



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

Instream Lease Renewal Application

7/1/2017
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Complete the questions below and include any required attachments
Fill in or check boxes as indicated. (N/A= Not Applicable)

Instream Lease ☒ **593**
Renewal Fee included ☒

The undersigned hereby request Instream Lease Number **593** be renewed.

Fees: ☒ \$130.00 for an instream lease renewal application
☒ Check enclosed **or** ☐ Fee Charged to customer account _____ (Account name)

Term of the Lease:

The lease is requested to begin in **month** October 31 **year** 2019 and end **month** October 31 **year** 2024

Validity of the Right(s)

(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.
- ☐ If the water right(s) have not been used for the last five years, right(s). Documentation describing why the water right(s) is not subject to forfeiture is provided. ORS 540.610(2).

Termination provision (for multiyear leases):

The parties to the lease request:

- ☒ 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)

☐ 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: _____)?

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 holders of the water right(s) involved in this Instream Lease. If not the deeded land owner, I/we have provided documentation demonstrating authorization to pursue the lease application and/or consent from the deeded landowner; and
3. All parties affirm that information provided in this lease application is true and accurate. Circumstances have not changed and all matters involved with or affected by the original instream lease remain as they were when the lease was previously approved. We also acknowledge that the terms and conditions of the original lease, referenced herein, are incorporated by reference in their entirety.

TRM

Scott A. Adams
Signature of Lessor

Date: 3-20-19

Printed name (and title): Scott A. Adams, Public Works Director Business name, if applicable:

Douglas County Public Works Department

Mailing Address (with state and zip): 1036 SE Douglas, Room 306, Roseburg, OR 97470

Phone number (include area code): 541-440-4260 **E-mail address: saadams@co.douglas.or.us

Date: _____

Signature of Lessor

Printed name (and title): _____ Business name, if applicable: _____

Mailing Address (with state and zip): _____

Phone number (include area code): _____ **E-mail address: _____

See next page for additional signatures.

7/1/2017

Date: _____

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Signature of Co-Lessor

Printed name (and title): _____

District/organization name: _____

Mailing Address (with state and zip): _____

Phone number (include area code): _____ **E-mail address: _____

Date: _____

Signature of Co-Lessor

Printed name (and title): _____

Business/organization name: _____

Mailing Address (with state and zip): _____

Phone number (include area code): _____ **E-mail address: _____

Date: _____

Signature of Lessee

Printed name (and title): _____

Business/organization name: _____

Mailing Address (with state and zip): _____

Phone number (include area code): _____ **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 TO THE LESSOR.**

10/31/2019

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of Instream Lease Application) DETERMINATION and
IL-593, DOUGLAS County) FINAL ORDER ON PROPOSED
) INSTREAM LEASE

Authority

Oregon Revised Statute (ORS) 537.348 establishes the process in which a water right holder may submit a request to lease an existing water right for instream purposes. Oregon Administrative Rule (OAR) Chapter 690, Division 077 implements the statutes and provides the Department's procedures and criteria for evaluating instream lease applications.

Lessor

Douglas County Public Works Department
1036 SE Douglas, Room 306
Roseburg OR 97470

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Findings of Fact

1. On November 6, 2014, Douglas County Public Works Department filed an application to renew instream lease IL-593, involving the entirety of Certificate 80977.
2. The right to be leased is as follows:

Certificate: 80977 in the name of DOUGLAS COUNTY NATURAL RESOURCES
(perfected under S-19149)

Use: Irrigation of 60.6 acres

Priority Date: August 15, 1949

Quantity: **Rate:** 0.76 Cubic Foot per Second (CFS) (if lawfully available at the original points of diversion)

Volume: 151.5 Acre-Feet (AF)

Limit: One-eightieth CFS per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 AF per acre for each acre irrigated during the irrigation season of each year.

Original Points of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q
23 S	4 W	WM	9	SE SW
23 S	4 W	WM	16	NE NW
23 S	4 W	WM	16	SW NW
23 S	4 W	WM	16	SE NW

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Twp	Rng	Mer	Sec	Q-Q
23 S	4 W	WM	16	NE SW
23 S	4 W	WM	16	SE SW

Source: ELK CREEK, a tributary of UMPQUA RIVER

Authorized Points of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	4 W	WM	9	SE SW	POD No. 1: 275 FEET NORTH AND 1650 FEET EAST FROM THE NW CORNER OF SECTION 16
23 S	4 W	WM	16	NE SW	POD No. 2: 3080 FEET SOUTH AND 1820 FEET EAST FROM THE NW CORNER OF SECTION 16

