



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: \_\_\_\_\_

Lease Agreement Number (assigned by WRD): \_\_\_\_\_

This Lease Agreement is between:

**Lessor #1:**

(Name) Grant and Fred Brown

(Mailing address) 8200 Squaw Flat Rd

(City, State, Zip Code) Bonanza, OR 97623

(Telephone number) (541) 545-6667

**Lessor #2, 3, etc.**

\_\_\_\_\_

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

**Lessee (if different than Oregon Water Resources Department):**

(Name) Klamath Basin Rangeland Trust

(Mailing address) 340 A Street, #302

(City, State, Zip Code) Ashland, OR 97520

(Telephone number) 541-488-4822

**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 34 S, Range 6 E, Section 11; 14 and Tax Lot number 200, 380, 400, 300; 300, 400, 500, 700. 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. [24599, 31064](#)

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.: [24599](#)

Priority date: [July 28, 1932](#) Type of use: [Irrigation](#)

Legal Season of Use: [May 1 - October 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 [34 S](#), R [6 E](#), Section [11](#), [SW](#)1/4 [SW](#)1/4 - [6.50](#) acres to be leased

Enter additional places of use here, using format above:

[T 34S, R 6E, Section 14, NW1/4 of NW1/4 - 3.0 acres to be leased](#)

[SE1/4 of NW1/4 - 19.0 acres to be leased](#)

[NE1/4 of SW1/4 - 14.9 acres to be leased](#)

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

Number of acres being leased, if for irrigation: [43.4](#)

Acre-feet of storage, if applicable: \_\_\_\_\_

Maximum rate associated with subject water rights (cfs): [0.94 cfs \( 0.86cfs from Cherry Creek and 0.08cfs from Tiger Lily Springs\)](#)

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

Maximum duty associated with subject water rights (ac-ft): [225 AF - 3 AF per acre \(130.2 AF for this instream lease\)](#)

(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:

[Tiger Lily Springs and Cherry Creek](#)

Tributary to [Agency Lake](#) in the [Klamath](#) 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): [POD is in T34S, R 6E, Sec14, SW1/4 NW1/4 and NW1/4 SW1/4, Sec15 SE1/4 NE1/4, Sec22 SE1/4 NE1/4. The water will be protected at the point of diversion, while there is water flowing.](#)

Maximum volume in acre-feet: [130.2](#)

Rate in cfs: [0.43](#)

(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 [October 1, 2005](#).

**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 (\_\_\_\_), 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: \_\_\_\_\_  
[Grant Brown](#)

For additional Lessors, type in space for signature and date

\_\_\_\_\_

Lessee: \_\_\_\_\_ Date: \_\_\_\_\_  
[Klamath Basin Rangeland Trust \(Shannon Peterson\)](#)

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

STATE OF OREGON  
COUNTY OF KLAMATH  
**CERTIFICATE OF WATER RIGHT**

**This Is to Certify, That** FRED G. BROWN and CECIL M. BROWN

of Crystal Route, Fort Klamath, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of Cherry Creek and Tiger Lily Springs a tributary of Klamath Lake for the purpose of irrigation of 75.0 acres under Permit No. 11280 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from July 28, 1932,

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.94 cubic foot per second; being 0.86 cubic foot per second from Creek and 0.08 cubic foot per second from Springs,

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the SW $\frac{1}{4}$  NW $\frac{1}{4}$  and NW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 14, SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 15, SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 22, Township 34 South, Range 6 East, W.M.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to not to exceed 3 acre feet per acre throughout the irrigation season from May 1, to October 1, of each year,

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

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

6.5 acres SW $\frac{1}{4}$  SW $\frac{1}{4}$   
Section 11  
3.0 acres NW $\frac{1}{4}$  NW $\frac{1}{4}$   
25.4 acres SW $\frac{1}{4}$  NW $\frac{1}{4}$   
19.0 acres SE $\frac{1}{4}$  NW $\frac{1}{4}$   
14.9 acres W  $\frac{3}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$   
6.2 acres NW $\frac{1}{4}$  SW $\frac{1}{4}$   
Section 14  
Township 34 South, Range 6 East, W.M.

