



LETTER OF TRANSMITTAL

TO: Oregon Water Resources Department
 725 Summer Street NE, Suite A
 Salem, Oregon 97301

Date: 4/25/2007	Work Order 12132
Attention	
RE: Instream Lease Application	

ENCLOSED ARE THE FOLLOWING:

QUANTITY	DESCRIPTION
1	(5 pgs) INSTREAM LEASE APPLICATION
1	APPLICATION MAP
2	ASSESSOR'S MAP
1	APPLICATION CHECK FOR \$100.00 (CK #33908)

THESE ARE TRANSMITTED (as checked below)

- | | | |
|---------------------------------------|--|--|
| <input type="checkbox"/> For testing | <input type="checkbox"/> As requested | <input checked="" type="checkbox"/> Filing/Recording |
| <input type="checkbox"/> For your use | <input type="checkbox"/> Approved as noted | <input type="checkbox"/> For your review & approval |

Remarks:	SF Blueline	
	SF Mylar	
	Xerox	
	Tube, Mailer, Etc.	
	P & H	
	TOTAL	

PICKED UP BY:
 DELIVERED BY:
 COPY TO: Ashley Family Ranch w/ 1 of each

RECEIVED
 APR 26 2007
 BY: Larry M. Toll, C.W.R.E
 ltoll@tennesoneng.com
 WATER RESOURCES DEPT
 SALEM, OREGON



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: _____
Lease Application Number (assigned by WRD): IC-821

This Lease is between:

Lessor #1:

Name Ashley Family Ranch LLC
Mailing address 4120 River Road
City, State, Zip Code The Dalles, OR 97058
Telephone number 541-296-4700
Email address _____

Lessor #2, 3, etc.

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

Lessee (if different than Oregon Water Resources Department):

Name _____
Mailing address _____
City, State, Zip Code _____
Telephone number _____
Email address _____

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 4 S, Range 13 E, Section 12 and Tax Lot number 2700. 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.

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- 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. 48410

- 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.: 48410

Priority date: 1874 and 1904 Type of use: Irrigation

Legal Season of Use: No defined irrigation season

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 4 S, R 13 E, Section 12, NE¼ NW¼ - 13.40 acres to be leased

Enter additional places of use here, using format above:

T 4 S, R 13 E, Section 12, NW 1/4 NW 1/4 - 10.3 acres

T 4 S, R 13 E, Section 12, SW 1/4 NW 1/4 - 0.3 acre

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

Number of acres being leased, if for irrigation: 24.0

Acre-feet of storage, if applicable: _____

Maximum rate associated with the right to be leased (cfs): 0.30, being 0.03 cfs from 1874 and 0.27 cfs from 1904

(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): 72, being 7.2 AF from 1874 and 64.8 AF from 1904

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

Conditions or other limitations, if any: use limitation from decree is limited to the diversion of not to exceed one acre foot per acre during any 30 day period up to July 1st of each year and not to exceed 3 acre feet per acre during any irrigation season; provided that the rate of flow shall not exceed one-fortieth of a second foot per acre up to July 1st of each year and thereafter not to exceed one eightieth of a second foot per acre.

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

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- 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:

White River

Tributary to Deschutes 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): Point of Diversion is SW 1/4 NW 1/4, Section 11, T 3 S, R 13 E, WM (River Mile 5.7)

Maximum volume in acre-feet: 72, being 7.2 AF from 1874 and 64.8 AF from 1904

Rate in cfs: 0.30, being 0.03 cfs from 1874 and 0.27 cfs from 1904

(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 June 29 through October 31.
 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 December 31, 2012.

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 to continuously measure the flow of the waterway described in Section 2.2.

~III~ Other Information

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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 **RECEIVED** 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.

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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: 4/25/2007

For additional Lessors, type in space for signature and date

Lessee: _____

Date: _____

Other Attachments as Needed:

Attachment 1: Tax Lot Map. (See instructions.)

Attachment 2: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. (See instructions.)

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 3 Comments: See Lease Agreement Number 275. The lands under that lease, which expired on December 31, 2006 are included on this lease. Also, some additional land to the west of the original land have been added on this lease. These additional lands have been under irrigation up to the time of this lease.

