



State of Oregon
Water Resources Department
725 Summer Street NE, Suite "A"
Salem, Oregon 97301-1271
(503) 986-0900

Application for Short-Term Instream Lease

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

Pursuant to ORS 537.348(2) and OAR 690-077-0077

Optional Identification by Lessor/Lessee: Mitigation Credit Project
Lease Agreement Number (assigned by WRD): C-620 UMP-35

This Lease Agreement is between:

Lessor #1:

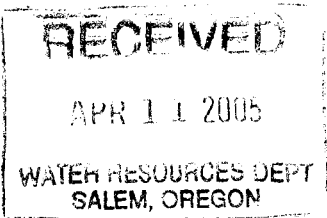
(Name) City of Bend
(Mailing address) PO Box 431
(City, State, Zip Code) Bend, OR 97701
(Telephone number) 541-317-3017
(Email address) _____

Lessor #2, 3, etc.

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

Lessee (if different than Oregon Water Resources Department):

(Name) Deschutes River Conservancy Water Exchange Bank
(Mailing address) PO Box 1560
(City, State, Zip Code) Bend, OR 97701
(Telephone number) 541-382-4077, x14
(Email address) laura@deschutesrc.org



Trustee:

Oregon Water Resources Department
725 Summer Street N.E., Suite "A"
Salem, OR 97301-1271
(503) 986-0900

~I~ Ownership and Water Right Information

1.1 Lessor #1 is the owner, or authorized agent for owner of property located at: Township 17
 S, Range 12 E, Section 20 & 9 and Tax Lot number
various (see section 1.5). If the water right appurtenant to these lands is
also appurtenant to lands owned by others, then Attachment 1, (tax lot map of lessor's
property) needs to be included.

1.2 Lessor #2 is the (Check one):
 Not applicable
 Official representative of _____, the irrigation district which conveys water to
the subject water rights.

Another party with an interest in the subject water rights representing _____.

- 1.3 For the lands being leased, list all water rights appurtenant to the lessor's property. Indicate if there are any supplemental or overlying rights.

Certificate No. 74145

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

- 1.5 **Subject water rights.** Lessor proposes to lease the water rights listed in 1.3.

The right(s) to be leased are further described as follows:

Certificate No.: 74145

Priority date: September 1, 1899 Type of use: Irrigation

Legal Season of Use: April 1 - November 1

Is the entire water right certificate being leased? Yes No

If no, list the acres of the subject water right by legal description of township, range, section, and $\frac{1}{4}$ $\frac{1}{4}$ which will be dried up as part of this lease, and include a map (Attachment 2) showing the lands which will not receive water.

Place of use: T S, R E, Section , $\frac{1}{4}$ $\frac{1}{4}$ - 12.00 acres to be leased

Enter additional places of use here, using format above:

T17S R12E Section 09 SE/SW TL 02000 - 7 acres

T17S R12E Section 20 NW/NE TL 00300 - 7 acres

Page 18,22 (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres being leased, if for irrigation: 12.0

Acre-feet of storage, if applicable: _____

Maximum rate associated with subject water rights (cfs): Season 1: 0.145 Season 2: 0.194 Season 3: 0.329

(Use additional lines if there is more than one rate associated with the water right.)

Maximum duty associated with subject water rights (ac-ft): 114.96

(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any: none

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

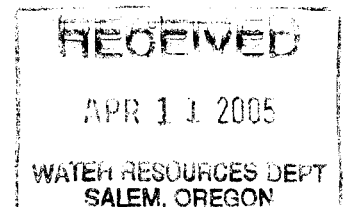
- 1.6 **Validity of rights.** Lessor(s) attests (mark one) that:

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

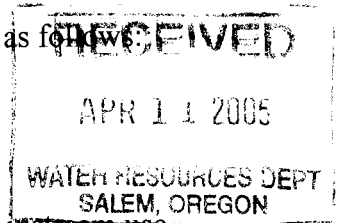
~II~ Instream Water Right Information

- 2.1 **Public use.** This lease will increase streamflows which 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 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 may 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): Swalley Main Canal

Maximum volume in acre-feet: 62.27

Rate in cfs: Season 1: 0.082 Season 2: 0.110 Season 3: 0.187

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

Conditions to prevent injury, if any:

- None
- The instream flow will be allocated on a daily average basis up to the described rate from _____ through _____.
- Other (describe): _____

If you need to enter more instream uses, please use the additional water rights form.

2.3 Term of lease. This lease shall terminate on November 1, 2009.

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, Lessee and Trustee declare that, to the best of their knowledge and belief, the information contained in this lease is true, correct and complete. If after the lease is signed, any information is determined to be false, the lease may be modified or terminated. This 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. All Lessors agree to lease the water rights listed in 1.4 for instream use for the term of this Agreement through Lessee to Trustee, the Oregon Water Resources Department, pursuant to the provisions of ORS 537.348(2) and OAR 690-077-0077.

