

INSTRUCTIONS:

This checklist is intended to facilitate the Department of Water Resources' ("Department") processing of water rights transfer applications within the Deschutes Basin for the 2025 calendar year. The Confederated Tribes of the Warm Springs Reservation of Oregon ("Tribe") has reviewed this checklist. The Tribe does not object to the Department's processing of any water rights transfer applications that meets a "Yes" of all applicable checklist items, and therefore satisfies the "Meets Requirements" category at the top of this checklist. When the checklist is so satisfied, the Department may process the application in accordance with applicable law, and the Department's customary practice.

Water rights transfer applications that meet all of the checklist criteria appear to present a low risk of injury to the Tribal Reserved Water Right as defined in the Confederated Tribes of the Warm Springs Reservation Water Rights Settlement Agreement, dated November 17, 1997, as amended. The Tribe does not waive its right to dispute or challenge any transfer application, whether or not they satisfy this checklist, on the basis that the transfer injures the Tribal Reserved Water Right or other federally-reserved water right held by the Tribe. The Tribe expressly reserves, and does not waive, all rights, claims, and defenses that it may possess in connection with the application, including, but not limited to, whether the application violates the Treaty of June 25, 1855, with the Tribes of Middle Oregon, 12 Stat. 963, or the Confederated Tribes of the Warm Springs Reservation Water Rights Settlement Agreement, dated November 17, 1997, as amended.

The Tribe further reserves the right to conduct additional analysis on any transfer that is submitted to the Department with a completed checklist. The Tribe reserves the right to consider, among other things, the risk of localized impacts, cumulative impacts, water quality, return flows, groundwater recharge, Habitat Conservation Plan flow augmentation agreements, water bank transactions, and additional analyses received from the Tribe's staff, Department, applicant, or third party.

A "temporary instream lease" is any instream lease lasting five (5) years or less.

This checklist applies to surface water transfers only. This checklist does not apply to groundwater transfers.

If you have any questions about this checklist, please contact:

Jessi Talbott or Mikaela Watson, on behalf of Central Oregon Irrigation District, via e-mail at:

jtalbott@coid.org
mwatson@coid.org

Alison K. Toivola or Josh Newton of Best Best & Krieger, LLP, on behalf of the Tribe, via e-mail at:

Alison.Toivola@bbklaw.com
Josh.Newton@bbklaw.com

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MAR 31 2025

Salem, OR

CTWS Low-Risk Transfer Checklist Requirements

Patron Name/Applicant Name : Swalley Irrigation District

Meets Requirements:

Transfer Type: 1 year instream lease

Does Not Meet Requirements:

Transfer #: Swalley Pooled #1

Review Date:

Checklist Completed By: G. Hubert, DRC

Water Right Transfer - Check Applicable Transfer Type

Own Lands Transfer

Water Right Sale

	YES	NO	Comments:
Transfer Within Same District Boundary	<input type="checkbox"/>	<input type="checkbox"/>	
On/Off Lands Balance	<input type="checkbox"/>	<input type="checkbox"/>	
On/Off Lands Within Five (5) Miles	<input type="checkbox"/>	<input type="checkbox"/>	
No Increase in Diversion Amount	<input type="checkbox"/>	<input type="checkbox"/>	
No Change in Type of use	<input type="checkbox"/>	<input type="checkbox"/>	
No Change in Point of Diversion or Appropriation	<input type="checkbox"/>	<input type="checkbox"/>	
On/Off Lands Served by Same Canal	<input type="checkbox"/>	<input type="checkbox"/>	Identify Canal:
NOT a Multi-Step Transfer	<input type="checkbox"/>	<input type="checkbox"/>	
NOT a Mitigation Credit	<input type="checkbox"/>	<input type="checkbox"/>	

Temporary Instream Lease	YES	NO	Comments:
Decrease in Diversion - Increased River Flows	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Transfer of Surface Water ONLY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
No Potential for Measurable Impact to Crooked River	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
No Potential for Measurable Impact to Whychus Creek	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
No Potential for Measurable Impact to Deschutes River	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

Summary of Transfer:

This is an instream lease which includes 3 Swalley ID landowners and a total of 29.2 acres. The water will be protected at the 3 seasonal rates for Swalley ID ranging from 0.201 CFS up to 0.498 CFS and a total of up to 159.38 acre feet (depending on final order date). The lease does not include a mitigation project and is protected to the mouth of the Deschutes. Swalley ID is a senior district.

