



DESCHUTES RIVER
CONSERVANCY

June 30, 2006

Laura Snedaker
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-4172

Dear Laura:

Enclosed please find 1 one-year standard lease for OID. This lease is being submitted for restoration. Please debit the DRC account \$100.00. Please let me know if you need anything further or have any questions. This lease is being submitted electronically.

Sincerely,

Genevieve Hubert
Program Manager

Cc: Jeremy Giffin
Russell Rhoden
Randy Jones
Reagan Desmond

Encl: lease

700 NW Hill Street • Bend, Oregon 97701
(P.O. Box 1560 • 97709)
541.382.4077 • Fax 541.382.4078
www.deschutesrc.org / info@deschutesrc.org



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: Lease submitted pending completed RRA forms with the Bureau of Rec. If Reclamation Reform Act forms are not in by Final *
Lease Agreement Number (assigned by WRD): _____

*Order this lease
* will be withdrawn *
-6/30/06 JH
DRC*

This Lease Agreement is between:

Lessor #1:

(Name) IronHorse Development, LLC
(Mailing address) 409 NW Franklin Ave
(City, State, Zip Code) Bend, OR 97701
(Telephone number) 541-350-5199
(Email address) randy@brooksresources.com

Lessor #2, 3, etc.

Ochoco Irrigation District
1001 NW Deer St
Prineville, OR 97754 (541)447-6449
ochocoid@crestviewcable.com

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

Lessee (if different than Oregon Water Resources Department):

(Name) Deschutes River Conservancy
(Mailing address) 700 NW Hill St
(City, State, Zip Code) Bend, OR 97701
(Telephone number) (541) 382-4077
(Email address) gen@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 14
S, Range 16 E, Section 28, 29, 32, 33 and Tax Lot number
1600. 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):

Official representative of Ochoco Irrigation District, 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. 68394 pending 3111

- 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.: 68394

Priority date: Aug 10, 1917 Type of use: IRR

Legal Season of Use: April 1 through Nov. 1 (not specified on Cert 68394)

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 ___, R ___, Section __, $\frac{1}{4}$ $\frac{1}{4}$ - _____ acres to be leased

Enter additional places of use here, using format above:

See Attachment 1 - place of use

Page See Attachment 1 - place of use (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres being leased, if for irrigation: 310.8 acres

Acre-feet of storage, if applicable: N/A

Maximum rate associated with subject water rights (cfs): 3.885 cfs (0.0125 cfs/ac)

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

Maximum duty associated with subject water rights (ac-ft): 1243.2 (max duty is 4.0 af/ac)

(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:

Ochoco Creek
Tributary to Crooked River 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 Ochoco Feed Canal 54, SWNW, Sect 5, T15S, R17E, WM; 500 ft E from the W 1/4 corner, sect 5 to Lake Billy Chinook
Maximum volume in acre-feet: 863.05 - The 2006 irrigation season duty is limited to 3.5 af/ac.

Rate in cfs: 3.885 cfs

(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 July 1, 2006 through October 20, 2006.
- 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, 2006.

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: _____
IronHorse LLC

For additional Lessors, type in space for signature and date
Ochoco Irrigation Dist

Lessee: _____ Date: _____
Deschutes River Conservancy

*Signature page attached.
 This lease was separated from a pooled lease.
 JH, DRC
 6/30/06*

- 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

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 provided by the Irrigation District, Other Water Purveyor or Lessee (if different than Department). The lessor must contact the Irrigation District, Other Water Purveyor, or Lessee (if different than Department) to indicate their interest in terminating the lease agreement.
- 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.

Lessor #1: *[Signature]* Date: 6/29/06
IronHorse Development, LLC

For additional Lessors, type in space for signature and date

Lessor #2: *[Signature]* Date: 6/30/06
Ochoco Irrigation District

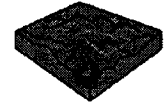
Lessee: *[Signature]* Date: 6/30/06
Deschutes River Conservancy

Other Attachments As Needed:

- Exhibit 5-A: Tax Lot Map of Landowner's Property
- Exhibit 5-B: Detailed map illustrating lands under subject rights to be leased (Exhibits 5-A and 5-B may be combined into a single map)
- Exhibit 5-C: Supporting documentation indicating why a right is valid and not subject to forfeiture even though the right has not been exercised for five or more consecutive years (required if the second box in Section 1.6 of this form is checked)
- Exhibit 5-D: Split Season Instream Use Form
- Attachment 1: Place of Use spreadsheet