- 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- 0070 or OAR 690-077-0075 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 owner 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. In the event that a supplemental water right is not part of this lease, it may be subject to forfeiture.
- 3.5 **Termination provision.**
 For multiyear leases, lessor *shall* have the option of terminating the lease each year, prior to the lease being exercised (April 1), with 30 day written notice to the Department.
 For multiyear leases, lessor *shall not* have the option of terminating the lease each year, prior to the lease being exercised, with written notice to the Department.
- 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.** Effective October 1, 2003, pursuant to ORS 536.050 (1)(v) (2003 SB 820), 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.

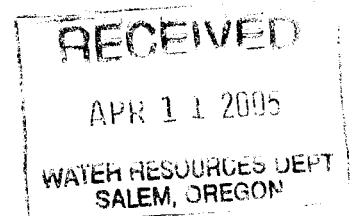
Lessor #1: _____ Date: _____
City of Bend

For additional Lessors, type in space for signature and date

Lessee: _____ Date: _____
Deschutes Resources Conservancy

Other Attachments as Needed:

- Attachment 1: Tax Lot Map of Lessor's Property (required if landowner is not the sole landowner to lands for which the subject water rights are appurtenant)
 Attachment 2: Detailed map illustrating lands under subject rights to be leased (required if only part of a right is being leased instream).
 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



- 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- 0070 or OAR 690-077-0075 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 owner 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. In the event that a supplemental water right is not part of this lease, it may be subject to forfeiture.
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 \$200 for an application with four or more landowners or four or more water rights.
 \$100 for all other applications.

Lessor #1: *Kurt J. [Signature]* Date: 3/14/05
City of Bend

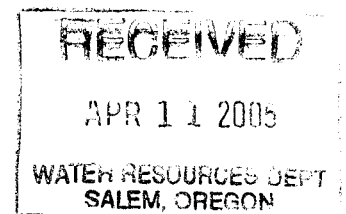
For additional Lessors, type in space for signature and date

~~Swalley Irrigation District Date: _____~~

Lessee: *[Signature]* Date: 3/14/05
Deschutes Resources Conservancy

Other Attachments as Needed:

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- Attachment 4: Split Season Instream Use Form



February 1, 2005

Laura Snedaker
Water Resources Department
725 Summer St. N.E., Suite A
Salem, Oregon 97301-1271

RE: Transaction with City of Bend

Dear Laura:

Swalley has quit-claimed to the City of Bend 153.62 acres of water rights resulting from quit claims from users to Swalley Irrigation District. These quit claims have been recorded with Deschutes County and the water to which the claims apply has been leased instream in prior years except for 12.0 acres, which will be covered in a new lease between the WRD and the city.

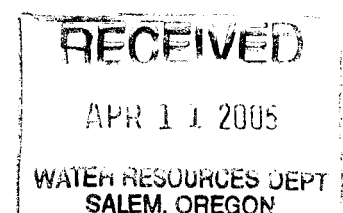
The rights are currently listed on Swalley's certificate of water rights. The city is not a regular customer assessed on an annual basis. The water rights remain listed on the Swalley certificate at this time to hold the instream use in place. At some future time the city will place the water instream permanently under the mitigation credit process; and at that time, the Swalley certificate will be reduced by that number of acres.

Please contact me if you have any questions.