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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 #	16-2092
	District #	SID 25-01

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

Fee in the amount of:

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

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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Part 2 of 4 – District and other party Signature

Term of the Lease: The lease is requested to begin in: month <u>April</u> year <u>2025</u> and end: month <u>October</u> year <u>2025</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.



Date: 3/31/2025

Signature of Co-Lessor

Printed name (and title): Jer Canadara, GM/BRD SEC.

Business/Organization name: Swalley Irrigation District

Mailing Address (with state and zip): 64672 Cook Ave, Suite #1, Bend, OR 97703

Phone number (include area code): 541-388-0658 **E-mail address: mikayla@swalley.com

Date: _____

Signature of Co-Lessor

Printed name (and title): _____

Business/organization name: _____

Mailing Address (with state and zip): _____

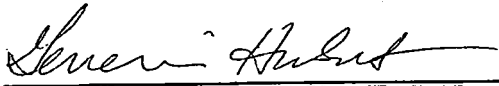
Phone number (include area code): _____ **E-mail address: _____

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See next page for additional signatures.



Date: 03/28/2025

Signature of Lessee

Printed name (and title): Gen Hubert, Senior Program Manager

Business/organization name: Deschutes River Conservancy

Mailing Address (with state and zip): 805 SW Industrial Way, Suite 5, Bend, OR 97702

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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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	Acre	Other Information (such as conditions/limitations on the right)	Rate (cfs)	Volume (af)
09/01/1899	3&15	IR	29.2	Season 1 rate/Total Volume	0.220	189.74
09/01/1899	3&15	IR	29.2	Season 2 rate	0.295	
09/01/1899	3&15	IR	29.2	Season 3 rate	0.553	
				*SID calculator may be updated for Table 1 prior to lease finalizing.		

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:

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Table 3

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Instream Use created by the lease	River Basin: <u>Deschutes</u>	River/Stream Name: <u>Deschutes River, tributary to 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 3 (&15) to the mouth of the Deschutes	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	Acre	Proposed Instream Period	Instream Rate (cfs)	Total instream volume (af)
09/01/1899	3&15	IR	29.2	Season 1 rate/Total Volume	0.201	159.38
09/01/1899	3&15	IR	29.2	Season 2 rate	0.268	
09/01/1899	3&15	IR	29.2	Season 3 rate	0.498	
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 flow allocated on daily average basis up to the described rate from April 1 through October 25</u>						
Note: The Department may identify additional conditions to prevent injury and/or enlargement.						
Any additional information about the proposed instream use: <u>Swalley may be issued a new replacing certificate & updated instream calculator prior to this lease finalizing.</u>						

**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 →	29.200		
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	27886.960	644.078	27,242.88

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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*	0.220		
Season 2*	0.295	Duty AF/Acre* =	6.50
Season 3*	0.553		189.74

* 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 4441.765 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 =	159.45
		# of Days in each Season	AF/ Season
Season 1	0.201	61	24.32
Season 2	0.268	30	15.95
Season 3	0.498	123	121.50
			161.77

Additional Conditions to Prevent Injury for Section 2.2 of the Lease Application Form			
	# days	AF/Season	
Season 1*	55	21.93	
Season 2	30	15.95	
Season 3	123	121.50	
Season total =	208	159.38	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 prevent enlargement of the right. The instream rates identified in this section are based upon the face value of the water right minus 43%.

