



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

Application for 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/OWRD/PUBS/forms.shtml.

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

Optional Identification by Lessor/Lessee: Mitigation Project
 Lease Application Number (assigned by WRD): IL-909 / MP-116

This Lease is between:

Lessor #2: Irrigation District or Other Water Purveyor

Name Three Sisters Irrigation District
 Mailing address P.O. Box 2230
 City, State, Zip Code Sisters, OR 97759
 Telephone number 541-549-8815
 Email address tsid@uci.net

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

Lessee (if different than Oregon Water Resources Department):

Name DRC - Deschutes Water Exchange
 Mailing address P.O. Box 1560
 City, State, Zip Code Bend, OR 97709
 Telephone number 541-382-4077
 Email address gen@deschutesriver.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

- 1.2** Lessor #2 is the (Check one):
- Official representative of Three Sisters Irrigation District, 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 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. 74135

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.: 74135

Priority date: 1887 and 1895 Type of use: 1887 - 12.8 ac IRR; 1895 - 148 ac IRR, 0.5 ac Pond

Legal Season of Use: N/A

If an irrigation right, total number of acres to be leased: 1887- 12.8 ac IRR, 1895 - 148 ac IRR, 0.5 ac Pond

Total acre-feet of storage to be leased, if applicable: _____

Maximum rate associated with subject water rights (cfs) being leased: 1887 - 0.256 cfs, 1895 - 2.96 cfs IRR, Pond 0.01 cfs - Pond is leased but not for mitigation

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

Season 1 (cfs) N/A Time period: _____

Season 2 (cfs) _____ Time period: _____

Season 3 (cfs) _____ Time period: _____

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

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 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:

Whychus _____ Creek

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 will 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 RM 23.5 of Whychus Cr to RM 0

Maximum volume in acre-feet: 499.1 af total (1887- 39.61 af, 1895 - 457.94 af IRR, 1.55 af Pond)

Rate in cfs: 1887 - 0.256 cfs, 1895 - 2.96 cfs IRR, 0.01 cfs Pond = 3.226 cfs total

(If more than one rate, describe the rate associated within each time period or instream reach.)

Rate in cfs: _____

Rate in 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 April 15, 2008 through July 1, 2008.
- Other (describe): _____

2.3 Term of lease. This lease shall terminate on October 31, 2008.

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 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 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 #2: Mac Salach Date: 4/5/08
Three Sisters Irrigation District

Lessee: Genevieve Hubert Date: 4/7/08
DRC - Deschutes Water Exchange

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 5: Pooled Lease Water Right Holder Form

Revised 4/4/08

TSID season 1

| | Priority | acres* | cfs | rate* | conv fact | * | no. days | duty AF |
|--------|----------|--------|------|-------|-----------|----------|----------|---------|
| Schaad | 1895 | 148 | 0.02 | 2.96 | 1.983471 | 5.871074 | 78 | 457.944 |
| Schaad | 1895 | 0.5 | 0.02 | 0.01 | 1.983471 | 0.019835 | 78 | 1.547 |
| Taylor | 1895 | 12.8 | 0.02 | 0.256 | 1.983471 | 0.507769 | 78 | 39.606 |
| | 1899 | 0 | 0.02 | 0 | 1.983471 | 0 | 78 | 0.000 |
| | 1904 | 0 | 0.02 | 0 | 1.983471 | 0 | 78 | 0.000 |
| totals | | 161.3 | | 3.226 | | 6.398677 | | 499.097 |

S

| start | end | days instream | |
|-----------|-----------|---------------|----------|
| 4/15/2008 | 7/1/2008 | 78.00 | Season 1 |
| 7/1/2008 | 10/1/2008 | 93.00 | Season 2 |

Jan 2007



State of Oregon
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725 Summer Street NE, Suite A
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Application for Instream Lease

Attachment 5: Pooled Water Right Holder Form

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): IL-909 / MP-116

This Lease is with:

Lessor #1 (Water Right Holder):

Name Robert Taylor
Mailing address 69015 Hurtley Ranch Rd.
City, State, Zip Code Sisters, OR 97759
Telephone number 541-771-6333
Email address _____

If additional water right holders, enter water right holder information below

Lessor # 2:

Three Sisters Irrigation District Irrigation District
P O Box 2230
Sisters, OR 97759 541-549-8815 tsid@uci.net

Note: The section numbering associated with this form corresponds to that found on the "Standard Instream Lease Application" form. The "Pooled Lease" form and "Pooled Water Right Holder" form(s) are used to provide the same information as the "Standard Instream Lease Application" form. Consequently, the numbering on this form is not always sequential.

