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

OWRD

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 # IL-1838
Fee-

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

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

Part 1 - Completed Minimum Requirements Checklist and Application Fee

Fees

Form with checkboxes for fees: \$520.00 for a lease involving four or more landowners or four or more water rights, \$350.00 for all other leases, Check enclosed or, Fee Charged to customer account.

Part 2 - Completed Instream Lease Application Map Checklist.

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

Part 4 - Completed Instream Lease Provisions and Signatures

How many water rights are leased? 1 List them here: 92399
Include a separate Part 3 for each water right.

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:

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:

Map: Instream Lease map requirements (see Part 2 of this application)

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.

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).

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

OWRD

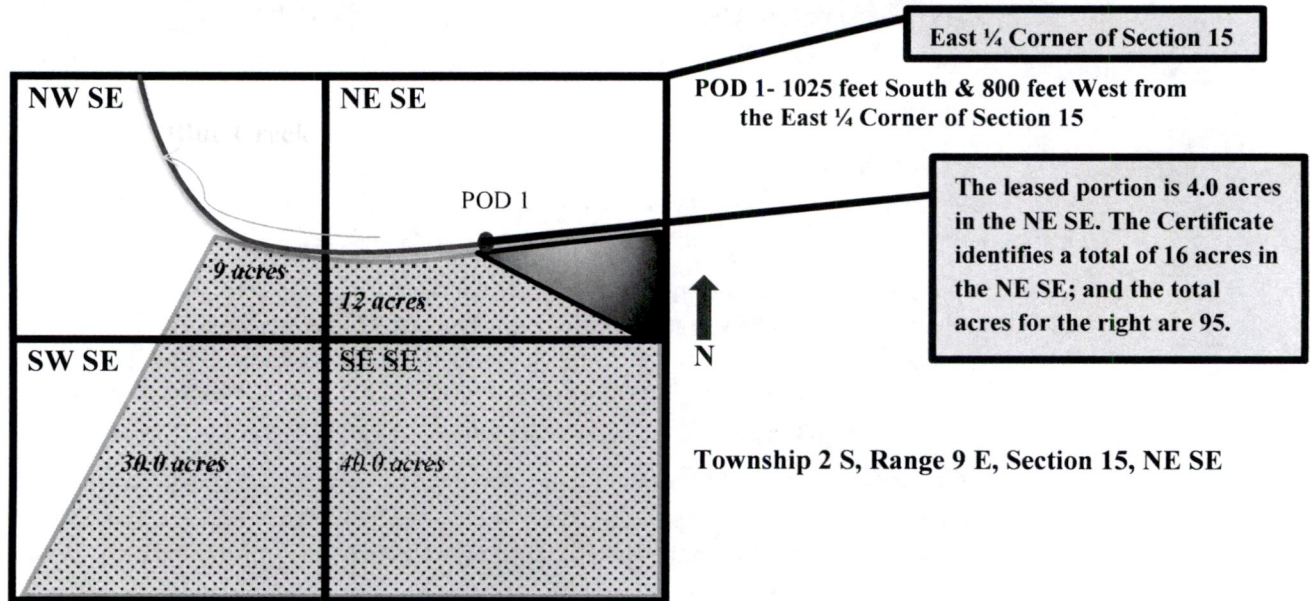
A Map is generally required for each water right not leased in its entirety

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 # 92399

**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.

If only leasing a portion of the right - complete Table 1 as indicated  **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) |
|---------------|-------|-----|-------------|---|------------------|-------------------|
|               |       |     |             |   |                  |                   |

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

Any additional information about the right: \_\_\_\_\_

**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") |
|-------|------|------|-----|-------|----------------|---|
|       | 27-S | 13-W | 1   | SE NW |                | 260' N + 453' W, center, S1   |
|       | -    | -    |     | -     |                |   |