For Direct Diversion Only

Rate (CFS) associated with leased rights for Section 1.5 of the Lease Application Form		Rate and duty identified in this section does not include the 43% transmission loss	
	Full Rate	Duty (AF) associated with leased right for Section 1.5 of the Lease Application Form	
Season 1	0.000	Duty (decree) AF/Acre = 5.46	
Season 2	0.000	0.00	
Season 3	0.000	0.00	
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	
		Max instream volume = 0.00	
	Full Rate	# of Days in each Season	AF/ Season if full season
Season 1	0.000	61	0.00
Season 2	0.000	30	0.00
Season 3	0.000	123	0.00
			0.00
Additional Conditions to Prevent Injury for Section 2.2 of the Lease Application Form			
	# days	AF/Season	
Season 1*	55	0.00	
Season 2	30	0.00	
Season 3	123	0.00	
Season total =	208	0.00	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 op revent enlargement of the right.

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SID Pooled 1 - 2025

Patron ID	Name	Lease #	Priority	Acres	Term	Exp	Canal	Taxlot	TRSQTL	Property Address >>>>Mailing Address	City	State	EFU Zip Zoned Other
25-01	James and Nannette Roy Robert K Spencer, Trustee - Anna Morrison Spencer 1997	IL-1793	1899	20.8	1	2025	Main	1612340000301	161234NWNW00301	64785 Half Mlle Lane	Bend	OR	97703 575 - Wildlife Habitat
25-02	Trust	IL-1820	1899	6.4	1	2025	Main	171209A0008000	171209NENE00800	63980 N. HWY 97	Bend	OR	401 - 97701 Tract
25-03	Sylvia Suydam	IL-1793	1899	2	1	2025	Main	171216C000500	171208SENW00700	>>>>6399 Palmyra Ave. 63812 O.B. Riley Rd	Las Vegas Bend	NV OR	89146-6658 mailing - Spencer 97703 409-Tract

29.2

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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	9/01/1899	3&15	16	S	12	E	34	NW	NW	00301		20.8	IR	13	1793
Water right # might update prior to lease submittal or lease final order															

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.

James Roy
Signature of Lessor

Date: 3/11/25

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

Mailing Address (with state and zip): 64785 Half Mile Lane, Bend, OR 97703

Phone number (include area code): 541-706-1654 **E-mail address: jimroy@bendbroadband.com

Mona B.
Signature of Lessor

Date: 3/11/25

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

Mailing Address (with state and zip): 64785 Half Mile Lane, Bend, OR 97703

Phone number (include area code): 541-706-0766 **E-mail address: lynnroy@bendbroadband.com

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Swalley Irrigation District
Application for Instream Lease

