



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

Application for Instream Lease Pooled Lease Form

A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/OWRD/PUBS/forms.shtml.

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

Optional Identification by Lessor/Lessee: _____
Lease Application Number (assigned by WRD): IL-847

This Lease is between:

Lessor #2: Irrigation District or Other Water Purveyor

Name Arnold Irrigation District
Mailing address PO Box 9220
City, State, Zip Code Bend, OR 97708
Telephone number 541-382-7664
Email address aidist@bendbroadband.com

The water right to be leased is located in Deschutes County.

Lessee (if different than Oregon Water Resources Department):

Name Deschutes River Conservancy
Mailing address 700 NW Hill St
City, State, Zip Code Bend, OR 97701
Telephone number ~~541-322-4079~~ 541-382-4077
Email address gen@deschutesriver.org

Trustee:

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

~I~ Water Right Holder and Water Right Information

1.2 Lessor #2 is the (Check one):

- Official representative of Arnold Irrigation District, the irrigation district, which conveys water to the subject water rights.
- Another party with an interest in the subject water rights representing _____.
- Not applicable.

1.3 For the water right(s) being leased, list all water rights appurtenant to the same lands. Indicate if there are any supplemental or overlying rights.

Certificate No. 74197 & Supplemental 76714

1.4 Are some or all of the lands being leased part of a Conservation Reserve Enhancement Program. Yes No

1.5 **Water Rights Proposed to be Leased Instream.**

The first right to be leased identified in Section 1.3 is further described as follows:

Certificate No.: 74197

Priority date: February 1 & April 25, 1905 Type of use: IRR

Legal Season of Use: April 1 - October 31

If an irrigation right, total number of acres to be leased: 4.5

Total acre-feet of storage to be leased, if applicable: _____

Maximum rate associated with subject water rights (cfs) being leased: _____

If there is more than one rate associated with a water right, describe below:

Season 1 (cfs) Feb 1, 1905 (.026); April 25, 1905 (.063) - Total 0.089 Time period: _____

Season 2 (cfs) Feb 1, 1905 (.026); April 25, 1905 (.090) - Total 0.116 Time period: _____

Season 3 (cfs) Feb 1, 1905 (.026); April 25, 1905 (.128) - Total 0.154 Time period: _____

Maximum duty associated with subject water rights (ac-ft): 69.39 af

Conditions or other limitations, if any: _____

If you need to enter another leased right, please use the additional water rights form.

~II~ Instream Water Right Information

2.1 **Public use.** This lease will increase streamflows that will benefit:

Conservation, maintenance and enhancement of aquatic and fish life, wildlife, and fish and wildlife habitat

Pollution abatement

Recreation and scenic attraction

2.2 **Instream use created by lease.** The instream use to be created is described as follows:

Deschutes River

Tributary to Columbia River in the Columbia Basin.

Describe the point of diversion (POD) and any associated reach(es) of the instream use being created. If possible list the reach by river mile. If no reach is identified, and there is only one POD listed on the certificate, the lease will be processed to be protected at the POD. (If more than one POD is listed on the certificate, then the POD and any associated reach(es) must be identified): canal diversion river mile 174.5 to Lake Billy Chinook, river mile 120

Maximum volume in acre-feet: Feb 1, 1905 (3.81); April 25, 1905 (15.47) - Total 19.29 af

Rate in cfs: Season 1: Feb 1, 1905 (.009), April 25, 1905 (.022) - Total 0.031

(If more than one rate, describe the rate associated within each time period or instream reach.)

Rate in cfs: Season 2: Feb 1, 1905 (.009), April 25, 1905 (.031) - Total 0.040

Rate in cfs: Season 3: Feb 1, 1905 (.009), April 25, 1905 (.045) - Total 0.054

(Use the section below to indicate a more restrictive period of use than allowed by the water right.)

Conditions to prevent injury, if any:

- The instream flow will be allocated on a daily average basis up to the described rate from April 1 through October 31.
- Other (describe): _____

2.3 Term of lease. This lease shall terminate on October 31, 2007.

2.4 Flow protection. The Trustee will regulate use of water from the source, subject to prior appropriation and the agency enforcement guidance, to assure the water is delivered to the point of diversion, and through the reach past junior downstream users, so long as flow is sufficient to meet the demand under priority date of the new instream use (see Section 2.2). As part of regulation activities the watermaster or a designee has access to the point of diversion and place of use for the water rights involved in this lease. No party is required to continuously measure the flow of the waterway described in Section 2.2.

