



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
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/publication/reports/index.shtml.

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

Optional Identification by Lessor/Lessee: Mitigation Project
Lease Agreement Number (assigned by WRD):

This Lease Agreement is between:

Lessor #2: Irrigation District or Other Water Purveyor

(Name) LaPine Cooperative Irrigation District
(Mailing address) P.O. Box 97
(City, State, Zip Code) LaPine, OR 97736
(Telephone number)
(Email address)

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

Lessee (if different than Oregon Water Resources Department):

(Name) Deschutes Water Exchange Mitigation Bank
(Mailing address) P.O. Box 1560
(City, State, Zip Code) Bend, OR 97709
(Telephone number) 541-382-4077, ext 16
(Email address) gen@deschutesrc.org

Trustee:

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

~I~ Ownership and Water Right Information

1.2 Lessor #2 is the (Check one):

- 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.
Not applicable.

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. 72196

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SALEM, OREGON

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, 1902 Type of use: Irrigation

Legal Season of Use: April 1 through November 1

If an irrigation right, total number of acres to be leased: 1897 - 250.9 ac, 1902 - 147.1 ac

Total acre-feet of storage to be leased, if applicable: N/A

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

1897 priority:

April 1-May 23: 4.3 cfs

May 23-Aug 20: 6.28 cfs

Aug 20-Nov 1: 4.3 cfs

1902:

April 1-May 23: 1.84 cfs

May 23-Aug 20: 3.68 cfs

Aug 20-Nov 1: 1.84 cfs

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

Season 1 (cfs) \_\_\_\_\_ Time period: \_\_\_\_\_

Season 2 (cfs) \_\_\_\_\_ Time period: \_\_\_\_\_

Season 3 (cfs) \_\_\_\_\_ Time period: \_\_\_\_\_

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

1897 - 1003.6 AF

1902 - 588.4 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, 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 River in the Columbia Basin 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

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POD. (If more than one POD is listed on the certificate, then the POD and any associated reach(es) must be identified): SWSW, Sect 34, T23S, R9E, W.M.; 550 feet N and 1150 feet E from the SW corner of Sect 34

Maximum volume in acre-feet:

1897 - 1003.6 AF

1902 - 588.4 AF

Rate in cfs:

1897 priority:

May 1-May 23: 3.108 cfs

May 23-Aug 20: 3.108 cfs

Aug 20-Oct 10: 3.108 cfs

1902 priority:

May 1-May 23: 1.823 cfs

May 23-Aug 20: 1.822 cfs

Aug 20-Oct 10: 1.823 cfs

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

Rate in cfs: \_\_\_\_\_

Rate in cfs: \_\_\_\_\_

**Conditions to prevent injury, if any:**

None

The instream flow will be allocated on a daily average basis up to the described rate from May 1 through October 10.

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, 2010.

**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.

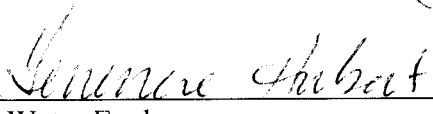
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- 3.2 Lease.** All Lessors agree to lease the water rights listed in 1.4 for instream use for the term of this Agreement through Lessee to Trustee, the Oregon Water Resources Department, pursuant to the provisions of ORS 537.348(2) and OAR 690-077-0077.
- 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 #2:  Date: April 29, 2006  
LaPine Cooperative Water Association

Lessee:  Date: 29 April 2006  
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).

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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 Landowner Form

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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 PROJECT 44.1 ACRES  
Lease Agreement Number (assigned by WRD): \_\_\_\_\_

This Lease Agreement is between:

**Lessor #1:**

(Name) Albert and Patricia Havlik  
(Mailing address) 52406 Mountainview Rd  
(City, State, Zip Code) Scappoose, OR 97056  
(Telephone number) 503 543-2343

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

LaPine Cooperative Water Association  
PO Box 97  
LaPine, OR 97739

The water right to be leased is located in Klamath 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

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### ~I~ Ownership and Water Right Information

- 1.1 Lessor #1 is the owner, or authorized agent for owner of property located at: Township 23 S, Range 10 E, Section 6 and Tax Lot number 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 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: April 30, 1902 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 ¼ ¼ 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 23 S, R 10 E, Section 6, NE¼ NE¼ - 32.70 acres to be leased

Enter additional places of use here, using format above:

Taxlot #700

T23S, R10E, Section 6, NW NE- 5.00 acres

T23S, R10E, Section 6, SE NE- 6.40 acres

Page

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

Number of acres being leased, if for irrigation: 44.1

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

Maximum rate associated with subject water rights (cfs):

0.55 (1/80 of 1 cfs/acre) from April 1 to May 23

1.10 (1/40 of 1 cfs/acre) from May 23 to August 20

0.55 (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): 176.4 ac-ft (not to exceed 4.0

ac-ft/acre)

(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.