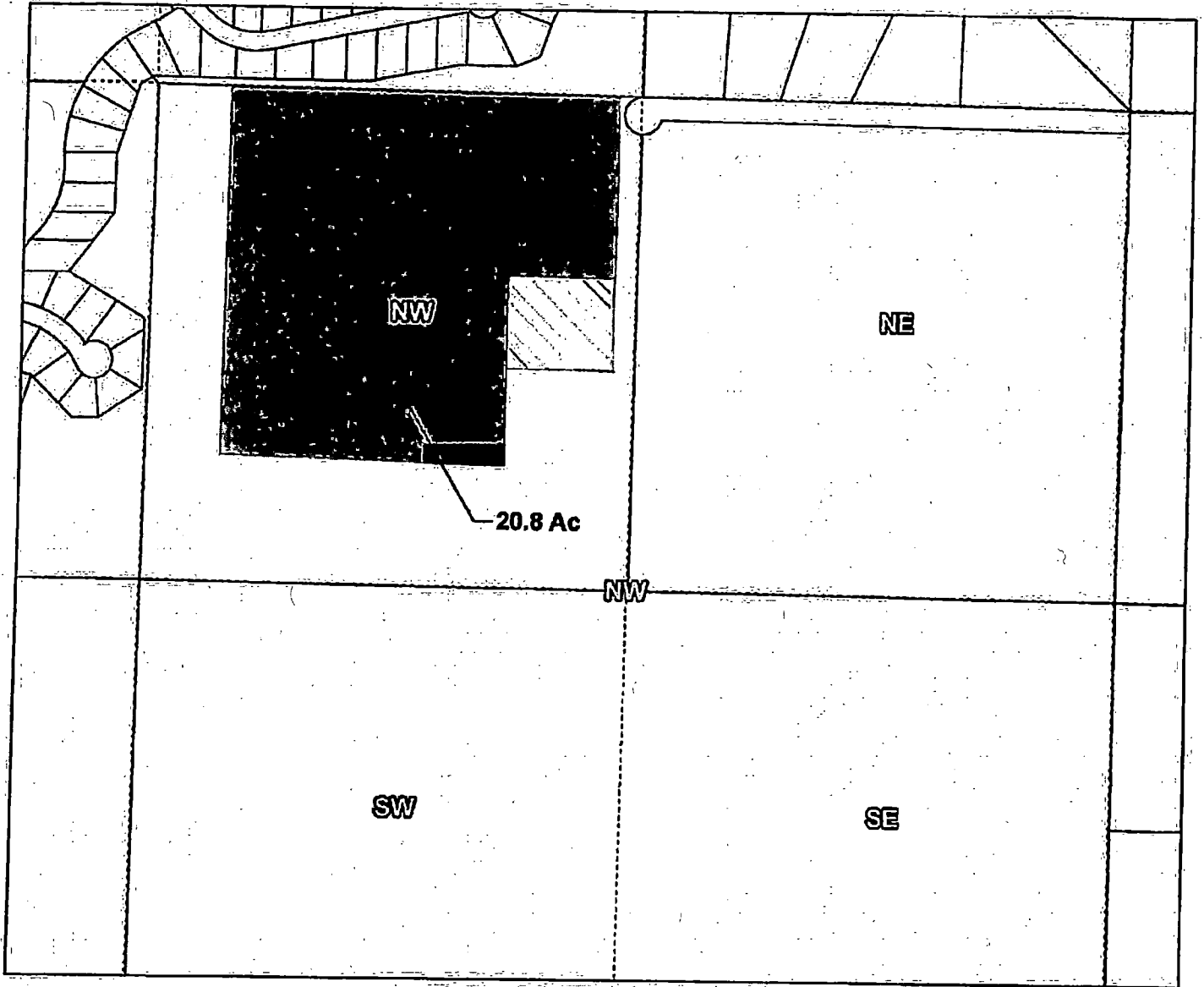
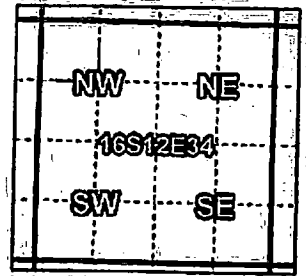
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Salem, OR





Certificate: 74145

for James and Nannette Roy



1 YEAR LEASE MAP

Taxlot 1612340000301, 16S12E34 NW/NW: 20.8 Acres Leased, 2.2 Acres Remaining

-  Pipelines and Canals
-  Lease
-  Taxlots
-  Primary Water Right



1 inch = 400 feet

Prepared by Swalley Irrigation District | March 2020

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.
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Water Right #	Priority Date	POD #	Twp	Rng	Sec	Q-Q	Tax Lot	Gov't Lot/DLC #	Acres	Use	Page #	Previous Lease #
74145	9/01/1899	3&15	17 S	12 E	09	NE NE	00800		6.4	IR	17	1820
Water right number might update prior to lease submittal or lease final order												

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.