ATTACHMENT 1
IronHorse Development, LLC

	Name	T	R	Sect	1/4 1/4	Tax Lot	Acres	Type of Use	Certificate	Page #	Priority		
1	IronHorse Devel. LLC	14	S	16	E	29	NESE	1600	7.3	IRR	68394	10	10-Aug-1917
2	IronHorse Devel. LLC	14	S	16	E	29	SESE	1600	12.6	IRR	68394	10	10-Aug-1917
3	IronHorse Devel. LLC	14	S	16	E	28	NWSW	1600	16.3	IRR	68394	10	10-Aug-1917
4	IronHorse Devel. LLC	14	S	16	E	28	SWSW	1600	29.6	IRR	68394	10	10-Aug-1917
5	IronHorse Devel. LLC	14	S	16	E	32	NENE	1600	14	IRR	68394	26	10-Aug-1917
6	IronHorse Devel. LLC	14	S	16	E	32	NENE	1600	1	IRR	68394	26	10-Aug-1917
7	IronHorse Devel. LLC	14	S	16	E	32	SENE	1600	11.4	IRR	68394	10	10-Aug-1917
8	IronHorse Devel. LLC	14	S	16	E	32	SENE	1600	12.7	IRR	68394	26	10-Aug-1917
9	IronHorse Devel. LLC	14	S	16	E	32	NESE	1600	3.6	IRR	68394	38	10-Aug-1917
10	IronHorse Devel. LLC	14	S	16	E	32	NESE	1600	22.4	IRR	68394	41	10-Aug-1917
11	IronHorse Devel. LLC	14	S	16	E	32	SESE	1600	16.8	IRR	68394	26	10-Aug-1917
12	IronHorse Devel. LLC	14	S	16	E	32	SESE	1600	12.9	IRR	68394	41	10-Aug-1917
13	IronHorse Devel. LLC	14	S	16	E	33	NWNW	1600	17.5	IRR	68394	13	10-Aug-1917
14	IronHorse Devel. LLC	14	S	16	E	33	NWNW	1600	9	IRR	68394	28	10-Aug-1917
15	IronHorse Devel. LLC	14	S	16	E	33	SWNW	1600	17.3	IRR	68394	13	10-Aug-1917
16	IronHorse Devel. LLC	14	S	16	E	33	NWSW	1600	23	IRR	68394	13	10-Aug-1917
17	IronHorse Devel. LLC	14	S	16	E	33	NWSW	1600	2.7	IRR	68394	28	10-Aug-1917
18	IronHorse Devel. LLC	14	S	16	E	33	NWSW	1600	7.8	IRR	68394	13	10-Aug-1917
19	IronHorse Devel. LLC	14	S	16	E	33	NESW	1600	21	IRR	68394	13	10-Aug-1917
20	IronHorse Devel. LLC	14	S	16	E	33	SWSW	1600	2	IRR	68394	13	10-Aug-1917
21	IronHorse Devel. LLC	14	S	16	E	33	SWSW	1600	16.8	IRR	68394	13	10-Aug-1917
22	IronHorse Devel. LLC	14	S	16	E	33	SWSW	1600	1.6	IRR	68394	13	10-Aug-1917
23	IronHorse Devel. LLC	14	S	16	E	33	SESW	1600	16	IRR	68394	13	10-Aug-1917
24	IronHorse Devel. LLC	14	S	16	E	33	NWSE	1600	9.9	IRR	68394	13	10-Aug-1917
25	IronHorse Devel. LLC	14	S	16	E	33	SWSE	1600	5.6	IRR	68394	13	10-Aug-1917



