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SALEM, OREGON

# Application for 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

Complete Part 1 through 4 and include the required attachments Fill in or check boxes as indicated. (N/A= Not Applicable)	OWRD #	<u>11-19163</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

\$610.00 for a lease involving **four or more landowners or four or more water rights**

\$410.00 for all other leases

Check enclosed or

Fee Charged to customer account \_\_\_\_\_ (account name)

Yes

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

Yes

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

Yes

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

Yes

**How many water rights are leased?** 1 **List them here:** # 22967  
Include a separate **Part 3** for each **water right**.

Yes  N/A

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

Yes  No

**Conservation Reserve Enhancement Program (CREP).** Are some or all of the lands to be leased part of CREP or another Federal program (list here: \_\_\_\_\_)?

### 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

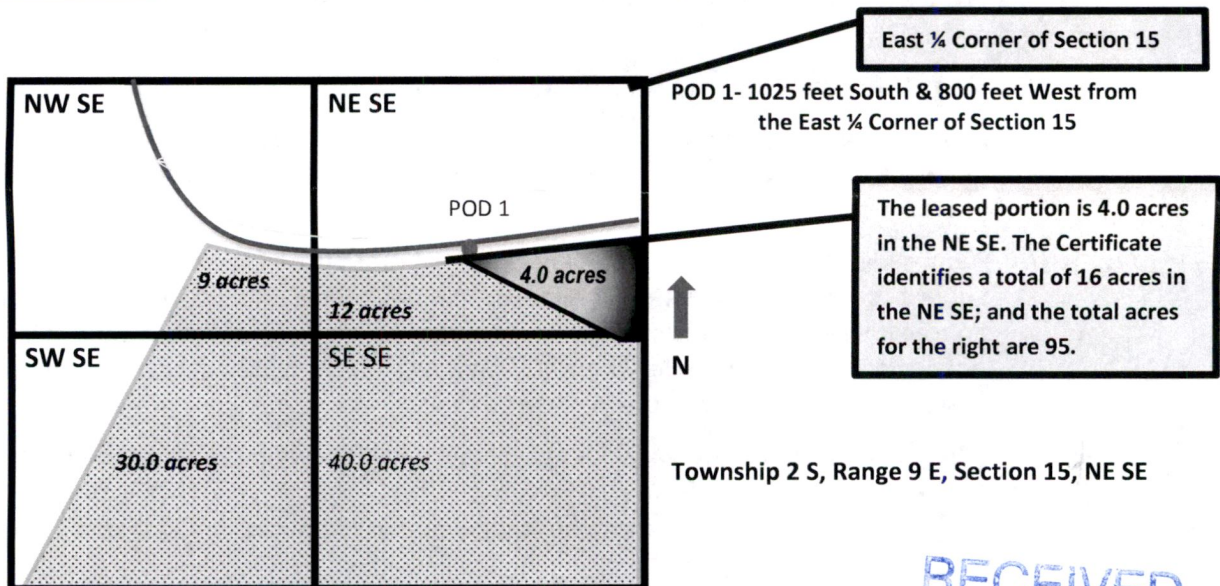
**A Map is generally required for each water right not leased in its entirety**

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.

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



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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 # ZZ967

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: 21.2

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)
July 31, 1952		IR	21.2	see part	.265	

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")
	21-S	4-W	22	SE-NW		See certificate
	-	-		-		

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.



**Instream Use Information**

**Table 4**

Instream Use Created by the Lease						
River/ Stream Name: <u>Myrtle Creek</u> tributary to <u>So. Umpqua</u> River Basin: <u>So. Umpqua</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 type="checkbox"/> Instream use protected at the POD		
<p><b>OR</b> <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						
<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>						

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Part 4 of 4 – Lease Provisions and Party Signatures

**Term of the Lease (may be from 1 year up to 5 years):**  
 The lease is requested to begin in: month 6 year 2023 and end: month 10 year 2027

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><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 type="checkbox"/> Recreation</p> <p><input type="checkbox"/> Pollution abatement</p> <p><input type="checkbox"/> Navigation</p>	<p><b>Termination provision (for multiyear leases):</b>  <b>The parties to the lease request (choose one):</b></p> <p><input checked="" 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>
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**Additive/Replacing Relationship to other instream water rights:** Instream leases are generally additive to other existing instream water rights created as a result of instream leases, transfers and/or allocations of conserved water. Since instream leases are also generally senior to other instream rights created through a state agency process or conversion of minimum flows, they generally replace a portion of these junior instream rights.

