

Laura Snedaker

From: Shannon [shannon.peterson@kbrt.org]
Sent: Tuesday, April 24, 2007 3:40 PM
To: Laura Snedaker
Subject: Corrected von Schlegell lease application

Attachments: KBRT_VonSchlegell_2007LeaseApplication_calcs.xls; KBRT_vonSchlegell_2007LeaseApplication_Revised.pdf



<BRT_VonSchlegell_KBRT_vonSchlegell_2007LeaseApp... 2007LeaseApp... Laura ~

Attached please find a revised instream lease application from KBRT for John von Schlegell. Hopefully it is now complete. The section for Cert 10928 looks a little busy, as there are three sources/priority dates. Let me know if you have any trouble reading it. Also attached is an excel spreadsheet that shows the calculations for Cert 10928, separating out the three dates, sources, acres, and cfs. Please don't hesitate to call me if you need further explanation.

Thank You ~

Shannon



State of Oregon
Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900

Application for Instream Lease

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

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

Optional Identification by Lessor/Lessee: Sevenmile Creek Ranch WRP
Lease Application Number (assigned by WRD): _____

This Lease is between:

Lessor #1:

Name Sevenmile Creek Ranch / John von Schlegell
Mailing address c/o Endeavour Capital, 920 SW Sixth Avenue, Suite 1400
City, State, Zip Code Portland, OR 97204
Telephone number (503) 223-2721
Email address jevs@endeavourcapital.com

Lessor #2, 3, etc.

The water right to be leased is located in _____ 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
Email address shannon.peterson@kbrt.org

Trustee:

Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1266
(503) 986-0900

~I~ Water Right Holder and Water Right Information

- 1.1 Lessor #1 is the water right holder, or authorized agent for water right holder of the property located at: Township 33 S, Range 6 E, Section NE1/4 35, W1/2 of NW1/4 36 and Tax Lot number 600. If the water right appurtenant to these lands is also appurtenant to lands owned by others who are not included in this application, then Attachment 1 (tax lot map), 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 water right(s) being leased, list all water rights appurtenant to the same lands. Indicate if there are any supplemental or overlying rights.

Certificate No. 10927, 10928

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

1.5 Water Rights Proposed to be Leased Instream.

The first right to be leased identified in Section 1.3 is further described as follows:

Certificate No.: 10927

Priority date: 1900 Type of use: irrigation

Legal Season of Use: 04/01 - 10/01

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:

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

Number of acres being leased, if for irrigation: 80

Acre-feet of storage, if applicable: -

Maximum rate associated with the right to be leased (cfs): 1.6 cfs 04/01-07/19, 1.0 cfs 07/20-10/01
(Use additional lines if there is more than one rate associated with the water right.)

Maximum duty associated with the right to be leased (ac-ft): 400 (5acft/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 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 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 that 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:

Severnile Creek River
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 to Agency Lake

Maximum volume in acre-feet: 400 (5⁺)

Rate in cfs: 1.17 cfs 04/01-07/19, 1.0 cfs 7/20-10/01

(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.

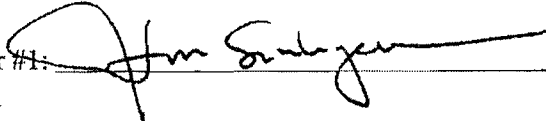
2.3 **Term of lease.** This lease shall terminate on October 1, 2007

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.

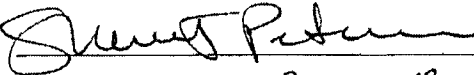
~III~ Other Information

3.1 **Accuracy.** The Undersigned Lessor(s) and Lessee(s) declare that, to the best of their knowledge and belief, the information contained in this application is true, correct and complete. If after the lease order is signed, any information is determined to be false, the lease order may be modified or terminated. The 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.** Lessor(s) and Lessee(s) agree to lease the water rights listed in Section(s) 1.5 for instream use for the term of this lease through Lessee to the Trustee, the Oregon Water Resources Department, pursuant to the provisions of ORS 537.348(2) and OAR 690-077.
- 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 a new injury review shall be required, and a prior 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 water right holder 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.
- 3.5 **Termination provision.**
- For multiyear leases, the Lessor(s) shall have the option of terminating the lease each year with written notice to the Department. The lease may be terminated at any time during the calendar year. However, if the termination request is received less than 30-days prior to the period of allowed instream use or after the period of allowed use has begun for the water right(s) being leased, water may not be used under the right(s) leased until the following calendar year, unless the Director determines that enlargement would not occur. The Department may also require:
 - Written notice to the Department with original signatures;
 - Consent by all parties to the lease; and/or
 - Written notice to the Watermaster's office.
 - For multiyear leases, the lessor shall not have the option of terminating the lease, without consent by all parties to the lease.
- 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.** Pursuant to ORS 536.050, 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: 4-9-2007