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

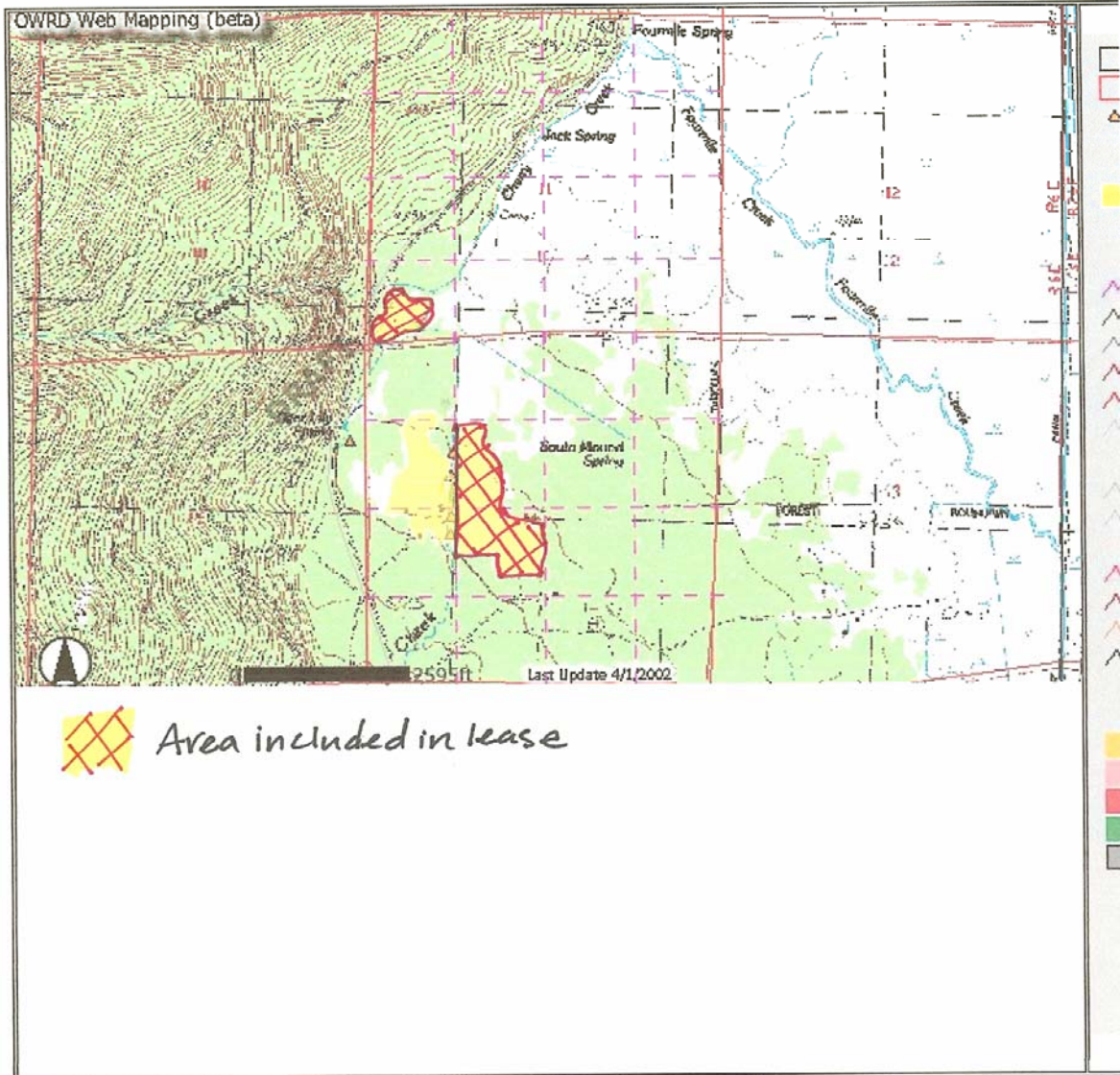
WITNESS the signature of the State Engineer, affixed

this 15th day of April, 19 59 .

