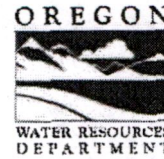


Application for
District Instream Lease
 Part 1 of 4 – Minimum Requirements Checklist



Oregon Water Resources
 Department
 725 Summer Street NE, Suite A
 Salem, Oregon 97301-1266
 (503) 986-0900
 www.oregon.gov/OWRD

This Application to be used for water rights in the name of or conveyed by an Irrigation District (or similar organization) Complete Parts 1 through 4 and any required attachments	OWRD #	11-1929
	District #	

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

Fee in the amount of:

<input checked="" type="checkbox"/> \$610.00 for a lease involving four or more landowners or four or more water rights	Or <input type="checkbox"/> \$410.00 for all other leases
<input type="checkbox"/> Check enclosed or	Deschutes River Conservancy
<input checked="" type="checkbox"/> Fee Charged to customer account _____ (Account name)	

Yes N/A Pooled Lease—a lease with more than one LESSOR (Landowner/water right interest holder)

Part 1 – Completed Minimum Requirements Checklist

Part 2 – Completed District and Other Party Signature Page

Part 3 – Completed Place of Use and Lessor Signature Page
 (Include a separate Part 3 for each Lessor.)

Part 4 – Completed Water Right and Instream Use Information
 (Include a separate Part 4 for each Water Right.)

How many Water Rights are included in the lease application? 1 (# of rights)

List each water right to be leased instream here: 74145

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: _____)?

Required Attachments:

Yes N/A Instream lease application map(s). More than one QQ and property may be included on each map. A map is **not** required if an entire right is being leased or if the right is for use of municipal or quasi-municipal water use. The map should include the following:

- A north arrow and map scale (no smaller than 1" = 1320').
- Label township, range, section and quarter-quarter (QQ).
- If an irrigation right, the numbers of acres to be leased in each quarter-quarter identify and hachure/shade to differentiate between the acreage being leased and any remaining. If the place of use has more than one priority date, source stream, and/or point of diversion you **must identify each with separate hachuring or shading** and label.
- Tax lot lines and numbers must be included on the map and should clearly identify the property(s) involved.

Yes N/A If the Lessor(s) is not the deeded land owner, include one of the following:

- A notarized statement from the land owner 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.

Yes N/A If the right has **not** been used in the last five years; provide supporting documentation indicating why a right (or portion thereof) is **not** subject to forfeiture.

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Salem, OR

Part 2 of 4 – District and other party Signature

Term of the Lease: The lease is requested to begin in: <u>month April year 2022</u> and end: <u>month Oct year 2022</u> .	
Public use: Check the public use(s) this lease will serve (as defined by ORS 537.332): <input checked="" type="checkbox"/> Conservation, maintenance and enhancement of aquatic, fish and wildlife, fish and wildlife habitat and any other ecological values. <input checked="" type="checkbox"/> Recreation <input checked="" type="checkbox"/> Pollution abatement <input type="checkbox"/> Navigation	Termination provision (for multiyear leases): The parties to the lease request (choose one): <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. <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. <input type="checkbox"/> 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 and 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 than described above, please check this box. <input type="checkbox"/> And attach an explanation of your intent.	
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.	
Validity of the rights to be leased: <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 <input type="checkbox"/> The water right(s) have not been used for the last five years according to the terms and conditions of the rights. However, the water right(s) is not subject to forfeiture under ORS 540.610(2). Documentation describing why the water right is not subject to forfeiture has been provided.	

SIGNATURES

The undersigned declare that the information contained in this application is true and accurate.

Kathy Ferguson Date: 6-6-22
 Signature of Co-Lessor

Printed name (and title): ~~Jer Camarata, General Manager~~ Kathy Ferguson, office Manager
 Business/Organization name: Swalley Irrigation District
 Mailing Address (with state and zip): 62672 Cook Ave, Bend, OR 97703
 Phone number (include area code): 541-388-0658 **E-mail address: kathy@swalley.com

 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: _____

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Salem, OR

See next page for additional signatures.

Genevieve Hubert

Date: 6/6/2022

Signature of Lessee

Printed name (and title): Genevieve Hubert, Sr Program Manager

Business/organization name: Deschutes River Conservancy

Mailing Address (with state and zip): 700 NW Hill St, Ste #1, Bend, OR 97703

Phone number (include area code): 541-382-4077 **E-mail address: gen@deschutesriver.org

**** 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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Salem, OR

SID Pooled 2022 - Lessors:

Bend Parks and Rec Dist -	23.61 acres
Charles Masson -	9.5 acres
Low Lane Properties -	2.03 acres
GDK -	1.71 acres
Dawrwin Keep -	10.0 acres
TOTAL	46.85 acres

Received by OWRD

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Salem, OR

Part 3 of 4 – Place of Use – Lessor Information and Signatures

Complete Table 1 Identify water right(s) proposed to be leased instream
Provide a separate Part 3 for each Lessor (water right interest holder/landowner)

Table 1

Irrigation District or other Water Purveyor Name: Swalley Irrigation District
Specify Water Right, Priority Date, point of diversion(s) (POD), place of use, tax lot, gov't lot/DLC, acres to be leased, original use type, certificate page number, and any previous lease.
If not enough room below, you may add rows (see instructions) or create a spreadsheet/table (matching Table 1) and attach.
Any attached table should include reference to the Lessor.
Table with columns: Water Right #, Priority Date, POD #, Twp, Rng, Sec, Q-Q, Tax Lot, Gov't Lot/DLC #, Acres, Use, Page #, Previous Lease #
Any additional information about the right:
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.

The undersigned declare:

- 1. I/We agree during the term of this lease to suspend use of water allowed under the water right(s) involved in the lease as well as and any other appurtenant primary or supplemental water right(s); and
2. I/We certify are the lessor(s) (water right interest holder) of the water right(s) in Table 1. If not the deeded land owner, I/we have obtained consent from the deeded land owner and/or have provided documentation of authorization to pursue the instream lease; and
3. I/We affirm that the information in this application is true and accurate.

Signature of Lessor: [Handwritten Signature] Date: 6/2/22

Printed name (and title): Don R. Horton, Exec. Dir. Business name, if applicable: Bend Parks & Rec Dist
Mailing Address (with state and zip): 799 SW Columbia Street, Bend, OR 97702
Phone number (include area code): **E-mail address:

Signature of Lessor: Date:
Printed name (and title): Business name, if applicable:
Mailing Address (with state and zip):
Phone number (include area code): **E-mail address:

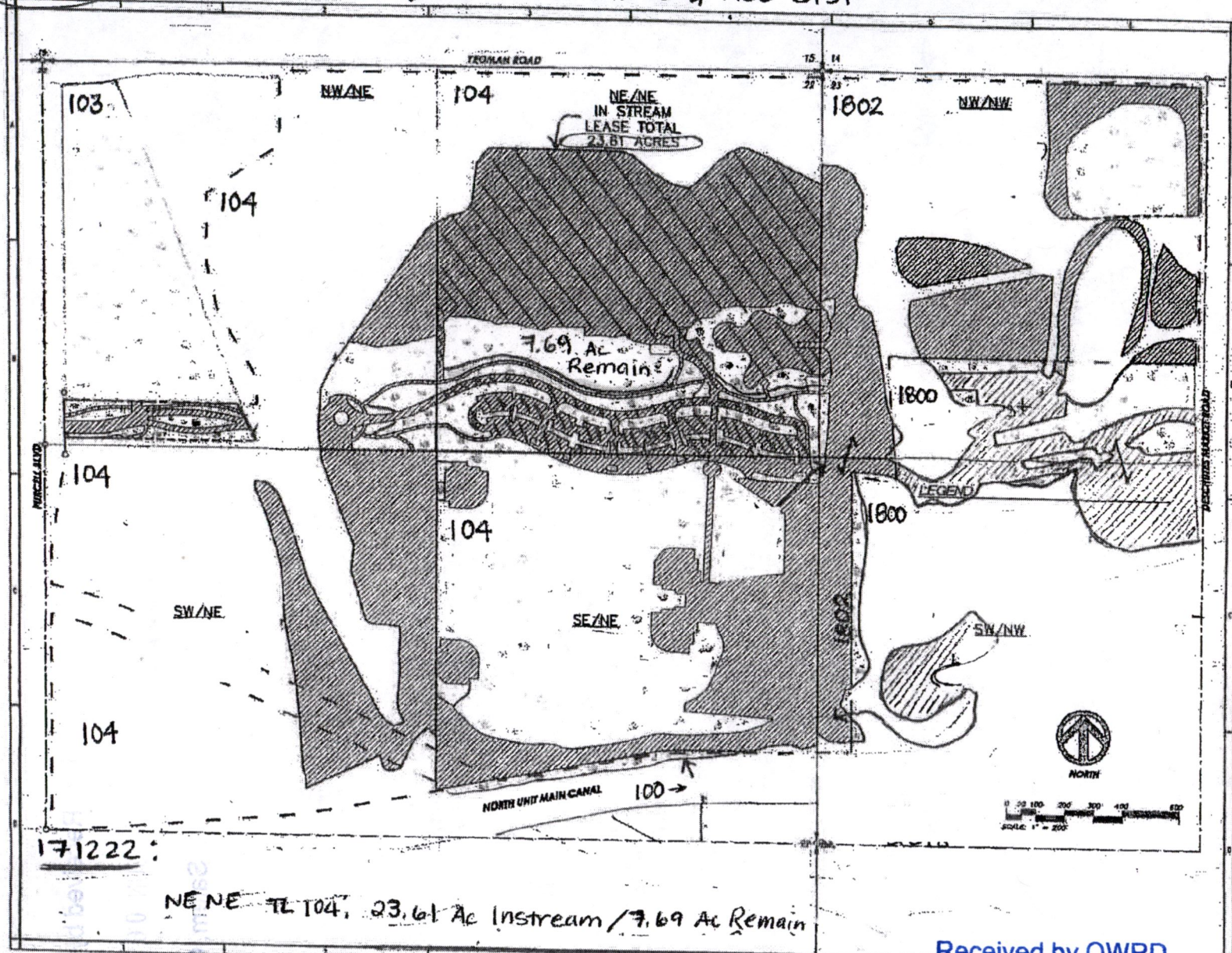
Received by OWRD

JUN 06 2022

Salem, OR

2022

Bend Metro Parks & Rec Dist



171222

NE NE TL 104, 23.61 Ac Instream / 7.69 Ac Remain

Instream
 Remain

BEND METRO PARK AND RECREATION DISTRICT
FINE NURSERY COMMUNITY PARK
 IN STREAM LEASE MAP

HWA
 HERRING WATSON ARCHITECTS
 1000 NE 10TH AVE, SUITE 200
 BEND, OR 97701
 TEL: 503-325-1100
 FAX: 503-325-1101
 WWW.HWAARCHITECTS.COM

DATE: 3/20/18
 SHEET: 4/4
 DRAWING NO: 170302

Received by OWRD

JUN 06 2022

Salem, OR

EXHIBIT C

Received by OWRD

JUN 06 2022

Salem, OR

**Deschutes River Conservancy
Instream Leasing Program**

**Policy Concerning Weeds & Instream Leases
Information on Farm Deferral & Lease Payment**

The Deschutes River Conservancy is dedicated to restoring stream flow and improving water quality in the Deschutes Basin; land stewardship is a component of these goals.

Weed Policy

The DRC expects participants in the Leasing Program will continue to exercise agricultural best management practices on lands enrolled in the Program, particularly with respect to the control of noxious and/or nuisance weeds. Failure to control weeds on leased acres may result in exclusion from Program compensation.

Information and Resources Attached

Farm Deferral Notice

Instream leasing is a beneficial use that protects your water right from forfeiture and allows for compensation for this instream use, but please note that it does not automatically protect against loss of farm use special assessment. Exclusive Farm Use (EFU) zoned lands may still require at least minimal use with the intent to make a profit. It is the landowner's responsibility to know their tax assessment status and qualifying uses.

Information and Resources Attached

Donated Leases: Leases of less than 5 acres, leases with public entities, leases submitted after the due date agreed upon by the District and the DRC and posted by the District, and leases with verified weed complaints are not paid a per acre or per acre-foot rate by the DRC.

→ I, Don Horton understand the DRC weed policy and have
Print Name
been informed about farm deferral and donations.

→ Signature: [Signature] Date: 6/2/22

This form must be signed and returned with state lease form.

Received by OWRD
JUN 06 2022
Salem, OR

Masson

Part 3 of 4 – Place of Use – Lessor Information and Signatures

**Complete Table 1 Identify water right(s) proposed to be leased instream
Provide a separate Part 3 for each Lessor (water right interest holder/landowner)**

Table 1

Irrigation District or other Water Purveyor Name: Swalley Irrigation District

Specify Water Right, Priority Date, point of diversion(s) (POD), place of use, tax lot, gov't lot/DLC, acres to be leased, original use type, certificate page number, and any previous lease.
If not enough room below, you may add rows (see instructions) or create a spreadsheet/table (matching Table 1) and attach.
Any attached table should include reference to the Lessor.

Water Right #	Priority Date	POD #	Twp	Rng	Sec	Q-Q	Tax Lot	Gov't Lot/DLC #	Acres	Use	Page #	Previous Lease #
74145	9-1-1899	3 & 15	16	12	20	NE SE	01107		9.50	IRR	6	IL-1602

Any additional information about the right: _____

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.

The undersigned declare:

1. I/We agree during the term of this lease to suspend use of water allowed under the water right(s) involved in the lease as well as and any other appurtenant primary or supplemental water right(s); and
2. I/We certify are the lessor(s) (water right interest holder) of the water right(s) in Table 1. If not the deeded land owner, I/we have obtained consent from the deeded land owner and/or have provided documentation of authorization to pursue the instream lease; and
3. I/We affirm that the information in this application is true and accurate.

Charles H Masson
Signature of Lessor

Date: May 31, 2022

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

Mailing Address (with state and zip): 15075 Pine Hollow Lane, Bluffdate, UT 84065

Phone number (include area code): 801-699-8606 **E-mail address: charles.masson@riotinto.com

Signature of Lessor

Date: _____

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

Mailing Address (with state and zip): _____

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

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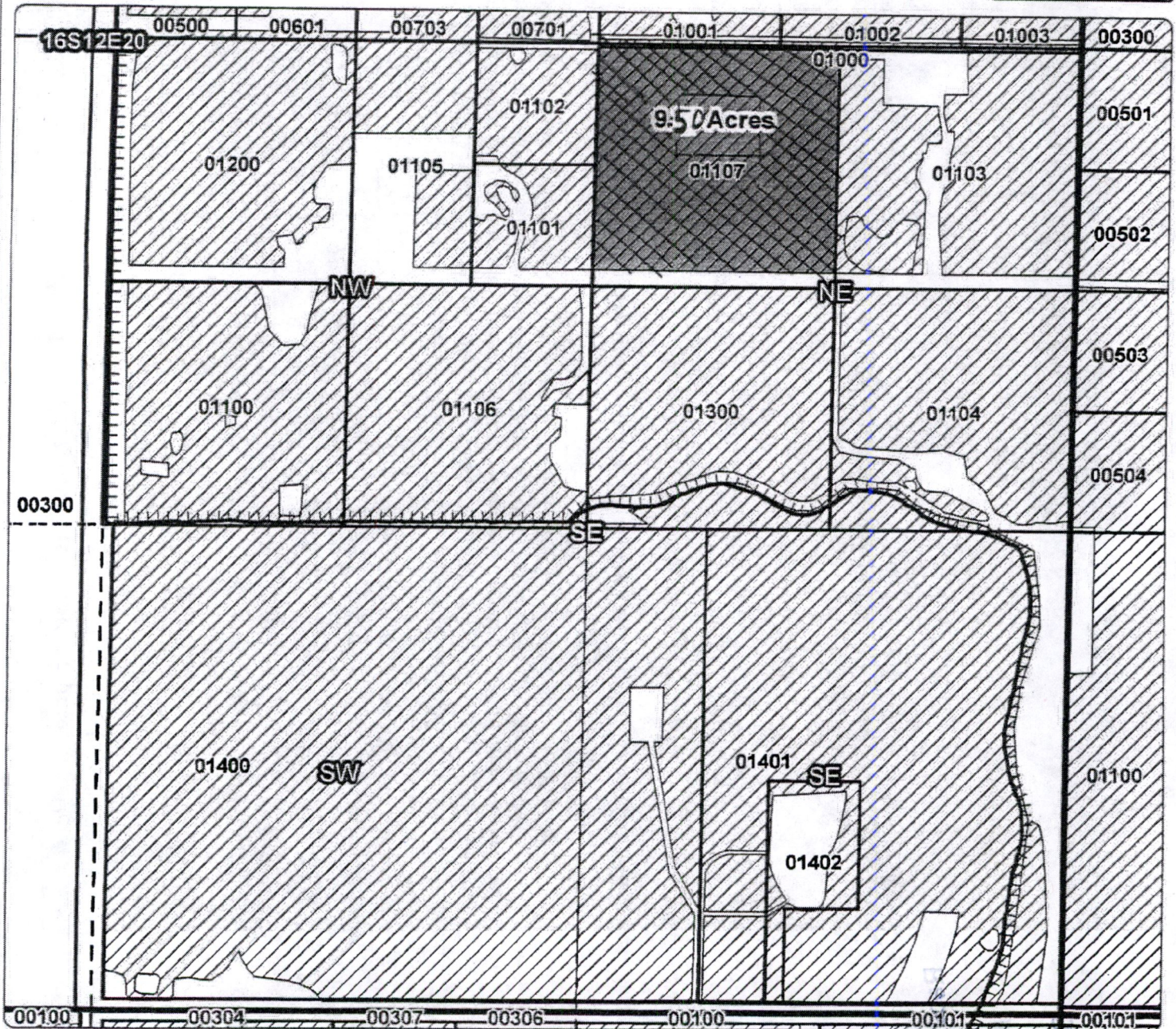
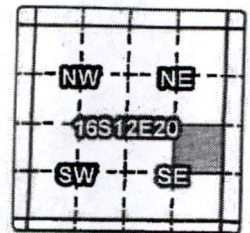
JUN 06 2022

Salem, OR

Swalley Irrigation District Application for Instream Lease

Cert #: 74145

For: Charles Masson



1 YEAR INSTREAM LEASE MAP

Taxlot 01107, 16S12E20NESE: 9.50 Acres Leased. 2.5 Acres Remaining

Received by OWRD

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Salem, OR

- Point of Diversion
- ▬ Canals
- ▭ Taxlots
- ▨ Lease
- ▩ Cert 74145

1 inch = 400 feet



Received by OWRD

EXHIBIT C

JUN 06 2022

**Deschutes River Conservancy
Instream Leasing Program**

Salem, OR

**Policy Concerning Weeds & Instream Leases
Information on Farm Deferral & Lease Payment**

The Deschutes River Conservancy is dedicated to restoring stream flow and improving water quality in the Deschutes Basin; land stewardship is a component of these goals.