For additional Lessors, type in space for signature and date

Lessee:  Date: 03/30/07

FOR KLANOTH BOBIN KANGELAND TRUST



State of Oregon
Water Resources Department
 725 Summer Street NE, Suite A
 Salem, Oregon 97301-1266
 (503) 986-0900

Additional Water Right Form Standard Application for Instream Lease

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

~I~ Water Right Holder and Water Right Information

Section 1.5 continued from Standard Application for Instream Lease.

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.: 10928

Priority date: 1888, 1890, 1900 Type of use: irrigation

Legal Season of Use (if not listed on the certificate): 04/01 - 10/01

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 ¼ ¼, which will be dried up as part of this lease. Include a map (Attachment 3) showing the lands that will not receive water.

Place of use: T 33 S, R 6 E, Section 35, NE ¼ NE ¼ - 40 acres to be leased

Enter additional places of use here, using format above:

NW ¼ NE ¼ - 25 ac SW ¼ NE ¼ - 35 ac SE ¼ NE ¼ - 40 ac

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

Number of acres, if for irrigation: 140

Acre-feet of storage, if applicable:

Rate associated with leased rights (cfs): 2.8 cfs 04/01-07/19, 1.75 cfs 07/20-10/01

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

Duty associated with leased rights (AF): 700 (5 ac ft / ac)

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

Conditions or other limitations, if any:

~II~ Instream Water Right Information

Section 2.2 continued from Standard Application for Short-Term Instream Lease.

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

Sevenmile Creek, Crane Creek & associated springs

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 to Agency Lake. POD for these acres not displayed, should be one on Sevenmile and one on Crane springs

Maximum volume in acre-feet: 700; 300 from Crane Springs, 100 from 7mile p.d.1890, 300 from 7mile p.d.1900

Rate in cfs: 04/01-07/19: 0.87 Crane 1888, 0.29 7mile 1890, 0.87 7mile 1900; 07/20-10/01: 0.75 Crane 1888, 0.25 7mile 1890, 0.75 7mile 1900

(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): _____

STATE OF OREGON

COUNTY OF KLAMATH

CERTIFICATE OF WATER RIGHT

This is to Certify, That LEONARD J. WOODRUFF

of Fort Klamath, State of Oregon, has a right to the use of
 the waters of Seven Mile Creek,
 for the purpose of Irrigation of 80 acres,

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for
 Klamath County, and the said decree entered of record at Salem, in the Order
 Record of the STATE ENGINEER, in Volume 12, at page 269; that the priority
 of the right thereby confirmed dates from 1900;

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an
 amount actually beneficially used for said purposes, and shall not exceed 1/50th of one cubic
 foot per second per acre irrigated prior to July 20th and 1/80th of one cubic
 foot per second per acre irrigated thereafter, and shall not exceed 5 acre feet
 per acre during irrigation season from April 1st to October 1st of each year.
 A description of the lands irrigated under such right, and to which the water is appurtenant
 (or, if for other purposes, the place where such water is put to beneficial use), is as follows:

40.0 acres in NW 1/4
 40.0 acres in SW 1/4
 Section 36,
 T. 55 S., R. 6 East, W.M.

AND said right shall be subject to all other conditions and limitations
 contained in said Decree.
 The right to the use of the water for irrigation purposes is restricted to the lands or place
 of use herein described.

WITNESS the signature of the State Engineer,
 affixed this 1st day
 of September, 1934.

CHAS. E. STRICKLIN

State Engineer.

Recorded in State Record of Water Right Certificates, Volume 10, page 10,927

STATE OF OREGON

COUNTY OF KLAMATH

CERTIFICATE OF WATER RIGHT

This is to Certify, That LEONARD J. WOODRUFF

of Fort Klamath, State of Oregon, has a right to the use of the waters of Springs, Crane Creek, and Seven Mile Creek, for the purpose of Irrigation of 299.3 acres,

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for Klamath County, and the said decree entered of record at Salem, in the Order Record of the STATE ENGINEER, in Volume 12, at page 269; that the priority of the right thereby confirmed dates from 1888, 1890 and 1900. (See note below)

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 1/50th of one cubic foot per second per acre irrigated prior to July 20th and 1/80th of one cubic foot per second per acre irrigated thereafter, and shall not exceed 5 acre feet per acre during irrigation season from April 1st to October 1st of each year.