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>Farm</u> tributary to <u>Noel</u>   |       |     |       | River Basin: <u>COOS</u>  |                           |                            |
| <p><b>Instream Portion:</b> 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) |
|  |       |     |       |   |                           |                            |
|  |       |     |       |   |                           |                            |
| <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><b>OR</b> <input checked="" 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><b>Proposed Instream Reach:</b></p> <input 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 _____   |       |     |       | <p><b>Or/Proposed Instream Point:</b></p> <input checked="" type="checkbox"/> Instream use protected at the POD |                           |                            |
| <p><b>OR</b> <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  |       |     |       |   |                           |                            |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A <b>Conditions to avoid enlargement or injury to other water rights, if any, or other limitations:</b> list here _____   |       |     |       |   |                           |                            |
| <p>Note: The Department may identify additional conditions to prevent injury and/or enlargement.</p>   |       |     |       |   |                           |                            |
| <p><b>Any additional information about the proposed instream use:</b> _____</p>  |       |     |       |   |                           |                            |

## Part 4 of 4 – Lease Provisions and Party Signatures

|  |   |
|--|---|
| <p><b>Term of the Lease (may be from 1 year up to 5 years):</b><br/>                 The lease is requested to begin in: month _____ year _____ and end: month _____ year _____<br/>                 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><b>Public use:</b> 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 checked="" type="checkbox"/> Recreation</p> <p><input checked="" type="checkbox"/> Pollution abatement</p> <p><input type="checkbox"/> Navigation</p>  | <p><b>Termination provision (for multiyear leases):</b><br/> <b>The parties to the lease request (choose one):</b></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 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><b>Additive/Replacing Relationship to other instream water rights:</b> 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"/><br/>                 And attach an explanation of your intent.</p> |   |
| <p><b>Validity of the Right(s) to be leased (check the appropriate box):</b></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.

Cleo D. Brett  
 Signature of Lessor

Date: 1/15/21

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 PACOSHOUSE@CHARTER.NET

Printed name (and title): \_\_\_\_\_ Business name, if applicable: \_\_\_\_\_  
 Mailing Address (with state and zip): \_\_\_\_\_  
 Phone number (include area code): \_\_\_\_\_ \*\*E-mail address: PACOSHOUSE@CHARTER.NET

**See next page for additional signatures.**

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\_\_\_\_\_  
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: \_\_\_\_\_

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.**

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THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