Weed Policy

The DRC expects participants in the Leasing Program will continue to exercise agricultural best management practices on lands enrolled in the Program, particularly with respect to the control of noxious and/or nuisance weeds. Failure to control weeds on leased acres may result in exclusion from Program compensation.

Information and Resources Attached

Farm Deferral Notice

Instream leasing is a beneficial use that protects your water right from forfeiture and allows for compensation for this instream use, but please note that it does not automatically protect against loss of farm use special assessment. Exclusive Farm Use (EFU) zoned lands may still require at least minimal use with the intent to make a profit. It is the landowner's responsibility to know their tax assessment status and qualifying uses.

Information and Resources Attached

Donated Leases: Leases of less than 5 acres, leases with public entities, leases submitted after the due date agreed upon by the District and the DRC and posted by the District, and leases with verified weed complaints are not paid a per acre or per acre-foot rate by the DRC.



I, Charles Mason understand the DRC weed policy and have
Print Name
been informed about farm deferral and donations.



Signature: Chal Mason Date: June 1, 2022

Received by OWRD
JUN 06 2022
Salem, OR

This form must be signed and returned with state lease form.

Part 3 of 4 – Place of Use – Lessor Information and Signatures

Complete Table 1 Identify water right(s) proposed to be leased instream
Provide a separate Part 3 for each Lessor (water right interest holder/landowner)

Table 1

Irrigation District or other Water Purveyor Name: Swalley Irrigation District
Specify Water Right, Priority Date, point of diversion(s) (POD), place of use, tax lot, gov't lot/DLC, acres to be leased, original use type, certificate page number, and any previous lease.
Any attached table should include reference to the Lessor.
Table with columns: Water Right #, Priority Date, POD #, Twp, Rng, Sec, Q-Q, Tax Lot, Gov't Lot/DLC #, Acres, Use, Page #, Previous Lease #.
Additional information section: 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.

The undersigned declare:

- 1. I/We agree during the term of this lease to suspend use of water allowed under the water right(s) involved in the lease as well as and any other appurtenant primary or supplemental water right(s); and
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3. I/We affirm that the information in this application is true and accurate.

Signature of Lessor

Date: 6-1-22

Printed name (and title): Gary Knight Business name, if applicable: Lowe Lane Properties

Mailing Address (with state and zip): Phone number (include area code): **E-mail address:

Signature of Lessor Date:

Printed name (and title): Business name, if applicable: Mailing Address (with state and zip): Phone number (include area code): **E-mail address:

Received by OWRD

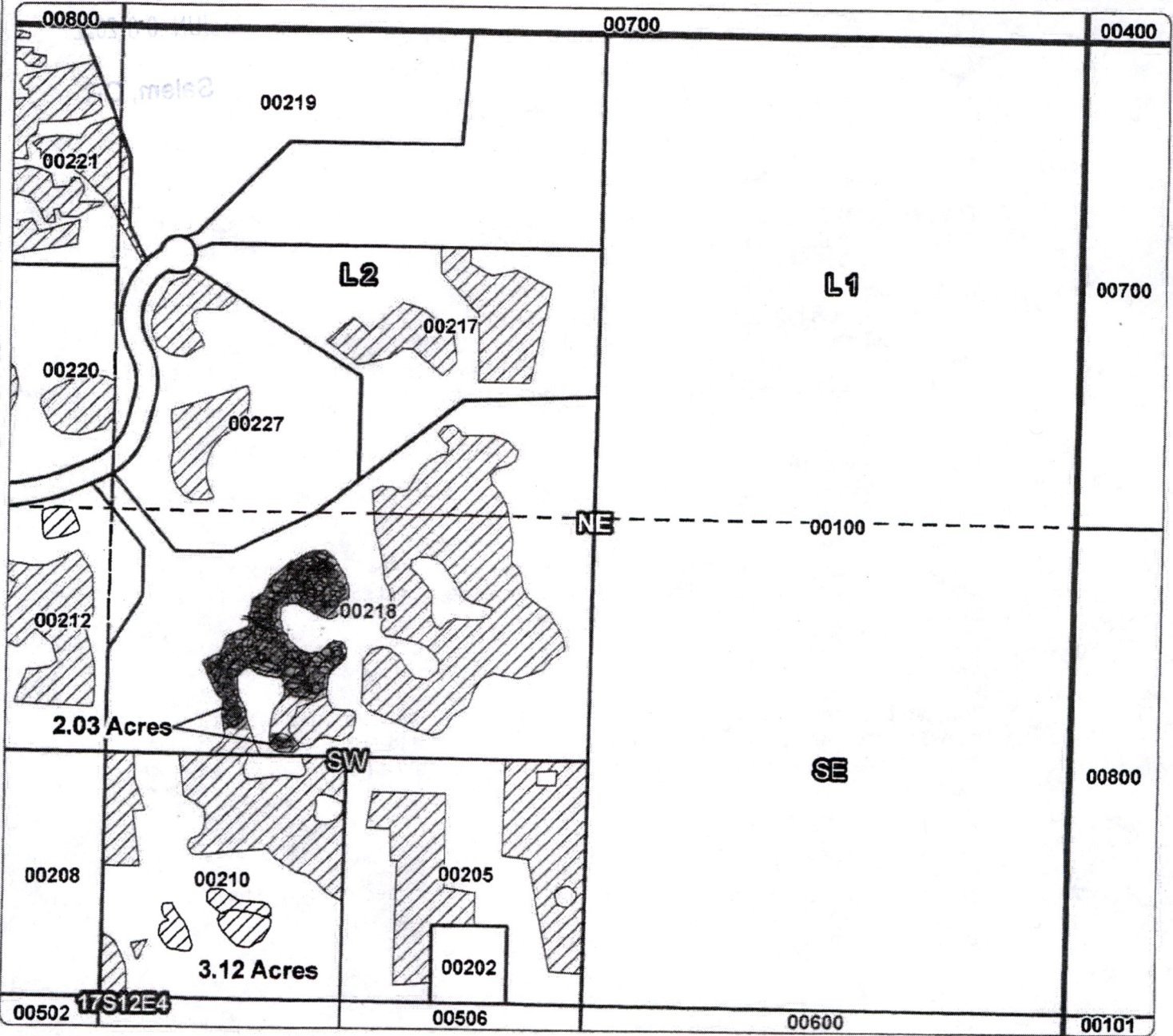
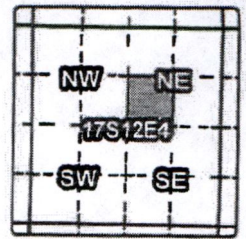
JUN 06 2022

Salem, OR

Swalley Irrigation District Application for Instream Lease

Cert #: 74145

For: Gary Knight



1 YEAR INSTREAM LEASE MAP

Taxlot 00218, 17S12E04SWNE: 2.03 Acres Leased, 6.32 Acres Remaining

Received by OWRD

JUN 06 2022

Salem, OR

- Point of Diversion
- ▤ Canals
- ▭ Taxlots
- ▨ Lease
- ▧ Cert 74145

1 inch = 400 feet



EXHIBIT C

Received by OWRD

**Deschutes River Conservancy
Instream Leasing Program**

JUN 06 2022

Salem, OR

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→ I, Gary Knight understand the DRC weed policy and have
Print Name
been informed about farm deferral and donations.

→ Signature: [Signature] Date: 6-1-22

This form must be signed and returned with state lease form.

Part 3 of 4 – Place of Use – Lessor Information and Signatures

Complete Table 1 Identify water right(s) proposed to be leased instream
Provide a separate Part 3 for each Lessor (water right interest holder/landowner)

Table 1

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Table with 13 columns: Water Right #, Priority Date, POD #, Twp, Rng, Sec, Q-Q, Tax Lot, Gov't Lot/DLC #, Acres, Use, Page #, Previous Lease #. Contains two rows of data for water rights 74145.

Any additional information about the right: _____

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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3. I/We affirm that the information in this application is true and accurate.