Robert Keith Spencer, Trustee Date: 3/11/25
Signature of Lessor

Printed name (and title): Robert K. Spencer, Trustee Business name, if applicable: Anna Morrison Spencer 1997 Trust
Mailing Address (with state and zip): 6399 Palmyra Avenue, Las Vegas, NV 89146-6658
Phone number (include area code): 702-528-4323 **E-mail address: rk.ca.spencer@gmail.com

Robert Keith Spencer, Trustee Date: 3/11/25
Signature of Lessor

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

7/14/2021

District Instream Lease Application

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Salem, OR

Swalley Irrigation District

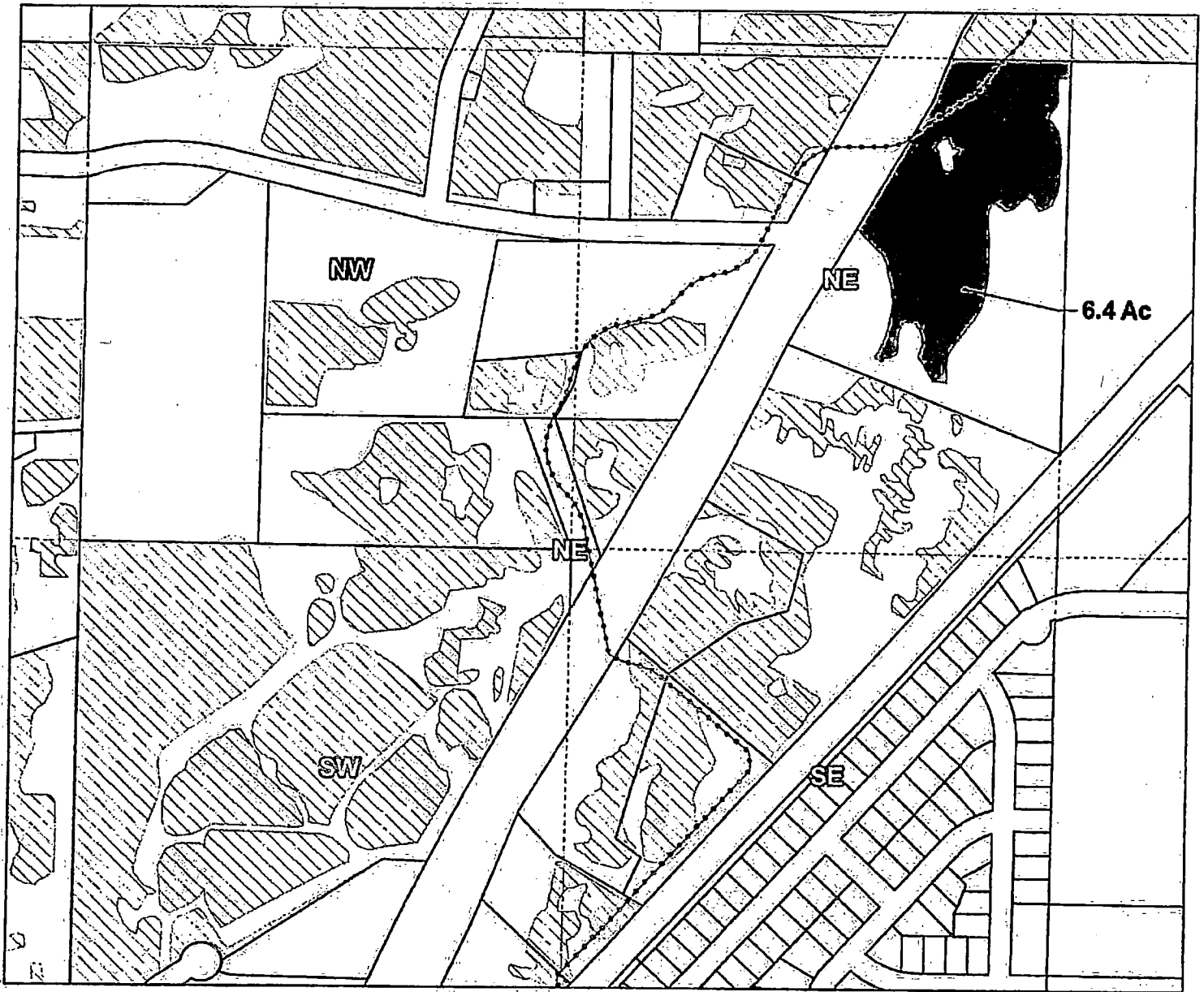
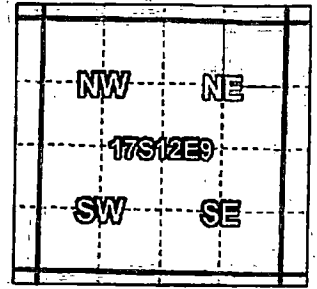
Application for Instream Lease

