

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

Application for Instream Lease

Part 1 of 4 – Minimum Requirements Checklist

Complete Part 1 through 4 and include the required attachments Fill in or check boxes as indicated. (N/A= Not Applicable)	OWRD # <u>IL-1933</u>
	Fee- _____

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

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

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

Fees	<input type="checkbox"/> \$520.00 for a lease involving four or more landowners or four or more water rights	<input type="checkbox"/> \$350.00 for all other leases
	<input checked="" type="checkbox"/> Check enclosed or <u>\$410.00</u> <input type="checkbox"/> Fee Charged to customer account _____ (account name)	

RECEIVED

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

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

JUN 13 2022

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

Yes **How many water rights are leased?** 1 **List them here:** 79824
 Include a separate **Part 3** for each **water right**.

OWRD

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

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

Attachments:

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

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

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

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

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

Part 2 of 4 – Instream Lease Application Map Checklist

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

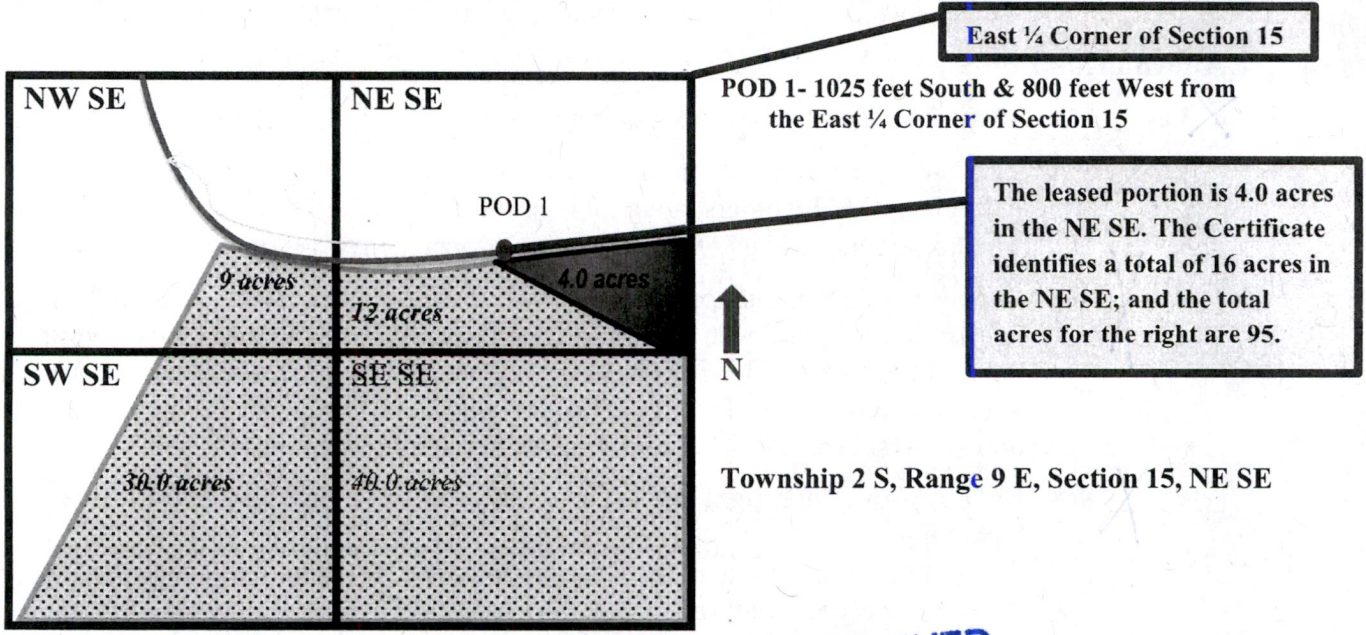
The application map (if required) should include all the items listed below and match the existing water right(s) of record. Check all boxes that apply.

