



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

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

Optional Identification by Lessor/Lessee: MITIGATION CREDIT PROJECT 53.9 ACRES
 Lease Agreement Number (assigned by WRD): L-663 (MP-54)

This Lease Agreement is between:

Lessor #1:

(Name) Stearns Land Company LLP
 (Mailing address) 825 NW Crest Dr.
 (City, State, Zip Code) Prineville, OR 97754
 (Telephone number) (541) 447-5983

Lessor #2, 3, etc.

LaPine Cooperative Water Association
PO Box 97
LaPine, OR 97739

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

Lessee (if different than Oregon Water Resources Department):

(Name) Deschutes Water Exchange Mitigation Bank
 (Mailing address) PO Box 1560
 (City, State, Zip Code) Bend OR 97709
 (Telephone number) 541 382-4077

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 22 S, Range 10 E, Section See Section 1.5 and Tax Lot number 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 LaPine Cooperative Water Association, 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.

Oct 2003

Certificate No. 72196

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.: 72196

Priority date: 1897 Type of use: Irrigation

Legal Season of Use: April 1 to 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 1/4 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 ___, R ___, Section __, 1/4 1/4 - _____ acres to be leased

Enter additional places of use here, using format above:

Taxlot 2802, T 22 S, 10 E, Section 15, SESE- 22.70 acres

Taxlot 100, T 22 S, 10 E, Section 22, NENE-31.20 acres

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

Number of acres being leased, if for irrigation: 53.9

Acre-feet of storage, if applicable: _____

Maximum rate associated with subject water rights (cfs):

0.67 (1/80 of 1 cfs/acre) from April 1 to May 23

1.35 (1/40 of 1 cfs/acre) from May 23 to August 20

0.67 (1/80 of 1 cfs/acre) from August 20 to November 1

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

Maximum duty associated with subject water rights (ac-ft): 215.6

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

Conditions or other limitations, if any: _____

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:

Little Deschutes River
Tributary to Deschutes in the Deschutes 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): From POD at SW1/4 SW1/4, Section 34, T 23S, R 9E, W.M., 550 ft North and 1150 ft East from the SW Corner, Section 34 to Lake Billy Chinook
Maximum volume in acre-feet: 215.6

Rate in cfs:

0.3 from April 1 to May 23

0.8 from May 23 to August 20

0.3 cfs from August 20 to November 1

(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: _____
Stearns Land Co.

For additional Lessors, type in space for signature and date

Date: _____
Manager, La Pine Cooperative Water Association

Lessee: _____ Date: _____
Senior Program Manager, Deschutes Water Exchange

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 1.5 is checked)

Attachment 4: Split Season Instream Use Form

Instructions for the Standard Instream Leasing Form

When Do I Use This Form?

Most individuals will use the “Standard Lease Form”. If you wish to lease more than one water right, then also use the “Additional Water Rights Form” for each additional water right to be leased. For more information on the different types of Lease Forms go to <http://www.wrd.state.or.us/programs/stewardship/forms/Instructions/Overall.pdf>.

Instructions for Completing a Lease Form

Lease Agreement Number: Water Resources Department staff in Salem will assign this number.

Required Parties to the Lease

Lessors: The lessor is the owner, or an authorized agent, of the property where, during the term of the lease:

- Water use will be suspended; or
- Water stored in a reservoir will be released for instream use.

If the lands to which the subject water rights are attached fall within the boundaries of an irrigation district or other water purveyor, as defined in ORS Chapters 545, 547, 552, 553, or 554, that organization must be a party to the lease and should be listed as lessor #2.

Spouses and immediate family can all be listed as lessor #1. If another individual or organization also has an ownership in the rights being leased, they should be listed as Lessor #2, #3, etc.

Lessee: The Lessee is normally an organization, agency or individual who may compensate (or provide other consideration of value to) the Lessor for leasing the subject right for instream use.

Trustee: The Trustee is the Oregon Water Resources Department. If a person leases a

right to the State without third party involvement, the Department will also be considered the Lessee.

Other Parties: Private ditch companies, mortgage holders and others may have an interest in the lease. The legally required parties may, at their discretion, add other parties as co-lessors.

Section One

1.1 Provide the legal description for the lands being leased. Attachment 1, Tax Lot Map of Lessor’s Property, is only needed if a portion of the water right is appurtenant to lands owned by others. Tax lot maps can be found at <http://www.gis.state.or.us/data/ormap/statemap.htm>.