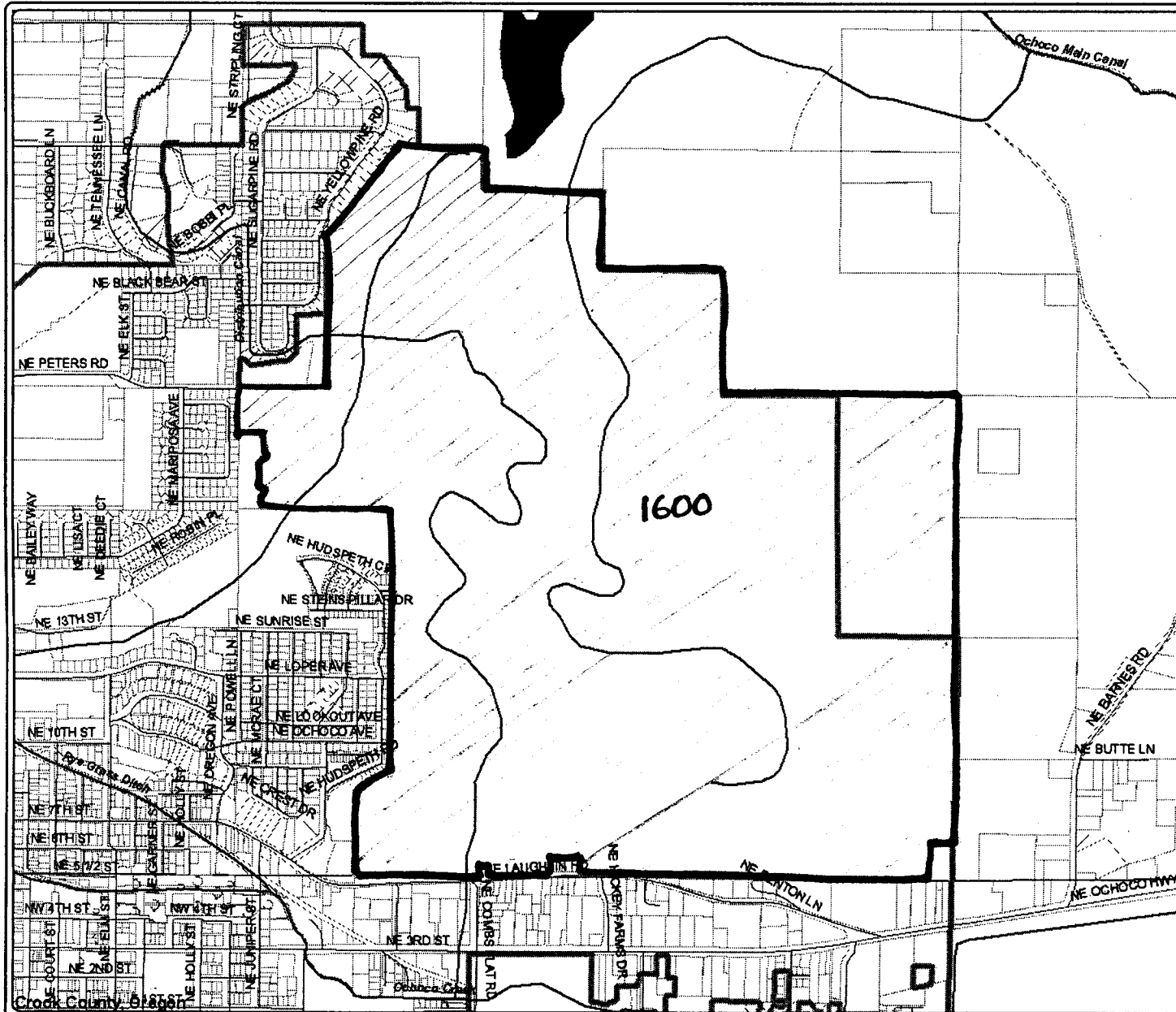
Crook County GIS
GEOGRAPHIC INFORMATION SYSTEMS

IronHorse Develop.
LLC

tax lot 1416000001600

Legend

-  Airport
-  Roads
-  Water Courses
-  Lakes
-  Parks
-  City Limits
-  Township Range
-  Parcels