Signature of Lessor: [Handwritten Signature] Date: 6-1-22

Printed name (and title): Gary Knight Business name, if applicable: GDK housing

Mailing Address (with state and zip): Phone number (include area code): **E-mail address:

Signature of Lessor: Date:

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

Mailing Address (with state and zip): Phone number (include area code): **E-mail address:

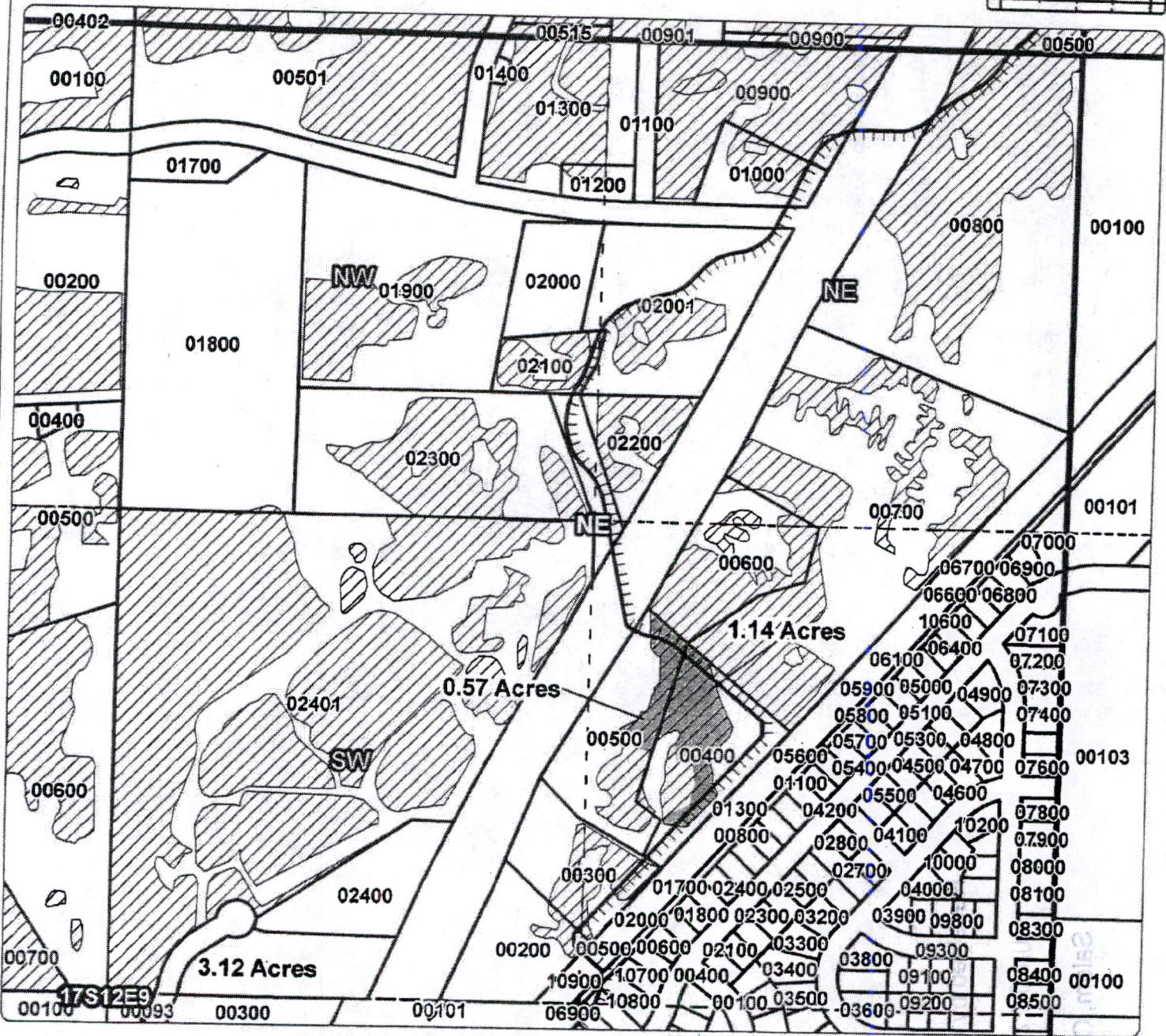
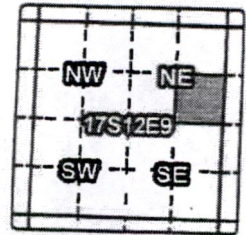
Received by OWRD

JUN 06 2022

Salem, OR

Swalley Irrigation District Application for Instream Lease

Cert #: 74145
For: Gary Knight



1 YEAR INSTREAM LEASE MAP

Taxlot 00400, 17S12E09SENE: 1.14 Acres Leased, 0.36 Acres Remaining
Taxlot 00500, 17S12E09SENE: 0.57 Acres Leased, 0.43 Acres Remaining

- Point of Diversion
- Canals
- Taxlots
- Lease
- Cert 74145

Received by OWRD

JUN 06 2022

Salem, OR



Received by OWRD

EXHIBIT C

JUN 06 2022

**Deschutes River Conservancy
Instream Leasing Program**

Salem, OR

**Policy Concerning Weeds & Instream Leases
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→ I, Gary Knight understand the DRC weed policy and have
Print Name
been informed about farm deferral and donations.

Received by OWRD

→ Signature: [Signature] Date: 6-1-22

OR memo This form must be signed and returned with state lease form.

Received by OWRD

JUN 06 2022

Salem, OR

Part 3 of 4 – Place of Use – Lessor Information and Signatures

Complete Table 1 Identify water right(s) proposed to be leased instream
Provide a separate Part 3 for each Lessor (water right interest holder/landowner)

Table 1

Irrigation District or other Water Purveyor Name: Swalley Irrigation District
Specify Water Right, Priority Date, point of diversion(s) (POD), place of use, tax lot, gov't lot/DLC, acres to be leased, original use type, certificate page number, and any previous lease.
If not enough room below, you may add rows (see instructions) or create a spreadsheet/table (matching Table 1) and attach.
Any attached table should include reference to the Lessor.

Table with 13 columns: Water Right #, Priority Date, POD #, Twp, Rng, Sec, Q-Q, Tax Lot, Gov't Lot/DLC #, Acres, Use, Page #, Previous Lease #. Contains two rows of data for water rights 74145.

Any additional information about the right: 10.0 acres instream
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.

The undersigned declare:

- 1. I/We agree during the term of this lease to suspend use of water allowed under the water right(s) involved in the lease as well as and any other appurtenant primary or supplemental water right(s); and
2. I/We certify are the lessor(s) (water right interest holder) of the water right(s) in Table 1. If not the deeded land owner, I/we have obtained consent from the deeded land owner and/or have provided documentation of authorization to pursue the instream lease; and
3. I/We affirm that the information in this application is true and accurate.

Signature of Lessor (handwritten) Date: 3/7/22

Printed name (and title): Darwin G Keep - Kerrie Duncan POA Business name, if applicable:
Mailing Address (with state and zip): 21070 Azalia Ave, Bend, OR 97702
Phone number (include area code): 541-419-4261 **E-mail address:

Signature of Lessor Date:

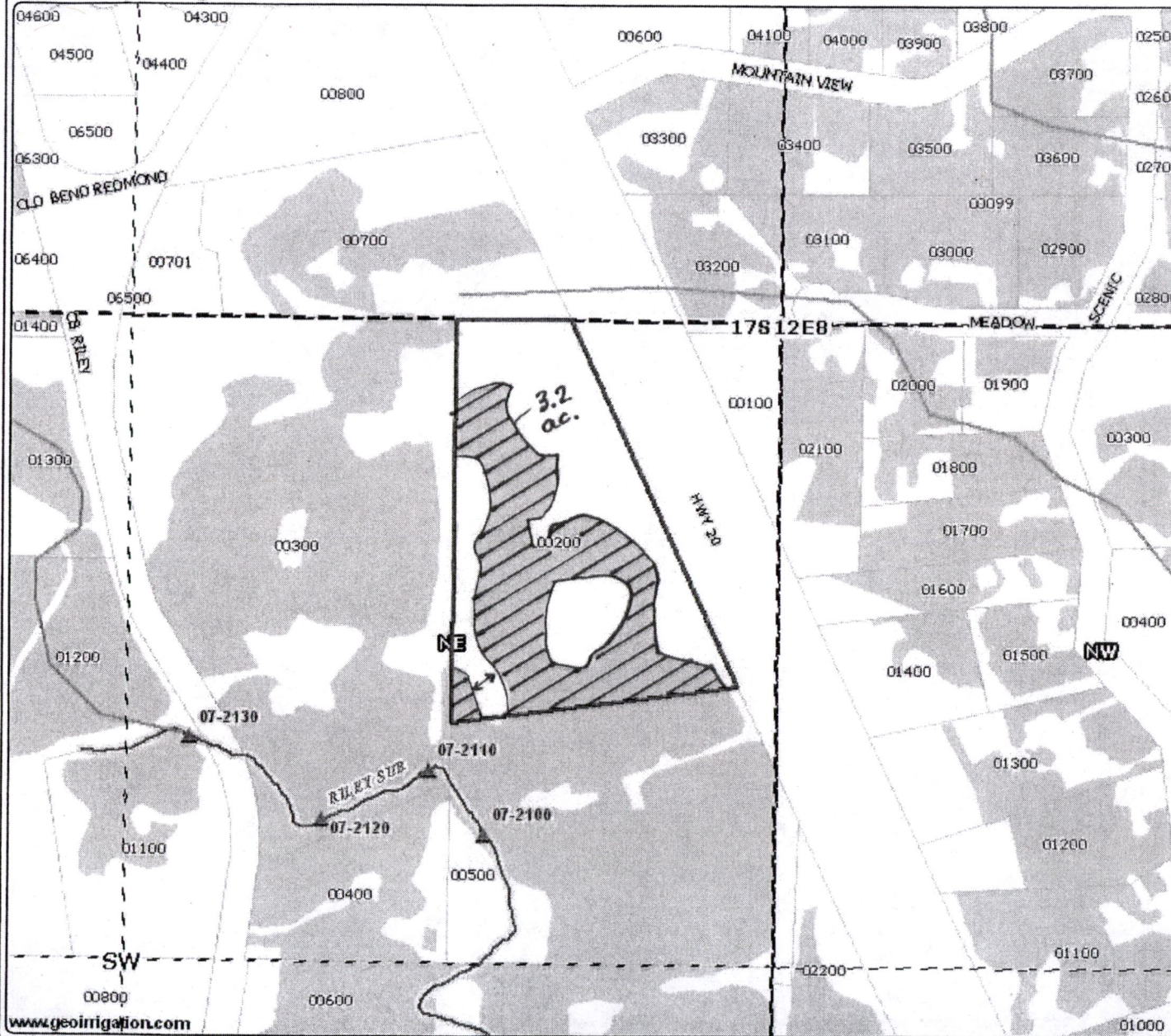
Printed name (and title): Business name, if applicable:
Mailing Address (with state and zip):
Phone number (include area code): **E-mail address:

Received by OWRD

JUN 06 2022

Salem, OR

Swalley Irrigation District



Darwin Keep
171208C000200

- instream
3.2 ac.
- District Boundary
- Road Labels
- Township Range
- Sections
Section Labels
- Quarters
Quarter Labels
- Quarter Quarters
Quarter Quarter Labels
- Lot Labels
- Taxlots
- Gate
- SCADA Sensor
- Lateral Headgate
- Private Line
- Canal All
- Canal Open
- Canal Piped
- Place of Use
- Rivers

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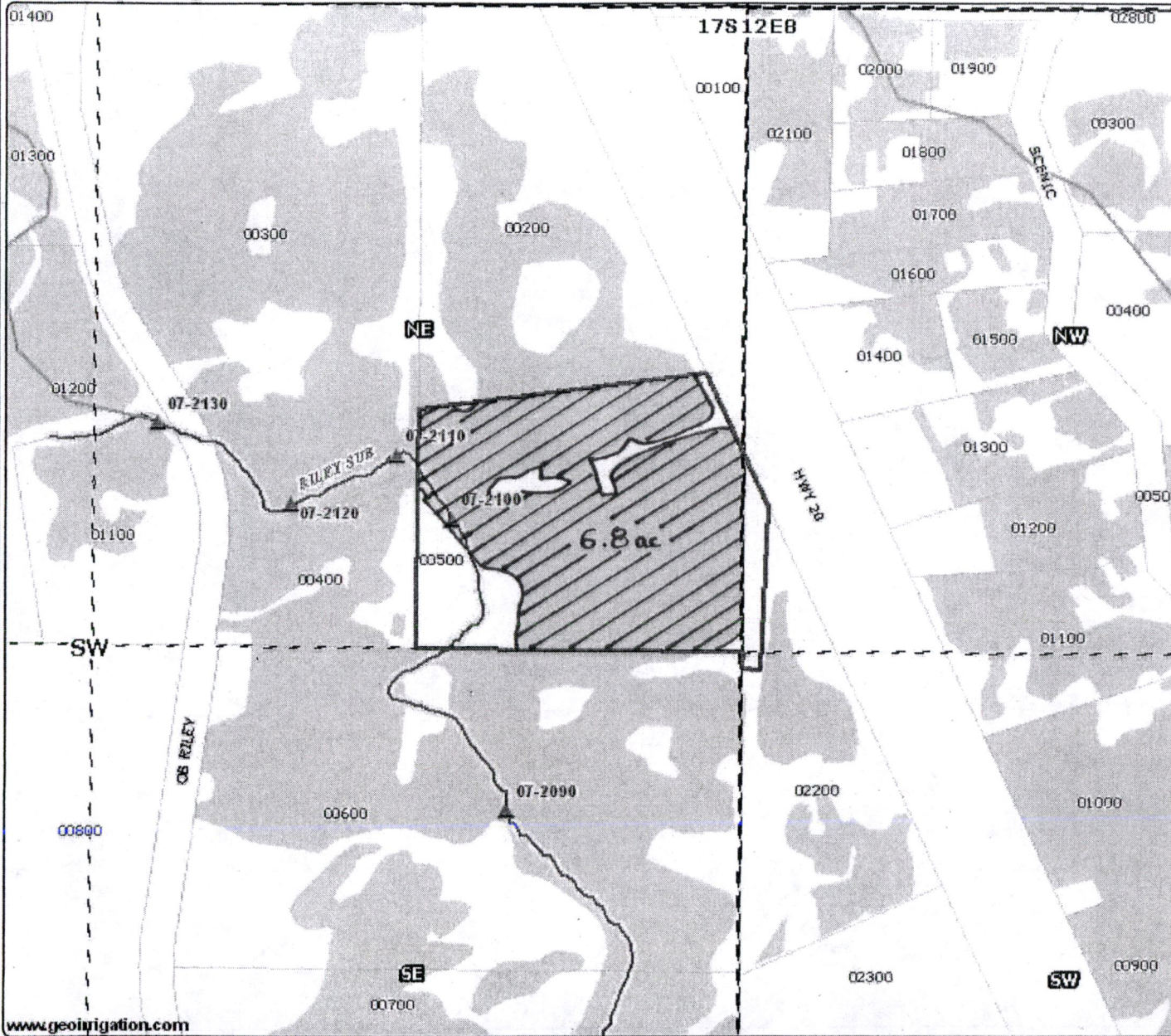
Salem, OR




Scale 1" = 300'
Created: 6/8/2007
















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Swalley Irrigation District



Joyce Keep
171208C000500

 instream 6.8 ac.

-  District Boundary
- Road Labels
-  Township Range
-  Sections
- Section Labels
-  Quarters
- Quarter Labels
-  Quarter Quarters
- Quarter Quarter Labels
- Lot Labels
-  Taxlots
-  Gate
-  SCADA Sensor
-  Lateral Headgate
-  Private Line
-  Canal All
-  Canal Open
-  Canal Piped
-  Place of Use
-  Rivers

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EXHIBIT C

**Deschutes River Conservancy
Instream Leasing Program**

**Policy Concerning Weeds & Instream Leases
Information on Farm Deferral & Lease Payment**

The Deschutes River Conservancy is dedicated to restoring stream flow and improving water quality in the Deschutes Basin; land stewardship is a component of these goals.

Weed Policy

The DRC expects participants in the Leasing Program will continue to exercise agricultural best management practices on lands enrolled in the Program, particularly with respect to the control of noxious and/or nuisance weeds. Failure to control weeds on leased acres may result in exclusion from Program compensation.

Information and Resources Attached

Farm Deferral Notice

Instream leasing is a beneficial use that protects your water right from forfeiture and allows for compensation for this instream use, but please note that it does not automatically protect against loss of farm use special assessment. Exclusive Farm Use (EFU) zoned lands may still require at least minimal use with the intent to make a profit. It is the landowner's responsibility to know their tax assessment status and qualifying uses.

Information and Resources Attached

Donated Leases: Leases of less than 5 acres, leases with public entities, leases submitted after the due date agreed upon by the District and the DRC and posted by the District, and leases with verified weed complaints are not paid a per acre or per acre-foot rate by the DRC.

★ I, Kerry A Duncan understand the DRC weed policy and have
Print Name
been informed about farm deferral and donations.

★ Signature: [Handwritten Signature] Date: 2-15-22

This form must be signed and returned with state lease form.

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REVOCABLE LIVING TRUST AGREEMENT

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DATED: Sept. 7, 2004
BETWEEN: DARWIN G. "Bud" KEEP, as Trustor,
AND: DARWIN G. "Bud" KEEP as Trustees,
AND: KERRY A. DUNCAN, as Successor Trustee.

I, DARWIN G. KEEP, as Trustor, hereby establish a trust with myself as Trustee and KERRY A. DUNCAN as Successor Trustee. The parties agree that the property of this trust shall be held, managed and distributed by my Trustee as hereafter provided. The trust shall be named "The Darwin G. Keep Revocable Living Trust".

ARTICLE I FAMILY

I am married to Darwin G. "Bud" Keep. We have two children now living, Kelly J. Stubblefield and Kerry A. Duncan, both of legal age.

ARTICLE II TRUST PROPERTY

I have transferred and delivered to my Trustee the property described on Schedule A. Such titles and interests as my Trustee has received or may hereafter acquire in that property and such other property as may hereafter be added to the trust shall be vested in my Trustee.

ARTICLE III ADDITIONS TO TRUST

My Trustee shall have the power to receive other property, real or personal, tangible or intangible, including life insurance policies, granted, conveyed, assigned or made payable to my Trustee by me or by any other person or persons, which property, upon acceptance by my Trustee, shall be added to and become a part of the trust estate and shall be subject to this agreement.

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**ARTICLE IV
REVOCATION AND AMENDMENT**

A. Revocation/Withdrawals. I reserve the right by written instrument signed by me as Trustor and filed with my Trustee to revoke this agreement at any time or to withdraw from the trust estate, discharged of the trust, all or any part of the principal and accumulated income of the trust upon satisfying all sums due to my Trustee and indemnifying my Trustee to my Trustee's reasonable satisfaction against liabilities lawfully incurred in the administration of this trust.

B. Administration. I reserve the right to alter or amend this agreement at any time, by written instrument signed by me as Trustor and accepted by my Trustee.

C. Rights Personal to Me. The rights of revocation, withdrawal, alteration and amendment reserved by me must be exercised by me personally and may not be exercised by any other person, including any agent, guardian or conservator, or other person, except that amendment, withdrawal or revocation may be authorized, after notice to the Trustee, by the court that appointed the conservator or by an agent acting under a durable power of attorney that specifically authorizes such action.

**ARTICLE V
DISPOSITION OF INCOME AND PRINCIPAL
DURING MY LIFETIME**

During my lifetime, the trust shall be administered and distributed as follows:

A. Distributions. My Trustee shall distribute to or for my benefit such portions of the income and principal of the trust as I may from time to time request in writing.