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

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

RECEIVED
JUN 13 2022
OWRD

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



RECEIVED
JUN 13 2022
OWRD

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 # 115

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: 35.45

Table 2

To illustrate the totals for the water right proposed to be leased instream						
Priority Date	POD #	Use	Total Acres	Other Information (such as conditions/limitations on the right)	Total Rate (cfs)	Total Volume (af)
4-8-1927	1100 POD via 7-2493	IR	35.45		0.44	

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

Any additional information about the right: _____

RECEIVED
JUN 13 2022

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")
		-		-		<u>see cert</u>
		-		-		

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>S. Myrtle</u> , tributary to <u>Myrtle</u>				River Basin: <u>Uapigua</u>		
<p>Instream Portion: Use Table 4 to illustrate the instream rate, volume and instream period by priority date, POD (if more than one), Use (if more than one), and acreage as appropriate considering the right to be leased.</p> <p>If not enough room below, you may add additional rows (see instructions) or attach a spreadsheet (matching the below portion of Table 4). Please clearly label any attachments.</p>						
Priority date	POD #	Use	Acres	Proposed Instream Period	Total instream rate (cfs)	Total instream volume (af)
<p>Note: If not certain of the instream rate, volume and/or instream period, see the instructions and/or contact Department Staff for assistance. The instream rate and volume may be up to the maximum rate and duty/volume allowed by the right, as described in Table 2 or on your Certificate if leasing the entire right. The proposed instream period may be no longer than the irrigation season or the authorized period of allowed use.</p>						
<p>OR <input 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>Proposed Instream Reach:</p> <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>				<p>Or Proposed Instream Point:</p> <p><input type="checkbox"/> Instream use protected at the POD</p>		
<p>OR <input checked="" type="checkbox"/> Please check this box if you are not sure of the proposed reach and want water to be protected within a reach below the POD, if possible. (If no reach is identified or the above box is not checked, and there is only one POD listed on the certificate, the lease may be processed to be protected at the POD.)</p>						
Additional Instream Information						
<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A Conditions to avoid enlargement or injury to other water rights, if any, or other limitations: list here _____</p> <p>Note: The Department may identify additional conditions to prevent injury and/or enlargement.</p>						
<p>Any additional information about the proposed instream use: _____</p>						

RECEIVED

JUN 13 2022

OWRD

Part 4 of 4 – Lease Provisions and Party Signatures

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

The lease is requested to begin in: month 3/1 year 2022 and end: month 10/31 year 2026

Note: The begin month is generally the first month of the irrigation season and the end month is the last month in the irrigation season. If not an irrigation right, this would be the first and last month of your authorized period of allowed use.

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

- Conservation, maintenance and enhancement of aquatic, fish and wildlife, fish and wildlife habitat and any other ecological values.
- Recreation
- Pollution abatement
- Navigation

Termination provision (for multiyear leases):

The parties to the lease request (choose one):

- a. The option of terminating the lease prior to expiration of the full term with written notice to the Department by the Lessor(s) and/or Lessee.
- b. The option of terminating the lease prior to expiration of the full term, with consent by all parties to the lease.
- c. The parties would not like to include a Termination Provision.

(See instructions for limitations to this provision)

Additive/Replacing Relationship to other instream water rights: Instream leases are generally additive to other existing instream water rights created as a result of instream leases, transfers and/or allocations of conserved water. Since instream leases are also generally senior to other instream rights created through a state agency process or conversion of minimum flows, they generally replace a portion of these junior instream rights.

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

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

- The water right(s) to be leased have been used under the terms and conditions of the right(s) during the last five years or have been leased instream; or
- The water right(s) have not been used for the last five years according to the terms and conditions of the right(s). However, the water right(s) is not subject to forfeiture under ORS 540.610(2). Documentation describing why the water right(s) is not subject to forfeiture is provided.

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:

- 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
- 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
- All parties affirm that information provided in this lease application is true and accurate.