Sincerely,

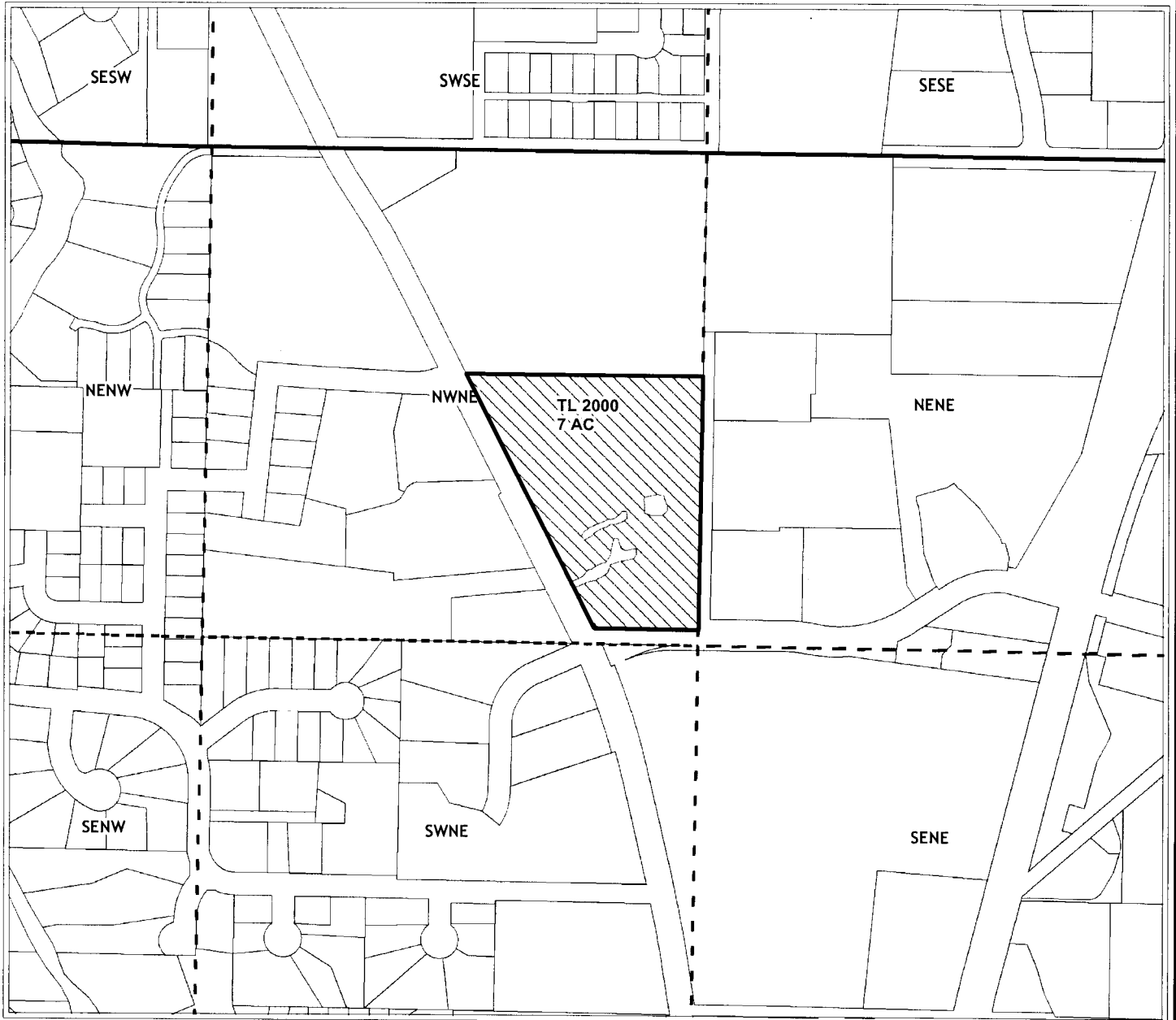
Jan Lee
Manager

cc: Roger Prowell, City of Bend



INSTREAM LEASE MAP

T17S. R12E. SECTION 20



APPLICATION FOR INSTREAM LEASE
for
City of Bend
Tax Lot 2000 - 7 Acres



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SALEM, OREGON



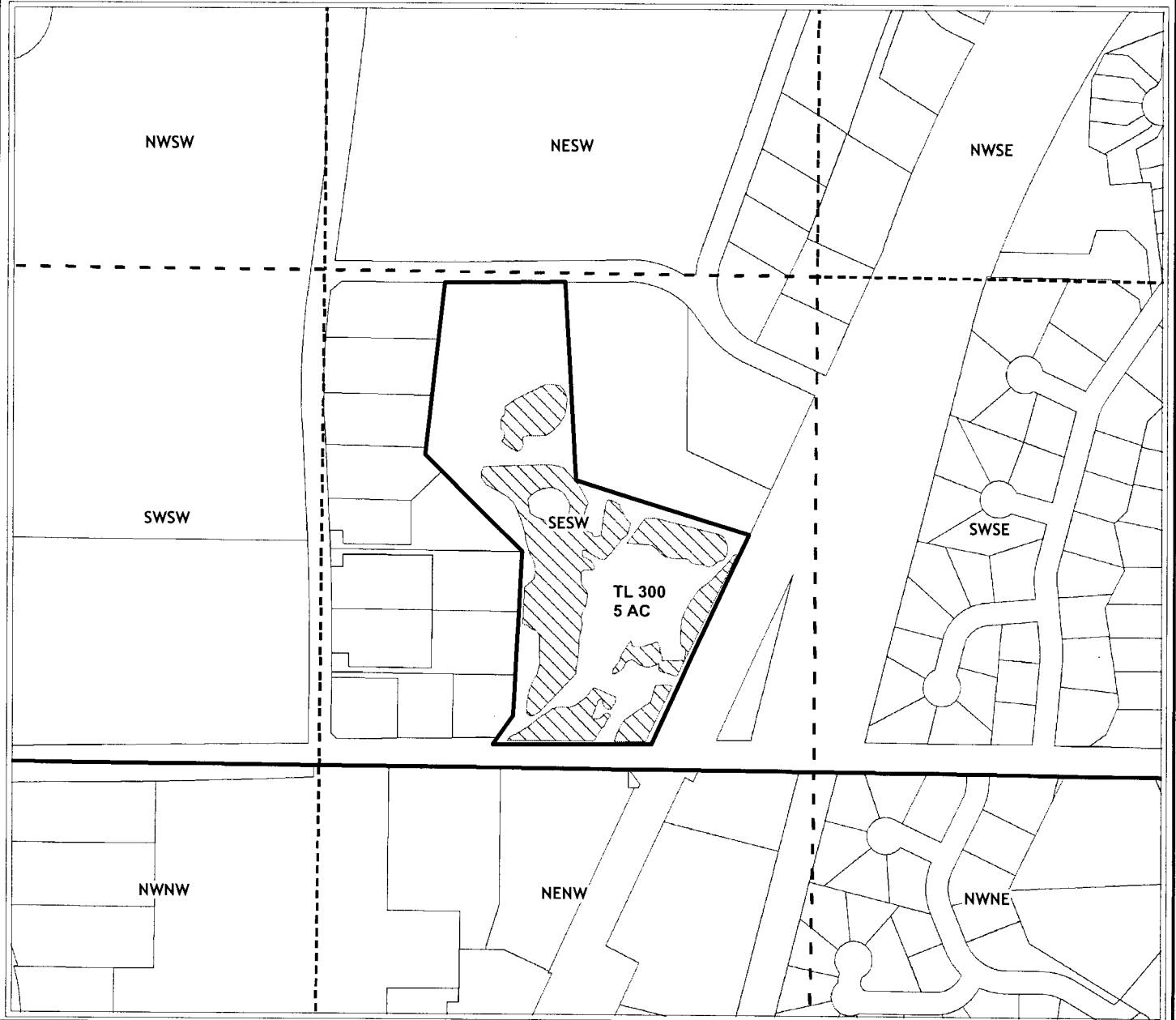
Geo-Spatial Solutions, Inc.
www.geospatialolutions.com

Date Created: March 22, 2005

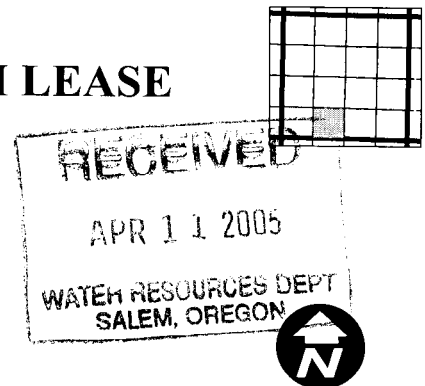
1 inch equals 400 feet

INSTREAM LEASE MAP

T17S. R12E. SECTION 9



APPLICATION FOR INSTREAM LEASE
for
City of Bend
Tax Lot 300 - 5 Acres



Geo-Spatial Solutions, Inc.
www.geospatialolutions.com

Date Created: March 22, 2005

1 inch equals 400 feet



D-D Cnt=1 Str=23 BECKEY
\$5.00 \$11.00 \$10.00 \$5.00

10/13/2004 12:29:11 PM

After Recording Return To:
Swalley Irrigation District
64672 Cook Avenue, Suite 1
Bend, Oregon 97701

**QUITCLAIM DEED
FOR TRANSFER OF INTEREST IN A WATER RIGHT**

Grantor, **L. Todd Haaby**, releases and quitclaims to **Swalley Irrigation District (SID)** all rights, title and interest in the following: By this agreement and signed transfer application form, Grantor, the owner of the lands listed below, release their claim and responsibility for **7.0 acres** of **SID** water rights that are appurtenant to the lands listed below, to **SID**. **SID** may elect to complete the transfer application and submit it to the Water Resources Department for approval of use of the water right at a new location and/or use. **SID** may attach this agreement to the Oregon Water Resources Department's lease form and file with the District's annual Short Term Water Right Lease Agreement.

By entry of this deed, grantor hereby notifies any subsequent purchaser of the lands listed below that grantor, as owner of the subject land, approved the transfer (including a change in the place and type of use and point of diversion) of the water rights that are appurtenant to the subject land; and that upon completion of a transfer, by election of **SID**, the subject land no longer will have an appurtenant water right, if the transfer includes a change in the place of use.