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
23 S	4 W	WM	9	SW SW	2.1
23 S	4 W	WM	9	SE SW	7.4
23 S	4 W	WM	16	NE NW	7.6
23 S	4 W	WM	16	NW NW	9.0
23 S	4 W	WM	16	SW NW	8.1
23 S	4 W	WM	16	SE NW	13.7
23 S	4 W	WM	16	NE SW	12.7
Total Acres					60.6

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- Certificate 80977 does not specify the irrigation season, nor is an irrigation season specified by Basin Program or Decree. For the purposes of instream leasing, an irrigation season of March 1 through October 31, consistent with OAR 690-250, shall be used to establish when water may be protected instream.
- The lease application includes the information required under OAR 690-077-0076(3). The Department provided notice of the lease application pursuant to OAR 690-077-0077(1). No comments were received.
- In the original lease application, the Lessor requested that the reach of the instream use begin at River Mile (RM) 40.8 and extend to the confluence with Pass Creek, at approximately RM 24.0. An instream reach generally begins at the authorized point of diversion. River Mile 40.8 appears to be at the same location as POD No. 1.
- The instream use is as follows:

ELK CREEK, tributary to UMPQUA RIVER

Instream Reach: From POD No. 1 (as described in Finding of Fact No. 2), located at approximately RM 40.8, to the confluence of Pass Creek at approximately RM 24.0.

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
80977	8/15/1949	0.76	151.5	July 24 through October 31

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7. Other conditions to prevent injury and enlargement are:

Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original points of diversion.

Water rights upstream of the original points of diversion shall not be subject to regulation for flows in excess of the quantities to which this instream water right is entitled at the original points of diversion.

8. If approved, this instream lease is not reasonably expected to significantly affect land use as prescribed by ORS 197.180, OAR Chapter 660, Divisions 30 and 31, and OAR Chapter 690, Division 5.
9. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water right.
10. The protection of flows within the proposed reach is appropriate, considering:
 - a. The instream water use begins at the recorded point of diversion;
 - b. The location of confluences with other streams downstream of the point of diversion.
 - c. There are no known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
 - d. Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.
11. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach will provide for a beneficial purpose.
12. The total monthly quantities of water to be protected instream under existing and proposed instream rights in the reach do not exceed the estimated average natural flow.
13. If approved, this instream lease is not reasonably expected to significantly affect land use as prescribed by ORS 197.180, OAR Chapter 660, Divisions 30 and 31, and OAR Chapter 690, Division 5.
14. Based upon review of the application, information provided by the Department's Watermaster, and other available information, the Department finds that the lease will not result in injury or enlargement. The order approving this instream lease may be modified or revoked under OAR 690-077-0077 if the Department later finds that the lease is causing injury to any existing water right or enlargement of the original right.
15. If a right which has been leased is later proposed to be leased again, transferred and/or reviewed for an allocation of conserved water, a new injury review shall be required. For example, instream transfers will be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380 and Division 077. Approval of this lease does not establish a precedent for approval of any future transactions.

16. The Lessor has requested that the lease commence on October 31, 2014, and terminate on October 31, 2019. The term of the previous renewal of IL-593 ended on October 31, 2014. The term of a lease generally begins and ends on the first and last days of the irrigation season. The term of an instream lease may also be for up to five years. The lease has been submitted prior to the first day of the irrigation season for 2015. The lease may commence on March 1, 2015, being the first day of the irrigation season.

17. The Lessor has requested the option of terminating the lease early with written notice to the Department.

Conclusions of Law

The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

Now, therefore it is ORDERED:

1. The Lease as described herein is APPROVED.
2. During each year of the term of the lease, the former place of use will no longer receive water as part of these rights, any supplemental rights, or any other layered irrigation water rights, including ground water registrations and permits.
3. The term of the lease will commence on March 1, 2015, and terminate on October 31, 2019. For multiyear leases, the lessor and/or lessee shall have the option of terminating the lease any time each year with written notice to the Department. However, if the termination request is received less than 30-days prior to the instream use period (July 24 through October 31) or after the water rights' original period of allowed use has begun, the Department may issue an order terminating the lease but use of water may not be allowed until the following calendar year, unless the Director determines that enlargement would not occur.

Dated at Salem, Oregon this 18 day of February, 2015.