John C. Finell
Signature of Lessor

Date: 6-8-22

Printed name (and title): _____ Business name, if applicable: John C. Finell

Mailing Address (with state and zip): _____

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

RECEIVED

JUN 13 2022

541-863-5029

See next page for additional signatures.

[Handwritten Signature]

Signature of Co-Lessor

Date: 6-8-22

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

JAMES V. FINER

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.**

RECEIVED
JUN 13 2022
OWRD

RECEIVED
JUN 13 2022



00096556200500007630020021

01/11/2005 03:42:38 PM

DEED-BS Cnt=1 Stn=1 RECEIPTCOUNTER
\$10.00 \$11.00 \$5.00

UNTIL A CHANGE IS REQUESTED
ALL TAX STATEMENTS SHALL BE
SENT TO THE FOLLOWING ADDRESS

Finell Ranch LLC
P.O. Box 632
Myrtle Creek, OR 97457

AFTER RECORDING RETURN TO:

Nilsen, Johnson & McKinney, PC
435 SE Kane Street / P.O. Box 1265
Roseburg, OR 97470

CONSIDERATION: Formation of The Finell Ranch, LLC

GRANTORS:

Charles V. Finell, Trustee of the Finell Family Trust,
UAD May 24, 1988 Survivor's Sub-Trust &
John Finell
402 W Carmel Valley Road
Carmel Valley, CA 93924

GRANTEE:

Finell Ranch LLC
P.O. Box 632
Myrtle Creek, OR 97457

RECEIVED

JUN 13 2022

OWRD

BARGAIN AND SALE DEED

KNOW ALL MEN BY THESE PRESENTS, That **Charles V. Finell, Trustee of the Finell Family Trust, UAD May 24, 1988 Survivor's Sub-Trust, and JOHN C. FINELL,** hereinafter called the Grantors, convey to **Finell Ranch LLC, an Oregon Limited Liability Company,** hereinafter called the Grantee, the following described real property:

Parcel 1:

All that real property in the State of Oregon, Douglas County, Oregon described as follows: Beginning at an iron pipe at the quarter Section corner between Sections 18 and 19, Township 29 South, Range 3 West, Willamette Meridian, Douglas County, Oregon; thence along the North line of said Section 19, South 87°57' East 1285.44 feet to an iron pipe; thence South 1°36' West 5278.22 feet to an iron pipe on the South line of said Section 19; thence along the South line of said Section 19, North 88°18' West 1287.14 feet to the quarter Section corner between Sections 19 and 30; thence along the midsection line North 1°37' East 1243.71 feet to an iron pipe on the south line of Daniel Craig Donation Land Claim No. 37; thence along the South line of said Donation Land Claim No. 37, South 89°10' East 247.11 feet to an iron pipe at the Southwest corner of the East half of said Donation Land Claim No. 37; thence along the line between the East half and the West half of said Donation Land Claim No. 37, North 1°39' East 1812.35 feet to an iron pipe at the Northwest corner of the East half of said Donation Land Claim No. 37; thence along the North line of said Donation Land Claim No. 37 South 89°57' West 248.29 feet to an iron pipe at the intersection of the North line of said Donation Land Claim No. 37 with the North and South midsection line of said Section 19; thence along said midsection line North 1°37' East 2227.8 feet to the quarter Section corner between Sections 18 and 19, Township 29 South, Range 3 West, Willamette Meridian, the place of beginning.

Excepting therefrom that portion lying within South Myrtle County Road No. 18.