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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 Deshutes 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 of Section 34 to Lake Billy Chinook.

Maximum volume in acre-feet: 176.4

Rate in cfs:

0.55 (~~1/80 of 1 cfs/acre~~<sup>44</sup>) from May 1 to May 23

0.55 (~~1/40 of 1 cfs/acre~~) from May 23 to August 20

0.55 (~~1/80 of 1 cfs/acre~~) from August 20 to October 10

(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 May 1 through October 10.
- 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, 2010.

**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**

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- 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: Albert J. Havlik  
Patricia A. Havlik Date: 3/13/06  
Havlik

For additional Lessors, type in space for signature and date

Lessor #2: [Signature] Date: April 11, 2006  
LaPine Cooperative Water Association

Lessee: [Signature] Date: April 11, 2006  
Program Manager, DRC - Deschutes Water Exchange

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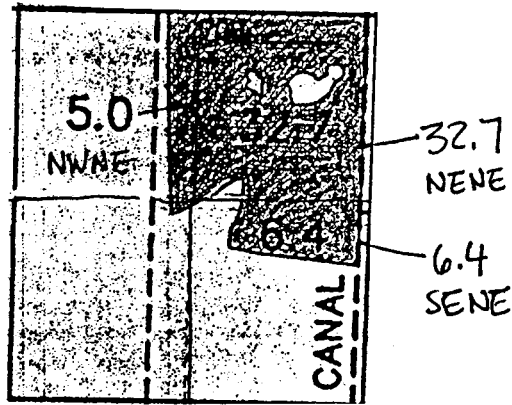
Other Attachments as Needed:

- 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

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Surface Water Right Map  
For  
Havlik Property

Certificate 72196  
Priority 1902

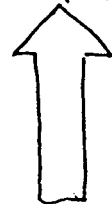
Klamath County  
T23S R10E Section 6, NENE, NWNE, SENE  
Taxlot #700

1 inch equals 1320 feet

Leased Acreage, 44.1 Acres



NORTH



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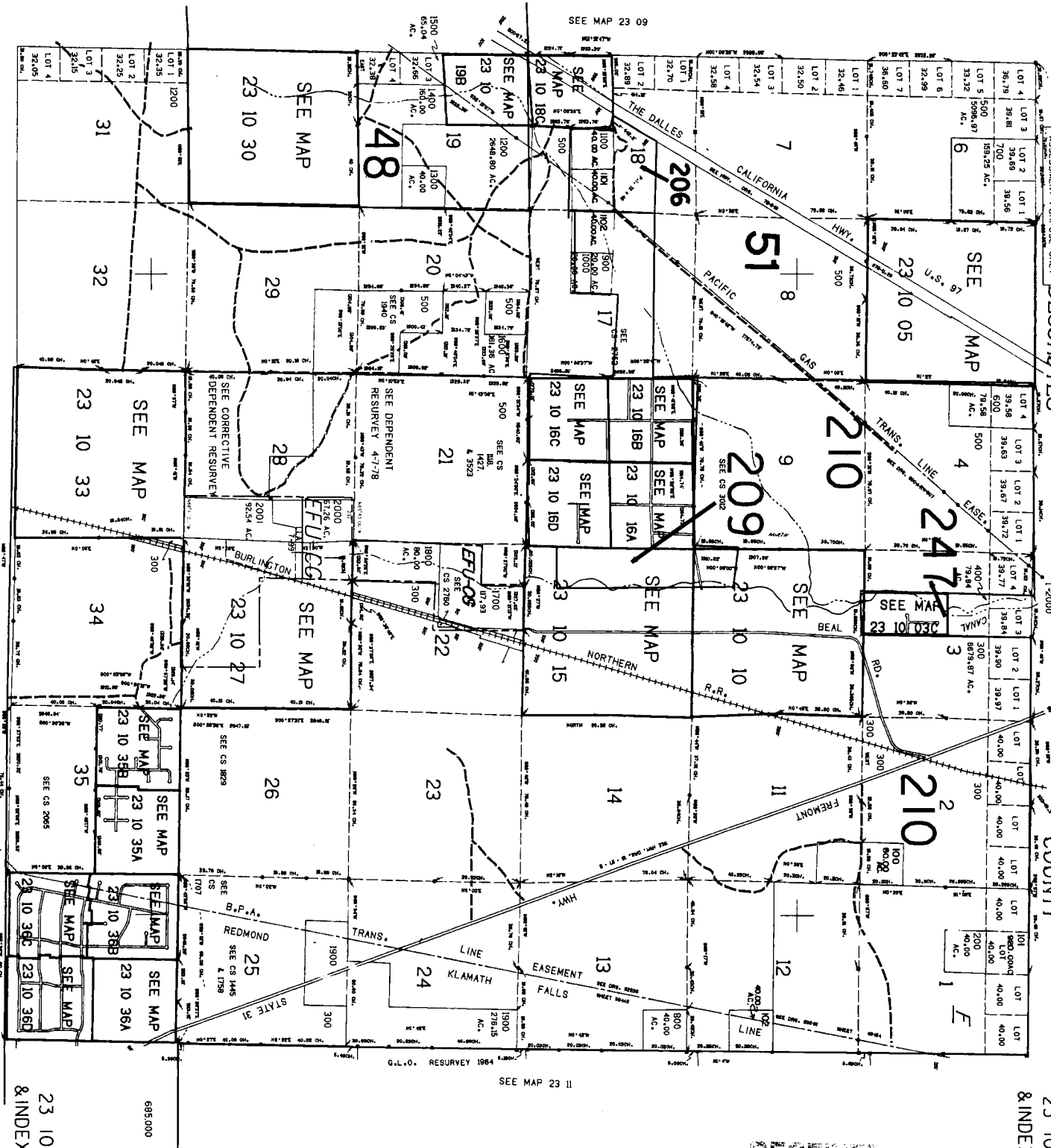
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THIS MAP WAS PREPARED FOR  
ASSESSMENT PURPOSE ONLY