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

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

The water right(s) to be leased have been used under the terms and conditions of the right(s) during the last five years or have been leased instream; or

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

**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.

Judith A. Toor Date: 4/11/23  
 Signature of Lessor

Printed name (and title): Judith A. Toor Business name, if applicable: \_\_\_\_\_  
 Mailing Address (with state and zip): 7570 So. Myrtle Rd. Myrtle Creek, OR. 97427  
 Phone number (include area code): 541-863-7570 \*\*E-mail address: heyjudemc7@gmail.com

See next page for additional signatures.

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

\_\_\_\_\_ Date: \_\_\_\_\_  
Signature of Lessee  
Printed name (and title): \_\_\_\_\_ Business name, if applicable: \_\_\_\_\_  
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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STATE OF OREGON  
COUNTY OF DOUGLAS  
CERTIFICATE OF WATER RIGHT

This Is to Certify, That R. D. McMURRY

of South Myrtle Route, Myrtle Creek, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of South Myrtle Creek a tributary of Myrtle Creek for the purpose of irrigation

under Permit No. 21674 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from July 31, 1952

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.27 cubic foot per second

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the SE 1/4 NW 1/4, as projected within Stephens DLC #38, Section 22, Township 29 South, Range 4 West, W. M.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2 1/2 acre feet per acre for each acre irrigated during the irrigation season of each year,

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

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

- 3.0 acres in the NE 1/4 NW 1/4
- 1.3 acres in the NW 1/4 NW 1/4
- 4.1 acres in the SW 1/4 NW 1/4
- 12.8 acres in the SE 1/4 NW 1/4

Section 22  
Township 29 South, Range 4 West, W. M.  
all as projected within Stephens DLC #38

Land on which water is to be used is part of that described as follows:

Beg. at a point 27 chains N. & 30.45 chains E. from the SW corner of the Benjamin Stephens DLC #38, thence E. on the N. line of the said Benjamin Stephens Land Claim 21.61 chains, thence S. 18.50 chains to the County Rd.; thence following said County Rd. in a southwesterly direction to a point 29.45 chains E. of the W. line of said Stephens DLC; thence N. to the place of beginning, said tract lying in Sec. 22, T. 29 S., R. 4 W., W.M., with all water rights appertaining thereto, Douglas County, Oregon.

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

WITNESS the signature of the State Engineer, affixed

this 12th day of July, 1971

LEWIS A. STANLEY

State Engineer

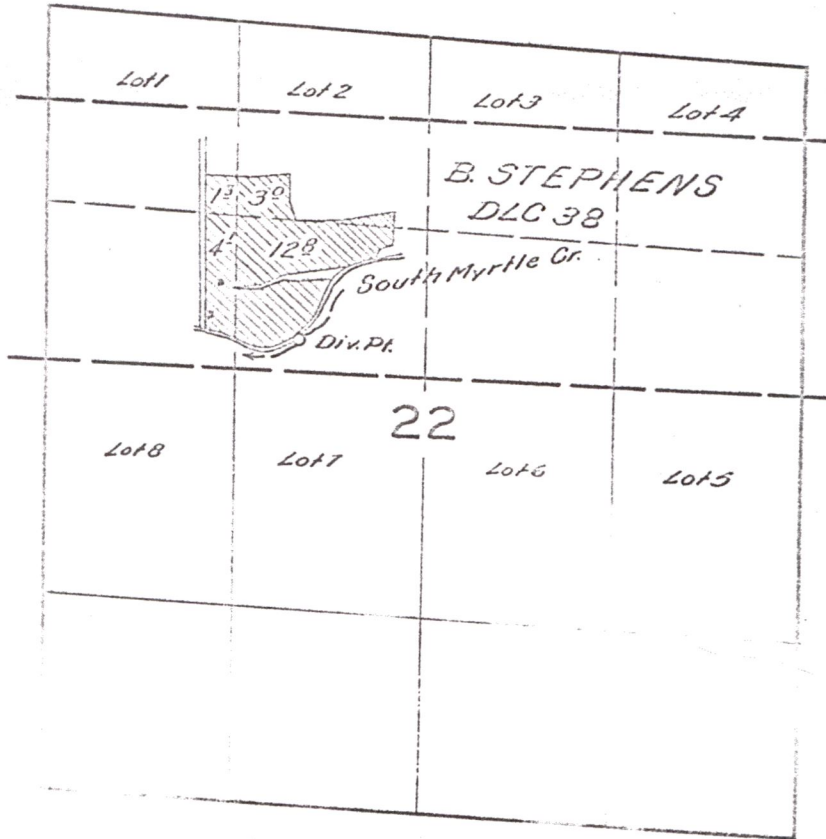
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21674