B. Incapacity. If I become incapacitated, as hereinafter defined, to the extent that I am unable to manage my business affairs, my Successor Trustee shall distribute income and principal of the trust estate so that I might live in the style to which I have been accustomed.

**ARTICLE VI
DISPOSITION OF INCOME AND PRINCIPAL
AFTER MY DEATH**

After payment of all expenses and fees and other obligations owed by me at the time of death or as a result of my death, and taxes and I owe at the time of my death or reason of my death, the residue of my estate shall go to my Successor Trustee, under the following terms and conditions:

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A. Division of Residuary Estate

1. If my spouse survives me, my Personal Representative shall divide my residuary estate into separate parts as provided in this Article, each of which shall constitute a separate trust. One trust shall be referred to as the Family Trust, which trust might also be known as the family credit shelter trust, and one trust shall be referred to as a Residual Marital Trust.

2. If my spouse does not survive me, all the residual estate shall be distributed to the Marital Trust described below.

B. Family Credit Shelter Gift

1. If my spouse survives me, I give to my Trustee herein named, to hold in a separate trust to be known as the Family Trust, the largest fractional share of the residuary estate that can pass under this Article free of state or federal estate tax on my gross estate (excepting those taxes, if any, which cannot be reduced by the unified credit, marital deduction, or any other credits or deductions). In determining this amount there shall be taken into account:

a. The unified credit, the credit for tax on prior transfers and all other credits available for federal estate tax purposes, including the credit for state death taxes to the extent that the use of any such credit does not result in increasing the death taxes payable to any state;

b. All deductions allowed for estate tax purposes (all transfers by this instrument or otherwise for which a marital deduction would have been allowed but for disclaimer or non-election of a trust established under this Paragraph intended to qualify for election under IRC §2056(b)(7) shall be treated for this purpose as if the deduction had been allowed);

c. All charges against the principal of my estate (including those taxes, if any, which cannot be reduced by the unified credit or the marital deduction) that are not deducted in computing the federal estate tax payable in my estate;

d. Dispositions under other Articles of this instrument and property passing or having passed outside of this instrument which do not qualify for the marital or charitable deduction.

2. I recognize it is possible that no amount may be disposed of by this Family Trust or that any amounts so disposed of may be affected by the action of my Personal Representative in exercising certain tax elections.

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3. In computing the fractional shares under this Article, the values as finally determined for federal estate tax purposes shall control. Except as limited herein, my Personal Representative is authorized, in my Personal Representative's sole discretion, to satisfy this gift in cash or in kind or partly in each. All assets so selected to satisfy the gift shall be valued at their fair market value as determined on the date or dates of distribution.

4. My Trustee shall administer the property for the following purposes:

a. **Income to Spouse.** My Trustee shall distribute all the income from the separate trust to or for the benefit of my spouse during my spouse's lifetime in installments which shall be paid not less frequently than quarter-annually and, if convenient, monthly.

b. **Principal for Spouse.**

1. In addition, my Trustee shall pay to or for the benefit of my spouse such portions of principal as my Trustee shall determine to be necessary for the health (including but not limited to medical, dental, hospital and nursing expenses), education, maintenance and support of my spouse to enable my spouse to maintain the standard of living which my spouse maintained in my lifetime.

2. To the extent practicable, I recommend that no payments of principal shall be made to or on behalf of my spouse from this trust until my spouse's other assets have been consumed, but since the assets of the two funds will be affected by changing conditions, the decision as to the source of any such payment shall rest in the sole discretion of my Trustee.

c. Upon the death of my spouse any remaining principal and accumulated income shall be distributed in accordance with the provisions of the Marital Trust as described below.

C. Residuary Marital Trust.

1. I give to my Successor Trustee herein named to be held in a separate trust known as the Residuary Marital Trust, all the residue of my estate.

2. My Trustee shall administer the property in the following ways:

a. If my spouse shall have survived me, then my Trustee shall distribute my estate to the trustee of the Darwin G. "Bud" Keep Living Trust, or to my spouse directly. My spouse shall make such designation in writing to my Successor

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Trustee within 60 days of my death.

b. If my spouse should fail to survive me, then my Trustee shall distribute my estate to my two children, share and share alike. If either of my children shall have predeceased me then her share shall be distributed to her descendants by right of representation.

c. A fund established for the descendants of a deceased child shall be distributed forthwith to the surviving descendants of such deceased child by right of representation, provided however that if the descendant shall be under the age of 25 his or her share shall be retained by the trustee until such descendant shall have attained the age of 25. In the interval, the trustee shall pay to or on behalf of such beneficiary such amounts of income or principle of his or her share as a trustee in its sole discretion may deem necessary or desirable for the beneficiary's health, education, maintenance and support. If any such descendant shall die prior to receiving distribution of his or her share the remainder of the share held for the descendant shall be paid to the personal representative of his or her estate to be distributed as part thereof.

ARTICLE VII CONTINGENT BENEFICIARIES

If in any circumstances not provided for in this will there is any portion of my estate or of a trust for which there is no named or described beneficiary, the portion shall be distributed as follows:

A. One-half (½) to those persons then living who would be entitled to receive my estate as provided by the intestate laws of the State of Oregon then in effect.

B. One-half (½) to those persons then living who would be entitled to receive my spouse's estate as provided by the intestate laws of the State of Oregon then in effect.

C. To the extent that a person has disclaimed an interest in property under this instrument, the foregoing provisions shall not apply.

ARTICLE VIII FIDUCIARY POWERS

My Personal Representative and Trustee (fiduciary) are empowered to do all things appropriate for the orderly administration of the estate (the term "estate" shall include trust where appropriate) subject to the fiduciary's power and control, unless otherwise specifically

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provided herein. Without limiting this general power, and without limitation of other powers hereby granted or otherwise possessed by the fiduciary, including those specified in the Uniform Trustees' Powers Act in effect in Oregon as it may be amended from time to time, the fiduciary shall have the following powers and discretion which the fiduciary shall exercise in such manner and upon such terms and conditions as the fiduciary shall deem necessary, desirable or -convenient:

A. **Retention of Property.** To retain any property for such period as the fiduciary may deem desirable, whether or not such property is productive of any income and independent of any requirement of diversification.

B. **Additions.** To receive additions to the assets of the estate from any source.

C. **Business Participation.** To terminate or to continue or participate in the operation of any business enterprise, including a corporation, a sole proprietorship or a general or limited partnership, and to effect any form of incorporation, dissolution, liquidation, reorganization (including but not limited to recapitalization and reallocation of classes of shares) or other change in the form of the business enterprise, or to lend money or make a capital contribution to any such business enterprise.

D. **Permissible Investments.** To invest and reinvest the assets of the estate or trust as the fiduciary may determine to be in the best interests of the estate or trust, without limitation by any law applicable to investments by fiduciaries. The permitted investments and reinvestments may include securities, such as common or preferred stock, mortgages, notes, subordinated debentures and warrants of any corporation, and any common trust fund administered by a corporate fiduciary, or other property, real or personal, including savings accounts and deposits and interests in mutual or money market funds or investment trusts, annuities and insurance, whether or not such investments are unsecured or of a wasting nature.

A corporate fiduciary may invest in affiliated mutual funds and investment trusts. An affiliated mutual fund or investment trust means one to which the fiduciary and/or its subsidiaries or affiliates provide advisory, custodial, administrative, shareholder servicing and/or other services. The corporate fiduciary shall provide, at least annually, information as to the total fees and compensation received by the fiduciary, its subsidiaries and its affiliates, from (i) any affiliated mutual fund or investment trust in which assets of the trust or estate were invested during the reporting period; and (ii) the sponsor or any affiliate of such affiliated mutual fund or investment trust. However, the corporate fiduciary shall have no obligation to provide information as to the trust or estate's pro rata share of such fees and compensation received.

The fiduciary shall consider individual investments as part of an overall investment strategy and shall take into account general economic conditions. The fiduciary shall

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give due consideration to the role that the proposed investment or investment course of action plays within the overall portfolio of assets. In applying this approach, the fiduciary shall exercise the judgment and care in the circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds. Any determination of the liability of the fiduciary for the performance of its investments shall be based primarily on the performance of the portfolio as a whole.

E. **Dealing with Property.** To acquire, grant or dispose of property, including puts, calls and options (including options on stock owned by the estate), for cash or on credit, including maintaining margin accounts with brokers, at public or private sale, upon such terms and conditions as the fiduciary may deem advisable; and to manage, develop, improve, exchange, partition, change the character of, abandon property or any interest therein, or otherwise deal with property.

F. **Borrowing Authority.** To borrow funds from any person, including the fiduciary, guarantee indebtedness, or indemnify others in the name of the estate or the trust and to secure any such obligation by mortgage, pledge, security interest or other encumbrance, and to renew, extend or modify any such obligation for a term within or extending beyond the administration of the estate or the term of the trust. No lender shall be bound to see to or be liable for the application of the proceeds of any obligation, and no fiduciary shall be personally liable for any obligation.

G. **Leasing Authority.** To make, renew, or amend for any purpose a lease as lessor or lessee for a term within or beyond the term of the estate or trust with or without option to purchase.

H. **Natural Resources.** To enter into any arrangement or agreement, including a lease, pooling or unitization agreement, for exploration, development, operation, conservation and removal of minerals or other natural resources.