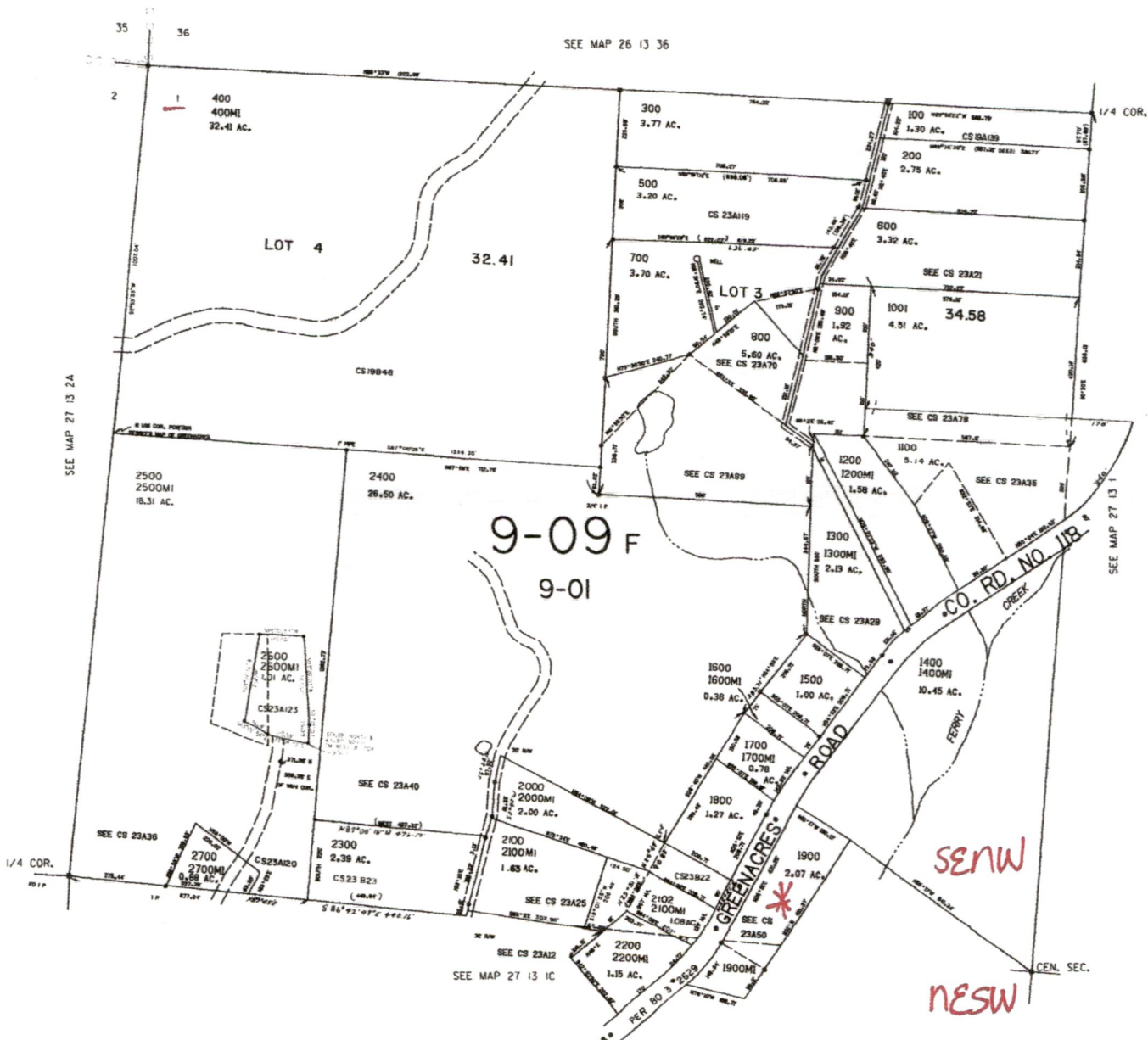
NW1/4 T.27S. R.13W. W.M.  
COOS COUNTY

1" = 200'

27 13 IB

CANCELLED

RUUU  
2101  
2501  
2601



SEE MAP 26 13 36  
SEE MAP 27 13 2A  
SEE MAP 27 13 1  
SEE MAP 27 13 1C

\*DATES

27 13 IB

T27  
R13  
Section 1  
SenW + NESW  
quarter-quarters

**CLAIM OF BENEFICIAL USE MAP**  
**APPLICATION S-70852 PERMIT 52226**  
**LOCATED IN THE SE¼ NW¼ & NE¼ SW¼ OF**  
**SECTION 1, TOWNSHIP 27 SOUTH, RANGE 13 WEST, W.M.**  
**COOS COUNTY, OREGON**

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PREPARED FOR: FRANK & CLEO BRETT  
 PREPARED BY: DENNIS GOUDE  
 DATE PREPARED: JUNE 2, 2011



**LEGEND**

P.O.B.

P.O.D.