Dwight French, Water Right Services Division Administrator, for
Tom M. Byler, Director, Oregon Water Resources Department

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FEB 19 2015

Mailing date: _____

*This document was prepared by Tracy
Fox and if you have any questions,
please call 503-986-0827.*

19149

**FINAL PROOF SURVEY MAP
IN THE NAME OF
DOUGLAS COUNTY NATURAL RESOURCES**

PERMIT 19149

TRANSFER T-8354

SECTIONS 9 & 16, TOWNSHIP 23 SOUTH, RANGE 4 WEST, W.M.

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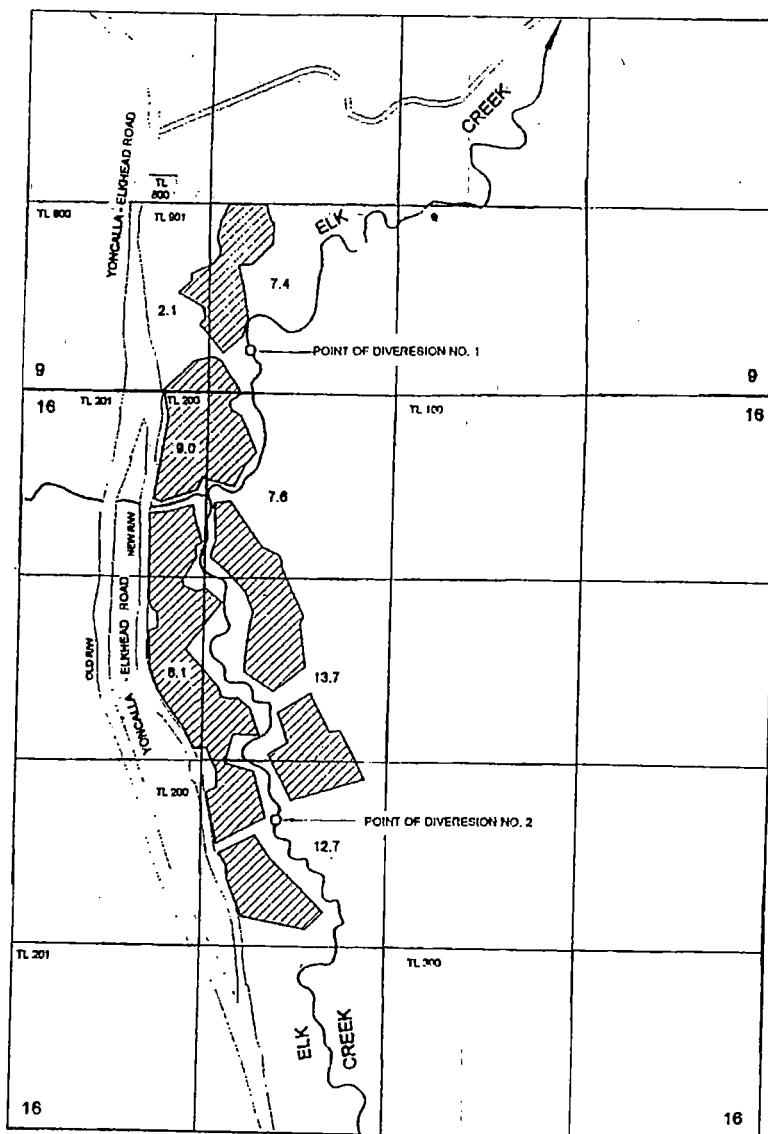
DEC 21 2004

**WATER RESOURCES DEPT
SALEM, OREGON**

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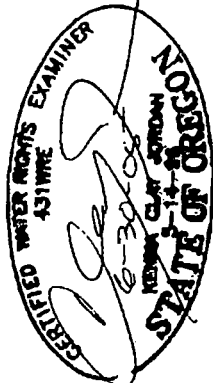
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POINT OF DIVERSION No. 1 IS LOCATED 275 FEET NORTH AND 1650 FEET EAST FROM THE NORTHWEST CORNER OF SECTION 16; BEING WITHIN THE SE 1/4 SW 1/4 OF SECTION 9; AND

POINT OF DIVERSION No. 2 IS LOCATED 3080 FEET SOUTH AND 1820 FEET EAST, FROM THE NORTHWEST CORNER OF SECTION 16; BEING WITHIN THE NE 1/4 SW 1/4 OF SECTION 16; BOTH DIVERSIONS WITHIN TOWNSHIP 23 SOUTH, RANGE 4 WEST, W.M.; DOUGLAS COUNTY.