Furthermore, upon signing of this agreement and the accompanying transfer application **L. Todd Haaby** shall no longer be liable for any district assessment or charges pertaining to the **7.0 acres** of water right incurred after the date of signing. The water right in question is further described as a portion of certificate # 74145, priority of 1899, located at: **Legal: T17S-R12E, WM-S20, NW/NE-00300 Taxlot: 171220-A0-00300 7.0 acres**

This agreement is binding upon the heirs, executors, administrators, successors, and permitted assigns of the parties to this agreement. Consideration for this Quitclaim is \$8,400.00.

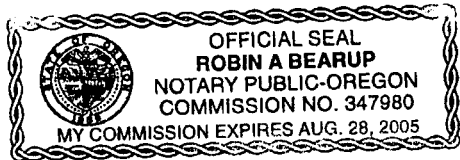
Name:

L. Todd Haaby

Date: 10-12-04

State of **Oregon** SS.
County of **Deschutes**

Personally appeared **L. Todd Haaby** and acknowledged the foregoing instrument to be his voluntary act and deed.



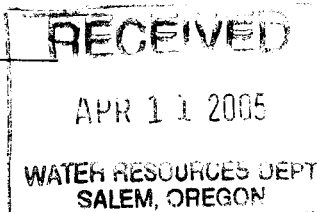
My commission expires AUG 28, 2005

Swalley Irrigation District:

Name:

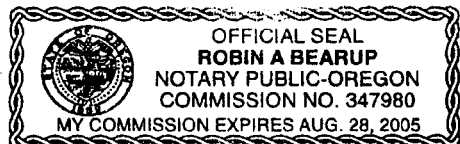
Janet L. Lee, Manager

Date: 10-13-04



State of **Oregon** SS.
County of **Deschutes**

Personally appeared, Janet L. Lee as Manager for Swalley Irrigation District, and acknowledged the foregoing instrument to be her voluntary act and deed.



My commission expires AUG 28, 2005

TAX STMTS - NO CHANGE

Allocation and Transfer Form

Return

Find

New

Account #: 1950	Last Name: Haaby	Special Fee: <input type="checkbox"/>	Name Chg Allocation
First Name: L. Todd	Extra TO Chg: <input type="checkbox"/>	Subdivision: <input type="checkbox"/>	Split/Trans Allocation
First Name(2):	Address: 61729 Broken Top Dr	Prior Bal: \$0.00	Display Allocation
City State Zip: Bend	OR 97702	Asmt: \$0.00	Turnout Informatio
Home Phone: 541/318-7362 Phone/Fax	SID WR Acres: 0.00	Fin Chg: \$0.00	Subdiv. Owners
Voter: NO WATER RIGHTS	COID WR Acres: 0.00	Other Chg: \$0.00	Legal Desc
Domestic Response? <input type="checkbox"/>	Total Assessed Acres: 7.00	Amt Paid: \$0.00	
		Balance: \$0.00	

Memo: Site Address: 63110 OB Riley Rd, Bend, OR 97701 (Todd's cell: 390-1333)
 02/18/03 Deed xfers property fr #1118, Ertle to #1950 Haaby
 10/13/04 QUITCLAIM Deed xfers 7.00 Ac of water rights to #1564 SWALLEY IRRIGATION DISTRICT
 12/08/04 - Todd's new address: 61729 Broken Top Dr, Bend 97702 (old: 62030 Dean Swift Rd, Bend 97701
 Note: Customer File records are in Quitclaim Folder.

Ec	Acct	Date	P #	Legal Desc	Taxlot	Subdiv	WR Acres	Memo	Trans Date	Trans	DomUse
T	1950	04/03/03	A	17-12-20-NW/NE-00300	171220A000300	0	7.00		10/14/04	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 APR 11 2005
 WATER RESOURCES DEPT
 SALEM, OREGON