T.23S. R10E. WM.  
KLAMATH COUNTY

COUNTY

23 10  
& INDEX



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720,000

SEE MAP 24 10

SEE MAP 23 11

23 10  
& INDEX

685,000



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 PROJECT 53.9 ACRES  
Lease Agreement Number (assigned by WRD): \_\_\_\_\_

This Lease Agreement is between:

**Lessor #1:**

(Name) Stearns Land Company LLC  
(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

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### ~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 15 and Tax Lot number 2802. 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 ¼ ¼ 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 \_\_, ¼ ¼ - \_\_\_\_\_ 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

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**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:

0.668 from May 1 to May 23

0.668 from May 23 to August 20

0.668 cfs from August 20 to October 10

(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 May 1 through October 10.
- 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, 2010.

**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

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SALEM, OREGON

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: Stearns Land Co., LLC Date: 3-15-06  
*Joseph S. Stearns - Managing Partner*

For additional Lessors, type in space for signature and date  
Manager, La Pine Cooperative Water Association Date: April 24, 2006

Lessee: Genevieve Hubert Date: April 11, 2006  
Program Manager, DRC - 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).

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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)

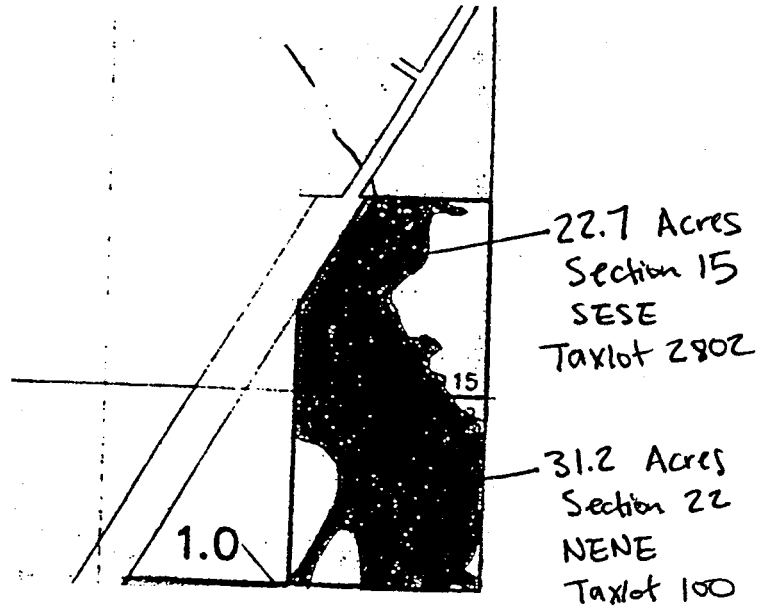
Attachment 4: Split Season Instream Use Form

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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



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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 Project, 300.0 acres  
Lease Agreement Number (assigned by WRD): \_\_\_\_\_

This Lease Agreement is between:

**Lessor #1:**

(Name) Gordon Wanek  
(Mailing address) 50825 Huntington Rd.  
(City, State, Zip Code) LaPine, OR 97739  
(Telephone number) (541) 536-6055

**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 22, 23, 27 and Tax Lot number 101,102, 103, 104, 105, 108, 109, 2400, 2401. 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 \_\_\_\_\_.