~III~ Other Information

- 3.1 Accuracy.** The Undersigned Lessor(s) and Lessee(s) declare that, to the best of their knowledge and belief, the information contained in this application is true, correct and complete. If after the lease order is signed, any information is determined to be false, the lease order may be modified or terminated. The lease only exercises the water rights being leased, for the term of the lease. It shall not be construed to overcome any claim that the water right may otherwise be subject to forfeiture for nonuse pursuant to ORS 540.610 during the period of time prior to the execution of the lease.
- 3.2 Lease.** Lessor(s) and Lessee(s) agree to lease the water rights listed in Section(s) 1.5 for instream use for the term of this lease through Lessee to the Trustee, the Oregon Water Resources Department, pursuant to the provisions of ORS 537.348(2) and OAR 690-077.
- 3.3 Precedent.** If a right which has been leased is later proposed to be leased again or transferred to an instream use under ORS 537.348 and OAR 690-077 a new injury review shall be required, and a prior short term lease shall not set a precedent for the amount of water to be leased or transferred instream.
- 3.4 Suspension of original use.** During the period of the lease, the water right holder agrees to suspend use of water allowed under the subject water rights and under any water right that is supplemental to the subject water rights.
- 3.5 Termination provision.**
- For multiyear leases, the Lessor(s) shall have the option of terminating the lease each year with written notice to the Department. The lease may be terminated at any time during the calendar year. However, if the termination request is received less than 30-days prior to the period of allowed instream use or after the period of allowed use has begun for the water right(s) being leased, water may not be used under the right(s) leased until the following calendar year, unless the Director determines that enlargement would not occur. The Department may also require:
- Written notice to the Department with original signatures;
 - Consent by all parties to the lease; and/or
 - Written notice to the Watermaster's office.
- For multiyear leases, the lessor shall not have the option of terminating the lease, without consent by all parties to the lease.

3.6 Modification to prevent injury. Allocation of water to the instream use described in Section 2.2 during the term of this lease is not reasonably expected to cause injury to other rights to use water from the same source. If injury is found after this lease is signed, the lease may be modified or terminated to prevent injury.

3.7 Fees. Pursuant to ORS 536.050, the following fee is included:

- \$200 for an application with four or more landowners or four or more water rights.
 \$100 for all other applications.

Lessor #2: Alan Cole Date: 6/13/07
Arnold Irrigation District

Lessee: Genevieve Hubert Date: 6/13/07
Deschutes River Conservancy

Other Attachments as Needed:

Attachment 1: Tax Lot Map. (See instructions.)

Attachment 2: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. (See instructions.)

Attachment 3: Supporting documentation indicating why a right is valid and not subject to forfeiture even though the right has not been exercised for five or more consecutive years (required if the second box in Section 1.6 is checked).

Attachment 4: Split Season Instream Use Form

Attachment 5: Pooled Lease Water Right Holder Form



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

Application for Instream Lease

Attachment 5: Pooled Water Right Holder Form

A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/OWRD/PUBS/forms.shtml.

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

Optional Identification by Lessor/Lessee: _____
 Lease Application Number (assigned by WRD): IL-847

This Lease is with:

Lessor #1 (Water Right Holder):

Name Majorie Miller
 Mailing address 63095 Casey Place
 City, State, Zip Code Bend, OR 97701
 Telephone number 541-330-9800
 Email address _____

If additional water right holders, enter water right holder information below

Note: The section numbering associated with this form corresponds to that found on the "Standard Instream Lease Application" form. The "Pooled Lease" form and "Pooled Water Right Holder" form(s) are used to provide the same information as the "Standard Instream Lease Application" form. Consequently, the numbering on this form is not always sequential.

~I~ Water Right Holder and Water Right Information

- 1.1 Lessor #1 is the water right holder, or authorized agent for property described in Section 1.5. If the water right appurtenant to these lands is also appurtenant to lands owned by others who are not included in this application, then Attachment 1 (tax lot map), needs to be included.
- 1.3 For the water right(s) being leased, list all water rights appurtenant to the same lands. Indicate if there are any supplemental or overlying rights.

