) or attach a spreadsheet (matching the below portion of Table 4). Please clearly label any attachments.</p>						
Priority date	POD #	Use	Acres	Proposed Instream Period	Total instream rate (cfs)	Total instream volume (af)
1876	1	IR	52.7	March 1 to Oct 1	0.37	158.1
7/11/1879	1	IR	92.58	March 1 to Oct 1	0.65	277.74
8/28/1883	1	IR	6.32	March 1 to Oct 1	0.04	18.96
<p>Note: If not certain of the instream rate, volume and/or instream period, see the instructions and/or contact Department Staff for assistance. The instream rate and volume may be up to the maximum rate and duty/volume allowed by the right, as described in Table 2 or on your Certificate if leasing the entire right. The proposed instream period may be no longer than the irrigation season or the authorized period of allowed use.</p>						
<p>OR <input type="checkbox"/> Please check this box if you are not sure of the proposed rate, volume and instream period. As part of its review process, the Department will identify the appropriate instream rate, volume and period considering the water right(s) being leased and instream benefits.</p>						
Instream Reach						
<p>Proposed Instream Reach: <input checked="" type="checkbox"/> A reach typically begins at the point of diversion (POD) and ends at the mouth of the source stream: From the POD to <u>Sprague River</u></p>				<p>Or Proposed Instream Point: <input type="checkbox"/> Instream use protected at the POD</p>		
<p>OR <input type="checkbox"/> 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.)</p>						
Additional Instream Information						
<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A Conditions to avoid enlargement or injury to other water rights, if any, or other limitations: list here _____</p> <p>Note: The Department may identify additional conditions to prevent injury and/or enlargement.</p>						
<p>Any additional information about the proposed instream use: _____</p>						

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Part 3 of 4 – Water Right and Instream Use Information

Use a separate Part 3 for each water right to be leased instream

Water Right Information

Water right # 9984

Table 1

Water Right Information: Provide a description of the originating water right to be leased. Also include your tax lot number(s). Fill in all applicable information. For example, if your water right has multiple points of diversion (POD) but they're not numbered, you do not need to include a number. If not enough room below, you may add additional rows (see instructions) or attach spreadsheet (matching Table 1). Please clearly label any attachments.

<input checked="" type="checkbox"/> If only leasing a portion of the right - complete Table 1 as indicated	<input type="checkbox"/> Entirety - If the entire water right is to be leased, skip to Table 3.
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Priority Date	POD #	Twp	Rng	Sec	Q-Q	Tax Lot	Gov't Lot/DLC	Acres	USE	Previous Lease # (if any)
EXAMPLE										
12/2/1901	3	2-S	9-E	15	NE SE	100	47	4.0	IR	IL-1100
1878	1	36-S	14-E	26	NW-SW	4500		10.05	IR	
1878	1	36-S	14-E	26	NE-SW	4500		1.74	IR	
		-	-		-					
		-	-		-					
		-	-		-					

Total Acres: 11.79

Table 2

To illustrate the totals for the water right proposed to be leased instream

Total rate and volume by priority date, POD, use and acreage as appropriate considering the right to be leased. If not enough room below, you may add additional rows (see instructions) or attach spreadsheet (matching Table 2). Please clearly label any attachments. (cfs = cubic feet per second and af = acre-feet)

Priority Date	POD #	Use	Total Acres	Other Information (such as conditions/limitations on the right)	Total Rate (cfs)	Total Volume (af)
1878	1	IR	11.79	Rate reduces to 0.147 after June 15	.295	35.37

Total af from storage, if applicable: _____ AF or N/A

Any additional information about the right: Rate is 1/40 cfs per acre from March 1 until June 15, and 1/80 cfs after

Table 3

Point of Diversion (POD) description: 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(s)** involved in the lease must be described. If not enough room below, you may add additional rows (see instructions) or attach spreadsheet (matching Table 3). Please clearly label any attachments.