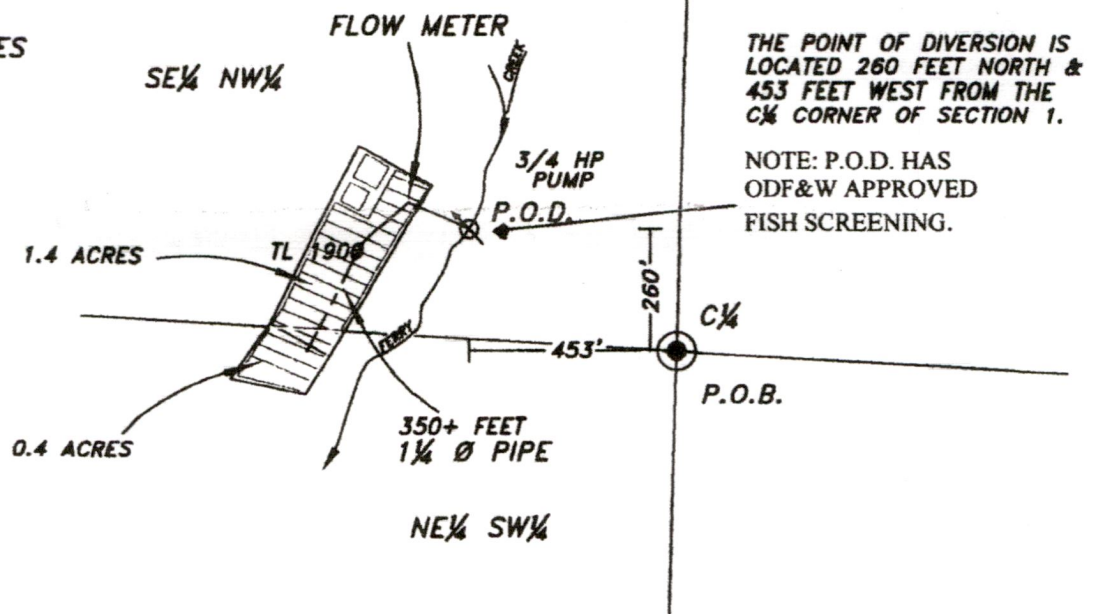
PIPE

IRRIGATED ACRES

SE¼ NW¼  
1.4 + ACRES

NE¼ SW¼  
0.4 ACRES

SECTION 1



THE POINT OF DIVERSION IS LOCATED 260 FEET NORTH & 453 FEET WEST FROM THE CORNER OF SECTION 1.

NOTE: P.O.D. HAS ODF&W APPROVED FISH SCREENING.



EXPIRES 6/30/2012

**EXAMINERS DISCLAIMER STATEMENT**

The preparation of this map was for the purpose of identifying the location of the Water Right only and has no intent to provide dimensions or location of property ownership lines.

**Stuntzner Engineering & Forestry, L.L.C.**

ENGINEERING • LAND SURVEYING • FORESTRY  
 PLANNING • WATER RIGHTS

900 South 4th St.  
 Post Office Box 116  
 Coos Bay, Oregon 97426  
 Phone (541) 337-3375  
 Fax (541) 337-3328



# STATE OF OREGON

## CERTIFICATION OF VITAL RECORD



875391

I.D. TAG NO.

OREGON HEALTH AUTHORITY  
CENTER FOR HEALTH STATISTICS

### CERTIFICATE OF DEATH

136-2019-021858

STATE FILE NUMBER

|   |                                 |                              |                                |   |   |                   |  |  |
|---|---------------------------------|------------------------------|--------------------------------|---|---|-------------------|--|--|
| TO BE COMPLETED BY FUNERAL FACILITY           | Legal Name                      |                              | First                          | Middle                                    | Last                                    | Suffix            | Death Date                               |  |
|   |                                 |                              | Frank                          | Roland                                    | Brett                                   |                   | August 11, 2019                          |  |
|   | Sex                             | Age                          | Social Security Number         |   |   | County of Death   |  |  |
|   | Male                            | 81 years                     | [REDACTED]                     |   |   | Multnomah         |  |  |
|   | Birthdate                       |                              | Birthplace                     |   | Was Decedent Ever in U.S. Armed Forces? |                   |  |  |
|   | March 13, 1938                  |                              | Houston, Texas                 |   | Yes                                     |                   |  |  |
|   | Residence:                      |                              |                                |   | City/Town                               |                   |  |  |
|   | 93968 Greenacres Lane           |                              |                                |   | Coos Bay                                |                   |  |  |
|   | Residence County                |                              | State or Foreign Country       |   | Zip Code + 4                            |                   | Inside City Limits?                      |  |
|   | Coos                            |                              | Oregon                         |   | 97420                                   |                   | No                                       |  |
|   | Marital Status at Time of Death |                              |                                | Spouse's Name Prior to First Marriage     |   |                   |  |  |
|   | Married                         |                              |                                | Cleo Doll Spruell                         |   |                   |  |  |
|   | Father's Name                   |                              |                                |   | Mother's Name Prior to First Marriage   |                   |  |  |
|   | Frank Brett                     |                              |                                |   | Henrietta Davis                         |                   |  |  |
|   | Informant's Name                |                              | Telephone Number               | Relationship to Decedent                  | Mailing Address                         |                   |  |  |
| Cleo D. Brett                                 |                                 | Not Available                | Spouse                         | 93968 Greenacres Lane, Coos Bay, OR 97420 |   |                   |  |  |
| Place of Death                                |                                 |                              | Facility Name                  |   |   |                   |  |  |
| Hospital-Inpatient                            |                                 |                              | OHSU Hospitals and Clinics     |   |   |                   |  |  |
| Location of Death                             |                                 |                              | City/Town or Location of Death |   | State                                   | Zip Code + 4      |  |  |
| 3181 SW Sam Jackson Park Road                 |                                 |                              | Portland                       |   | Oregon                                  | 97239             |  |  |
| Method of Disposition                         |                                 | Place of Disposition         |                                | Location (City/Town and State)            |   |                   |  |  |
| Cremation                                     |                                 | Siuslaw Valley Crematory     |                                | Florence, Oregon                          |   |                   |  |  |
| Name and Complete Address of Funeral Facility |                                 |                              |                                |   |   |                   |  |  |
| Neison's Bay Area Mortuary                    |                                 |                              |                                |   |   |                   | 4.5 Elrod Avenue, Coos Bay, Oregon 97420 |  |
| Date of Disposition                           |                                 | Funeral Director's Signature |                                |   | Electronically Signed                   | OR License Number |  |  |
| TBD   |                                 | <i>Tanya D Nelson</i>        |                                |   |   | FS-0399           |  |  |
| Registrar's Signature                         |                                 |                              |                                | Date Received                             |   | Local File Number |  |  |
| ▶ <i>Jennifer A. Woodward</i>                 |                                 |                              |                                | August 14, 2019                           |   |                   |  |  |
| Amendment                                     |                                 |                              |                                |   |   |                   |  |  |