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III 0 8 2004

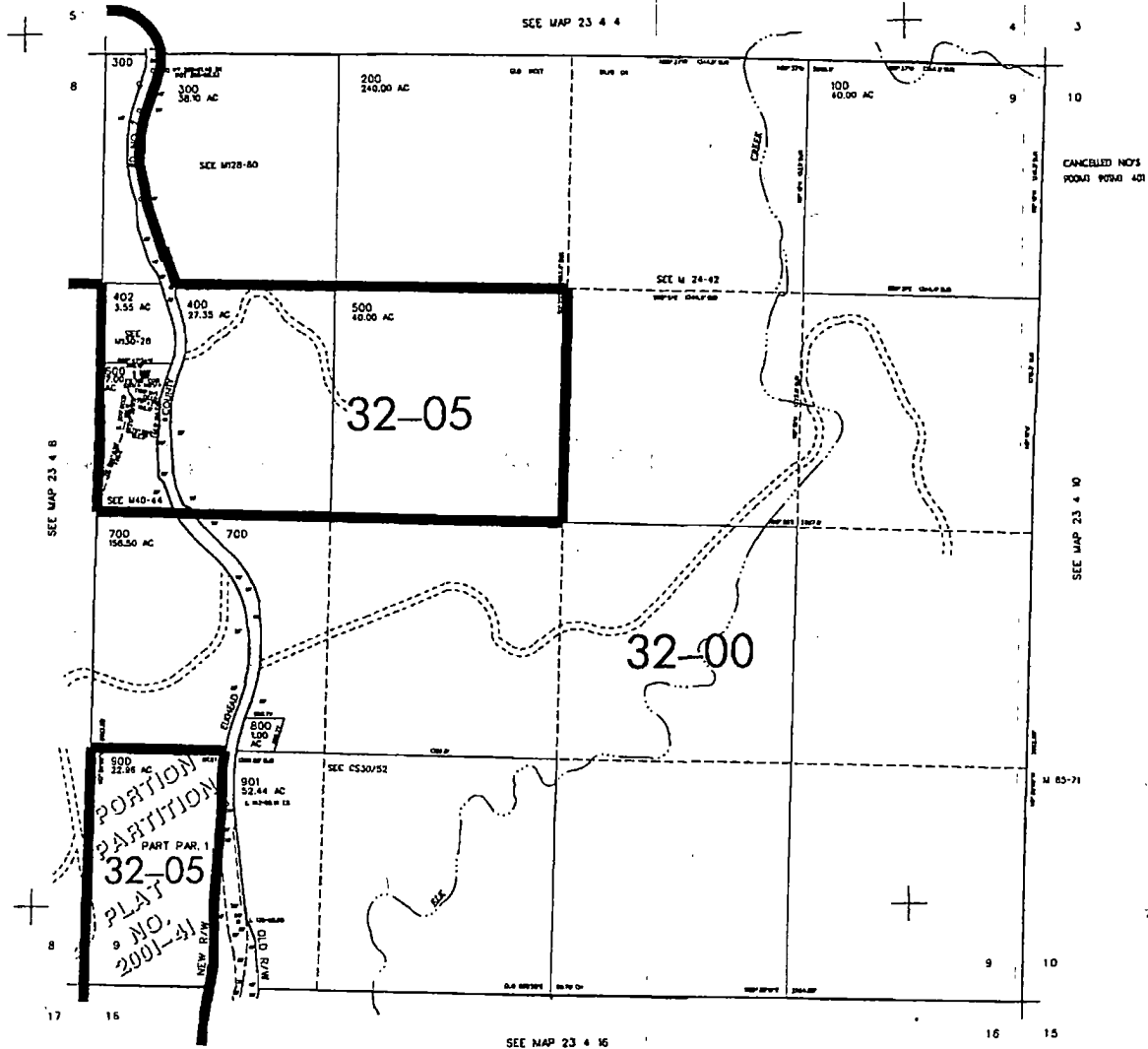
**DEPT
OREGON**

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

SEC. 9 T.23S. R. 4W W.M.
DOUGLAS COUNTY

REVISED ON
6-27-01

23 4 9



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DEC 21 2004

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SEC. 16 T.23S. R. 4W W.M.
DOUGLAS COUNTY