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- 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 and April 30, 1902 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  $\frac{1}{4}$   $\frac{1}{4}$  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   ,  $\frac{1}{4}$   $\frac{1}{4}$  -        acres to be leased

Enter additional places of use here, using format above:

See Exhibit A.

Page       

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

Number of acres being leased, if for irrigation: 300.0 total

1897 priority-197.0 acres

1902 priority- 103.0 acres

Acre-feet of storage, if applicable: none

Maximum rate associated with subject water rights (cfs):

Priority Date 1897 (197 acres):

2.46 (1/80 of 1 cfs/acre) from April 1 to May 23

4.93 (1/40 of 1 cfs/acre) from May 23 to August 20

2.46 (1/80 of 1 cfs/acre)from August 20 to November 1

Priority Date 1902 (103 acres):

1.29 (1/80 of 1 cfs/acre) from April 1 to May 23

2.58 (1/40 of 1 cfs/acre) from May 23 to August 20

1.29 (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):

Priority Date 1897: 788.0 ac-ft (Not to exceed 4.0 ac-ft/acre)

Priority Date 1902: 412.0 ac-ft (Not to exceed 4.0 ac-ft/acre)

Total Duty associated with water rights: 1200 ac-ft

(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.

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**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:

Priority Date 1897: 788.0 ac-ft (Not to exceed 4.0 ac-ft/acre)

Priority Date 1902: 412.0 ac-ft (Not to exceed 4.0 ac-ft/acre)

Total Duty associated with water rights: 1200 ac-ft

Rate in cfs:

Priority Date 1897:

2.44 cfs from May 1 to May 23

2.44 cfs from May 23 to August 20

2.44 cfs from August 20 to October 10

Priority Date 1902:

1.277 cfs from May 1 to May 23

1.276 cfs from May 23 to August 20

1.277 cfs from August 20 to October 10

(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 May 1 through Oct 10.
- Other (describe): \_\_\_\_\_

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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, 2010.
- 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.
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- 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: Gordon W. Wanek Date: 3-30-06  
Gordon Wanek

For additional Lessors, type in space for signature and date

[Signature] Date: April 24 2006  
Manager, La Pine Cooperative Water Association

Lessee: Genevieve Hubert Date: 3-30-2006  
Program Manager, DRC - 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

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**Exhibit A - Place of Use**

Taxlot	Township	Range	Section	1/4		1/4 Acres	Priority
101	22S	10E	22	SE	NE	15.40	1897
101	22S	10E	22	NE	SE	26.20	1897
101/102/109	22S	10E	22	SW	SE	5.10	1897
101/109	22S	10E	22	SE	SE	5.60	1897
2400	22S	10E	23	NW	SW	1.00	1897
2401	22S	10E	23	NW	SW	8.10	1897
2401	22S	10E	23	SW	SW	4.80	1897
102/103	22S	10E	27	NE	NE	12.00	1897
102/103	22S	10E	27	NW	NE	34.00	1897
103/104/108	22S	10E	27	SW	NE	35.30	1897
103/104/108	22S	10E	27	SE	NE	15.20	1897
108/105	22S	10E	27	NE	SE	5.70	1897
108/105	22S	10E	27	NW	SE	28.60	1897
101	22S	10E	22	SW	NE	37.40	1902
101	22S	10E	22	SE	NE	1.00	1902
101	22S	10E	22	NW	SE	33.00	1902
101	22S	10E	22	SW	SE	31.60	1902
<b>Total leased acreage</b>						<b>300.00</b>	
Total 1897						197.00	
Total 1902						103.00	

Note: A lot line adjustment resulted in lot number changes.  
 Taxlots 103 and 108 were divided into five taxlots: 102, 103, 104, 108, 105.