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Certificate: 74145
for Peggy Jo Spencer



1 YEAR LEASE MAP

Taxlot 171209A000800, 17S12E09 NE/NE: 6.4 Acres Leased, 0.0 Acres Remaining

- Pipelines and Canals
- Lease
- Taxlots
- Primary Water Right



1 inch = 400 feet

Prepared by Swalley Irrigation District | June 2020

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)**

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Water Right #	Priority Date	POD #	Twp	Ring	Sec	Q-Q	Tax Lot	Gov't Lot/DLC #	Acres	Use	Page #	Previous Lease #		
74145	9/1/1899	3, 15	17	S	12	E	08	SE NW	00700		2.0	IR	16	IL-1793

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.

Sylvia Suydam
Signature of Lessor

Date: 3.14.2025

Printed name (and title): Sylvia Suydam Business name, if applicable: _____
Mailing Address (with state and zip): 63812 OB Riley Rd, Bend, OR 97701
Phone number (include area code): 541-382-4607 **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: _____

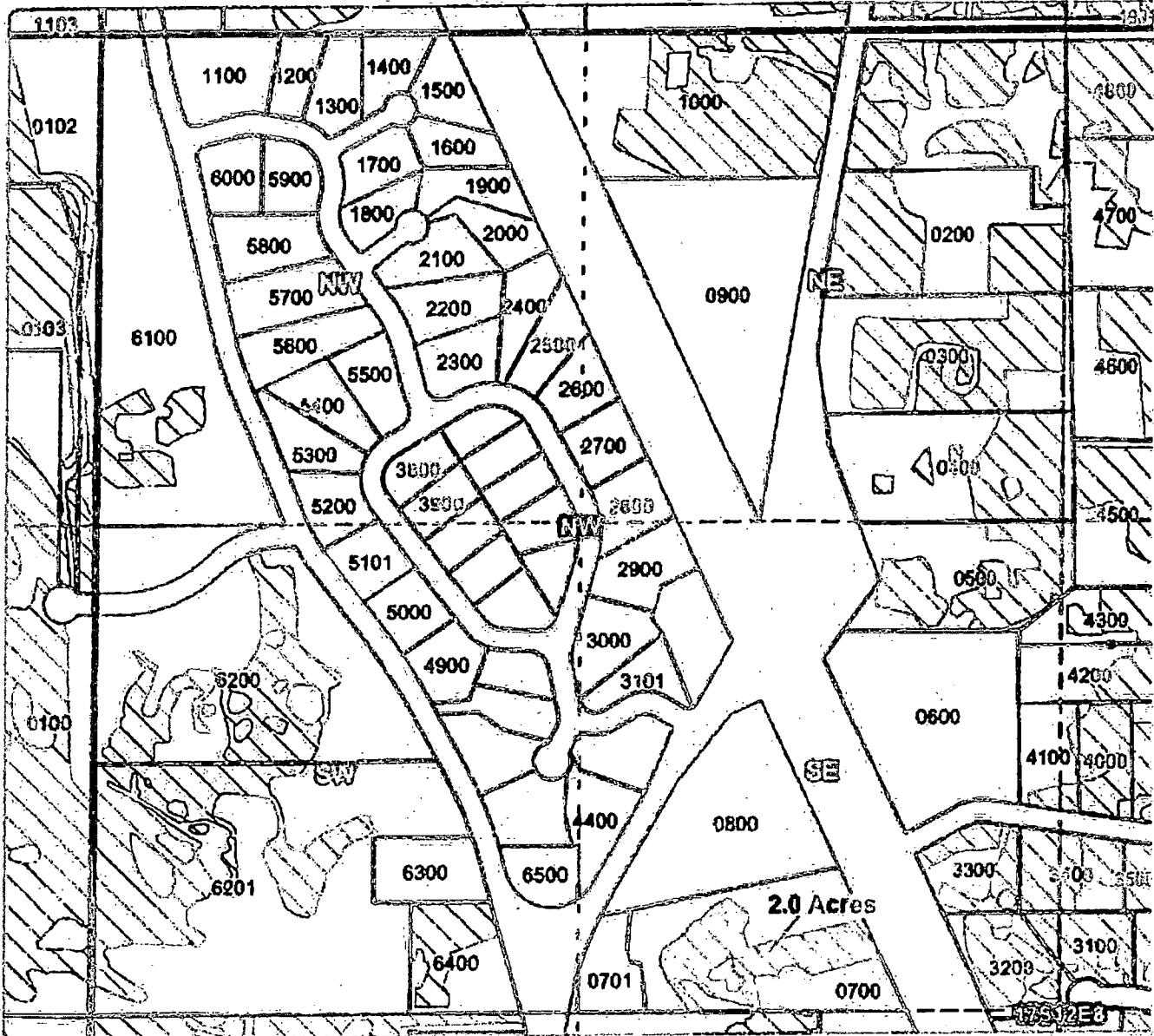
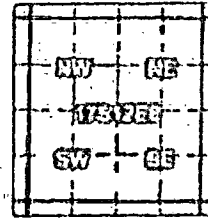
Received by OWRD
MAR 31 2025
Salem, OR