Swalley Irrigation District

L. Todd Haaby

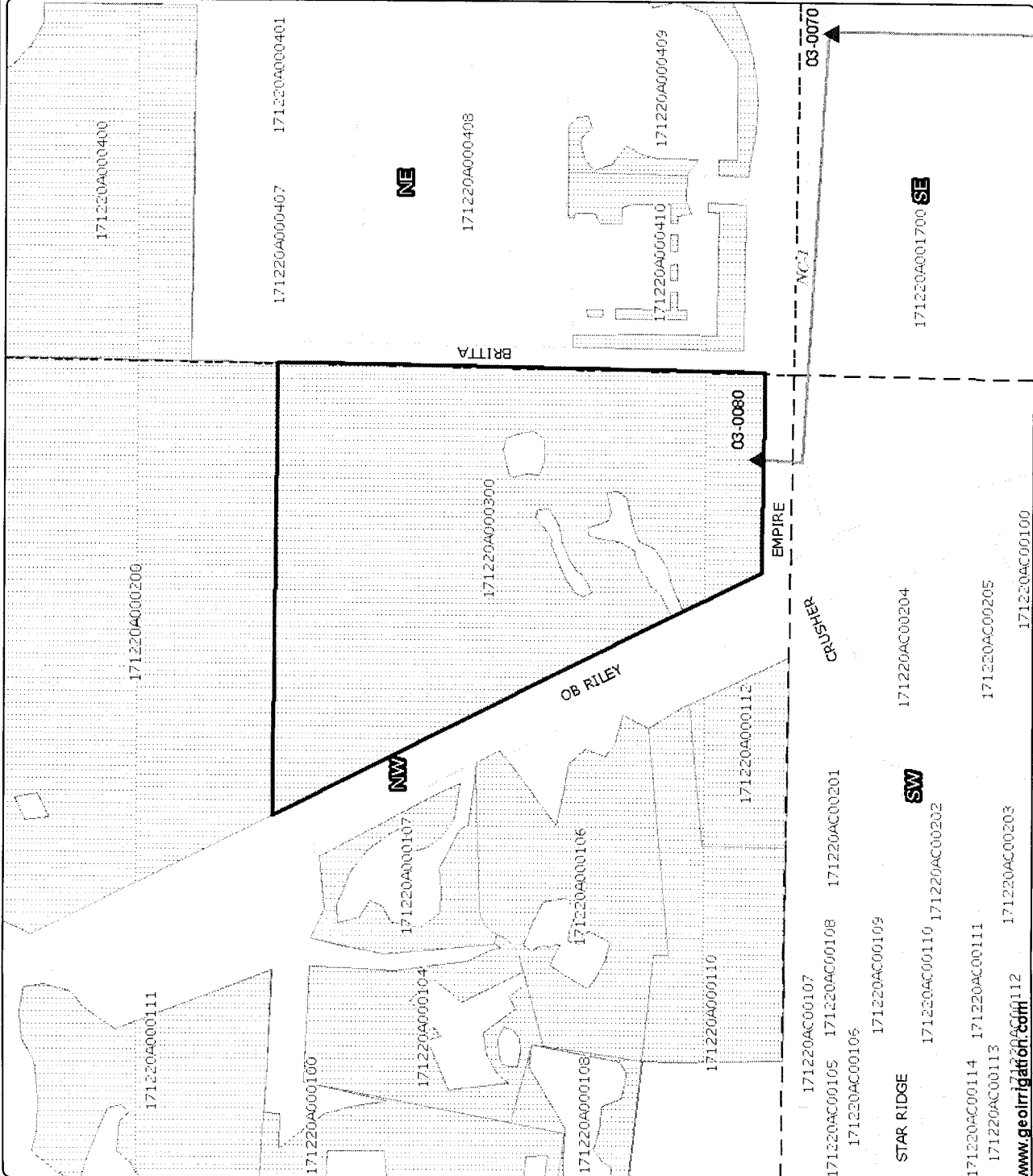
Legend

- ▲ Gate
- Lateral Headgate
- Canal Closed
- Main
- Lateral
- Sub Lateral
- Ditch
- District Boundary
- Place of Use
- Rivers
- Road Labels
- Township Range
- Quarter Quarter
- Section Labels
- Sections
- Taxlot Labels
- Taxlots

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 APR 11 2005
 WATER RESOURCES DEPT
 SALEM, OREGON



scale 1" = 200.00'
 created: 10/26/2004



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 geolrrigation

DISCLAIMER: This map is intended for display purposes only and is not intended for any legal representations
 There are no warranties, expressed or implied that, accompanying this product

www.geolrrigation.com



✓ After Recording Return To:
Swalley Irrigation District
64672 Cook Ave, Suite 1
Bend, Oregon 97701

QUITCLAIM DEED
FOR TRANSFER OF INTEREST IN A WATER RIGHT

Grantor, Dickey Family Limited Partnership, releases and quitclaims to Swalley Irrigation District (SID) all rights, title and interest in the following: By this agreement and signed transfer application form, Grantor, the owner of the lands listed in Exhibit A, release their claim and responsibility for 5.00 acres of Swalley Irrigation District water right that are appurtenant to the lands listed in Exhibit A, to Swalley Irrigation District. Swalley Irrigation District may elect to complete the transfer application and submit it to the Water Resources Department for approval of use of the water right at a new location and/or use. Swalley Irrigation District may attach this agreement to the Oregon Water Resources Department's lease form and file with the District's annual Short Term Water Right Lease Agreement.