POD #	Twp	Rng	Sec	Q-Q	DLC/ Gov't lot	Measured Distances, latitude/longitude coordinates, or river mile (if unknown you may indicate "unknown")
1	26-S	14-E	26	SE-SE		42°24'54.83"N 121° 1'3.49"W
	-	-		-		

Please check this box if you don't know the location of the POD(s) and want the Department to identify the location of the POD(s) for the purpose of the instream lease.

Part 3 of 4 cont. – Water Right and Instream Use Information

Instream Use Information

Table 4

Instream Use Created by the Lease						
River/ Stream Name: <u>South Fork Sprague, tributary to Sprague River</u>				River Basin: <u>Klamath</u>		
<p>Instream Portion: Use Table 4 to illustrate the instream rate, volume and instream period by priority date, POD (if more than one), Use (if more than one), and acreage as appropriate considering the right to be leased.</p> <p>If not enough room below, you may add additional rows (see instructions) or attach a spreadsheet (matching the below portion of Table 4). Please clearly label any attachments.</p>						
Priority date	POD #	Use	Acre	Proposed Instream Period	Total instream rate (cfs)	Total instream volume (af)
1878	1	IR	11.79	March 1 to Oct 1	.083	35.37
<p>Note: If not certain of the instream rate, volume and/or instream period, see the instructions and/or contact Department Staff for assistance. The instream rate and volume may be up to the maximum rate and duty/volume allowed by the right, as described in Table 2 or on your Certificate if leasing the entire right. The proposed instream period may be no longer than the irrigation season or the authorized period of allowed use.</p>						
<p>OR <input type="checkbox"/> Please check this box if you are not sure of the proposed rate, volume and instream period. As part of its review process, the Department will identify the appropriate instream rate, volume and period considering the water right(s) being leased and instream benefits.</p>						
Instream Reach						
<p>Proposed Instream Reach: <input checked="" type="checkbox"/> A reach typically begins at the point of diversion (POD) and ends at the mouth of the source stream: From the POD to <u>Sprague River</u></p>				<p>Or Proposed Instream Point: <input type="checkbox"/> Instream use protected at the POD</p>		
<p>OR <input type="checkbox"/> 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.)</p>						
Additional Instream Information						
<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A Conditions to avoid enlargement or injury to other water rights, if any, or other limitations: list here _____</p> <p>Note: The Department may identify additional conditions to prevent injury and/or enlargement.</p>						
<p>Any additional information about the proposed instream use: _____</p>						

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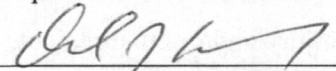
Part 4 of 4 – Lease Provisions and Party Signatures

<p>Term of the Lease (may be from 1 year up to 5 years): The lease is requested to begin in: month <u>March</u> year <u>2015</u> and end: month <u>October</u> year <u>2017</u> Note: The begin month is generally the first month of the irrigation season and the end month is the last month in the irrigation season. If not an irrigation right, this would be the first and last month of your authorized period of allowed use.</p>	
<p>Public use: Check the public use(s) this lease will serve (as defined by ORS 537.332):</p> <p><input checked="" type="checkbox"/> Conservation, maintenance and enhancement of aquatic, fish and wildlife, fish and wildlife habitat and any other ecological values.</p> <p><input type="checkbox"/> Recreation</p> <p><input type="checkbox"/> Pollution abatement</p> <p><input type="checkbox"/> Navigation</p>	<p>Termination provision (for multiyear leases): The parties to the lease request (choose one):</p> <p><input type="checkbox"/> a. The option of terminating the lease prior to expiration of the full term with written notice to the Department by the Lessor(s) and/or Lessee.</p> <p><input checked="" type="checkbox"/> b. The option of terminating the lease prior to expiration of the full term, with consent by all parties to the lease.</p> <p><input type="checkbox"/> c. The parties would not like to include a Termination Provision.</p> <p>(See instructions for limitations to this provision)</p>
<p>Additive/Replacing Relationship to other instream water rights: Instream leases are generally additive to other existing instream water rights created as a result of instream leases, transfers and/or allocations of conserved water. Since instream leases are also generally senior to other instream rights created through a state agency process or conversion of minimum flows, they generally replace a portion of these junior instream rights.</p> <p>If you would like this lease to relate to other instream water rights differently, please check this box. <input type="checkbox"/> And attach an explanation of your intent.</p>	
<p>Validity of the Right(s) to be leased (check the appropriate box):</p> <p><input checked="" type="checkbox"/> The water right(s) to be leased have been used under the terms and conditions of the right(s) during the last five years or have been leased instream; or</p> <p><input type="checkbox"/> The water right(s) have not been used for the last five years according to the terms and conditions of the right(s). However, the water right(s) is not subject to forfeiture under ORS 540.610(2). Documentation describing why the water right(s) is not subject to forfeiture is provided.</p>	