Swalley Irrigation District
Application for Instream Lease
 Cert #: 74145
 For: Sylvia Suydam

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1 YEAR INSTREAM LEASE MAP

Taxlot 700, 17S12E08SEW: 2 Acres Leased. 0 Acres Remaining

Point of Diversion

Canals

Taxlots

Lease

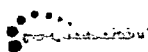
Cert 74145

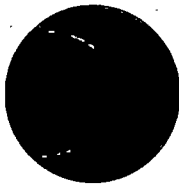
RECEIVED BY OWRD

MAY 26 2015

SALEM, OR

1 inch = 400 feet
 April 2015





BBK

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW

Alison K. Toivola
Partner

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January 31, 2025

VIA E-MAIL ONLY:

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SARAH.A.HENDERSON@WATER.OREGON.GOV

Jeremy Giffin

Watermaster - District 11

Oregon Water Resources Department

231 SW Scalehouse Loop, Suite 103

Bend, OR 97702

Ann Reece

Sarah A. Henderson

Oregon Water Resources Department

725 Summer Street NE, Suite A

Salem, OR 97301

Received by OWRD

MAR 31 2025

Salem, OR

Re: 2025 Water Rights Transfer Applications in the Deschutes Basin

Dear Mr. Giffin, Ms. Reece, and Ms. Henderson:

We represent the Confederated Tribes of the Warm Springs Reservation of Oregon ("Tribe"). We write to provide the Department of Water Resources ("Department") with an update on the process for administering water rights transfer applications for the 2025 calendar year.