Certificate No. 74197

- 1.4 Are some or all of the lands being leased part of a Conservation Reserve Enhancement Program. Yes No

- 1.5 **Water Right(s) Proposed to be Leased Instream.** Water right holder proposes to lease the water rights shown on the map attached as Exhibit 5-B and described as follows:
 [This information may be included on Exhibit 5-A, or an additional map may be attached. Crosshatch the area of water rights being leased. Attached map(s) must identify water right holder, township, range, section and $\frac{1}{4}$ $\frac{1}{4}$, tax lot number, map orientation and scale.]

T	R	Sect	¼ ¼	Tax Lot	Acres	Type of Use	Certificate #	Page(s) #	Priority*	
*(Identify pertinent page number of certificate, if certificate is greater than 10 pages; identify priority date if there is more than one per certificate)										
1.	18	1Z	09	SW NW	01200	4.50	IRRIG	74197	10	2/5/1905 - 4/25/1905
2.										
3.										
4.										
5.										

Total number of acres, if for irrigation, by certificate and priority date: 4.50

Warranty Deed 2004-45987, Quitclaim attached - being filed.
 Conditions or other limitations, if any: _____

If you need to enter another leased right, please use the Additional Water Right Form for Pooled Water Right Holder.

1.6 Validity of rights. Lessor(s) attests (mark one) that:

- The water has been used over the past five years according to the terms and conditions of the water right certificate or as an instream water right or
- The water has not been used over the past five years according to the terms and conditions of the water right certificate, however the water right is not subject to forfeiture under ORS 540.610(2)(_) (include necessary supporting documentation as Attachment 3).

~II~ Instream Water Right Information

2.3 Term of lease. This lease shall terminate on October 31, 2007. (If there is a conflict between the Pooled Lease Form and this form, the Pooled Lease Form will be the official term of the lease.)

~III~ Other Information

3.1 Accuracy. The Undersigned Lessor(s) and Lessee(s) declare that, to the best of their knowledge and belief, the information contained in this application is true, correct and complete. If after the lease order is signed, any information is determined to be false, the lease order may be modified or terminated. The lease only exercises the water rights being leased, for the term of the lease. It shall not be construed to overcome any claim that the water right may otherwise be subject to forfeiture for nonuse pursuant to ORS 540.610 during the period of time prior to the execution of the lease.

3.2 Lease. Lessor(s) and Lessee(s) agree to lease the water rights listed in Section(s) 1.5 for instream use for the term of this lease through Lessee to the Trustee, the Oregon Water Resources Department, pursuant to the provisions of ORS 537.348(2) and OAR 690-077.

3.3 Precedent. If a right which has been leased is later proposed to be leased again or transferred to an instream use under ORS 537.348 and OAR 690-077 a new injury review shall be required, and a prior short term lease shall not set a precedent for the amount of water to be leased or transferred instream.



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

Additional Water Right Form For Pooled Water Right Holder Instream Lease

A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/OWRD/PUBS/forms.shtml.

~I~

Section 1.5 continued from Pooled Leasing Water Right Holder Form.

Water Right(s) Proposed to be Leased Instream. Water right holder proposes to lease the water rights shown on the map attached as Exhibit 5-B and described as follows:

[This information may be included on Exhibit 5-A, or an additional map may be attached. Crosshatch the area of water rights being leased. Attached map(s) must identify water right holder, township, range, section and 1/4 1/4, tax lot number, map orientation and scale.]

	T	R	Sect	1/4 1/4	Tax Lot	Acres	Type of Use	Certificate #	Page(s) #	Priority*
*(Identify pertinent page number of certificate, if certificate is greater than 10 pages; identify priority date if there is more than one per certificate)										
1.	18	12	09	SW NW	01200	4.50	SUPP	76714	118	2/28/1913
2.										
3.										
4.										
5.										
6.										
7.										
8.										
9.										
10.										

[Attached map(s) must identify water right holder, township, range, section and 1/4 1/4, tax lot number, map orientation and scale.]

Total number of acres, if for irrigation, by certificate and priority date: 4.50

3.4 Suspension of original use. During the period of the lease, the water right holder agrees to suspend use of water allowed under the subject water rights and under any water right that is supplemental to the subject water rights.

3.5 Termination provision.

- For multiyear leases, the Lessor(s) shall have the option of terminating the lease each year with written notice to the Department. The lease may be terminated at any time during the calendar year. However, if the termination request is received less than 30-days prior to the period of allowed instream use or after the period of allowed use has begun for the water right(s) being leased, water may not be used under the right(s) leased until the following calendar year, unless the Director determines that enlargement would not occur. The Department may also require:
 - Written notice to the Department with original signatures;
 - Consent by all parties to the lease; and/or
 - Written notice to the Watermaster's office.
- For multiyear leases, the lessor shall not have the option of terminating the lease, without consent by all parties to the lease.