A description of the lands irrigated under such right, and to which the water is appurtenant (or, if for other purposes, the place where such water is put to beneficial use), is as follows:

- 40.0 acres in NE 1/4 NE 1/4
 - 25.0 acres in NW 1/4 NE 1/4
 - 35.0 acres in SW 1/4 NE 1/4
 - 40.0 acres in SE 1/4 NE 1/4
 - 40.3 acres in NE 1/4 SE 1/4
 - 39.5 acres in NW 1/4 SE 1/4
 - 40.0 acres in SW 1/4 SE 1/4
 - 40.0 acres in SE 1/4 SE 1/4
- Section 35,
T. 33 S., R. 3 East, W.M.

140 acres on Sevenmile Creek Ranch WKP

NOTE: Of the above acreage, Claimant's right to water from Seven Mile Creek is limited as follows: 40 acres in NE 1/4 SE 1/4, 20 acres in SE 1/4 NE 1/4, 25 acres in SE 1/4 SE 1/4, SECTION 35, Twp. 33 S., R. 6 E., W.M. with priority of 1890; 40 acres in NE 1/4 NE 1/4, 20 acres in SE 1/4 NE 1/4, SECTION 35, T. 33 S., R. 6 E., W. M. with priority of 1900. The remainder of the lands to be irrigated from the designated sources.

AND said right shall be subject to all other conditions and limitations contained in said Decree.

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

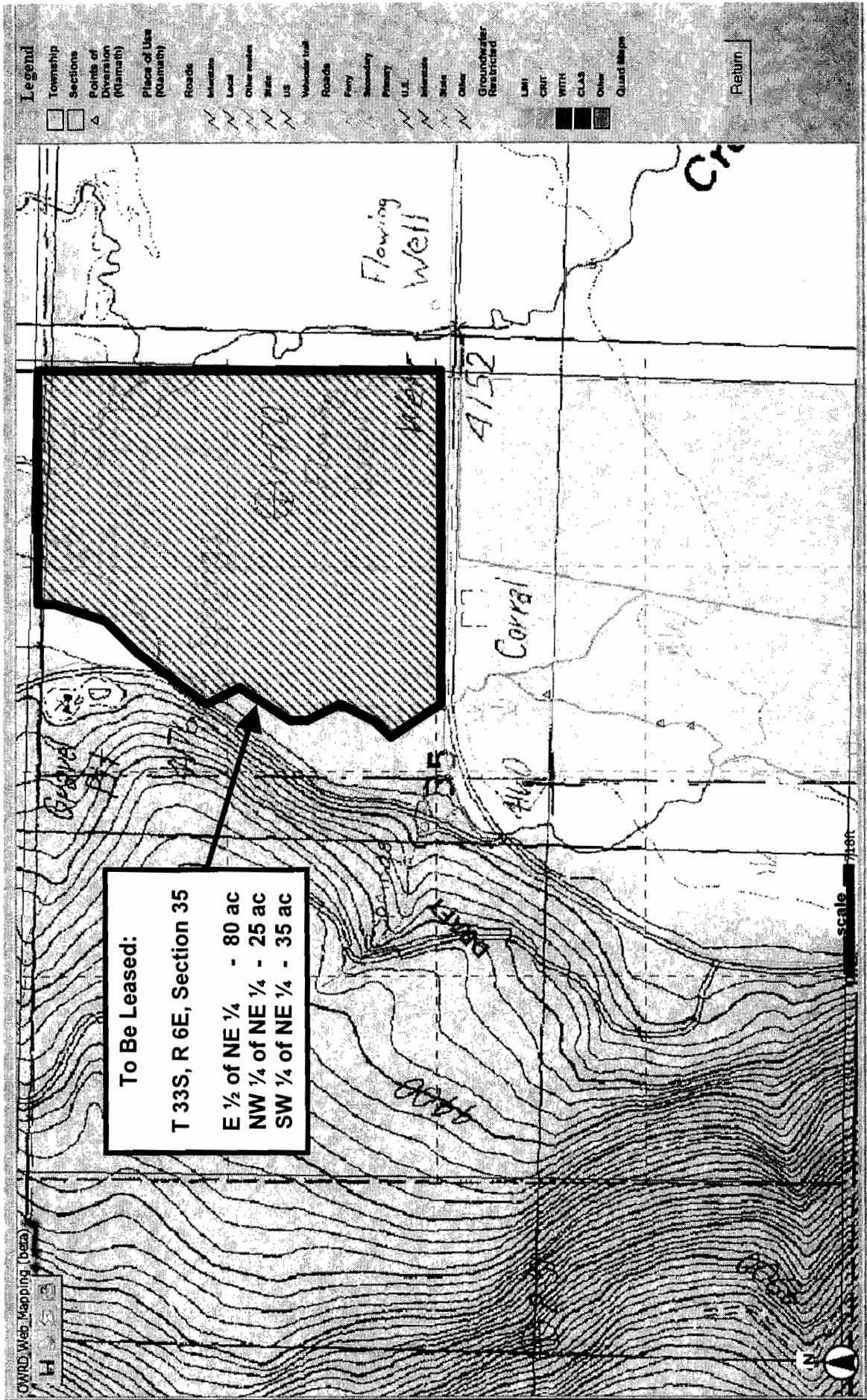
WITNESS the signature of the State Engineer,