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Attachment 1

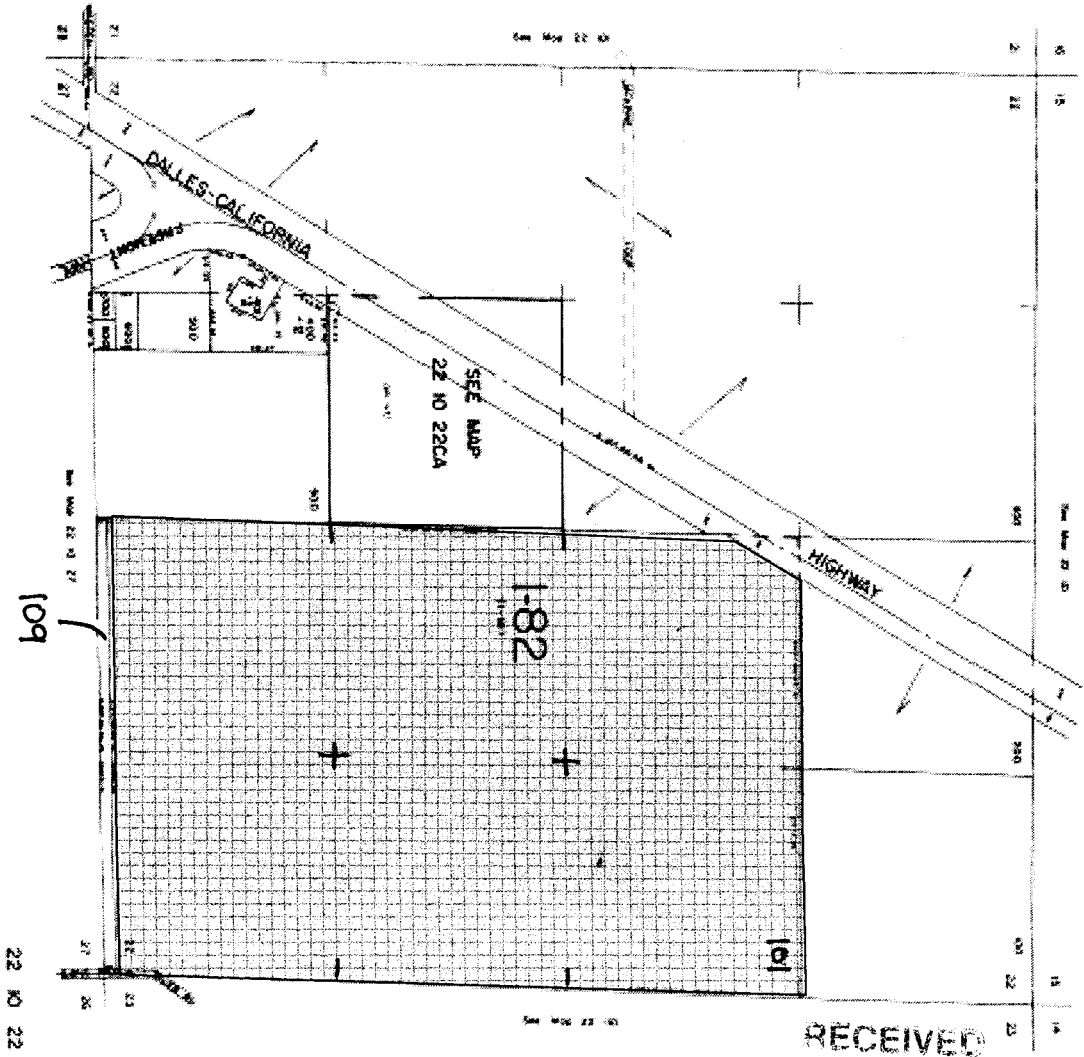
Gordon Wanek Property  
Deschutes County