3.6 Modification to prevent injury. Allocation of water to the instream use described in Section 2.2 during the term of this lease is not reasonably expected to cause injury to other rights to use water from the same source. If injury is found after this lease is signed, the lease may be modified or terminated to prevent injury.

Lessor #1: Marjorie Miller Date: 6/13/07
Marjorie Miller

For additional Lessors, type in space for signature and date
Lessor #2: Arnold Irrigation District Date: 6/13/07
Arnold Irrigation District

Lessee: _____ Date: _____
Deschutes River Conservancy

Other Attachments As Needed:

- Exhibit 5-A: Tax Lot Map. (See instructions.)
- Exhibit 5-B: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. Exhibits 5-A and 5-B may be combined into a single map. (See instructions.)
- Exhibit 5-C: Supporting documentation indicating why a right is valid and not subject to forfeiture even though the right has not been exercised for five or more consecutive years (required if the second box in Section 1.6 of this form is checked)
- Exhibit 5-D: Split Season Instream Use Form

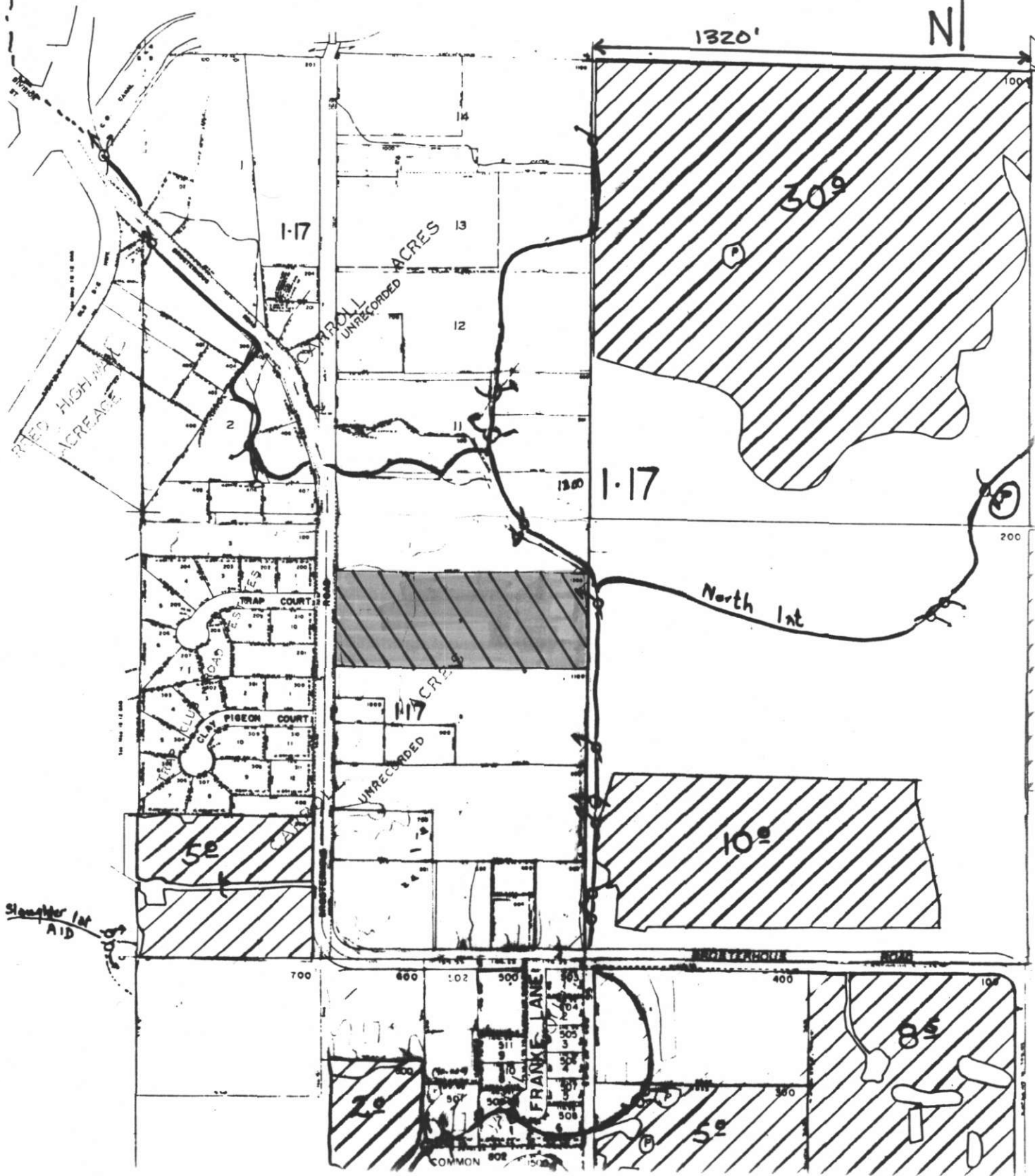
ARNOLD IRRIGATION DESCHUTES COUNTY

Scale 1"=400' Section 9

18-12-09-SWNN-01200
Marjorie Miller

4.50 ac.

 leased instream



68121-31



DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK

2004-45987



\$31.00

08/02/2004 04:04:09 PM

THIS SPACE I

D-D Crit#1 Sln#2 PAT
\$5.00 \$11.00 \$10.00 \$5.00

After recording return to:
NO-KA-OI Construction, Inc
61974 Janalee Place
Bend, OR 97702

Until a change is requested all
tax statements shall be sent to
The following address:

NO-KA-OI Construction, Inc
61974 Janalee Place
Bend, OR 97702

Escrow No. BT068121LS

STATUTORY WARRANTY DEED

Merrill Max Williams, Grantor(s) hereby convey and warrant to **NO-KA-OI Construction, Inc, an Oregon Corporation**, Grantee(s) the following described real property in the County of **DESCHUTES** and State of Oregon, free of encumbrances except as specifically set forth herein:

Beginning at a point in the East boundary of the West Half of the Northwest Quarter (W1/2NW1/4) of Section Nine (9), Township Eighteen (18) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County, Oregon, that is 866.90 feet North of the Southeast corner of said legal subdivision; thence North 290.47 feet along said East boundary; thence West 749.34 feet; thence South 290.47 feet; thence East 750.33 feet to said point of beginning; sometimes known as Tract No. Nine (9) of CARROLL ACRE TRACTS.