T.29 S. R. 4W.W.M.



21.20 Acres

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PROOF SURVEY  
UNDER

No. 27512.. Permit No. 21674.  
IN NAME OF

R.D. McMURRY

Surveyed Sept. 27 1956, by



BLLL

NO PART OF ANY STEVENS

Douglas County Official Records  
Patricia K. Hitt, County Clerk

2013-004479

15



\$46.00

00340683201300044790010029

03/04/2013 12:27:11 PM

DEED-QCD Cnt=1 Stn=13 CAROL  
\$10.00 \$11.00 \$15.00 \$10.00

SPACE RESERVED  
FOR  
RECORDER'S USE

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APR 13 2013

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Jennifer Pollack  
P.O. Box 52106  
Irvine, CA. 92619  
Grantor's Name and Address  
Frank & Judith Toor  
7570 South Myrtle Rd.  
Myrtle Creek, OR. 97457  
Grantee's Name and Address

After recording, return to (Name and Address):  
Frank & Judith Toor  
7570 South Myrtle Rd.  
Myrtle Creek, OR. 97457

Until requested otherwise, send all tax statements to (Name and Address):  
Frank & Judith Toor  
7570 South Myrtle Rd.  
Myrtle Creek, OR. 97457

QUITCLAIM DEED - STATUTORY FORM

releases and quitclaims to Frank and Judith Toor Jennifer Pollack Grantor,

all right, title and interest in and to the following described real property situated in Douglas County,

Oregon: that portion of Section 22, Township 29 South, Range 4 West, Willamette Meridian, in the county of Douglas and State of Oregon, described as follows: Beginning at a point 27 chains North and 30.45 chains East from the Southwest corner of the Benjamin Stephens (over)

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE)

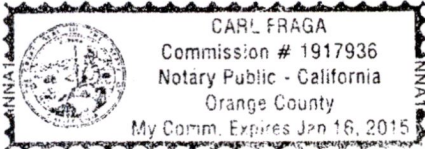
The true consideration for this conveyance is \$ none (Here, comply with the requirements of ORS 93.030.)

\*DATED 2-27-13; any signature on behalf of a business or other entity is made with the authority of that entity.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

\* Jennifer Pollack  
Jennifer Pollack

STATE OF OREGON, County of Orange ) ss.  
This instrument was acknowledged before me on February 27, 2013  
by Jennifer Pollack  
This instrument was acknowledged before me on \_\_\_\_\_  
by \_\_\_\_\_  
as \_\_\_\_\_  
of \_\_\_\_\_



[Signature]  
Notary Public for Oregon & California  
My commission expires 01/16/2015

Donation Land claim No. 38 thence East on the North  
line of the said Benjamin Stephens Land claim No. 38,  
21.61 chains; thence South 18.50 to the County Road;  
thence following said County Road in a Southwesterly  
direction to a point 29.45 chains East of the West  
line of said Benjamin Stephens Donation Land claim;  
thence North to the place of beginning.