~I~ Water Right Holder and Water Right Information

- 1.1 Lessor #1 is the water right holder, or authorized agent for property described in Section 1.5. 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.
- 1.3 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. 74135
- 1.4 Are some or all of the lands being leased part of a Conservation Reserve Enhancement Program. Yes No
- 1.5 **Water Right(s) Proposed to be Leased Instream.** Water right holder proposes to lease the water rights shown on the map attached as Exhibit 5-B and described as follows:

| T | R | Sect | 1/4 | Tax Lot | Acres | Type of Use | Certificate # | Page(s) # | Priority | |
|---|----|------|-----|----------|-------|-------------|---------------|-----------|----------|------|
| *(Identify pertinent page number of certificate, if certificate is greater than 10 pages; identify priority date if there is more than one per certificate) | | | | | | | | | | |
| 1. | 15 | 11 | 06 | NE SW | 1200 | 12.8 | IRR | 74135 | 10 | 1887 |
| 2. | | | | | | | | | | |
| 3. | | | | | | | | | | |
| 4. | | | | | | | | | | |
| 5. | | | | | | | | | | |

Total number of acres, if for irrigation, by certificate and priority date: 12.8 ac IRR 1887

Conditions or other limitations, if any: _____

If you need to enter another leased right, please use the Additional Water Right Form for Pooled Water Right Holder.

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

2.3 **Term of lease.** This lease shall terminate on July 15, 2008. (If there is a conflict between the Pooled Lease Form and this form, the Pooled Lease Form will be the official term of the lease.)

~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 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 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.

Lessor #1: Robert E Taylor Date: 4/3/2008
Robert Taylor

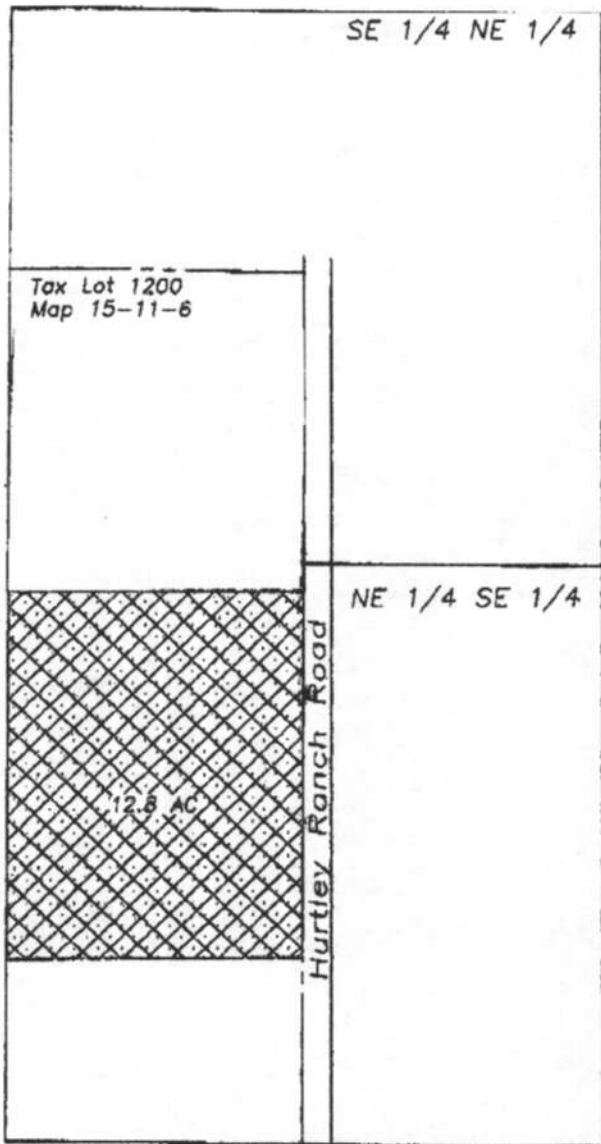
For additional Lessors, type in space for signature and date

Lessor #2: _____ Date: _____
Three Sisters Irrigation District

Other Attachments As Needed:

- Exhibit 5-A: Tax Lot Map. (See instructions.)
- Exhibit 5-B: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. Exhibits 5-A and 5-B may be combined into a single map. (See instructions.)
- 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


2008 Instream Lease

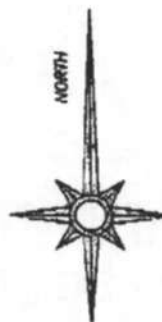


Three Sisters Irrigation District

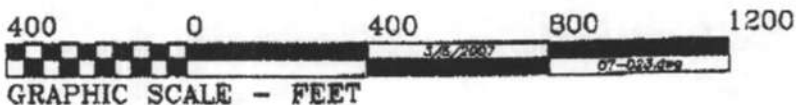
In the name of
Robert Taylor

Acres Leased instream

 Existing water right (Certificate 74135, priority date 2/31/1887)



Section 6
T15S R11E, W.M.
Deschutes Co., OR



THIS MAP IS FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE LEGAL DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.

Fred A. Ast Jr., & Assoc. P.O. Box 751 Sisters, OR 97759 541-549-7851



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Water Resources Department
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Jan 2007

Application for Instream Lease

Attachment 5: Pooled Water Right Holder Form

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

Optional Identification by Lessor/Lessee: _____
Lease Application Number (assigned by WRD): IL-909 / MP-116

This Lease is with:

Lessor #1 (Water Right Holder):

Name John Schaad
Mailing address 1170 McLean Blvd.
City, State, Zip Code Eugene, OR 97405
Telephone number 541-344-5217
Email address _____

If additional water right holders, enter water right holder information below

Lessor #2:

Three Sisters Irrigation District
P O Box 2230
Sisters, OR 97759 541-549-8815 tsid@uci.net

Note: The section numbering associated with this form corresponds to that found on the "Standard Instream Lease Application" form. The "Pooled Lease" form and "Pooled Water Right Holder" form(s) are used to provide the same information as the "Standard Instream Lease Application" form. Consequently, the numbering on this form is not always sequential.

~I~ Water Right Holder and Water Right Information

- 1.1 Lessor #1 is the water right holder, or authorized agent for property described in Section 1.5. 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.
- 1.3 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. 74135
- 1.4 Are some or all of the lands being leased part of a Conservation Reserve Enhancement Program. Yes No
- 1.5 **Water Right(s) Proposed to be Leased Instream.** Water right holder proposes to lease the water rights shown on the map attached as Exhibit 5-B and described as follows:

| T | R | Sect | ¼¼ | Tax Lot | Acres | Type of Use | Certificate # | Page(s) # | Priority* | |
|---|----|------|----|----------|-------|-------------|---------------|-----------|-----------|------|
| *(Identify pertinent page number of certificate, if certificate is greater than 10 pages; identify priority date if there is more than one per certificate) | | | | | | | | | | |
| 1. | 15 | 11 | 06 | NE SE | 600 | 38.50 | IRR | 74135 | 10 | 1895 |
| 2. | 15 | 11 | 06 | NE SE | 600 | .50 | POND | 74135 | 10 | 1895 |
| 3. | 15 | 11 | 06 | NW SE | 600 | 30.50 | IRR | 74135 | 10 | 1895 |
| 4. | 15 | 11 | 06 | SW SE | 600 | 40.00 | IRR | 74135 | 10 | 1895 |
| 5. | 15 | 11 | 06 | SE SE | 600 | 39.00 | IRR | 74135 | 10 | 1895 |

Total number of acres, if for irrigation, by certificate and priority date: 148.5 1895

Conditions or other limitations, if any: _____

If you need to enter another leased right, please use the Additional Water Right Form for Pooled Water Right Holder.

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

- 2.3 Term of lease.** This lease shall terminate on July 15, 2008. (If there is a conflict between the Pooled Lease Form and this form, the Pooled Lease Form will be the official term of the lease.)

~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.
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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.