.....  
Lewis A. Stanley

State Engineer

# Cert #24599



### Additional Information

#### Section 1.4, (Standard Leasing Form) cont.

**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.: 31064

Priority date: November 23, 1953 Type of use: Irrigation

Legal Season of Use (if not listed on the certificate): May 1 - October 1

Is the entire water right certificate being leased?  Yes  No

If no, list the acres to be leased 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 3) showing the lands which will not receive water.

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

Enter additional places of use here, using format above:

T 34S, R 6E, Section 11, SE1/4 NW1/4 - 6.4 acres to be leased

NE1/4 SW1/4 - 25.2 acres to be leased

SE1/4 SW1/4 - 24.2 acres to be leased

NW1/4 SE1/4 - 38 acres to be leased

SW1/4 SE1/4 - 30 acres to be leased

Section 14, NW1/4 NE1/4 - 7.6 acres to be leased

NE1/4 NW1/4 - 7.2 acres to be leased

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

Number of acres, if for irrigation: 138.6

Acre-feet of storage, if applicable:     

Rate associated with leased rights (cfs): 1.73 cfs (1.37 cfs to remain under max duty)

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

Duty associated with leased rights (AF): 415.8 (3 AF per acre)

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

Conditions or other limitations, if any:     

#### Section 2.2, cont.

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

Cherry Creek

Tributary to Agency Lake in the Klamath Basin.

Describe the point of diversion and any associated reach(es) of the instream use being created. If possible list the reach by river mile, if no reach is identified, the lease will be processed to be protected at the point of diversion): POD is T 34S, R 6E, Sec 11 SW1/4 of NW1/4, SE1/4 of NW1/4, E 1/2 of SW 1/4 and W1/2 of SE1/4; Sec 14 NW1/4 of NE1/4 and NE1/4 of NW1/4. The water will be protected at the POD.

Total volume in acre-feet: 415.8

Rate in cfs: 1.37 cfs

## Additional Information

**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): \_\_\_\_\_



STATE OF OREGON  
COUNTY OF KLAMATH  
**CERTIFICATE OF WATER RIGHT**

**This Is to Certify, That** FRED G., CECIL M., GRANT F.  
and LOIS M. BROWN

of Box 60, Fort Klamath, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of drainage and seepage water a tributary of Cherry Creek for the purpose of irrigation of 265.1 acres

under Permit No. 22823 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from November 23, 1953,

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 3.32 cubic feet per second

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , SE $\frac{1}{2}$  NW $\frac{1}{4}$ , E $\frac{1}{2}$  SW $\frac{1}{4}$  and W $\frac{1}{2}$  SE $\frac{1}{4}$ , Section 11; NW $\frac{1}{4}$  NE $\frac{1}{4}$  and NE $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 14; T. 34 S., R. 6 E., W. M.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3 acre feet per acre for each acre irrigated during the irrigation season of each year,

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

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

10.6 acres NE $\frac{1}{4}$  NE $\frac{1}{4}$   
5.0 acres NW $\frac{1}{4}$  NE $\frac{1}{4}$   
34.8 acres SW $\frac{1}{4}$  NE $\frac{1}{4}$   
37.2 acres SE $\frac{1}{4}$  NE $\frac{1}{4}$   
6.4 acres SE $\frac{1}{4}$  NW $\frac{1}{4}$   
25.2 acres NE $\frac{1}{4}$  SW $\frac{1}{4}$   
24.2 acres SE $\frac{1}{4}$  SW $\frac{1}{4}$   
38.9 acres NE $\frac{1}{4}$  SE $\frac{1}{4}$   
38.0 acres NW $\frac{1}{4}$  SE $\frac{1}{4}$   
30.0 acres SW $\frac{1}{4}$  SE $\frac{1}{4}$   
Section 11  
7.6 acres NW $\frac{1}{4}$  NE $\frac{1}{4}$   
7.2 acres NE $\frac{1}{4}$  NW $\frac{1}{4}$   
Section 14  
T. 34 S., R. 6 E., W. M.