REVISED ON
6-27-01

23 4 16

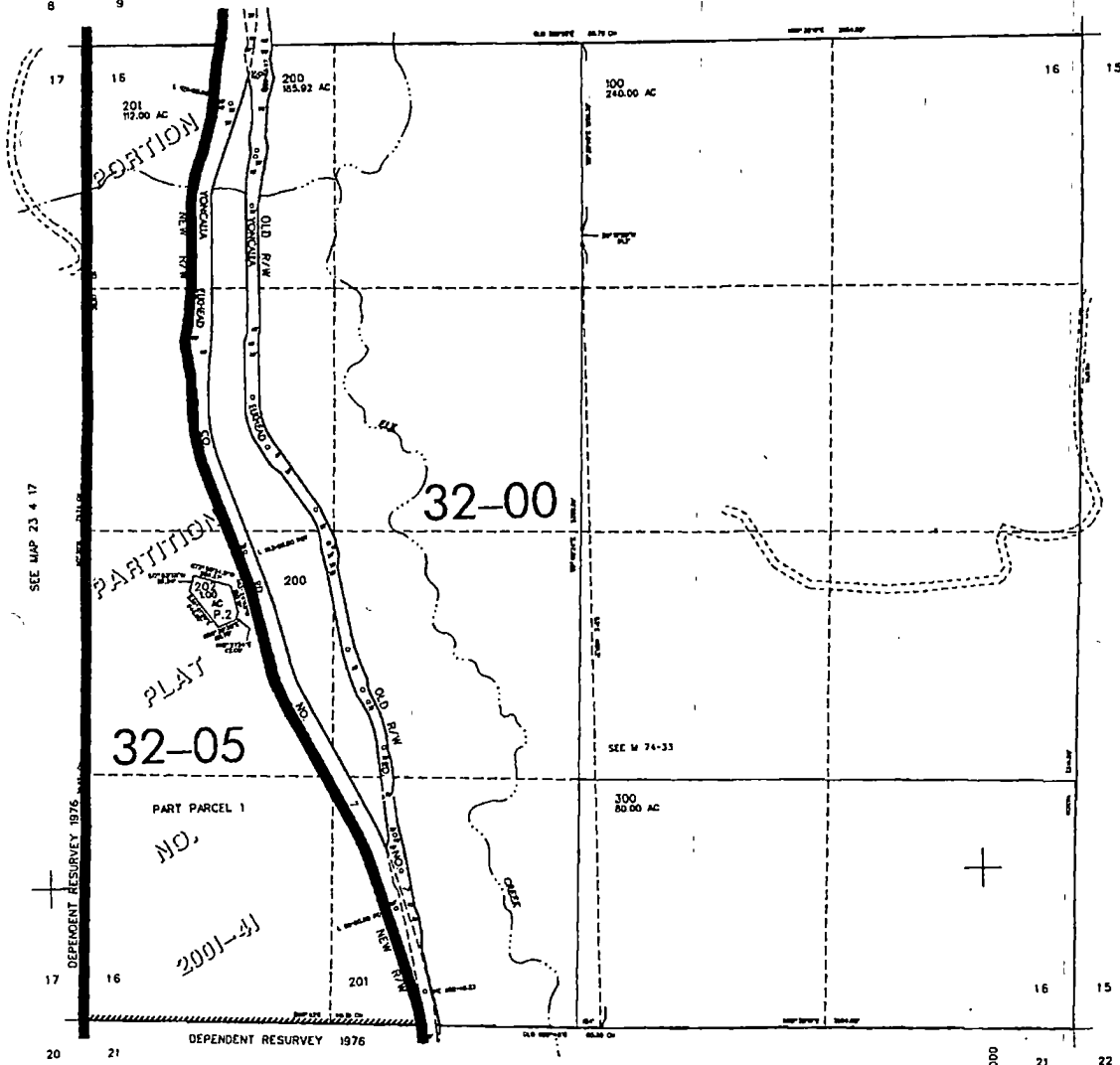
THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

SEC. 16 T. 23S. R. 4W. W.M.
DOUGLAS COUNTY
T=400'

REVISED ON
6-27-01

23 4 16

SEE MAP 23 4 9



CANCELLED NO'S
100M 200M 201M

SEE MAP 23 4 15

703,000

SEE MAP 23 4 21

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SALEM, OREGON

Information and Instructions Instream Lease Renewal

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If you have any questions please call Department Staff 503-986-0900

Can I Renew my Lease?

- When a final order was issued approving the existing lease, the term of that lease has expired or is about to expire, and there are no changes to the instream use or to the water right (or portion thereof) involved. Basically, the request to renew is identical to the original lease approved by the Department.

When do you need to submit a new lease application?

- When the Lessor or Lessee proposes to modify/alter the portion or description of the water right originally leased or change any part of the instream use including the instream quantities, the instream period, and/or the instream reach.