I. **Voting Rights.** To vote a security in person or by general or limited proxy, to participate in or consent to any voting trust, reorganization, dissolution, liquidation, or other action affecting any securities, and to deposit securities with and transfer title to a protective or other committee.

J. **Title to Assets.** To hold securities and other property in negotiable form or in the name of a nominee (including "street name" of a broker) or by deposit to a clearing corporation, with or without disclosure of the fiduciary relationship, but the fiduciary shall be responsible for the acts of any nominee or clearing corporation in connection with the property.

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K. **Insurance.** To insure the assets of the estate or the trust against any risk and the fiduciary against liability with respect to third persons.

L. **Settlement of Disputes.** To pay or contest any debt or claim and to compromise, release and adjust any debt or claim and to submit any matter to arbitration.

M. **Payment of Expenses.** To pay any taxes, assessments, reasonable compensation of the fiduciary and other expenses incurred in the collection, management, care, protection and conservation of the estate.

N. **Principal and Income.** To allocate items of income or expenditure to either income or principal and to create reserves out of the income, all as provided by law, and to the extent not so provided to allocate or create reserves as the fiduciary in its discretion deems appropriate, and the fiduciary's decision made in good faith with respect thereto shall be binding and conclusive on all persons.

O. **Distributions to Minors and Others.** To pay any sum or distribute any property to a beneficiary who is a minor, incompetent, under legal disability, or a person whom the fiduciary deems to be unable wisely or properly to handle property if paid to him or her directly in any one or more of the following ways, without liability to the fiduciary:

1. Directly to the beneficiary.
2. To the natural guardian, legal guardian, conservator, custodian under the appropriate Uniform Transfers to Minors Act or any other fiduciary for the beneficiary.
3. By making expenditures directly for the health, care, support, maintenance or education of the beneficiary.

P. **Division of Estate.** To make any distribution or payment in kind or in cash or partly in kind and partly in cash and to cause any share to be composed of cash, property, or undivided interests in property different in kind from any other share, either pro rata or non pro rata, without regard to differences in the tax basis of such property and without the requirement of making any adjustment of the shares by reason of any action taken pursuant hereto.

Any division, allocation, apportionment or valuation of the property to distribute the assets to or among any of the trusts or beneficiaries shall be made by the fiduciary, and the good faith determination of the fiduciary shall be binding and conclusive on all parties.

Q. **Litigation.** To prosecute or defend actions, suits, claims or proceedings for the protection or benefit of the estate and the fiduciary in the performance of the fiduciary's duties.

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R. **Employment of Agents.** To employ agents, including attorneys, accountants, investment advisors, custodians, appraisers or others, to advise or assist the fiduciary and to delegate to them fiduciary powers and to indemnify them against liability for positions taken in good faith and with reasonable basis.

S. **Transactions with Related Entities.**

1. To employ any subsidiary or affiliate of the fiduciary as may be engaged in investment advisory or investment management services, to advise and to assist the fiduciary in investment matters or to perform the function of investment and portfolio manager with respect to all or portions of the trust estate selected by the fiduciary. The entity so employed by the fiduciary shall perform such ministerial, discretionary, fiduciary and advisory functions as the fiduciary may delegate to it, and the fiduciary shall have unrestricted authority to delegate those functions, notwithstanding any self-dealing consideration which may be inherent in the relationship of the fiduciary and the entity employed.

2. To employ any subsidiary or affiliate of fiduciary as may be a registered broker, to provide brokerage services for the trust, notwithstanding any self-dealing considerations which may be inherent in the relationship of the fiduciary and the entity employed.

3. To pay from income or principal of the trust estate the reasonable charges and expenses of any subsidiary or affiliate of the subsidiary for services provided under subsection 1 and 2 above. A fee paid to such entity shall not be deemed to be unreasonable solely because it is higher than the fees charged by non-affiliated persons or entities offering similar services.

4. To invest in stock or obligation of, or property acquired from, organizations in which the fiduciary or its directors, officer or employees hold an interest within the meaning of ORS 709.175(1)(c) other than organizations that are affiliates of the fiduciary within the meaning of ORS 709.175(3).

T: **Corporate Fiduciary.** If any stock of a corporate fiduciary or of any affiliate or successor of a corporate fiduciary shall be included in the assets of the trust estate, the fiduciary shall have full authority in the fiduciary's sole discretion and notwithstanding any regulation or rule of law to the contrary to retain the stock and any increases resulting from stock dividends and stock splits and from the exercise of purchase rights and the purchase of fractional shares needed to round out fractional share holdings that may arise concerning the stock. The fiduciary shall vote the stock either directly or by proxy, except to the extent the fiduciary is prohibited by law from voting the stock, in accordance with the written instructions of the eldest living beneficiary then entitled to current distributions of income and not under legal disability. In the

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event there is no eligible beneficiary to give instructions, the fiduciary is authorized to vote the stock in the best interests of the beneficiary(s), in view of the purposes for which the trust was created.

U. **Investment Transactions.** With regard to record keeping for investment transactions, the fiduciary need not provide copies of confirmations or similar notifications each time a trade or investment transaction occurs, but investment transactions shall be set forth in the fiduciary's periodic accounting.

V. **Repairs and Improvements.** To make ordinary or extraordinary repairs or alterations in buildings or other structures, to demolish any improvements, to raze existing or erect new party walls or buildings.

W. **Business Personnel.** To elect or employ directors, officers, employees, partners or agents of any business and to compensate such persons, whether or not any such person is a fiduciary, director, officer, partner or agent of a fiduciary, or a beneficiary of the trust.

X. **Farm or Ranch Property.** With respect to farm or ranch property, to participate in and operate any farming (including tree farming) or ranch operation personally, or with hired labor, tenants or sharecroppers; to lease any farm for cash or a share of crops under a lease which permits or precludes the material participation of the fiduciary; to fertilize and improve the soil, to employ conservation practices, and to participate in government programs; and to perform any other acts deemed necessary or desirable to operate the property. In making a decision whether to materially participate in farming or ranch operations, the fiduciary shall consider whether an election should be made or has been made under IRC § 2032A to qualify for special farm-use valuation.

Y. **Ancillary Fiduciaries.** If, for any reason, the fiduciary deems it advantageous to act through an ancillary fiduciary, the fiduciary may designate an ancillary personal representative or trustee, qualified to serve in the jurisdiction where such ancillary fiduciary is to act, and may delegate to such ancillary fiduciary such of the powers granted in this instrument as the fiduciary deems advisable, without being chargeable with loss, if any, arising out of such designation or delegation. The fiduciary may specify whether any corporate fiduciary or any person or persons acting in an ancillary capacity hereunder shall serve with or without bond. Except as may be otherwise specifically provided, no ancillary fiduciary need comply with the provisions of any Uniform Trustee's Accounting Act, the Uniform Trust Act, or similar acts in force in any state where the fiduciary may be acting.

Z. **Retention of Closely Held Interest.** To retain any real estate interests, closely held securities or affiliated companies, or business interests, and to sell or dispose of such interests only after careful consideration and after determining that sale or disposition is, in the

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existing circumstances in the best interests of the estate or its beneficiaries.

AA. Power Subject to Approval. The powers of sale or other disposition and investment and reinvestment herein granted to the fiduciary are subject to the condition that the fiduciary shall make no such sale, disposition, investment or reinvestment of trust assets without first obtaining the approval of my spouse if alive and competent to manage business affairs. If the fiduciary proposes to take any action which under the terms hereof must be referred to my spouse, it shall give notice to my spouse by United States mail addressed to my spouse's last known address and if my spouse does not within fifteen (15) days after the mailing of such notice express disapproval of the proposed action, my spouse shall be deemed to have approved such action. The right to approve and disapprove may be waived by a written instrument deposited with the fiduciary and such waiver shall remain in effect until revoked by a similar written instrument deposited with the fiduciary. The right to approve and disapprove shall no longer be effective upon my spouse's death or incapacity to the extent that my spouse is unable to manage business affairs.

BB. Power to Direct Investments. I retain the right to direct the fiduciary in writing to purchase property of any kind for the trust or to retain, sell, exchange, pledge, mortgage, or otherwise deal with or dispose of any part of the trust estate, and the fiduciary shall comply with any such direction without liability for the result thereof. The details of all directed purchases, sales and other investment transactions shall be reported to me in the fiduciary's periodic statements of account. I acknowledge my right to receive a copy of the confirmation or similar notification each time a trade or investment transaction occurs and hereby waive that right.

CC. Exercise of Authority. Except as otherwise provided herein, to do all acts that might legally be done by an individual in absolute ownership and control of property.

DD. Consolidation of Trusts. To consolidate any trust established by this instrument with any other inter vivos or testamentary trust created by me or by my spouse, if the trustees of the trusts after the date of consolidation are the same and if the provisions of the trusts for the distribution of income and principal after the date of consolidation are the same, the beneficiaries are the same, and the administrative provisions of the trusts are substantially the same.

ARTICLE IX TRUSTEE PROVISIONS

A. Resignation of Trustee. A Trustee may resign at any time without court approval by giving written notice to the Co-Trustee, or if there is no Co-Trustee, to me as Trustor, to my legally appointed conservator or, if I am then deceased, to the personal representative of my estate. In the event the individual Trustee shall be unable or unwilling to act for any reason, the Corporate Trustee shall remain as the sole Trustee.