120386

181209 BC 01200

The above-described property is free of encumbrances except all those items of record, if any, as of the date of this deed and those shown below, if any:

The true and actual consideration for this conveyance is **\$685,000.00**.

THIS INSTRUMENT WILL 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 APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Dated this 2 day of August, 04.

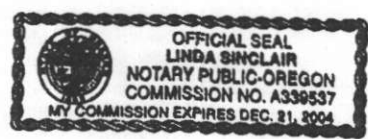
Merrill Max Williams
Merrill Max Williams

State of Oregon
County of DESCHUTES

This instrument was acknowledged before me on August 2, 2004 by Merrill Max Williams.

Linda Sinclair
(Notary Public for Oregon)

My commission expires 12/21/2004



After recording, return to
Amerititle
15 OREGON AVENUE, BEND

AFTER RECORDING RETURN TO:
Marjorie Miller
63095 Casey Place
Bend, OR 97701

BARGAIN AND SALE DEED

Until a change is requested,
all tax statements shall be
sent to the following address:
63095 Casey Place
Bend, OR 97701

NO-KA-OI Construction, Inc., Grantor, bargains, sells and conveys to Marjorie Miller, Grantee, the following described real property in Deschutes County, State of Oregon:

4.5 acres of Arnold Irrigation District water rights, which is appurtenant to the real property described as follows:

See Exhibit "A", which is attached hereto, and incorporated herein by reference.

SUBJECT TO:

1. Grantee shall be responsible for all Arnold Irrigation District fees, commencing with the irrigation year beginning April, 2005.
2. Grantee shall transfer the water to an instream lease, until the water is permanently transferred.
3. Grantor authorizes Grantee to execute any and all documents pertaining to water rights as required for transfer or lease.

THIS INSTRUMENT WILL 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 APPROVED USES AND TO

Exhibit "A"

Beginning at a point in the East boundary of the West Half of the Northwest Quarter (W1/2NW1/4) of Section Nine (9), Township Eighteen (18) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County, Oregon, that is 866.90 feet North of the Southeast corner of said legal subdivision; thence North 290.47 feet along said East boundary; thence West 749.34 feet; thence South 290.47 feet; thence East 750.33 feet to said point of beginning: sometimes known as Tract No. Nine (9) of CARROLL ACRE TRACTS.