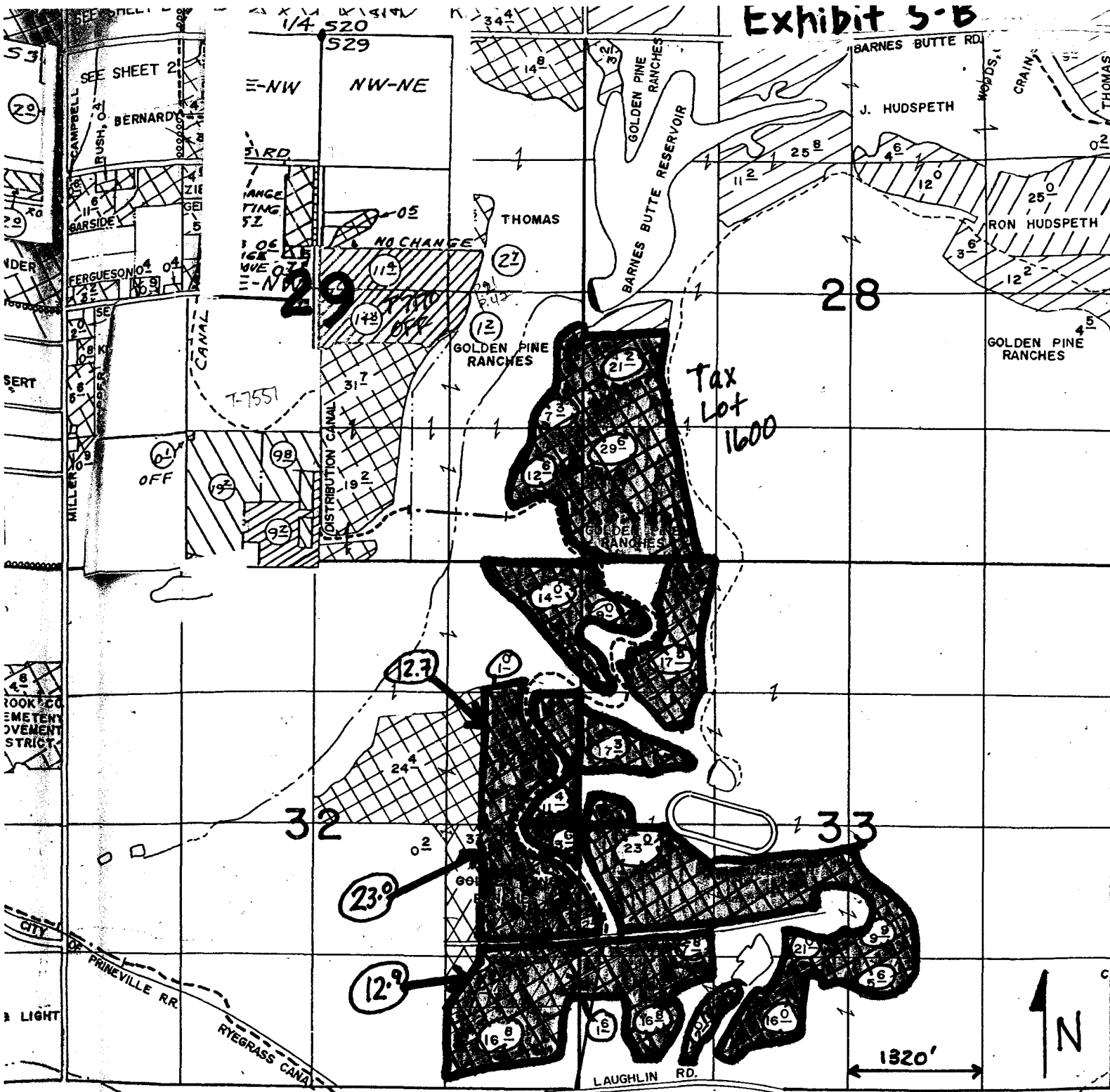
CROOK COUNTY MAKES NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER MATTER. THE COUNTY IS NOT RESPONSIBLE FOR POSSIBLE ERRORS, OMISSIONS, MISUSE, OR MISINTERPRETATION. THE INFORMATION ON THIS MAP IS PREPARED FOR REFERENCE PURPOSES ONLY AND SHOULD NOT BE USED, AND IS NOT INTENDED, FOR SURVEY OR ENGINEERING PURPOSES. NO REPRESENTATION IS MADE CONCERNING THE LEGAL STATUS OF ANY APPARENT ROUTE OF ACCESS IDENTIFIED IN DIGITAL OR HARDCOPY MAPPING OF GEOSPATIAL INFORMATION OR DATA. PLEASE NOTIFY CROOK COUNTY GIS OF ANY ERRORS 541-416-3930.

Map Created By:
GIS Department
Crook County, Oregon



scale 1" = 1,838.20'
created: 3/28/2006

Exhibit 5-A



→ Total Acres:
310.8

Leased Instream

Ironhorse Development, LLC

SEE SHE

THAS, RIG E

Tax Lot 1600

Sect. 29

- NESE - 7.3 ac.
- SESE - 12.6 ac.

Sect. 28

- NWSW - 16.3 ac.
- SWSW - 29.6 ac.

Sect. 32

- NENE - 15.0 ac.
- SENE - 24.1 ac.
- NESE - 26.0 ac.
- SESE - 29.7 ac.

Sect. 33

- NWNW - 26.5
- SWNW - 17.3
- NWSW - 33.5
- NESW - 21.0
- SWSW - 20.4
- SESW - 16.0
- NWSE - 9.9
- SWSE - 5.6