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B. Appointment of Successor. If Kerry A. Duncan should resign or be unable to act as Successor Trustee, then I appoint Kelly J. Stubblefield as Successor Trustee. If Kelly J. Stubblefield should resign or be unable to act as Successor Trustee, I appoint Wells Fargo Bank, NA as Successor Trustee. If there shall be no Trustee of the trust, I, or if I am deceased, the personal representative of my estate, may appoint a successor Trustee.

C. Responsibility of Successor Trustee. A successor Trustee shall have the same rights, titles, powers, duties, discretions, and immunities and otherwise be in the same position as if the successor Trustee had been originally named as Trustee hereunder. No successor Trustee shall be personally liable for any act or failure to act of any predecessor Trustee or shall have any duty to examine the records of any predecessor Trustee. A successor Trustee may accept the account rendered and the property delivered to the successor Trustee by or on behalf of the predecessor Trustee as a full and complete discharge of the predecessor Trustee without incurring any liability or responsibility for so doing.

D. Compensation for Trustee. My Trustee shall be entitled to reasonable compensation for its services as Trustee. Compensation for the corporate Trustee shall be determined by reference to the fee schedule used by the corporate Trustee at the time such compensation is payable. If my Trustee invests some or all of the assets of the trust in mutual funds or investment trusts, the compensation paid to my Trustee as described above shall not be deemed unreasonable (i) solely because the custodians, managers, and/or administrators of such mutual funds and investment trusts may charge fees for their services directly against the assets of the mutual funds and/or investment trusts, and/or (ii) in the case of affiliated mutual funds and investment trusts, as defined in Article VIII above, solely because one or more of my Trustees or any subsidiary and/or affiliate of any Trustee may receive fees from such mutual funds or investment trusts or affiliates thereof for investment advisory, custodial and/or other services.

E. Incompetency. The term "incompetent" as used in this Trust Agreement describes any minor child or any adult whose ability to receive and evaluate information effectively or to communicate decisions, or both, is impaired to such an extent that the person lacks the capacity to manage such person's financial resources, as determined by the written opinion of two licensed physicians, or someone who cannot take any needed actions due to involuntary detention or disappearance, as determined by the affidavit of at least two people with knowledge regarding the same. The Trustee shall have no liability to anyone for acting in good faith upon such written opinion or affidavit. If any person is determined to be incompetent, then that person shall be deemed unable or unwilling to serve as Trustee.

F. Merger of Corporate Fiduciary. If the Corporate Trustee is merged or voluntarily liquidated into or consolidated with another bank or entity, the successor shall possess the same rights and powers herein granted to corporate Trustee provided that the successor possesses the requisite fiduciary powers.

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G. Powers and Duties of Corporate Fiduciary. The Corporate Trustee shall have the care and custody of the assets of the trust and shall be responsible for their safekeeping, and shall also have the responsibility for administrative duties such as keeping the books and records of the trust, preparing tax returns, submitting periodic financial statements of the trust to the individual Co-Trustee and any beneficiary entitled thereto, accepting payment of income and principal due and payable to the trust estate and endorsing checks for such sums, and disbursing funds payable from the trust without the necessity of the individual Co-Trustee signing or counter-signing checks and vouchers therefore, provided that without the prior approval and authorization of the individual Co-Trustee no disbursements of trust funds shall be made by the corporate Trustee other than routine disbursements for regularly recurring distributions to the beneficiaries as herein provided, other obligations of the trust not subject to the discretionary control of the Trustee such as taxes and renewal premiums for insurance, and the discretionary investment of funds within the trust as provided in Article VIII, above.

H. Environmental Warranty and Indemnification. Trustor represents and warrants that trustor has no knowledge of any hazardous or toxic wastes or substances (as such terms are defined by any applicable federal, state or local governmental law, rule, ordinance or regulation) that have been disposed of or otherwise released on, in or under any real property now or hereafter conveyed in trust under this agreement, as amended or restated. This representation and warranty is a continuing representation and warranty and shall apply to all real property at any time made a part of the trust estate under this trust agreement. However, part of the trustor's assets is stock in Nordby and Raper, Inc., which owns facilities used for wholesale and retail gasoline distribution. All of those facilities have been brought into compliance with current Federal and Oregon Department of Environmental Quality requirements. Any required clean-up has been accomplished and "no further action" letter have been issued.

Trustor agrees to indemnify and hold harmless trustee from and against any and all liability, loss, damage or expenses which may be imposed upon, incurred by, or asserted against trustee in any way relating to or arising from the presence of any such hazardous or toxic wastes or substances at the time the property is transferred to trustee and continuing until such time as trustor no longer has any right, title or interest in such real property.

I. Environmental Authority. To apply the following provision relative to environmental authority notwithstanding anything in this agreement or applicable law to the contrary:

1. Trustee may in its absolute discretion periodically monitor or inspect any real or personal property held in trust, either directly or through any employee, agent or consultant, for the purpose of ensuring compliance with any and all federal or state environmental or other laws affecting such property or determining the presence of any substances considered to be hazardous or toxic wastes under such laws.

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Part 4 of 4 – Water Right and Instream Use Information

Use a separate Part 4 for each water right to be leased instream

Table 2

Use Table 2 to illustrate the totals for the water right proposed to be leased instream (based on Part 3 of 4) Water Right # 74145

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 rows (see instructions) or create a spreadsheet (matching Table 2 and clearly labeled) and attach.
(cfs = cubic feet per second and af = acre-feet)

Priority Date	POD #	Use	Acres	Other Information (such as conditions/limitations on the right)	Rate (cfs)	Volume (af)
9/1/1899	3	IR	46.85	Season 1	0.353	
				Season 2	0.473	Total
				Season 3 rate and volume for April - October	0.888	304.42

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

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

Table 3

Instream Use created by the lease	River Basin: <u>Deschutes</u>	River/Stream Name: <u>Deschutes River</u> , tributary to <u>Columbia River</u>				
Proposed Instream Reach: <input checked="" type="checkbox"/> A reach typically begins at the POD and ends at the mouth of the source stream: From the POD <u>SID #3</u> to the <u>Mouth of the Deschutes</u>	Or Proposed Instream Point: <input type="checkbox"/> Instream use protected at the POD					
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 water right, the lease may be processed to be protected at the POD.)						
Instream Portion: May not exceed the maximum rate/volume for the right (identified in Table 2) Use the table 3 to illustrate the instream rate, volume and instream period by priority date, POD, Use and acreage, as appropriate. If not enough room below, you may add rows (see instructions) or create a spreadsheet (clearly labeled and matching the below portion of Table 3) and attach.						
Priority date	POD #	Use	Acres	Proposed Instream Period	Instream Rate (cfs)	Total instream volume (af)
8/1/1899	3	IRR	46.85	Season 1	0.322	
				Season 2	0.431	
				Season 3	0.798	Total
				Instream from April 1 through October 25		255.47
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.						
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A Conditions to avoid enlargement or injury to other water rights, if any, or other limitations: list here <u>Instream from 4/1-10/26</u> Note: The Department may identify additional conditions to prevent injury and/or enlargement.						
Any additional information about the proposed instream use: _____						

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This table will calculate flow rate factors and duty for Swalley Irrigation District
Instream Leases & Transfers

Canal Diversion - Enter Total Number of Acres to be Leased Instream Here	46.850		
Direct Diversion - Enter Total Number of Acres to be Leased Instream Here	0.000		
Starting Point - Direct Diversion total acres	117.950		
Starting Point - Canal Diversion total acres	4192.620		
Starting Point	Full Right	Direct Diversion only	Canal Diversion only
	Starting Point - Rate*	Starting Point - Rate	Starting Point - Rate
Season 1	32.419	0.810	31.609
Season 2	43.373	1.084	42.289
Season 3	81.472	2.010	79.462
Duty	27886.510	644.078	27,242.43

*Approximate starting point

Information highlighted with purple font is to be entered on to the Instream Lease Application Form

For Primary Water Right - Certificate 74145

For Canal Diversion Only

Rate (CFS) associated with leased rights for Section 1.5 of the Lease Application Form		Rate and duty identified in this section includes the 43% transmission loss allowed by decree	
	Full Rate	Duty (AF) associated with leased right for Section 1.5 of the Lease Application Form	
Season 1*	0.353	Duty AF/Acre* = 6.50	
Season 2*	0.473	304.42	
Season 3*	0.888		

* Note - The rates and duty identified have been proportion to prevent enlargement of the right and to reflect the amount at which the diversion should be reduced. (for example, S3 = starting canal rate divided by 4441.785 canal acres)

Rates and volumes identified in this section do not include the 43% transmission loss		Volume (AF) leased instream for Section 2.2 of the Lease Application Form	
Rate (CFS) leased instream for Section 2.2 of the Lease Application Form		Duty (decree) AF/Acre =	5.46
	Full Rate	Total =	255.83
Season 1	0.322	# of Days in each Season	AF/ Season
Season 2	0.431	61	38.96
Season 3	0.798	30	25.65
		123	194.69
			259.30

Additional Conditions to Prevent Injury for Section 2.2 of the Lease Application Form

	# days	AF/Season	
Season 1*	55	35.13	
Season 2	30	25.65	
Season 3	123	194.69	
Season total =	208	255.47	Does not exceed duty
Water protected instream:		April 1 through October 25	

* Note - The number of days that water may be protected instream in Season 1 has been reduced on revent enlargement of the right. The instream rates identified in this section are based upon the face value of the water right minus 43%.

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