



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](http://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): \_\_\_\_\_

This Lease is between:

**Lessor #1:**

Name Bureau of Reclamation, Umatilla Field Office  
Mailing address 32871 Diagonal Road  
City, State, Zip Code Hermiston, Oregon 97838  
Telephone number 541 564 8616  
Email address csater@pn.usbr.gov

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

Hermiston Irrigation District, 366 E Hurlburt, Hermiston, Oregon 97838 541-567-3024

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

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

Name Hermiston Irrigation District  
Mailing address 366 East Hurlburt  
City, State, Zip Code Hermiston, Or 97838  
Telephone number 541 567 3024  
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 N, Range 28 E, Section 9 and Tax Lot number 8701, 8800. 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 Hermiston 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 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. Umatilla Decree Vol. 3 Page 127, 76761 is supplemental.

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.: Umatilla Decree Vol. 3 Page 127

Priority date: Feb. 25 1904 Type of use: Irrigation

Legal Season of Use: March 1- October 31

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 4 N, R 28 E, Section 9, NW 1/4 NE 1/4 - 1.60 acres to be leased

Enter additional places of use here, using format above:

T 4 N, R 28 E, Section 9, SW 1/4 NE 1/4 - 24.8 acres, NW 1/4 SE 1/4 - 14.9 acres, SE 1/4 NW 1/4 - 6.8 acres, NE 1/4 SW 1/4 - 17.7 acres

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

Number of acres being leased, if for irrigation: 65.8

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

Maximum rate associated with the right to be leased (cfs): .82

(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): 375.6, duty is 6ACFT per Acre on 59.4 acres and 3ACFT per Acre on 6.4 Acres ( 3.5 acres NW 1/4 SE 1/4 and 2.9 acres NE1/4 SW 1/4, Section 9)

(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).

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**~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:

Umatilla River  
Tributary to Columbia in the Columbia 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): T 4N, R 28E, Section 9 SW1/4 NE1/4 2600 feet South and 600 feet East from N 1/4 corner Section 9, North Hermiston Drain. The water right will be leased from POD #3 to the mouth of the Umatilla River.

Maximum volume in acre-feet: 395.4

Rate in cfs: .82

(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 March 1 through October 28.
- Other (describe): A measuring device will be installed in the South Hermiston Drain just upstream from the confluence with the Umatilla River to ensure the the .82 cfs is being delivered to the Umatilla River as part of the lease.

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 1, 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 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

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: 3-13-08  
 \*Chuck Wilson 3/13/08  
For additional Lessors, type in space for signature and date

Lessee: \_\_\_\_\_ Date: \_\_\_\_\_

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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

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STATE OF OREGON  
 COUNTY OF UMATILLA  
 CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

FARM CREDIT SYSTEM CAPITAL CORP  
 P.O. BOX 590  
 SALEM, OREGON 97308

RICHARD A. AND CHRISTINE CARPENTER  
 ROUTE 1, BOX 1112  
 HERMISTON, OREGON 97838

confirms the right to use the waters of A DRAIN DITCH, a tributary of UMATILLA RIVER for IRRIGATION OF 58.2 ACRES AND SUPPLEMENTAL IRRIGATION OF 147.8 ACRES.

This right was perfected under Permit 45825. The date of priority is NOVEMBER 21, 1980. This right is limited to not more than 5.15 CUBIC FEET PER SECOND, or its equivalent in case of rotation, measured at the point of diversion from the source.

The points of diversion are located as follows:

- 1 - SE 1/4 SW 1/4, SECTION 4, T 4 N, R 28 E, W.M.;  
 1300 FEET NORTH AND 410 FEET WEST FROM N 1/4 CORNER, SECTION 9.
- 2 - NW 1/4 NE 1/4, SECTION 9, T 4 N, R 28 E, W.M.;  
 800 FEET SOUTH AND 460 FEET EAST FROM N 1/4 CORNER, SECTION 9.
- 3 - SW 1/4 NE 1/4, SECTION 9, T 4 N, R 28 E, W.M.;  
 2600 FEET SOUTH AND 600 FEET EAST FROM N 1/4 CORNER, SECTION 9.

The amount of water used for irrigation together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second per acre, (or its equivalent) and 4.5 acre-feet for each acre irrigated during the irrigation season of each year, provided further that the right allowed herein for supplemental irrigation shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.