As you know, the Tribe, the State of Oregon, and the United States are all parties to the Confederated Tribes of the Warm Springs Reservation Water Rights Settlement Agreement, dated November 17, 1997, as amended ("Settlement Agreement"). The Settlement Agreement requires the three sovereign parties "to meet and describe in the memorandum of understanding the process for determining injury to the Tribal Reserved Water Right." Agmt. at Art. IX, § A. The ability to determine such an injury is a prerequisite to administering water rights transfers¹ in the Deschutes Basin, as "[n]o transfer of a State water right in the Deschutes Basin shall be made *unless the State finds that no injury to the Tribal Reserved Water Right shall result.*" Agmt. at Art. V, § (B) (emphasis added). The Tribe emphasizes that the contractual obligation to make a finding of no injury resides with the State, not the Tribe.

The parties to the Settlement Agreement have not yet developed the process for determining injury to the Tribal Reserved Water Right. In the absence of the injury determination process required by the Settlement Agreement, the Tribe reviewed numerous water rights transfer applications in 2024. During this process, the Tribe expended substantial resources to review certain information concerning water rights transfer applications in the Deschutes Basin. In particular, the Tribe has received and reviewed hundreds of

¹ A "Transfer" means any change in the nature of use, place of use, or point of diversion of a water right." Agmt. at Art. III, § 25.

Jeremy Giffin
Ann Reece
Sarah A. Henderson
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applications from various irrigation districts, including the Central Oregon Irrigation District (“COID”); the Deschutes River Conservancy (“DRC”); the Department of Water Resources (“Department”); and numerous other applicants and entities.

The Tribe’s review of the 2024 applications was both time- and resource-intensive. It was also informative. The Tribe has considered the information learned, and has now identified certain categories of applications that present, respectively, a low-risk, medium-risk, and high-risk of injury to Tribal Reserved Water Rights as defined in the Settlement Agreement. Certain factors have been identified as presenting a low risk of injury to the Tribal Reserved Water Right. The Tribe believes that those factors indicating a low risk of injury to the Tribal Reserved Water Right can be used in the upcoming 2025 calendar year to simplify, and expedite, the process for administering said applications.

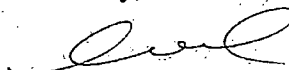
The Tribe has identified the applicable low-risk factors and believes that those factors are adequately represented in the “CTWS Low-Risk Transfer Checklist Requirements” document attached hereto as **Exhibit A**. In close coordination with COID, the Tribe has approved the attached checklist for use in the upcoming 2025 calendar year as a way to facilitate and expedite the processing of water rights transfer applications within the Deschutes Basin. The Tribe agrees that all transfer applications that fully satisfy this checklist may be processed by the Department without prior Tribal review. Accordingly, the Tribe does not object to the Department processing any applications that are submitted to the Department with a completed and signed checklist. The Department should process such applications in accordance with applicable law, and the Department’s customary practice.

The Tribe expressly reserves, and does not waive, all rights, claims, and defenses that it may possess in connection with such applications, including, but not limited to, whether such applications violate the Treaty of June 25, 1855, with the Tribes of Middle Oregon, 12 Stat. 963 (“1855 Treaty”), or the Settlement Agreement. To be clear, this letter, and the use of the enclosed checklist, does not remove or absolve the State of Oregon from fulfilling its obligations under the 1855 Treaty and the Settlement Agreement. It is the Tribe’s position that the Settlement Agreement requires that the Department affirmatively confirm that each and every water rights transfer application will not injure the Tribal Reserved Water Right or any undetermined vested water right claimed by the Tribe or the United States acting as trustee for the Tribe, including, but not limited to, instream flows necessary to maintain harvestable populations of treaty-protected fish in the Deschutes Basin. The checklist is not a replacement for that affirmative obligation and finding.

We would be happy to meet with the Department to discuss the checklist and proposed process moving forward.

Please let us know if you have any questions.

Sincerely,



Alison K. Toivola
of BEST BEST & KRIEGER LLP

Jeremy Giffin
Ann Reece
Sarah A. Henderson
January 31, 2025
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AKT

cc: Robert A. Brunoe
Austin Smith, Jr.
Brad Houslet
Josh Newton, Esq.
David Filippi, Esq.
Jessi Talbott
Mikaela Watson

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Exhibit A