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

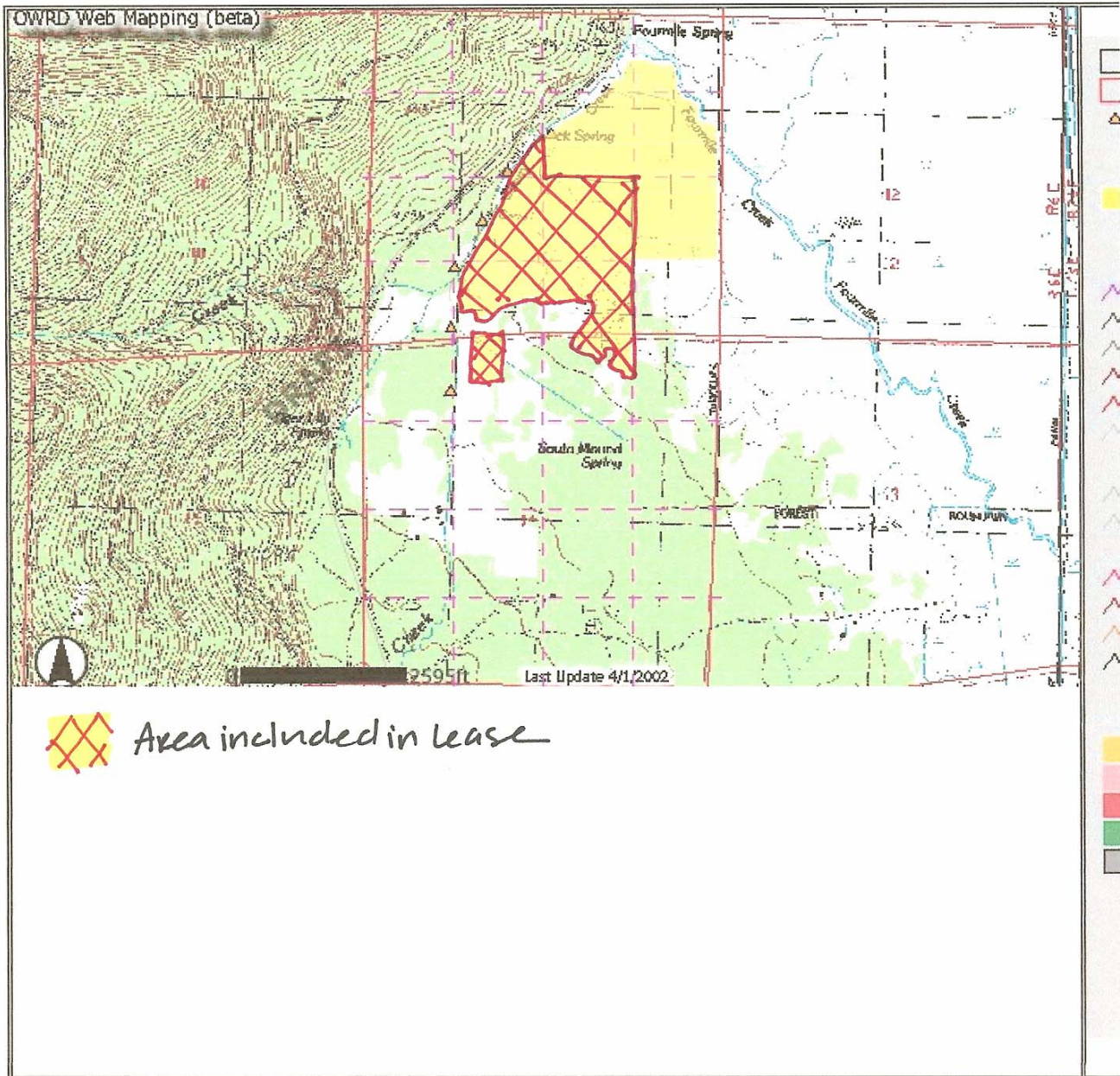
WITNESS the signature of the State Engineer, affixed

this date. JULY 1 - 1963

CHRIS L. WHEELER

State Engineer

# Cert #31064



**Grant Brown – Certificates 24599 and 31064**  
Township 34S, Range 6E