Tax lot map: 101



SECTION 22 1223 RIDGEWAY  
DESCHUTES COUNTY  
1:4000

22 10 22



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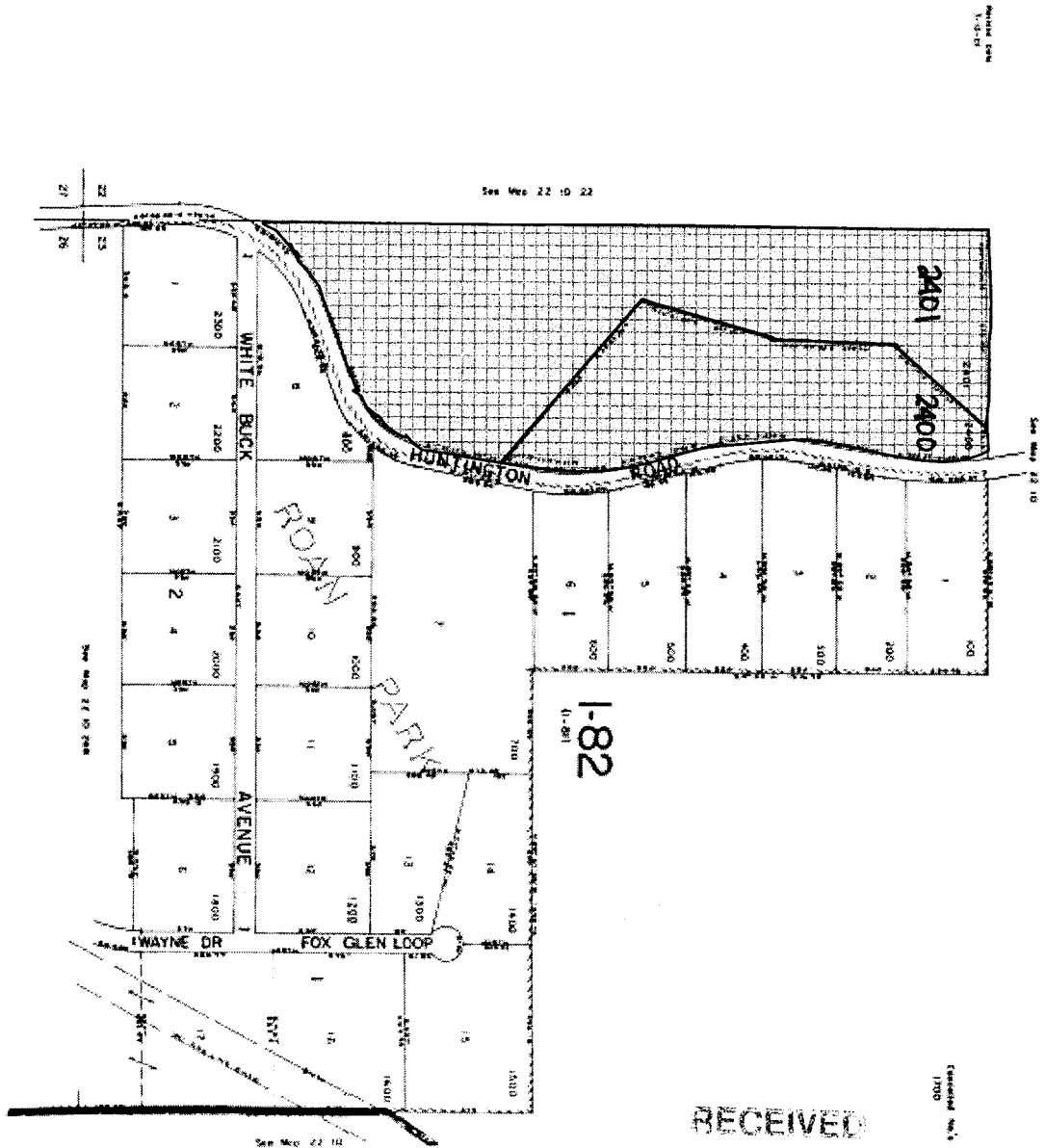
# Attachment 1a

Gordon Wanek Property  
Taxlot Map: 2400, 2401

This map was prepared for  
assessment purposes only.

SW1/4 SEC 23 T22S R10E WM  
DESCHUTES COUNTY  
1"-1,200'