By entry of this deed, grantor hereby notifies any subsequent purchaser of the lands listed in Exhibit A that grantor, as owner of the subject land, approved the transfer (including a change in the place and type of use and point of diversion) of the water rights that are appurtenant to the subject land; and that upon completion of a transfer, by election of SID, the subject land no longer will have an appurtenant water right, if the transfer includes a change in the place of use.

Furthermore, upon signing of this agreement and the accompanying transfer application Dickey Family Limited Partnership shall no longer be liable for any district assessment or charges pertaining to the 5.00 acres of water right incurred after the date of signing. The water right in question is further described as a portion of certificate # 74145, priority of 1899, located:

T17S-R12E,WM-SEC09-SE/SW-00300

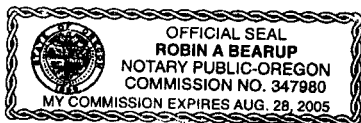
This agreement is binding upon the heirs, executors, administrators, successors, and permitted assigns of the parties to this agreement. Consideration for this Quitclaim is \$5,000.00.

Grantor:

Robert A. Dickey SR Date 11-16-04
Robert A. Dickey Sr.

State of Oregon SS.
County of Deschutes

Personally appeared Robert A. Dickey Sr. and acknowledged the forgoing instrument to be his voluntary act and deed.



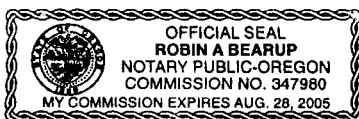
Robin A. Bearup
My commission expires: AUG 28, 2005

Swalley Irrigation District:

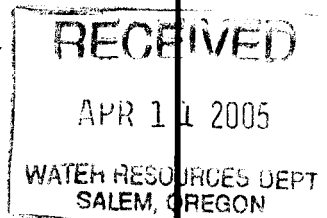
Janet Lee Date Nov. 16, 2004
Janet L. Lee, Manager

State of Oregon SS.
County of Deschutes

Personally appeared, Janet L. Lee, as Manager for Swalley Irrigation District, and acknowledged the forgoing instrument to be her voluntary act and deed.



Robin A. Bearup
My commission expires: AUG 28, 2005



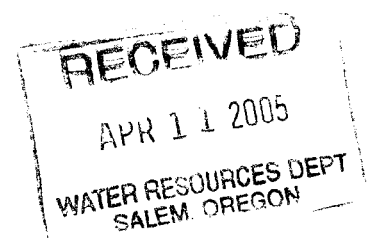
Tax statement: No change.

EXHIBIT A

Located in the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of
Section Nine (9), Township Seventeen (17) South, Range Twelve (12) East of the
Willamette Meridian, Tax Lot 00300, Deschutes County, Oregon.