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T.4S. R.13E. W.M.
WASCO COUNTY

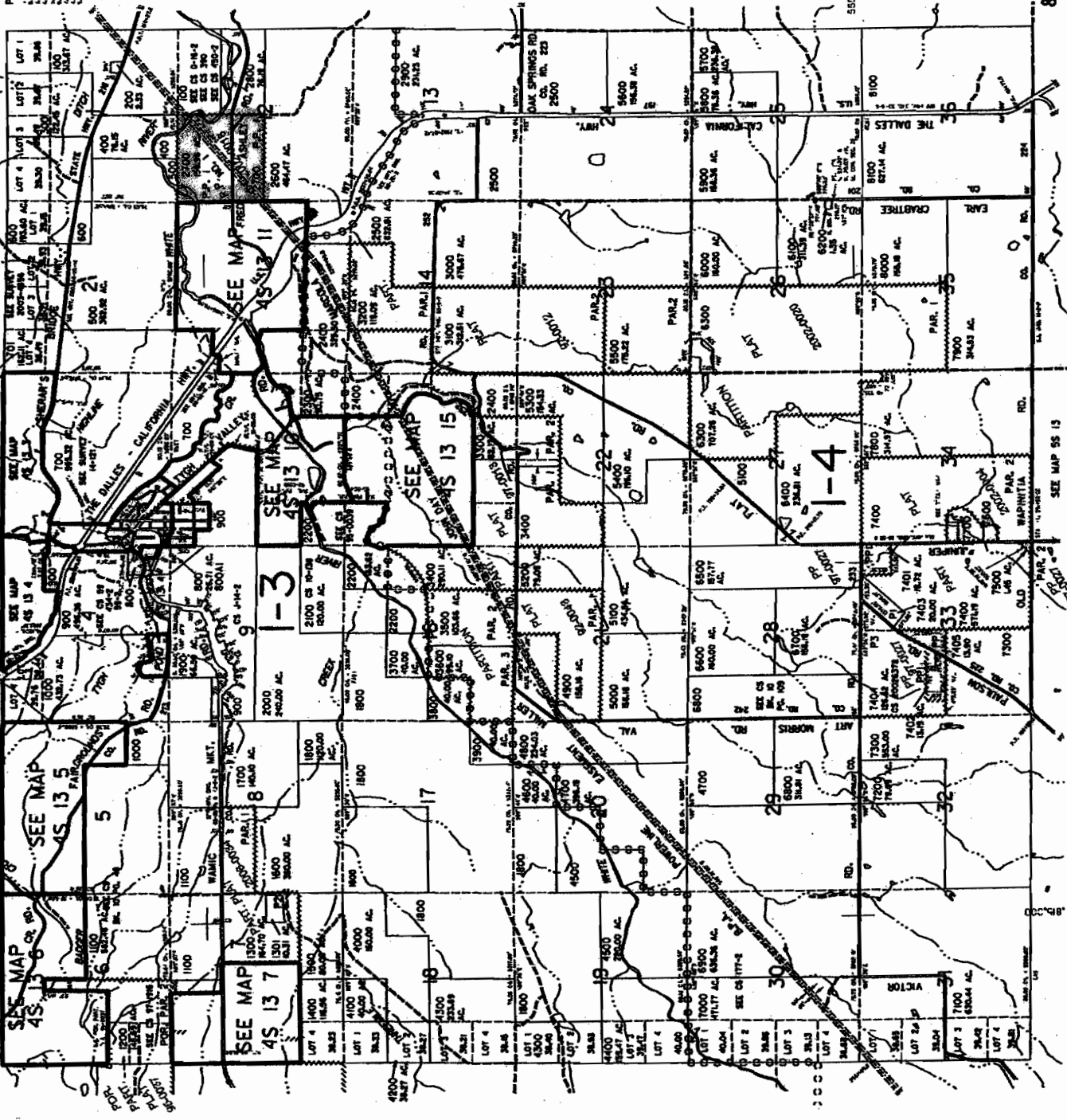
4S 13
& INDEX

4S 13
& INDEX

Revised
10/18/2006, SC

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

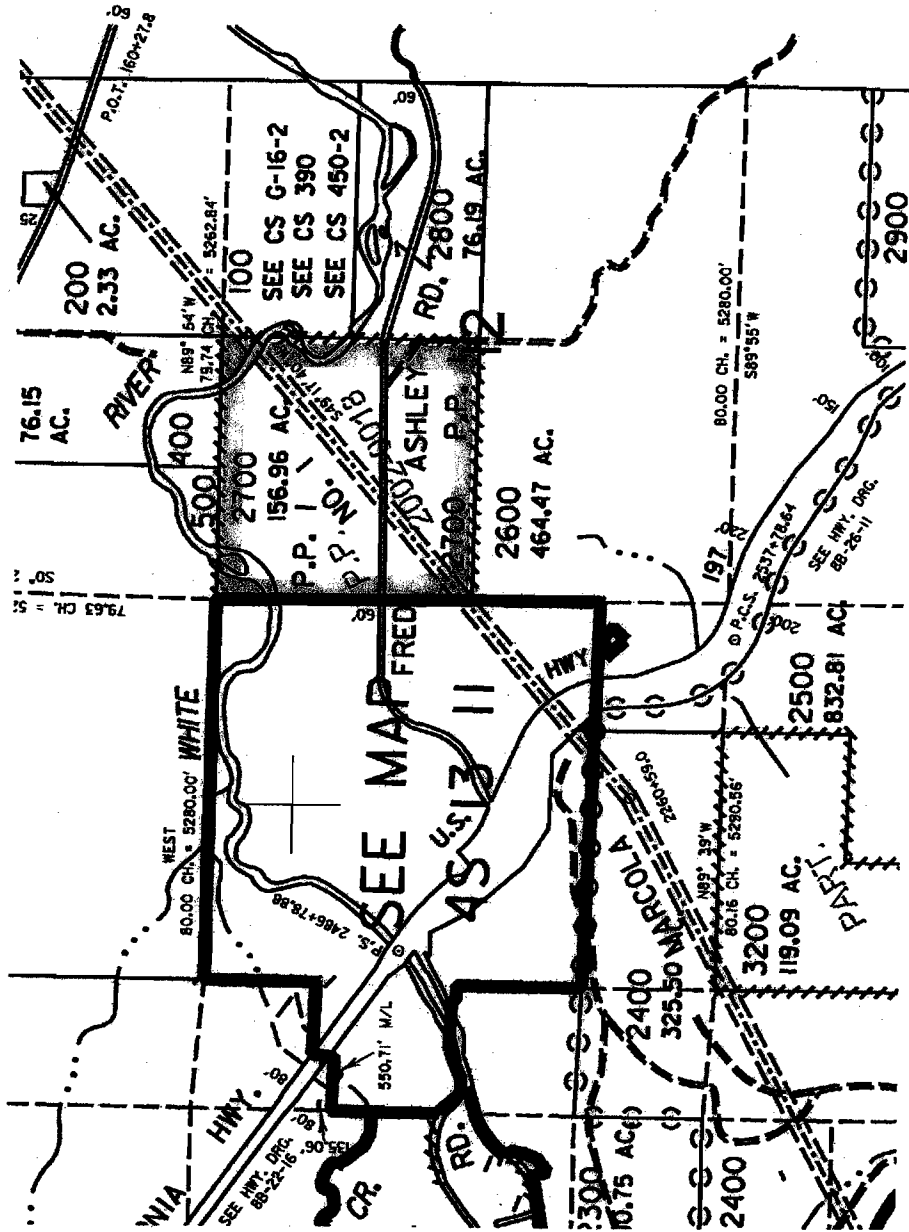
Scale 1" = 2000'
0 2000 4000
SCALE IN FEET



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STATE OF OREGON

COUNTY OF WASCO

CERTIFICATE OF WATER RIGHT

This Is to Certify, That FRED ASHLEY

of The Dalles, State of Oregon 97058, has
a right to the use of the waters of White Rivera tributary of Deschutes River for the purpose of
irrigation of 225.83 acres