Parcel 2:

All that part of the following described parcel which is situated North of the South Myrtle Douglas County Road, to-wit: Beginning at an iron pipe at the corner of Sections 17, 18, 19 and 20, Township 29 South, Range 3 West, Willamette Meridian, Douglas County, Oregon; thence along the line between Sections 19 and 20, same township and range, South 1°19'

1. BARGAIN AND SALE DEED
The Finell Family Trust/Finell - Finell Ranch LLC

WOM 12

STATE OF OREGON

RECEIVED

COUNTY OF DOUGLAS

JUN 13 2022

CERTIFICATE OF WATER RIGHT

OWRD

THIS CERTIFICATE ISSUED TO

HOWARD KEVIN WHITE
KAREN L. SMITHSON-WHITE
FRANCES WARD WHITE
95 LAIDLEY STREET
SAN FRANCISCO, CALIFORNIA 94131

confirms the right to use the waters of SOUTH MYRTLE CREEK, a tributary of SOUTH UMPQUA RIVER, for IRRIGATION OF 35.45 ACRES.

This right was perfected under Permit 8310. The date of priority is APRIL 5, 1927. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.44 CUBIC FOOT PER SECOND (IF AVAILABLE AT THE ORIGINAL POINT OF DIVERSION DESCRIBED AS LOCATED: SE 1/4 NE 1/4, SECTION 20, TOWNSHIP 29 SOUTH, RANGE 3 WEST, W.M.; NORTH 15 DEGREES WEST 760 FEET FROM THE SE CORNER OF THE SE 1/4 NE 1/4 OF SECTION 20), or its equivalent in case of rotation, measured at the point of diversion from the source.

The points of diversions are located as follows:

LOT 5 (SE 1/4 SE 1/4), SECTION 19, TOWNSHIP 29 SOUTH, RANGE 3 WEST, W.M.; 1035 FEET NORTH AND 1365 FEET EAST OF THE SOUTH 1/4 CORNER OF SECTION 19.

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

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

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review of the order must be filed within the 60 days of the date of service.

A description of the place of use to which this right is appurtenant is as follows:

NW 1/4 SE 1/4	8.00 ACRES
SW 1/4 SE 1/4	0.52 ACRES
NE 1/4 SE 1/4	5.60 ACRES
SE 1/4 SE 1/4	0.40 ACRE
ALL AS PROJECTED WITHIN CRAIG DLC 37	
LOT 5 (SE 1/4 SE 1/4)	8.10 ACRES
LOT 6 (SW 1/4 SE 1/4)	12.83 ACRES
SECTION 19	
TOWNSHIP 29 SOUTH, RANGE 3 WEST, W.M.	

RECEIVED

JUN 13 2022

OWRD

The water users shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.


The water user shall install and maintain a fish screen or fish by-pass device. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife and shall be installed under the supervision of the Department of Fish and Wildlife.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

THIS CERTIFICATE IS ISSUED TO CORRECTLY DESCRIBE THE LOCATION OF THE POINT OF DIVERSION, NUMBER OF ACRES AND SUPERSEDES CERTIFICATE 79640.

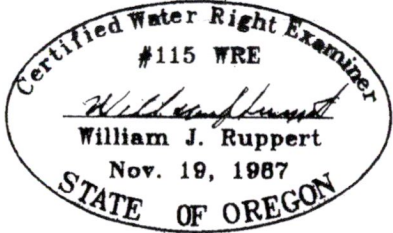
WITNESS the signature of the Water Resources Director, affixed January 10, 2003.



Paul R. Cleary

Recorded in State Record of Water Right Certificates Number 79824.

MAP TO ACCOMPANY CLAIM OF BENEFICIAL USE FOR CHANGE IN POINT OF DIVERSION
Howard Kevin White, Karen L. Smithson-White, and Frances Ward White



