



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

Application for Instream Lease

Part 1 of 4 – Minimum Requirements Checklist

Complete Part 1 through 4 and include the required attachments Fill in or check boxes as indicated. (N/A= Not Applicable)	OWRD #	16 - 1641
	Fee-	750 ⁰⁰

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"/> \$520.00 for a lease involving four or more landowners or four or more water rights	<input checked="" type="checkbox"/> \$350.00 for all other leases
	<input checked="" type="checkbox"/> Check enclosed or <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? 1 List them here: Certificate 5466**
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: _____)?

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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.

A map is not required, but a map of the springs area identifying the tax lot number of the property containing the authorized POD is included.

- ☐ 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).

Certificate 5466 authorizes the use of water from Atkinson Spring for Municipal Use for the City of Newberg. Under ORS 540.610(2)(a), Certificate 5466 is not subject to forfeiture for non-use.

- ☐ 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.

The City of Newberg is a "municipality" as defined in ORS 540.510(3)(b). Chehalem Springs Water Association is a "municipality" as defined in ORS 540.510(3)(b) per the definition of "water supplier" in ORS 448.115(12). The property on which the spring is located is owned by the City of Newberg and leased to the Chehalem Springs Water Association. Chehalem Springs Water Association is qualified to supply water for quasi-municipal use because Chehalem Springs Water Association is organized as a corporation and owns the water service system for the spring.

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Part 2 of 4 – Instream Lease Application Map Checklist

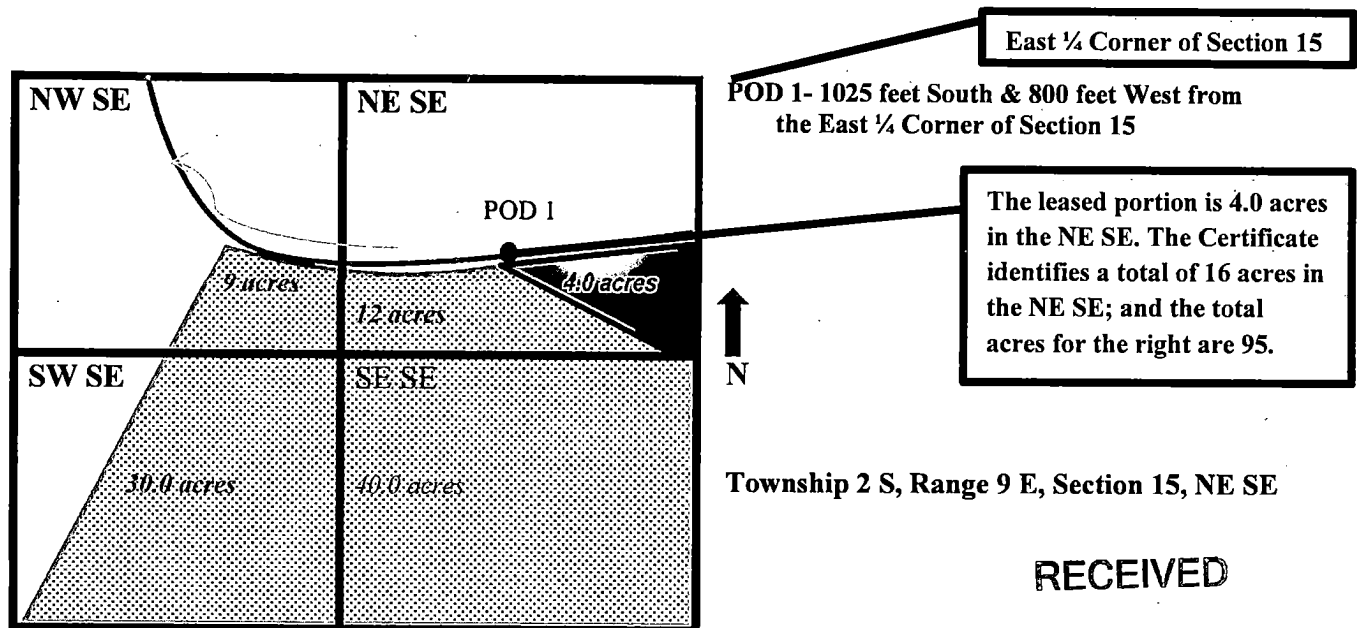
A Map is generally required for each water right not leased in its entirety

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 # Certificate 5466

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 type="checkbox"/> If only leasing a portion of the right - complete Table 1 as indicated					<input checked="" type="checkbox"/> Entirety - If the entire water right is to be leased, skip to Table 3.					
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

Total Acres: _____

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)
7/10/1923	1	MU	N/A	For the use of water from Atkinson Spring	2.0	
Total af from storage, if applicable: _____ AF or <input type="checkbox"/> N/A						
Any additional information about the right: <u>The right is for municipal use within the water service area of the City of Newberg. The City is leasing the full water right instream.</u>						