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for Wasco County, and the said decree entered of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 7 at page 196; that the priority of the right thereby confirmed dates from 1874 for 0.32 cubic foot per second and 1904 for the balance necessary to make up a total amount to which said lands are entitled* 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 3 acre feet per acre during any irrigation season (with further limitations contained in Paragraph 24 of said decree); if available at the original point of diversion; NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 10, T. 4 S., R. 13 E., W.M., French Estate and Knighten Ditch (listed as Anderson Ditch in adjudication proceedings) - 890 feet South and **

The point of diversion is located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 11, T. 4 S., R. 13 E., W.M. 2430 feet South and 1300 feet East from the NW Corner, Section 11

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

10.65 acres NE $\frac{1}{4}$ NE $\frac{1}{4}$	15.77 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$
6.15 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$	17.00 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$
38.45 acres SW $\frac{1}{4}$ NE $\frac{1}{4}$	39.23 acres SW $\frac{1}{4}$ NW $\frac{1}{4}$
39.80 acres SE $\frac{1}{4}$ NE $\frac{1}{4}$	34.88 acres SE $\frac{1}{4}$ NW $\frac{1}{4}$
2.50 acres SE $\frac{1}{4}$ NW $\frac{1}{4}$	Section 12
10.50 acres NE $\frac{1}{4}$ SE $\frac{1}{4}$	
10.90 acres NW $\frac{1}{4}$ SE $\frac{1}{4}$	

Section 11

T. 4 S., R. 13 E., W.M.

(NOTE: The date of 1874 is for 0.32 cubic foot per second of water, to be used on any of the lands herein described. All of the water used for the balance of the land shall take the date of 1904.)

This certificate is issued to confirm a change in point of diversion approved by an order of the Water Resources Director entered February 28, 1966 and supercedes certificate of water right recorded at page 5744, Volume 6, State Record of Water Right Certificates.

The superseding certificate does not confirm the status of the water right in reference to ORS 540.610.

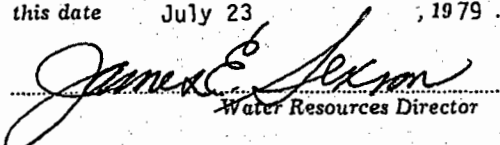
*as designated below:

**1680 feet West from the E $\frac{1}{4}$ Corner, Section 10

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 the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the Water Resources Director, affixed