22 10 23C



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22 10 23C

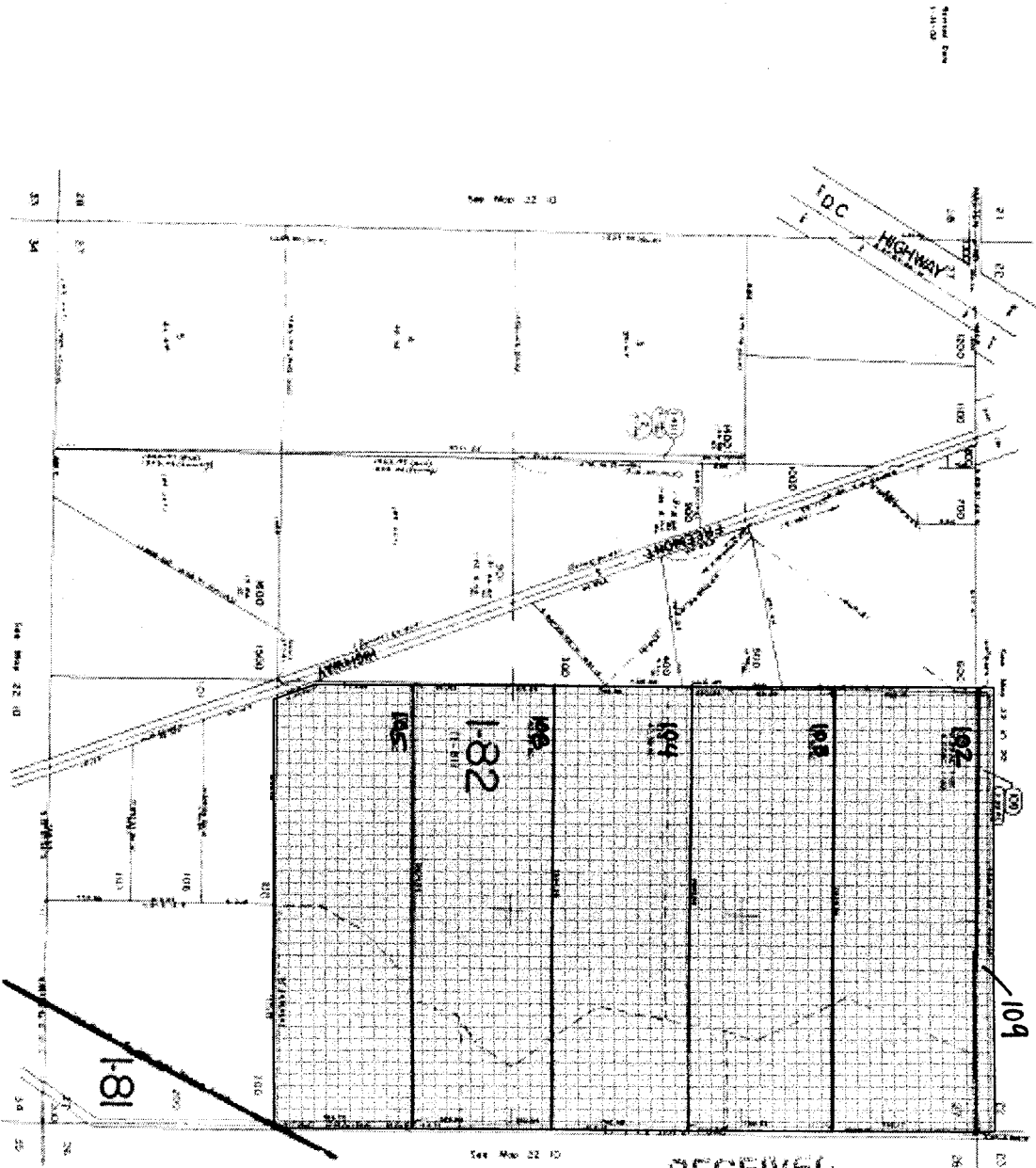
# Attachment 1b

Gordon Wanek Property

Tax lot map: 109, 102,  
103, 104, 108, 105

THIS MAP NOT BEING MADE FOR  
ADMINISTRATIVE PURPOSES ONLY.