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

A description of the place of use to which this right is appurtenant is as follows:

POD #2		PRIMARY ACRES
	SW 1/4 SW 1/4	2.9
	SE 1/4 SW 1/4	4.2
	SECTION 4	
	NE 1/4 NW 1/4	29.7
	NW 1/4 NW 1/4	2.1
	SE 1/4 NW 1/4	19.3
	SECTION 9	
	TOWNSHIP 4 NORTH, RANGE 28 EAST, W.M.	
		SUPPLEMENTAL ACRES
POD #1	NE 1/4 SW 1/4	20.2
	SE 1/4 SW 1/4	15.3
	SW 1/4 SE 1/4	33.9
	SECTION 4	
POD #3	NW 1/4 NE 1/4	0.5 ✓
	SW 1/4 NE 1/4	23.7 ✓
	SE 1/4 NE 1/4	17.0 ✓
	SE 1/4 NW 1/4	6.1 ✓
	NE 1/4 SW 1/4	17.1 ✓
	NW 1/4 SE 1/4	13.9 ✓
	SECTION 9	
	TOWNSHIP 4 NORTH, RANGE 28 EAST, W.M.	

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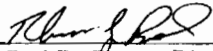
76761

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

This certificate describes that portion of the water right confirmed by certificate 54976, State Record of Water Right NOT modified by an order of the Water Resources Director entered on February 24, 2001, and recorded in Special Order Volume 55, Page 36, approving a petition by Westland Irrigation District under ORS 541.329 for mapping water rights within a district.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

WITNESS the signature of the Oregon Water Resources Director,  
affixed this 26 day of February, 2001.

  
for Paul R. Cleary, Director

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Recorded in State Record of Water Right Certificates numbered 76761.

**Bob Rice**

**From:** Chester Sater [CSater@pn.usbr.gov]  
**Sent:** Tuesday, March 18, 2008 1:18 PM  
**To:** Bob Rice  
**Subject:** Re: HID Instream Lease  
**Attachments:** Lease additional info.doc

Hope the attachment has all the info you need.

Chet Sater  
Irrigation Systems Operator  
Bureau of Reclamation  
32871 Diagonal Road  
Hermiston, OR 97838  
Phone 541-564-8616  
Cell 541-571-2244

>>> "Bob Rice" <ricerd@wrд.state.or.us> 03/18/08 11:04 AM >>>  
Chet,

Thanks for your new instream lease application. I appreciate all the work you did to update it!

I have two remaining questions for you:

1) Regarding the water right to be leased, Umatilla Decree Vol. 3, Page 127,  
[http://apps2.wrd.state.or.us/apps/misc/vault/vault.aspx?&Type=Decree&decree\\_image\\_id=72](http://apps2.wrd.state.or.us/apps/misc/vault/vault.aspx?&Type=Decree&decree_image_id=72)  
please indicate what page and paragraph of the decree I'll find the acres described that are proposed to be leased instream.

2) You've indicated that Certificate 76761 is supplemental to the decreed right. Are you proposing to lease it instream? If no, then nothing else needs to be done. If yes, then please fill out the attached form.

Thanks for all your help!

If you have any questions, please give me a call.

--Bob

Bob Rice  
Field Services Division  
Water Resources Department  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1266  
(503) 986-0885  
Fax: 503.986.0903  
[www.wrd.state.or.us](http://www.wrd.state.or.us)