Precedent: If a right which has been leased is later proposed to be leased again or later transferred or become part of an allocation of conserved water project, a new injury review shall be required. An instream lease shall not set a precedent on a future transaction.

The undersigned declare:

1. The Lessor(s) agree during the term of this lease, to suspend use of water allowed under the subject water right(s) and under any appurtenant primary or supplemental water right(s) not involved in the lease application; and
2. The Lessor(s) certify that I/we are the water right holder(s) of the right(s) described in this instream lease application. If not the deeded landowner, I/we have provided documentation with the lease application that I/we have authorization to pursue the lease application and/or have obtained consent from the deeded landowner; and
3. All parties affirm that information provided in this lease application is true and accurate.



 Signature of Lessor

Date: 5/4/15

Printed name (and title): Dan Kominek, Managing Partner Business name, if applicable: Deming Ranch Land and Cattle, LLC
 Mailing Address (with state and zip): 2064 Camp Whitney Circle Rocklin, CA 95765
 Phone number (include area code): (916) 435-3555 **E-mail address: dkominek@wildlandsinc.com

See next page for additional signatures.

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** 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 TO THE LESSOR.

Signature of Co-Lessor _____
 Date: _____

Printed name (and title): _____
 Business/organization name: _____
 Mailing Address (with state and zip): _____
 Phone number (include area code): _____
 **E-mail address: _____

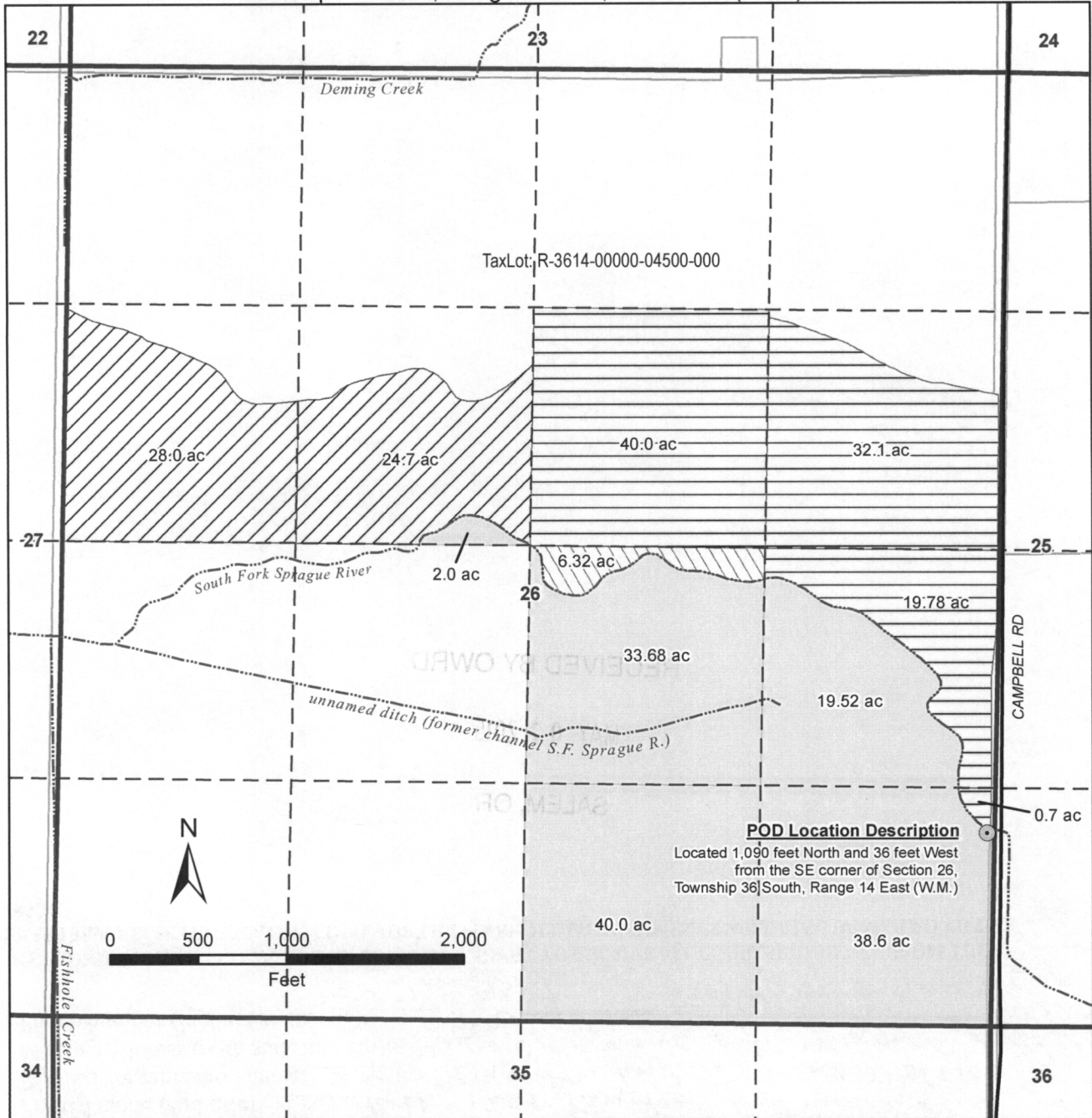
Signature of Lessee _____
 Date: 4-30-15