Taxlot: 171209CD00300

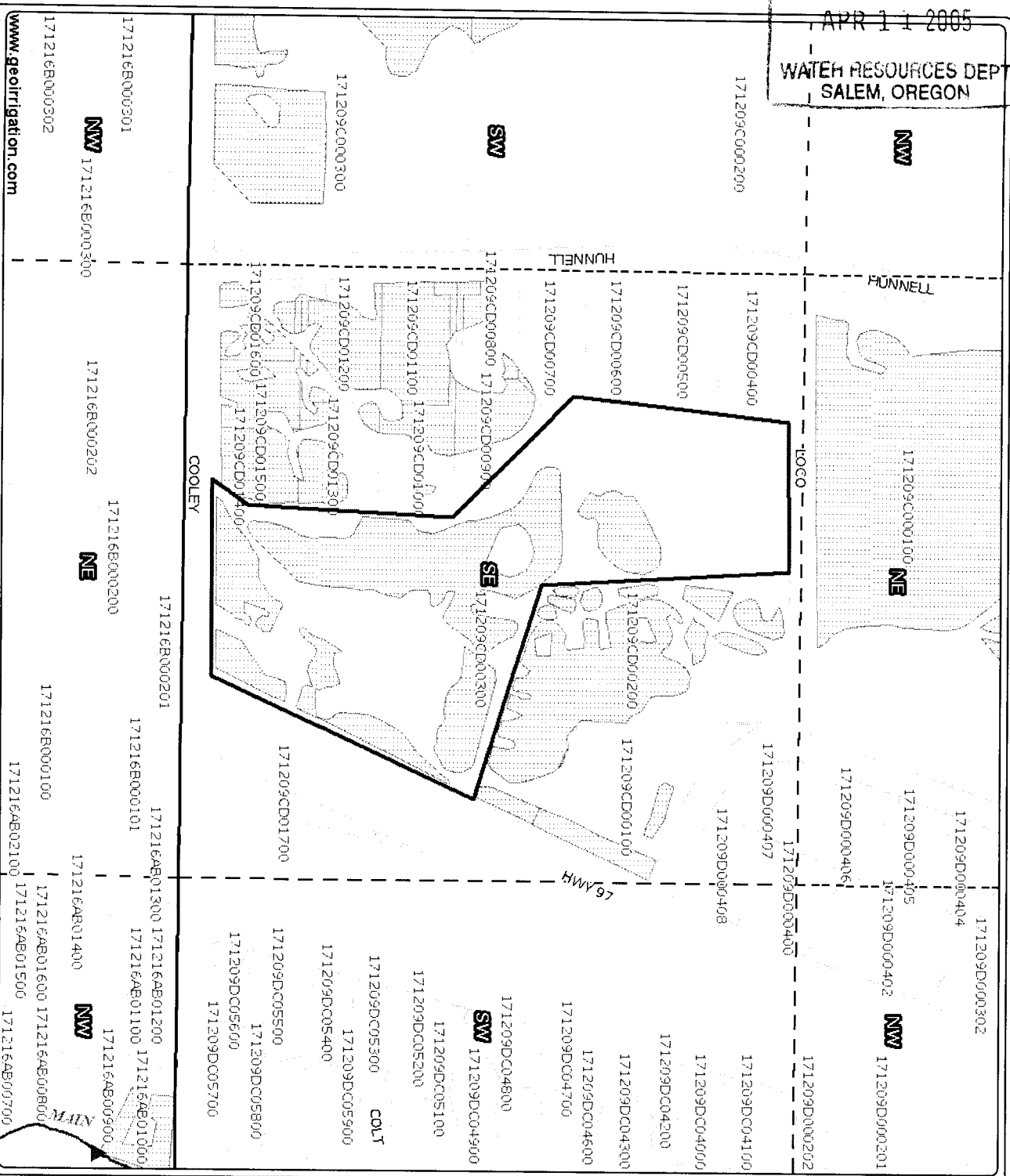
Serial #: 113236



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SALEM, OREGON



171216R000301
 171216R000302
 171216R000300

171216R000202
 171216R000200

171216R000201
 171216R000101

171216A00100
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171216A001300
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171209D000400
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 171209D000000

DISCLAIMER: This map is intended for display purposes only and is not intended for any legal representations

There are no warranties, expressed or implied that, accompanying this product

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Swalley Irrigation District

Dickey Family Limited
Partnership

Legend

- ▲ Gate
- Lateral Headgate
- Canal Closed
- Main
- Lateral
- Sub Lateral
- Ditch
- District Boundary
- Place of Use
- Rivers
- Road Labels
- Township Range
- Quarter Quarter
- Section Labels
- Sections
- Taxlot Labels
- Taxlots



scale 1" = 300.00'
created: 11/16/2004

Allocation and Transfer Form

New

Find

Return

Account #: 1101

First Name:

First Name(2):

Address: 63615 North Hwy 97

City State Zip: Bend

Home Phone: (541)382-7728

Voter: NO WATER RIGHTS

Last Name:

Dickey Family Limited Partnership

Special Fee:

Extra To Chg:

Subdivision:

Split/Trans Allocation

Name Chg Allocation

Update Master

Display Allocation

Turnout Informatio

Transactio n Report

Subdiv. Owners

Legal Desc

OR	97701	SID WR Acres :	0.00	Prior Bal:	\$0.00
		COLD WR Acres :	0.00	Asmt:	\$0.00
		Total Assessed Acres:	5.00	Fin Chg:	\$0.00
				Other Chg:	\$0.00
				Amt Paid:	\$0.00
				Balance:	\$0.00

Memo: 5/04/04 Zone change application: * On 11/16/04 I changed my records below to agree with County

From: Urban Area Reserve 17-12-09-SE/SW-00500 Tax lot: 171209CD000300

To: Hwy Commercial 17-12-09-SE/SW-00300 Tax lot: 171209CD000300

Note: 11/16/04 Quitclaimed 5.00 WR Acres to #1564 Swalley Irrigation District

Ec	Acct	Date	P #	Legal Desc	Taxlot	Subdiv	WR Acres	Memo	Trans Date	Trans	DomUse
T	1101	11/16/04	A	17-12-09-SE/SW-00300	171209CD000300	0	5.00	Hwy Commercial Zone	12/17/04	<input type="checkbox"/>	<input type="checkbox"/>
T	1101	02/07/00	A	17-12-09-SE/SW-00500	171209CD000500	0	5.00	Zone Chg to CD00300	11/16/04	<input type="checkbox"/>	<input type="checkbox"/>

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 WATER RESOURCES DEPT
 SALEM, OREGON