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Table 3

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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	3-S	2-W	6	SE-NE		Located 1,635 feet South and 1,075 feet West from the NE corner of Section 6
<input type="checkbox"/> 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>Atkinson [Gordon] Spring, tributary to Unnamed Stream 1 > Unnamed Stream > Chehalem Creek > Willamette River</u>					River Basin: <u>Willamette</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	Acreage	Proposed Instream Period	Total instream rate (cfs)	Total instream volume (af)
7/10/1923	1	MU	N/A	1/1 through 12/31	2.0	N/A
<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:</p> <p><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>From Atkinson Spring to mouth of Chehalem Creek</u></p>				<p>Or Proposed Instream Point:</p> <p><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:</p> <p><u>The amount protected instream shall not exceed the amount available at Atkinson Spring.</u></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

Term of the Lease (may be from 1 year up to 5 years):

The lease is requested to begin in: month January year 2018 and end: month December year 2022

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.

Public use: Check the public use(s) this lease will serve (as defined by ORS 537.332):

☒ Conservation, maintenance and enhancement of aquatic, fish and wildlife, fish and wildlife habitat and any other ecological values.

☐ Recreation

☐ Pollution abatement

☐ Navigation

Termination provision (for multiyear leases):**The parties to the lease request (choose one):**

☒ 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.

☐ b. The option of terminating the lease prior to expiration of the full term, with consent by all parties to the lease.

☐ c. The parties would not like to include a Termination Provision.

(See instructions for limitations to this provision)

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.

If you would like this lease to relate to other instream water rights differently, please check this box. ☐
And attach an explanation of your intent.

Validity of the Right(s) to be leased (check the appropriate box):

☐ 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

☒ 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. **Certificate 5466 authorizes the use of water from Atkinson Spring for Municipal Use for the City of Newberg. Under ORS 540.610(2)(a), Certificate 5466 is not subject to forfeiture for non-use. See attachments for copy of Certificate 5466.**

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.

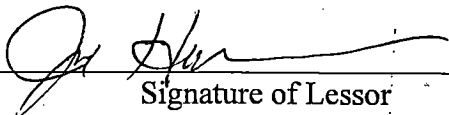
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The undersigned declare:

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: 1/4/18

Printed name (and title): Joe Hannan Business name, if applicable: City of Newberg

Mailing Address (with state and zip): PO Box 970

Phone number (include area code): (503) 537-1207

**E-mail address: Joe.Hannan@newbergoregon.gov


Signature of Co-Lessor

Date: 1/4/18

Printed name (and title): Michael Roos, Chairman of the Board

Business/organization name: Chehalem Springs Water Association

Mailing Address (with state and zip): 97132

Phone number (include area code): (503) 319-0294

**E-mail address: midacres01@gmail.com

**** 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.**

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STATE OF OREGON

COUNTY OF YAMHILL

CERTIFICATE OF WATER RIGHT

This is to Certify, That City of Newberg

of Newberg, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of a tributary of Atkinson Spring, a tributary of Chehalem Creek for the purpose of Municipal purposes under Permit No. 6530 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from July 10, 1923;

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 2.0 cubic feet per second;

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

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre, or its equivalent in case of rotation.

A description of the lands irrigated under the right hereby confirmed, and to which such right is appurtenant (or, if for other purposes, the place where the water is put to beneficial use), is as follows: Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section Twenty (20), Township Three South, Range Two West of the Willamette Meridian, in Yamhill County, Oregon.

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The right to the use of the water for irrigation purposes is restricted to the lands or place of use herein described.

Rights to the use of water for power purposes are limited to a period of forty years from the date of priority of the right, as herein set forth, subject to a preference right of renewal under the laws existing at the date of the expiration of the right for power purposes, as hereby confirmed and limited.