Printed name (and title): Randall Kizer President Bd of Directors
 Business/organization name: Upper Klamath Improvement District
 Mailing Address (with state and zip): 422 Commercial St. Klamath Falls, OR 97601
 Phone number (include area code): 541-913-3387
 **E-mail address: randall.kizer@gmail.com

Instream Lease Application Map - Certificate 9950

Authorized Place of Use and Point of Diversion

Township 36 South, Range 14 East, Section 26 (W.M.)



Disclaimer

This map was prepared for the purpose of identifying the location of a water right only and is not intended to provide legal dimensions or locations of property ownership lines.

Map Notes

Date Prepared: April 27, 2015
 Prepared By: Southern Oregon GIS, LLC
 Data Sources: USGS, USBLM, OWRD, OGD, Klamath County GIS
 Map Projection:
 NAD_1983_HARN_StatePlane_Oregon_South_FIPS_3602_Feet_Intl

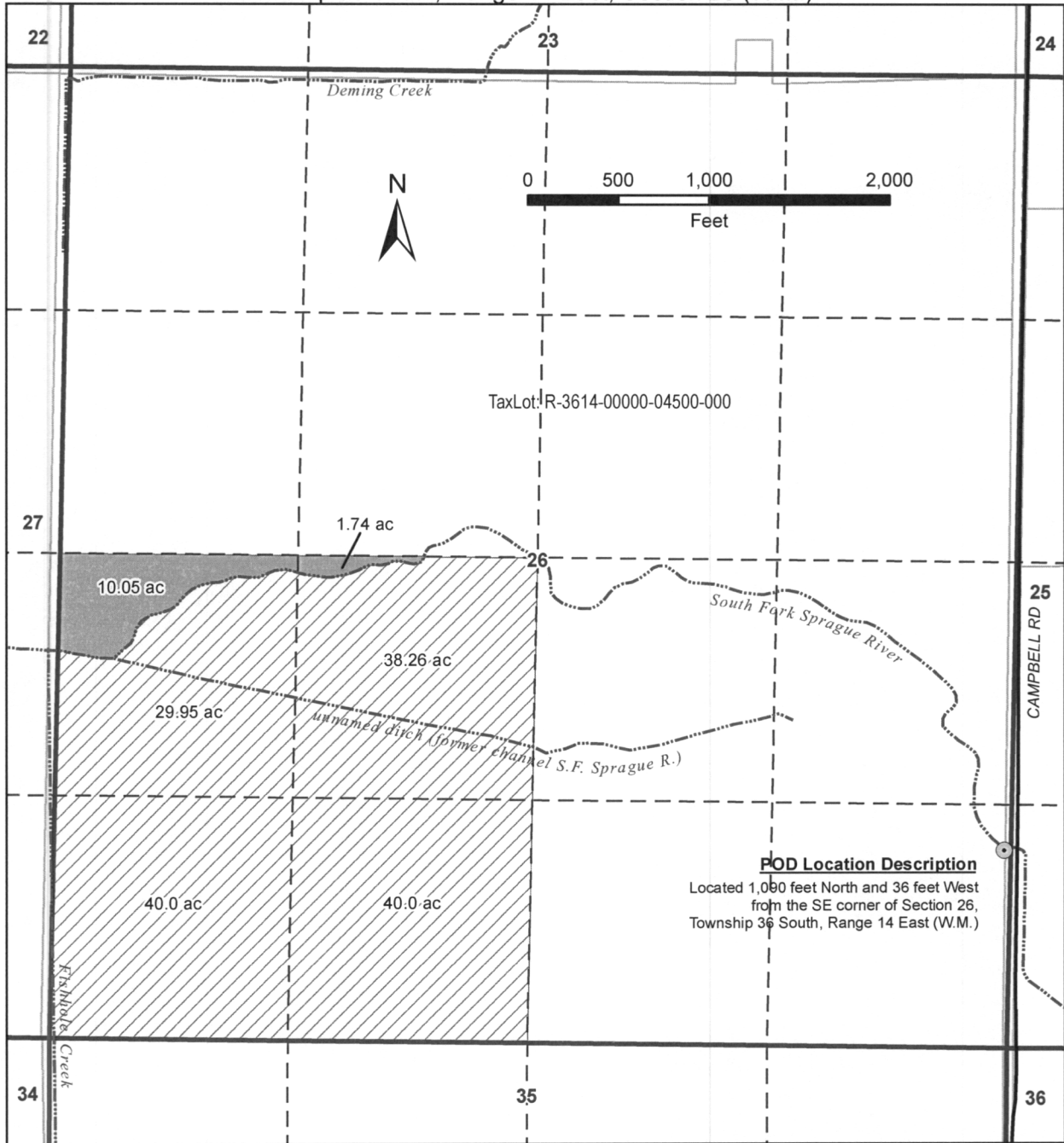
LEGEND

- Authorized Point of Diversion (POD)
- County Road
- Watercourse
- Authorized Place of Use (POU) to be Leased**
 - Tract 1, Priority 1876
 - Tract 2, Priority 7/11/1879
 - Tract 3, Priority 8/28/1883
- Authorized POU Remaining
- Klamath Co. Tax Lots

Instream Lease Application Map - Certificate 9984

Authorized Place of Use and Point of Diversion

Township 36 South, Range 14 East, Section 26 (W.M.)



POD Location Description
 Located 1,000 feet North and 36 feet West
 from the SE corner of Section 26,
 Township 36 South, Range 14 East (W.M.)

Disclaimer

This map was prepared for the purpose of identifying the location of a water right only and is not intended to provide legal dimensions or locations of property ownership lines.

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Map Notes

Date Prepared: April 23, 2015
 Prepared By: Southern Oregon GIS, LLC
 Data Sources: USGS, USBLM, OWRD, OGDC, Klamath County GIS
 Map Projection:
 NAD_1983_HARN_StatePlane_Oregon_South_FIPS_3602_Feet_Intl

LEGEND

- Authorized Point of Diversion (POD)
- County Road
- Watercourse
- Authorized Place of Use (POU) to be Leased
- Authorized POU Remaining
- Klamath Co. Tax Lots