SECTION 27 T22S R06E1M  
DESCHUTES COUNTY  
Oregon



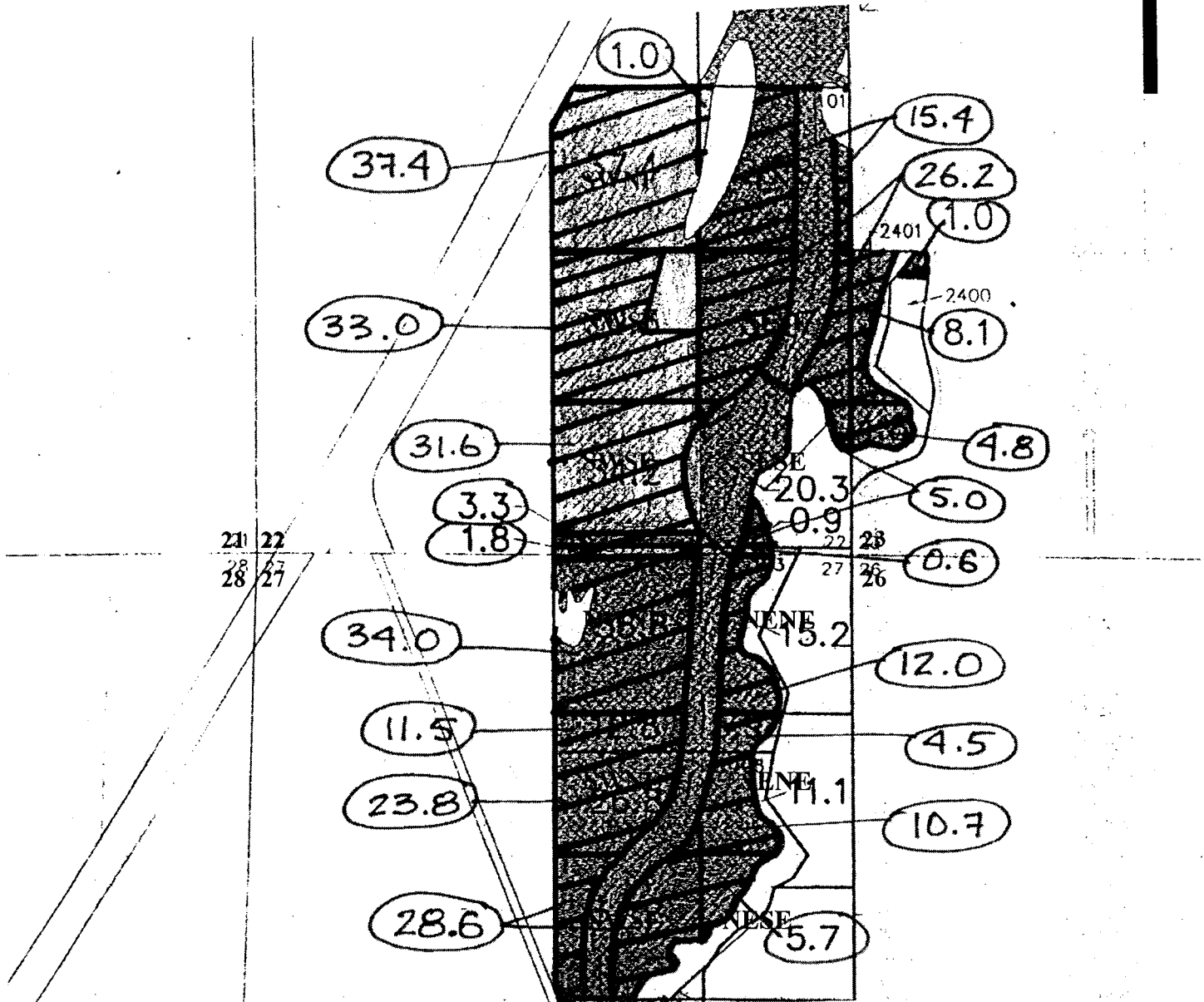
22 10 27

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22 10 27



Surface Water Right Map  
For  
Gordon Wanek

Certificate 72196  
Priority 1897 (darker shade) and 1902 (lighter shade)

Deschutes County  
T22S R10E Sections 22, 23, 27  
Taxlots 101, 102, 103, 104, 105, 108, 2400, 2401

1 inch equals 1320 feet

Leased Acreage  
(acres circled)



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**Exhibit A - Place of Use**

6-1-06

Max ac.  
in lot

Taxlot	est t. lot	Township	Range	Section	1/4	1/4 Acres	est TL ac	Priority		
101		22S	10E	22	SE	NE	15.40	✓	1897	-28.80
101		22S	10E	22	NE	SE	26.20	✓	1897	-38.70
101/109		22S	10E	22	SW	SE	5.10		1897	
	101						3.30	✓		-3.3
	109						1.80	✓		
101/109		22S	10E	22	SE	SE	5.60		1897	
	101						5.00	✓		-20.3
	109						0.60	✓		
2400		22S	10E	23	NW	SW	1.00	✓	1897	-1.0
2401		22S	10E	23	NW	SW	8.10	✓	1897	-8.1
2401		22S	10E	23	SW	SW	4.80	✓	1897	-4.8
102/103		22S	10E	27	NE	NE	12.00		1897	
	102						6.30	✓		
	103						5.70	✓		-15.2
102/103		22S	10E	27	NW	NE	34.00		1897	
	102						21.00	✓		
	103						13.00	✓		-36.8
103/104/108		22S	10E	27	SW	NE	35.30		1897	
	103						7.50	✓		-12.8
	104						21.00	✓		
	108						6.80	✓		-26.8
103/104/108		22S	10E	27	SE	NE	15.20		1897	
	103						3.00	✓		-5.9
	104						9.50	✓		
	108						2.70	✓		-11.1
108/105		22S	10E	27	NE	SE	5.70		1897	
	108						5.40	✓		-5.7
	105						0.30	✓		
108/105		22S	10E	27	NW	SE	28.60		1897	
	108						13.60	✓		-34.20
	105						15.00	✓		
101		22S	10E	22	SW	NE	37.40	✓	1902	-37.4
101		22S	10E	22	SE	NE	1.00	✓	1902	-1.0
101		22S	10E	22	NW	SE	33.00	✓	1902	-39.3
101		22S	10E	22	SW	SE	31.60	✓	1902	-34.2
<b>Total leased acreage</b>						<b>300.00</b>				
Total 1897						197.00				
Total 1902						103.00				

Note: A lot line adjustment resulted in lot number changes.  
Taxlots 103 and 108 were divided into five taxlots: 102, 103, 104, 108, 105.

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