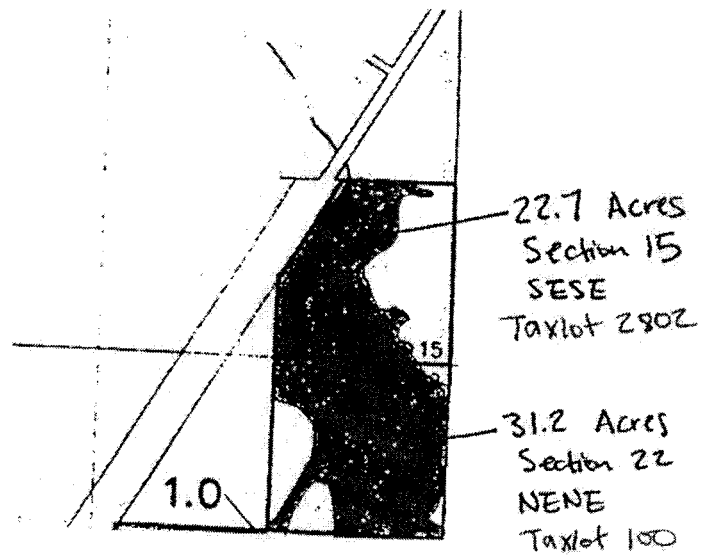
1.2 Identify who is Lessor #2, #3, etc., if necessary. If this section does not apply, indicate so.

1.3 Provide an inventory of all of the water rights attached to the property. Water rights information may be found at <http://stamp.wrd.state.or.us/apps/wr/wrinfo/wrinfo.php>. List all supplemental, as well as all primary rights, even if the supplemental rights are still in permit status. Indicate if the supplemental rights are not being leased instream.

Only water right certificates can be leased instream, with the exception that a secondary right to use stored water, even if in permit status, can be leased. If this type of permit is being leased, indicate that it is a permit and list its number.

1.4 Indicate if some or all of the lands are enrolled in the federal Conservation Reserve Enhancement Program. The Department will send a copy of the lease application and the associated order to the Farm Services Administration.

ATTACHMENT 2



Surface Water Right Map
For
Stearns Land Company, LLC

Certificate 72196
Priority 1897

Deschutes County
T22S R10E Sections 15 and 22
Taxlot #2802 and #100

1 inch equals 1320 feet

Leased Acreage, 53.9 Acres



This map was prepared for assessment purpose only.

Revised Date
7-17-2000
11-8-01
4-22-04
8-24-04
1-27-05

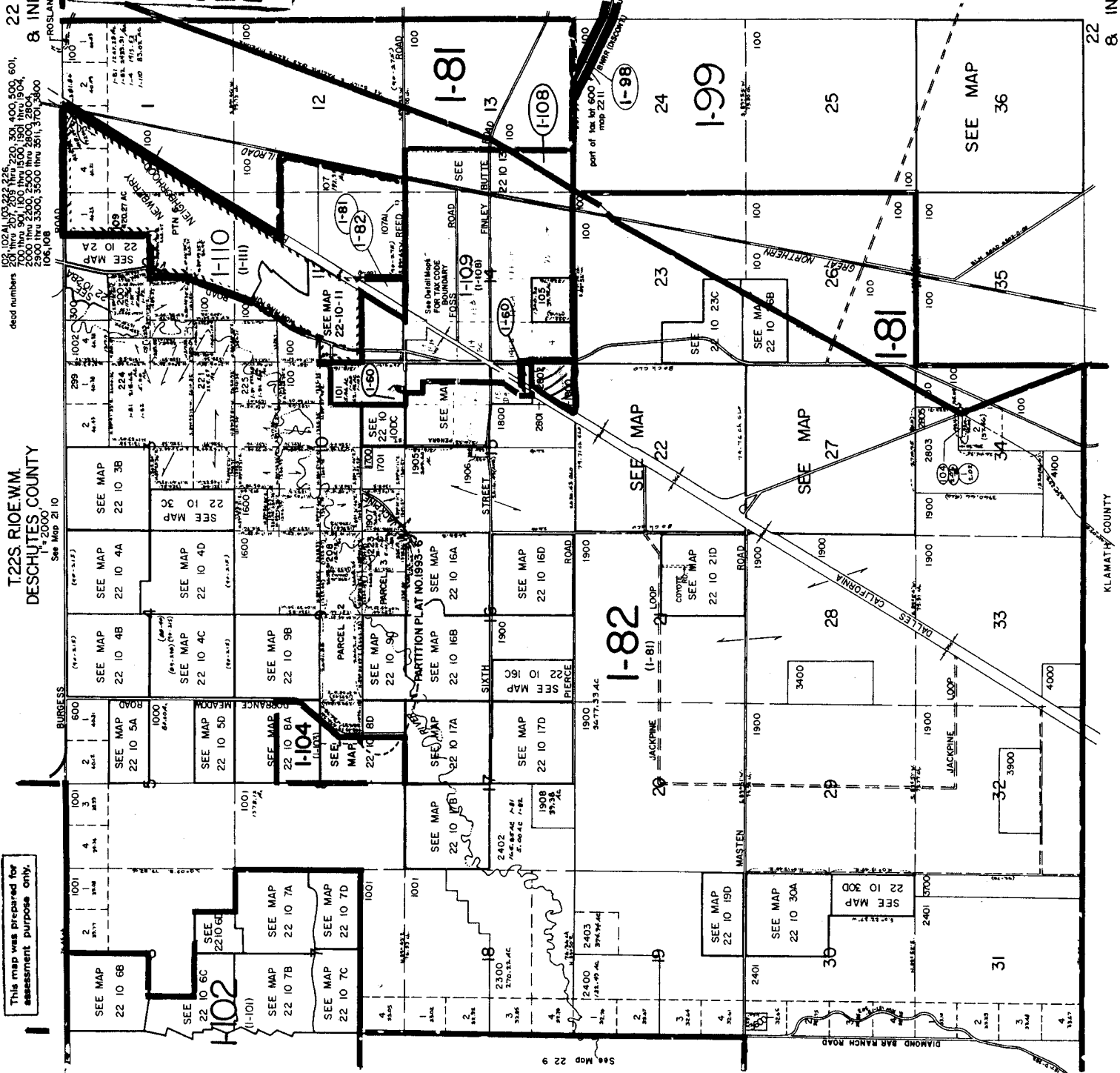
T.22S. R10E.W.M.
DESCHUTES COUNTY
1-2000
See Map 21 10