WITNESS the signature of the State Engineer,

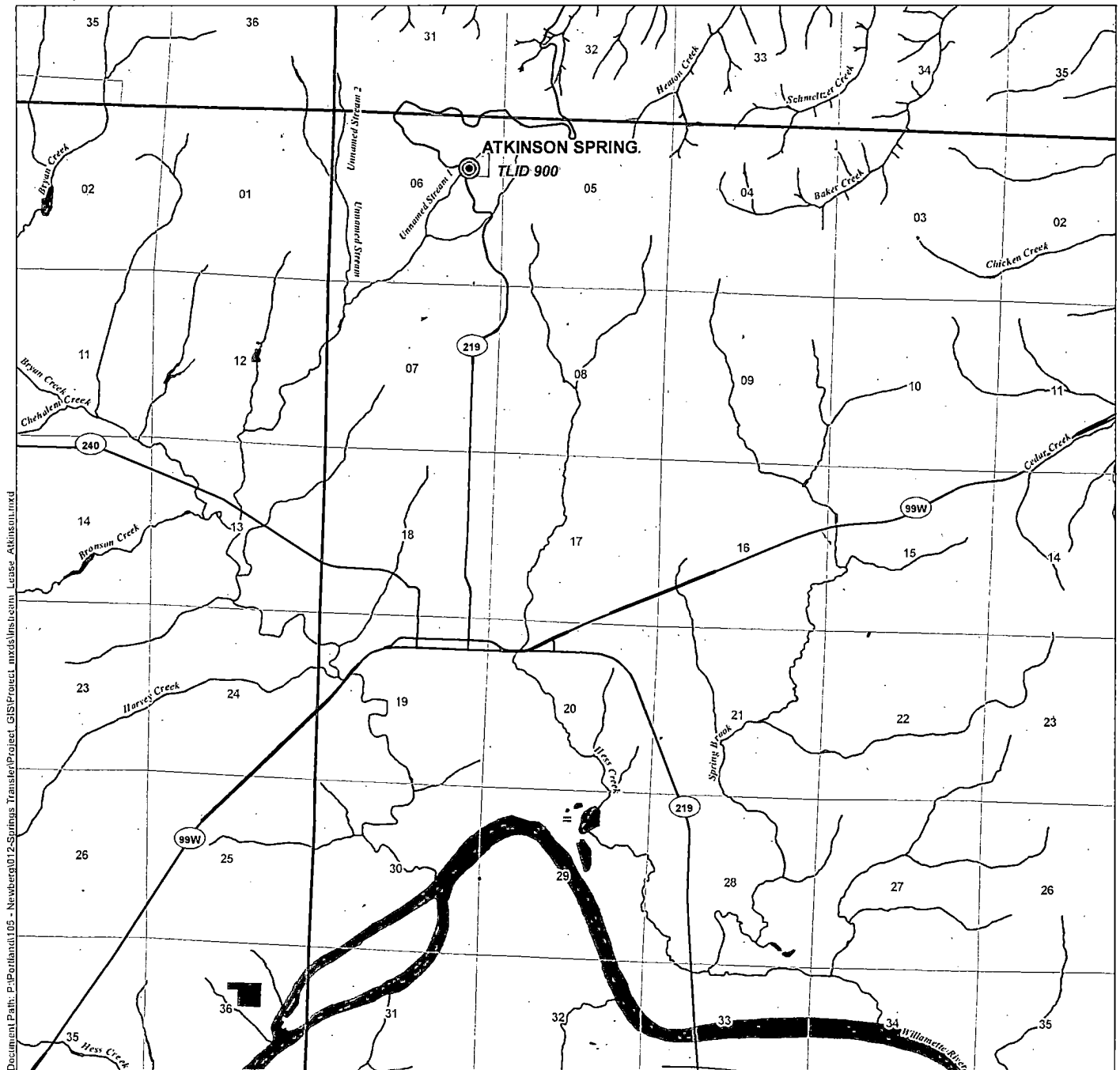
affixed this 1st day

of September, 1925.

Rhea Lumar,
State Engineer.

Instream Lease Atkinson Spring

Township 2/3 South, Range 2/3 West (W.M.)



LEGEND

- Authorized Point of Diversion (POD)
- POD Tax Lot
- Major Road
- Watercourse
- Waterbody

POD LOCATION DESCRIPTION

Atkinson Spring Located 1,635 feet South and 1,075 feet West from the NE corner of Section 6, Township 3 South, Range 2 West (W.M.)

DISCLAIMER

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

MAP NOTES

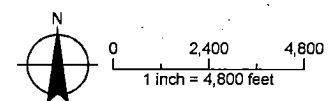
Date: January 22, 2018

Data Sources: City of Newberg, ESRI, BLM, OWRD, USGS

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Water Solutions, Inc.

Transmittal

To:	Application submittal	From:	Ted Ressler
Address:	Oregon Water Resources Department 725 Summer Street NE, Suite A Salem, Oregon 97301-1271	Date:	January 22, 2018
Re:			

Attachments For Review Please Comment For Your Use

Date	Number of Copies	Description
	1	Surface Water Registration Modification for SWR-641
	1	Application for a Permanent Water Right Transfer for a portion of Certificate 6829 (Check #138511 for \$2,090 filing fee)
	1	Application for a Permanent Water Right Transfer for a portion of Certificate 5456 (Check #138510 for \$2,090 filing fee)
	1	Application for Instream Lease of Certificate 5466 (Check #138512 for \$350 filing fee)

If you have any questions regarding the enclosed applications or the information contained therein, please call me at (503) 239-8799. Thank you for your assistance and I look forward to hearing from you soon.

Sincerely,

A handwritten signature in black ink, appearing to read "Theodore R. Ressler".

Theodore R. Ressler, RG, CWRE
GSI Water Solutions, Inc.

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