affixed this 1st day of September, 1934.

CHAS. E. STRICKLIN

State Engineer.

Certificate 10928 – von Schlegell Instream Lease application



Sources for T33S, R6E, Section 35

NE 1/4 NE 1/4 40 ac all 40 ac irrigated from Sevenmile Creek, priority date 1900
 NW 1/4 NE 1/4 25 ac all 25 ac irrigated from Crane and associated springs, priority date 1888
 SW 1/4 NE 1/4 35 ac all 35 ac irrigated from Crane and associated springs, priority date 1888
 SE 1/4 NE 1/4 40 ac 20 ac irrigated from Sevenmile priority date 1890; 20 ac irrigated from Sevenmile priority date 1900

Crane 1888		86400					
days	secs	rate	CF	AF	Max duty	5af/ac	
110	9504000	0.87	8268480	189.84			
73	6307200	0.75	4730400	108.61			
				298.45			300

7MI 1890		86400					
days	secs	rate	CF	AF	Max duty	5af/ac	
110	9504000	0.29	2756160	63.28			
73	6307200	0.25	1576800	36.20			
				99.48			100

7 MI 1900		86400					
days	secs	rate	CF	AF	Max duty	5af/ac	
110	9504000	0.87	8268480	189.84			
73	6307200	0.75	4730400	108.61			
				298.45			300
				696.39			700

APPLICANT

1900 priority date

L-817

2.81 (max) - 0.025 (pri) = 2.785 (supp)

10928

rate per supp acre @ 2.785 = 0.0062

RATE Per Acre # ACRES Max CFS

rate = 0.372

TILL 7/20 0.0200 60 1.200

AFTER 7/20 0.0125 60 0.750

DUTY Per Acre # Acres Max Seasonal Vol.

5.00 60 300.000

4/1 - 7/19 RATE Leased AF/DAY @ 1cfs TOTAL AF/Day TOTAL AF
 110 DAYS 0.87 1.98 1.7226 189.486

possible alternative total af leased # days instream
 189.49 111

7/20 - 9/30 RATE Leased AF/DAY @ 1cfs TOTAL AF/Day TOTAL AF
 73 DAYS 0.75 1.98 1.485 108.405

total af leased # days instream
 108.41 72
 297.89

period may be leased instream

begin 4/19/2000 111 day use period

300.000 Max AF minus
 189.486 first 1/2 season AF =
 110.514 remaining 74

OR period may be leased instream

end
 begin ##### 72 day use period

0.765 poss cfs for 2nd 1/2

or
 300.000 Max AF minus
 108.41 2nd 1/2 season AF =
 191.595 remaining 111
 0.880 poss cfs for 1st 1/2

begin 4/1/2007
 end 7/19/2007 110 # days

begin 7/20/2007
 end 9/30/2007 73 # days
 183

reduced rate to cover entire period requested

total AF / # of days = AF per day
 #DIV/0!

AF per day / #DIV/0! AF/DAY @ 1cfs 1.98 CFS rate #DIV/0!

reduced rate to cover entire period requested

total AF / # of days = AF per day
 #DIV/0!

AF per day / #DIV/0! AF/DAY @ 1cfs 1.98 CFS rate #DIV/0!