3/18/2008



red Vested by  
 the Court Decision  
 38 ORC 376

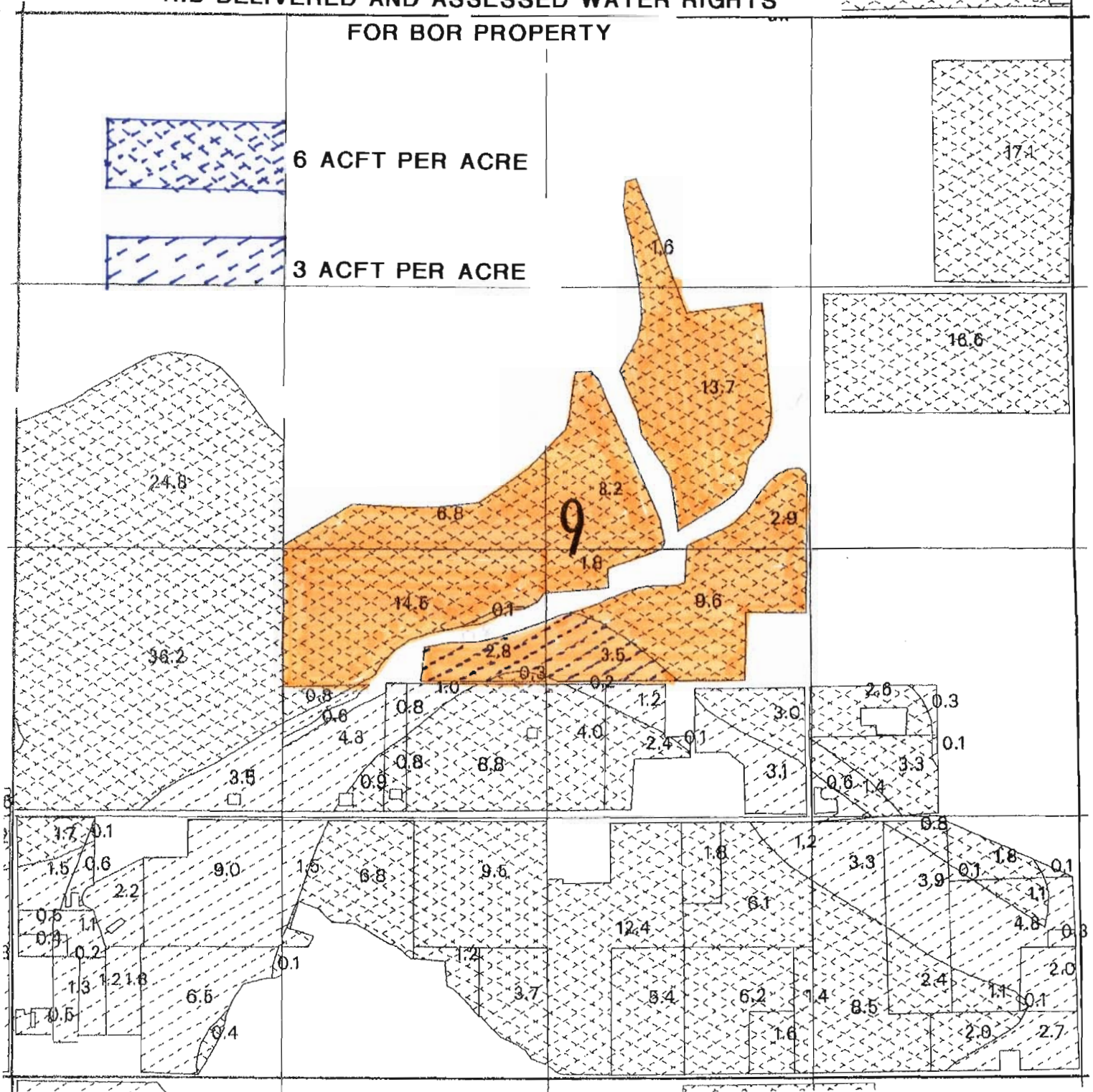
					Sec. 16 T. 4 N.R. 28 E.
Feb. 25 1904	Jan. 1 1920 115 sec. ft.	10435 ✓	3.24 <sup>of</sup>	Cancelled sp. or Rec. Vol. <u>25</u> <del>93</del> T-6516-SP ORV 46 P 471 →	409 a. in Sec. 1 343 a. in Sec. 2 490 a. in Sec. 3 270.5 a. in Sec. 4 54 a. in Sec. 8 500 a. in Sec. 9 592.5 a. in Sec. 10 626 a. in Sec. 11 428 a. in Sec. 12 131.5 a. in Sec. 14 407 a. in Sec. 15 404.5 a. in Sec. 16 56 a. in Sec. 17 151 a. in Sec. 20 44 a. in Sec. 21 T. 4 N.R. 28 E. 22 a. in Sec. 6
				322 ac CANCELED Sp. Or. V. 23 p. 418	
				NOTE: Excepting 25 cu. ft. per second vested for 2000 acres, as shown hereinafter in this schedule.	

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And we are not proposing to lease the supplemental right.