this date July 23, 1979

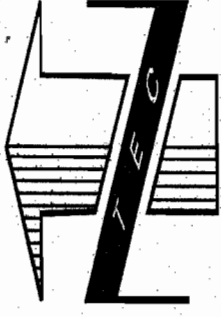
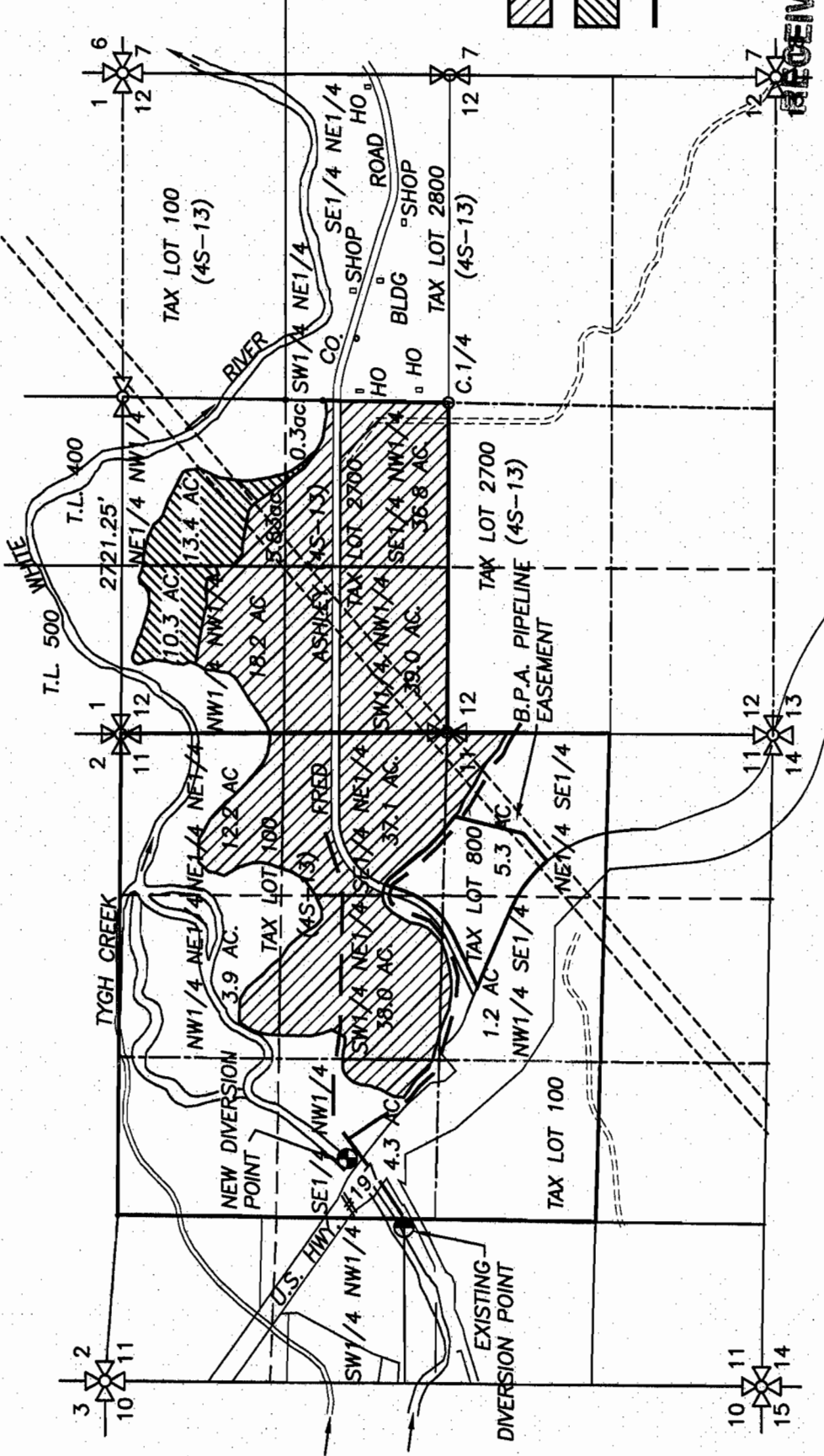


James E. Nelson
Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 41, page 48410

SECTIONS 11 & 12, TWP.4 S. RANGE 13 E. W.M.

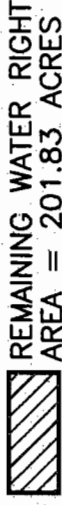
WASCO COUNTY, OREGON



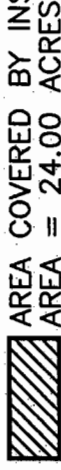
SCALE IN FEET

L E G E N D :

- EXISTING DIVERSION, 2430' S. & 1300' E. OF THE NW. CORNER SECTION 11.
- ⊗ NEW DIVERSION, 1970' S. & 1810' E. OF THE NW. CORNER SECTION 11.



REMAINING WATER RIGHT AREA = 201.83 ACRES



AREA COVERED BY INSTREAM LEASE AREA = 24.00 ACRES



EXISTING DITCH

BY: **TENNESON ENGINEERING CORP.**

409 LINCOLN STREET,
THE DALLES, OREGON. 97058
PH. (541) 296-9177
FAX (541) 296-6657



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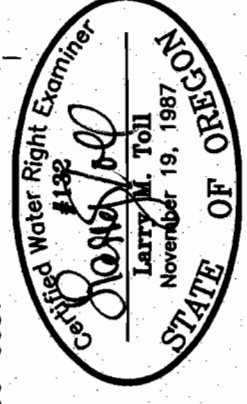
**APPLICATION FOR
INSTREAM LEASE**

NOTE:

THIS MAP IS NOT INTENDED TO
PROVIDE DIMENSIONS OR LOCATIONS
OF PROPERTY OWNERSHIP LINES.

SCALE: 1"= 1320'

APPLICATION No. _____
 PERMIT No. _____
 IN THE NAME OF:
 ASHLEY FAMILY RANCH, LLC
 DATE: APRIL 11, 2007



W.O. #12132WT