

Jan 2007



State of Oregon  
Water Resources Department  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1265  
(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](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: Restoration Pooled  
Lease Application Number (assigned by WRD): IL-943

This Lease is between:

**Lessor #2: Irrigation District or Other Water Parveyor**

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 Deschutes River Conservancy  
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. 303, 291, 24167, 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: 1895 and 1904 Type of use: Irrigation

Legal Season of Use: N/A

If an irrigation right, total number of acres to be leased:

1895 - 165.6 ac

1904 - 17.6 ac

(total 183.2 ac)

Total acre-feet of storage to be leased, if applicable: N/A

Maximum rate associated with subject water rights (cfs) being leased:

1895 - 3.312 cfs

1904 - 0.352 cfs

(total 3.664 cfs)

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:

1895 - 604.37 af

1904 - 64.23 af

(total - 668.60 af)

Rate in cfs:

1895 - 3.312 cfs

1904 - 0.352 cfs  
(total 3.664 cfs)

(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 July 2, 2008 through October 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: *Marcel Palmer* Date: 6/25/08  
Three Sisters Irrigation District

Lessee: *Senepine Hubert* Date: 25 June 2008  
Deschutes River Conservancy

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



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### Additional Water Right Form for Pooled 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)

~I~

#### Section 1.5 continued from Pooled Form.

**Water Rights Proposed to be Leased Instream.** District and water right holder(s) propose to lease the water rights identified in Section 1.3 on the "Pooled Lease Form."

The right(s) to be leased are further described as follows:

Certificate No.: 24167 (T-8900 & 8902)

Priority date: 1880 Type of use: IRR

Legal Season of Use (if not listed on the certificate): N/A

If an irrigation right, total number of acres to be leased: 30

Total acre-feet of storage to be leased, if applicable: N/A

Maximum rate associated with subject water rights (cfs) being leased: 0.9 cfs

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

Season 1 (cfs) \_\_\_\_\_ Time period: \_\_\_\_\_

Season 2 (cfs) \_\_\_\_\_ Time period: \_\_\_\_\_

Season 3 (cfs) \_\_\_\_\_ Time period: \_\_\_\_\_

Maximum duty associated with subject water rights (ac-ft): 164.23 af (not duty limited)

Conditions or other limitations, if any: \_\_\_\_\_

~II~

#### Section 2.2 continued from Pooled Lease Form.

**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): None listed on certificate. POD to the mouth of Whychus Creek at river mile 0.

Maximum volume in acre-feet: 164.23 af

Rate in cfs: 0.9 cfs

(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 July 2, 2008 through October 1, 2008.
- Other (describe): \_\_\_\_\_



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### Additional Water Right Form for Pooled Instream Lease

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-I-

#### Section 1.5 continued from Pooled Form.

**Water Rights Proposed to be Leased Instream.** District and water right holder(s) propose to lease the water rights identified in Section 1.3 on the "Pooled Lease Form."

The right(s) to be leased are further described as follows:

Certificate No.: 303 (T-8900 & 8902)

Priority date: 1881 Type of use: IRR

Legal Season of Use (if not listed on the certificate): N/A

If an irrigation right, total number of acres to be leased: 25.5

Total acre-feet of storage to be leased, if applicable: N/A

Maximum rate associated with subject water rights (cfs) being leased: 0.51 cfs

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

Season 1 (cfs) \_\_\_\_\_ Time period: \_\_\_\_\_

Season 2 (cfs) \_\_\_\_\_ Time period: \_\_\_\_\_

Season 3 (cfs) \_\_\_\_\_ Time period: \_\_\_\_\_

Maximum duty associated with subject water rights (ac-ft): 93.06 af (not duty limited)

Conditions or other limitations, if any: \_\_\_\_\_

-II-

#### Section 2.2 continued from Pooled Lease Form.

**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): None listed on certificate. POD to the mouth of Whychus Creek at river mile 0.

Maximum volume in acre-feet: 93.06 af

Rate in cfs: 0.51 cfs

(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 July 2, 2008 through October 1, 2008.

Other (describe): \_\_\_\_\_

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### Additional Water Right Form for Pooled 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).