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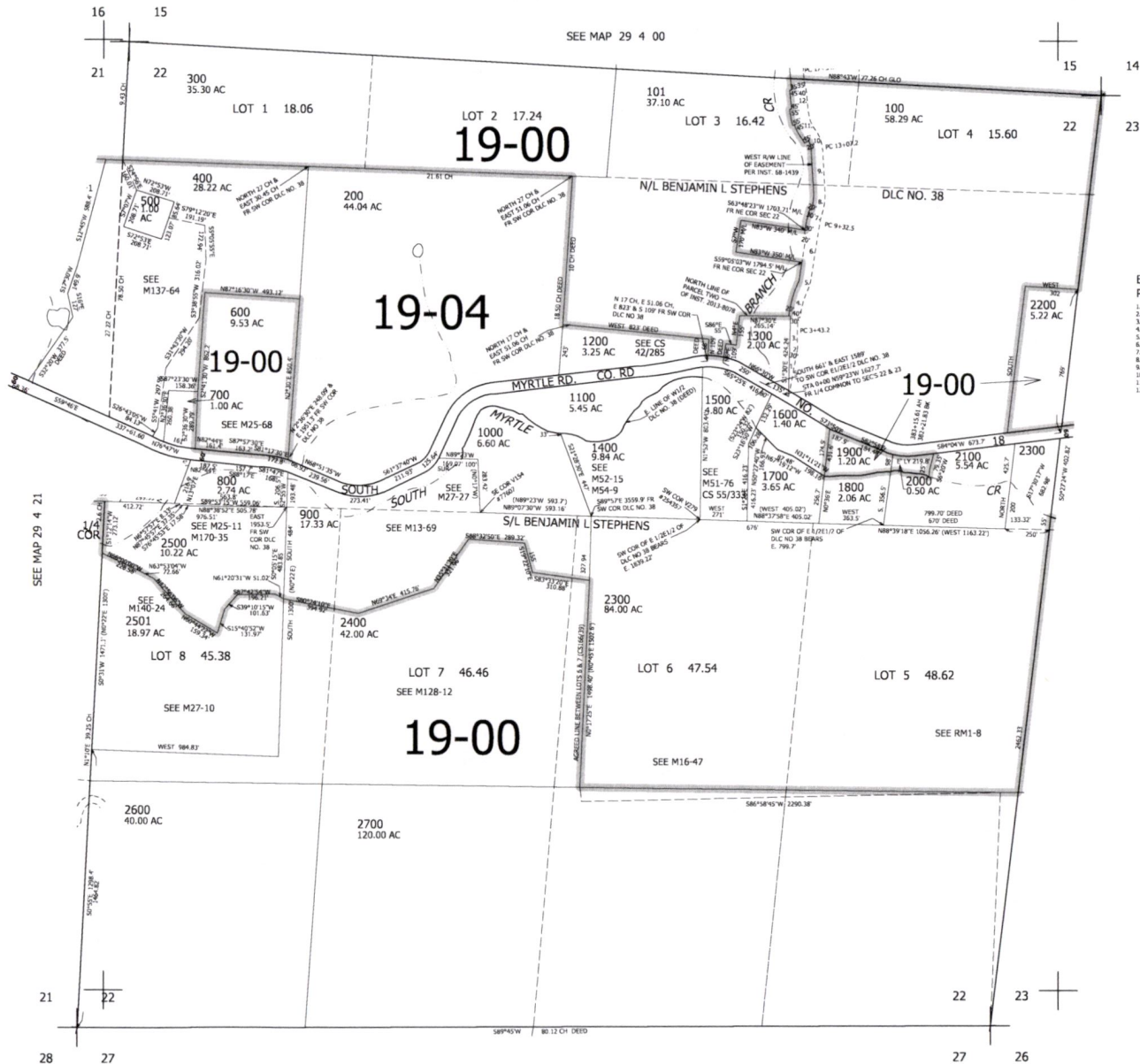


THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY.

SEC.22 T.29S. R.4W. W.M.  
DOUGLAS COUNTY  
1" = 400'

REVISED ON  
5-17-16

29 4 22



CANCELLED NO'S  
2700M1 2502

- EASEMENT C/L  
PER INST. 68-1439
1. N87°08'E 238'
  2. DELTA - 10°28' D - 100', L - 26.7'
  3. N20°W 88'
  4. DELTA - 24°52' D - 100', L - 248.3'
  5. DELTA - 10°52' D - 80', L - 13'
  6. N7°E 308'
  7. DELTA - 10°15' D - 80', L - 38.4'
  8. DELTA - 22°15' D - 200', L - 111.3'
  9. N0°W 224'
  10. DELTA - 34° D - 30', L - 89.5'
  11. DELTA - 31°50' D - 200', L - 121.2'
  12. N7°00W 212'

SEE MAP 29 4 21

SEE MAP 29 4 23

SEE MAP 29 4 00

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507,000

4,212,000

29 4 22