TRANSFER T-8493

RECEIVED

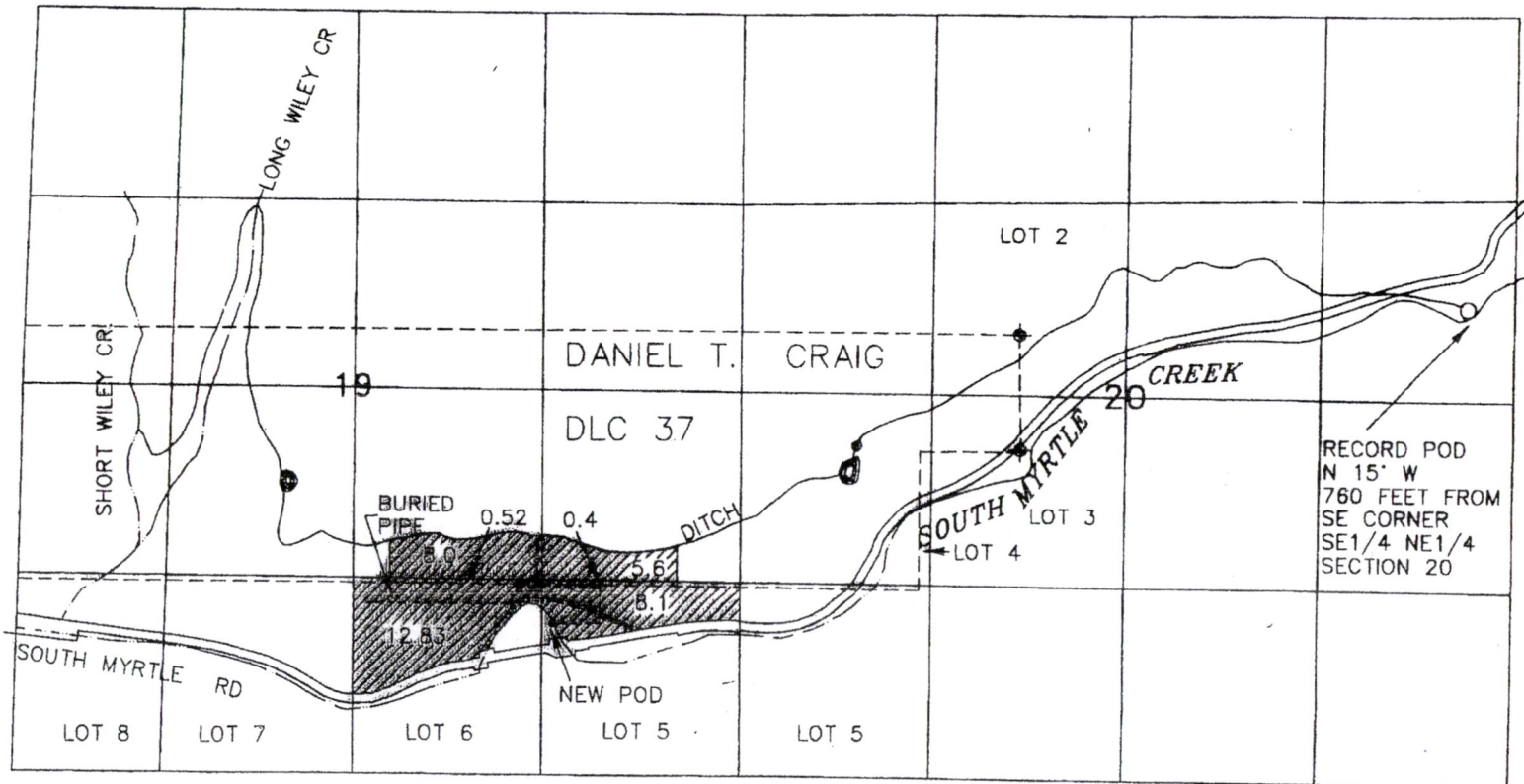
SEP 24 2001

WATER RESOURCES DEPT.
 SALEM, OREGON

MAP PREPARED BY:
 WILLIAM J. RUPPERT
 P.O. BOX 1564
 MYRTLE CREEK, OR 97457
 AUGUST 2001

SCALE 1"=1320'

T29S R3W WM



POD NORTH 1035 FEET AND EAST 1365 FEET FROM S1/4 CORNER SECTION 19, T29S R3W, WM

THIS MAP TO BE USED FOR WATER RIGHT PURPOSES ONLY

OW/RD

JUN 13 2022

RECEIVED