dead numbers
100 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 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WATER RESOURCES DEPT
SALEM, OREGON

22 10
& INDEX

22 10
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SECTION 22 T22S R10E1W1M.
DESCHUTES COUNTY
1"=400'

22 10 22

This map is prepared for
assessment purposes only.

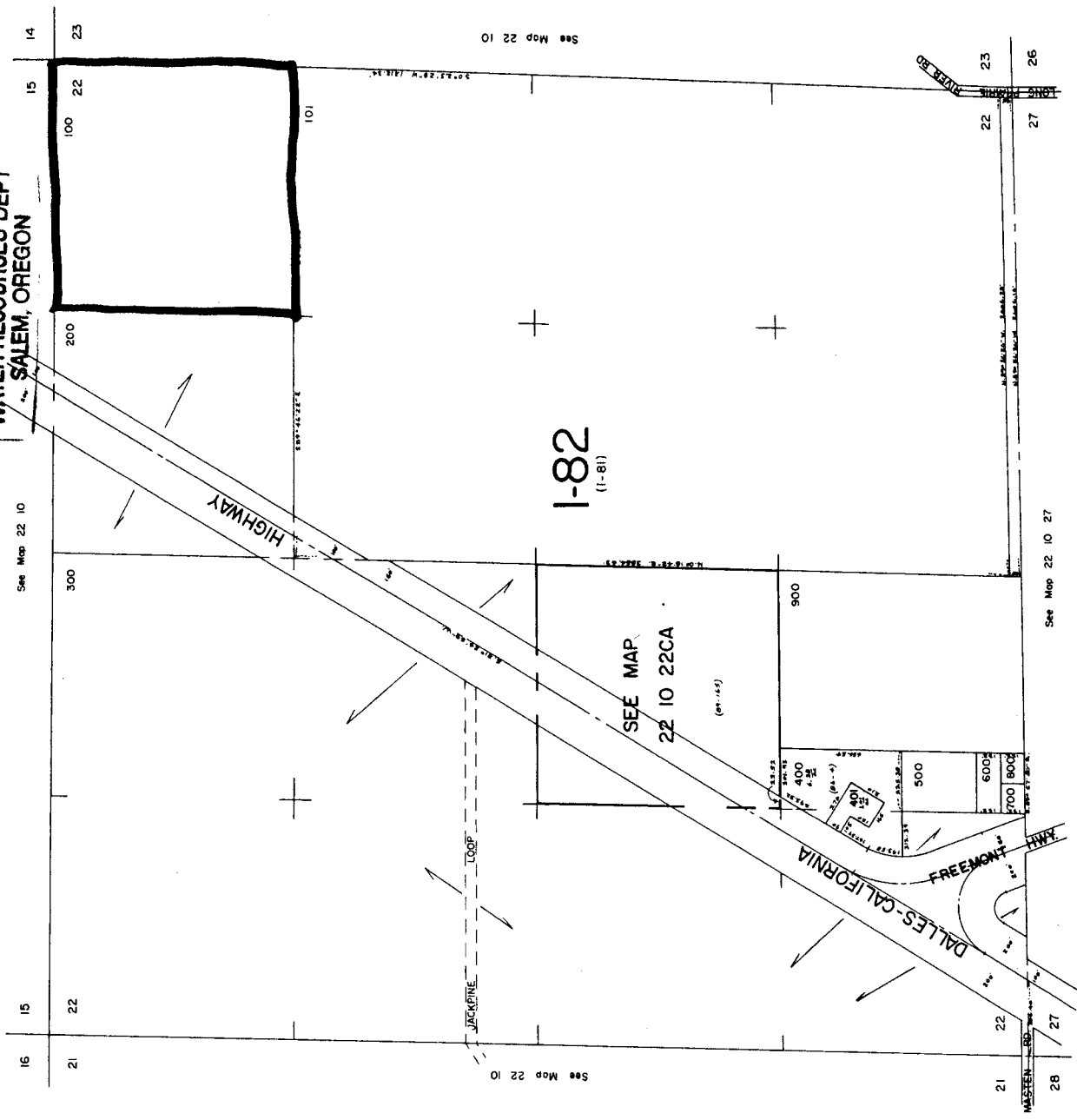
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WATER RESOURCES DEPT
SALEM, OREGON

474

Attachment 1B STEAKS LEASE

Taxlot 100 = 



22 10 22