Lessor #1: Jana School Date: 4/3/2008

For additional Lessors, type in space for signature and date

Lessor #2: Matt Palmer Date: 4/3/2008
Three Sisters Irrigation District

Other Attachments As Needed:

- Exhibit 5-A: Tax Lot Map. (See instructions.)
- Exhibit 5-B: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. Exhibits 5-A and 5-B may be combined into a single map. (See instructions.)
- 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

See Map 15 10 12



CLOVERDALE HWT

T15-R11-S7

Taxlot 600

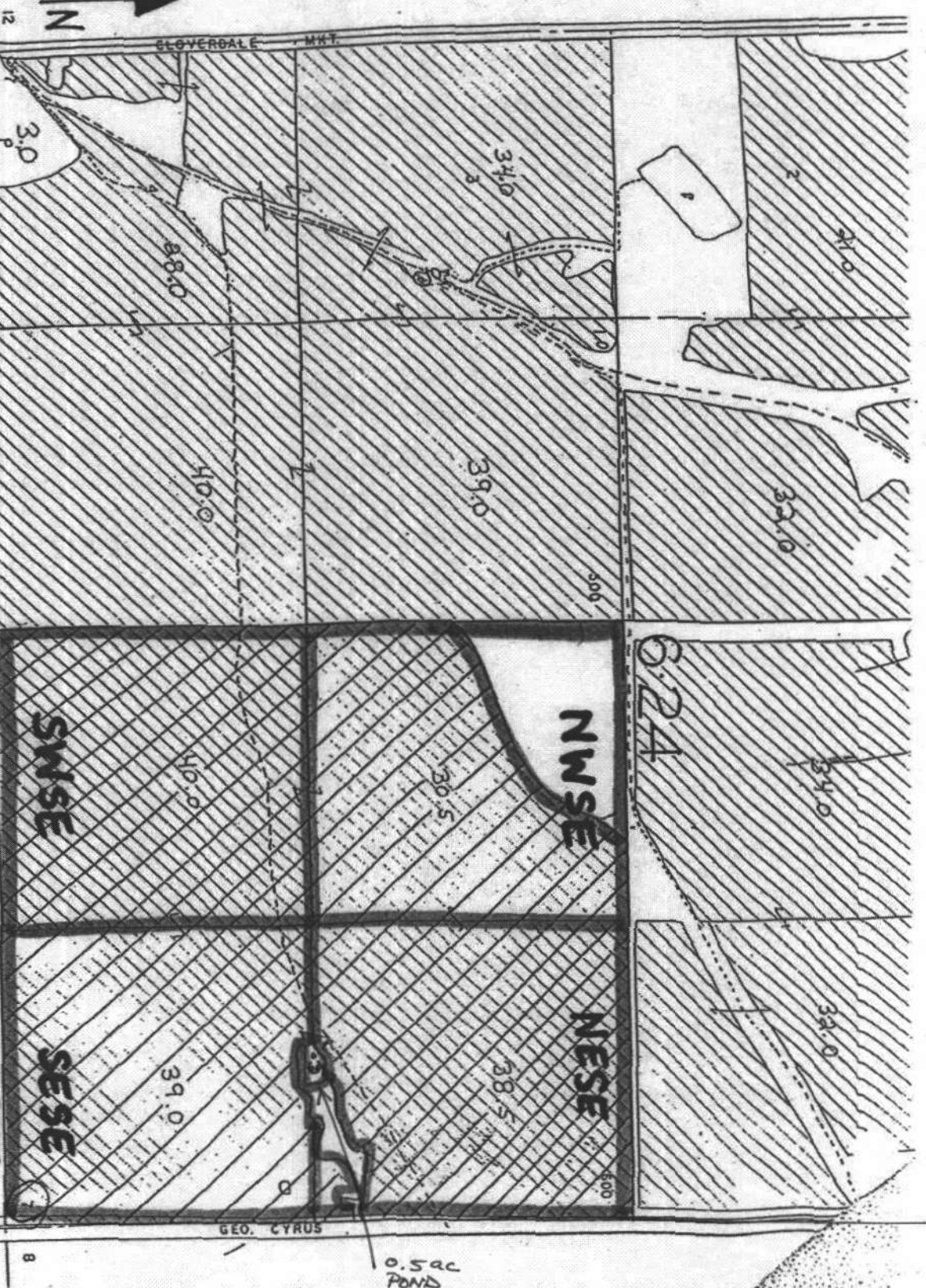
Schaad

See Map 15 11 18

1320'

Leased Instream

| | | |
|------|---------|------|
| NWSE | 30.5 ac | IRR |
| NESE | 38.5 ac | IRR |
| SESE | 1.5 ac | POND |
| SWSE | 40.0 ac | IRR |
| SESE | 39.0 ac | IRR |



6.24

GEO. CYRUS

0.5 ac POND