# TOWNSHIP 4 N., RANGE 28 E., W.M.

## HID DELIVERED AND ASSESSED WATER RIGHTS FOR BOR PROPERTY



SCALE 1 inch = 660 feet



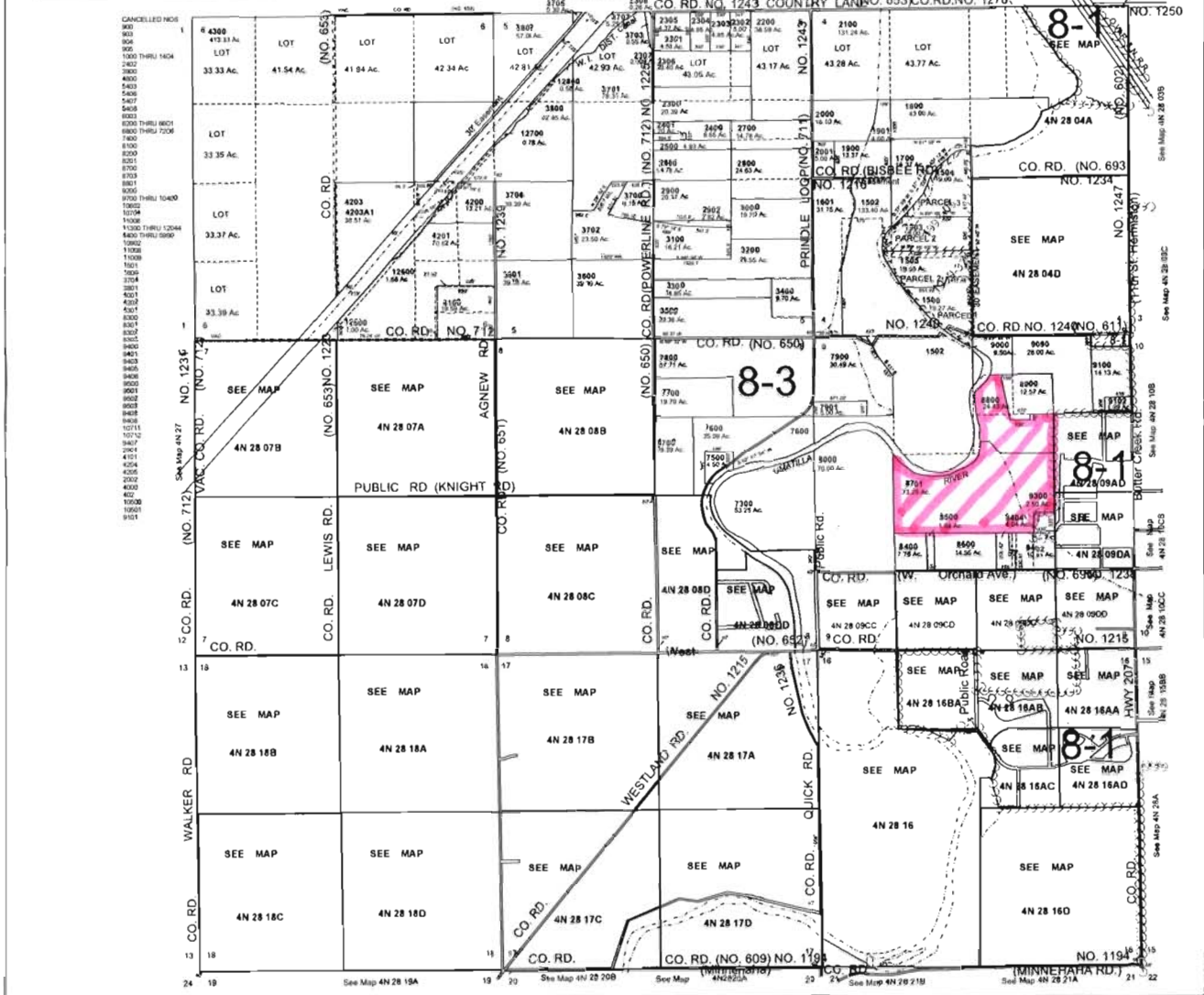
This map was prepared for Assessment & Taxation purposes only and has not been prepared or is it suitable for legal, engineering or surveying purposes.

# NW1/4 T4N R28E WM UMATILLA COUNTY

SCALE 1"=1000'

4N28B

AERIAL PHOTO NO 1P 119-120  
2P 25-26  
CO. RD.



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