45-2CCS (01/06)



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I CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE ORIGINAL CERTIFICATE ON FILE OR THE VITAL RECORDS FACTS ON FILE IN THE OREGON CENTER FOR HEALTH STATISTICS.

August 15, 2019

*Jennifer A. Woodward*  
JENNIFER A. WOODWARD, Ph.D.  
STATE REGISTRAR



DATE ISSUED: \_\_\_\_\_

THIS COPY IS NOT VALID WITHOUT INTAGLIO STATE SEAL AND BORDER.

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE.

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January 21, 2021

RE: Instream Water

Frank R. Brett (Deceased)  
Cleo Corby Brett

Susan Douthit  
Umpqua Basin Watermaster  
District 15  
Field Services Division  
1036 SE Douglas Ave, Room 306  
Roseburg, OR 97420

Dear Susan,

Due to my health decline, I cannot meet with you in person and I am hoping that you will have remembered my situation. John See met and spoke with you regarding my water rights on our property. I am forever grateful for John and you of course for assisting me in obtaining what I need.

That being addressed, I am now applying for an Instream Lease and I am enclosing payment in the amount of \$350 and all the paperwork needed to process my request. I understood that the payment due for the future years will be billed or sent to me by mail preferably as my computer is on the fritz!

Please, if I have not included all that is necessary or whatever, let me know and I will comply. Again, thank you so much for your help and understanding in this as I do want to retain the Water Rights, but know nothing about keeping it.

I do appreciate everything you have done in this matter.

Sincerely,



Cleo Brett  
541-267-7508

STATE OF OREGON

COUNTY OF COOS

CERTIFICATE OF WATER RIGHT

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THIS CERTIFICATE ISSUED TO

FRANK R. BRETT  
CLEO D. BRETT  
93968 GREEN ACRES LN  
COOS BAY OR 97420

confirms the right to the use of water perfected under the terms of Permit S-52226. The amount of water used to which this right is entitled is limited to the amount used beneficially, and shall not exceed the amount specified, or its equivalent in the case of rotation, measured at the point of diversion from the source. The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: S-70852

SOURCE OF WATER: FERRY CREEK, A TRIBUTARY OF NOBLE CREEK

PURPOSE or USE: IRRIGATION OF 1.8 ACRES

RATE OF USE: 0.022 CUBIC FOOT PER SECOND

PERIOD OF ALLOWED USE: MARCH 1 THROUGH AUGUST 31

DATE OF PRIORITY: NOVEMBER 5, 1990

The point of diversion is located as follows:

| Twp  | Rng  | Mer | Sec | Q-Q   | Measured Distances   |
|------|------|-----|-----|-------|--|
| 27 S | 13 W | WM  | 1   | SE NW | 260 FEET NORTH AND 453 FEET WEST FROM C1/4 CORNER, SECTION 1 |

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

A description of the place of use is as follows:

| Twp  | Rng  | Mer | Sec | Q-Q   | Acres |
|------|------|-----|-----|-------|-------|
| 27 S | 13 W | WM  | 1   | SE NW | 1.4   |
| 27 S | 13 W | WM  | 1   | NE SW | 0.4   |

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484 and ORS 536.075. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 183.484, ORS 536.075 and OAR 137-004-0080, you may petition for judicial review and 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. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate within three months after issuance of the certificate.