Helpful Links~ If you are unsure or need assistance: Contact us at 503-986-0900 or the Watermaster for your District	
Watermasters in Oregon	http://www.oregon.gov/owrd/docs/watermasterchart.pdf
Instream Leasing Forms	http://www.oregon.gov/owrd/pages/pubs/forms.aspx#instream
Fee Schedule	http://www.oregon.gov/owrd/pages/pubs/forms.aspx#fees
Water Rights Information Query	http://apps.wrd.state.or.us/apps/wr/wrinfo/
Water Rights Public Notice	http://apps.wrd.state.or.us/apps/misc/wrd_notice_view/?notice_id=21
OAR: Chapter 690 Division 77	http://www.oregon.gov/owrd/law/docs/law/oar_690_077.pdf

Help and Explanations...

- The lease number will be the same as the original lease. Lease numbers generally start with L, IL or SL. SL is the designation for a split season instream lease.
- A Map is not required for an instream lease renewal.
- Applications received without the proper fee will be returned.
- Changes in the Lessor or Lessee do not affect renewal eligibility. However, if you are the new property owner, you must provide evidence of ownership with your application, such as a copy of the deed showing that you're the new owner of the property.
- A change in certificate number will not necessarily prevent you from being able to renew a lease. However, you should contact the Department to verify whether you may submit a renewal or if a new lease is needed.
- The deadline for submittal of Instream Lease renewal involving a water right with a seasonal use must be received prior to July 1. A lease renewal involving a water right with a year round use must be received prior to October 1.
- All parties to the application must sign the application. (For example, if a husband and wife both appear on a deed, both must sign.) See below for further instructions describing the parties to the instream lease.
- The term of the instream lease can be no less than one calendar year and no more than five calendar years. There is no limit on the number of times that you may renew your lease. However, a water right(s) (or portion thereof) involved in a split season lease, may only be included in a split season lease for up to 10 years.

Generally, the term of the instream lease is the first day water can be legally used through the last day water can be legally used (e.g. the irrigation season). For water rights with year-around period of use, the term of the lease would run from January 1 through December 31 and through the last year of the requested term of the lease.

Termination provision: This provision is for multi-year leases and allows the Lessor and Lessee (if any) to request a provision in the final order allowing for the early termination of a lease. The Lessor may also request the Department not include this provision. Your termination options are listed on the first page of the application after these instructions.

Please note, if the parties have requested the ability to terminate the lease prior to expiration of its full term, the request may be submitted at any time. However, if the request for termination is received less than 30-days prior to the instream use period or after the allowed use has begun, water may not be used under the right(s) until the following calendar year, unless the Director determines that enlargement would not occur.

If the lease is being used as a mitigation project in the Deschutes Basin and early termination provision is requested, the Department will require that the termination request be submitted by all parties to the lease. Notice of the termination should be sent to both the Salem and Regional offices of the Water Resources Department.

Requests to terminate a lease may be submitted by e-mail from the appropriate parties identified in the Final Order approving the lease application.

- **CREP** – Please identify if some or all of the lands are enrolled in the federal Conservation Reserve Enhancement Program (CREP) or other similar federal program. The Department will send a copy of the final order to the Farm Services Administration and other associated parties.

Parties to the lease include:

Lessor: This is generally the landowner(s) and is referred to as the water right holder. All water right holders must sign the lease application. The lessor may also be someone that holds interest in the water right or another party that has been granted authorization by the landowner to lease the water right. If the Lessor is not the deeded landowner, additional information must be provided as specified below:

- 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.

If the above documentation was provided with the original lease application, it does not need to be included with the renewal request.

Lessee: Individuals or organizations, which may provide compensation to the Lessor for the leasing of the subject water right instream. The Lessee has the same standing as the Lessor for all purposes regarding management and enforcement of the instream water right.

Co-Lessors: Irrigation districts or other water purveyors must be a party to the lease to which the subject lands are attached or fall within the boundaries of an Irrigation District, as defined in ORS Chapters 545, 547, 552, 553, or 554, should be listed as Co-Lessor and must also sign the renewal application. If the source of water for the subject lands is stored water, then the owner/operator of the reservoir must also be party to the lease as Co-lessor and must also sign the renewal application.

Farm Deferral Tax Status: Counties make the determination of whether a property qualifies for the farm use assessment without consideration of whether the lands have an associated water right which is leased instream. If you have questions regarding the farm use assessment you should contact your local county assessor. You should contact your County for any weed ordinance and management requirements.

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