~I~

**Section 1.5 continued from Pooled Form.**

**Water Rights Proposed to be Leased Instream.** District and water right holder(s) propose to lease the water rights identified in Section 1.3 on the "Pooled Lease Form."

The right(s) to be leased are further described as follows:

Certificate No.: 291 (T-8900 & 8902)

Priority date: 1880 Type of use: IRR

Legal Season of Use (if not listed on the certificate): N/A

If an irrigation right, total number of acres to be leased: 7.5

Total acre-feet of storage to be leased, if applicable: N/A

Maximum rate associated with subject water rights (cfs) being leased: 0.15 cfs

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

Season 1 (cfs) \_\_\_\_\_ Time period: \_\_\_\_\_

Season 2 (cfs) \_\_\_\_\_ Time period: \_\_\_\_\_

Season 3 (cfs) \_\_\_\_\_ Time period: \_\_\_\_\_

Maximum duty associated with subject water rights (ac-ft): 27.37 af (not duty limited)

Conditions or other limitations, if any: \_\_\_\_\_

~II~

**Section 2.2 continued from Pooled Lease Form.**

**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): None listed on certificate. POD to the mouth of Whychus Creek at river mile 0.

Maximum volume in acre-feet: 27.37 af

Rate in cfs: 0.15 cfs

(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 July 2, 2008 through October 1, 2008.

Other (describe): \_\_\_\_\_



Jan 2007



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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](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: Previously leased L-831,787, 667, 500, 418  
Lease Application Number (assigned by WRD): \_\_\_\_\_

This Lease is with:

**Lessor #1 (Water Right Holder):**

Name Joseph Angel  
Mailing address P O Box 14908  
City, State, Zip Code Portland, OR 97293-0908  
Telephone number 503-525-9100  
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@uoi.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 S-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	<del>10</del> 03	NW NW	01101	30	IRR	74135	9 1895
2.									
3.									
4.									
5.									

Total number of acres, if for irrigation, by certificate and priority date: 30.0 ac IRR 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 October 1, 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**

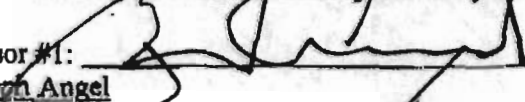
- 3.1 Accuracy.** The Undersigned Lessor(s) and Lessee(s) declare that, to the best of their knowledge and belief, the information contained in this application is true, correct and complete. If after the lease order is signed, any information is determined to be false, the lease order may be modified 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

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:  Date: 6/10/08  
Joseph Angel

For additional Lessors, type in space for signature and date

Lessor #2:  Date: 6/19/08  
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

15 11 4  
15 11 3

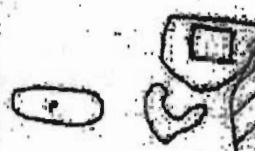


3 3 3 4

100

500 4

3



50

30.0

15 11 03  
NW1/4  
TAX LOT  
1101

NENE

700

SW1/4

30 acres 1895

Joseph Angel

T15S, R11E, Sect. 03

tax lot 1101

NW1/4 - 30.0 ac

SENE

1320'

800

See Map 15 11



denotes leased  
acres



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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](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: previously leased L-831  
Lease Application Number (assigned by WRD): \_\_\_\_\_

This Lease is with:

**Lessor #1 (Water Right Holder):**

Name Wayne Cornick  
Mailing address 17000 Bartlemy Lane  
City, State, Zip Code Sisters, OR 97759  
Telephone number 541-385-4941  
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	EXTR	ACRES	TYPE OF USE	CERTIFICATE	PRIORITY	YEAR
*(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	11/10	12	NW NE	302	7.1	IRR	74135	7 1895
2.									
3.									
4.									
5.									

Total number of acres, if for irrigation, by certificate and priority date: 7.1 ac IRR 1895

Conditions or other limitations, if any: N/A

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 October 1, 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: Wayne Cornick Date: 6 June 2008  
Wayne Cornick

For additional Lessors, type in space for signature and date

Lessor #2: [Signature] Date: 6/19/08  
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

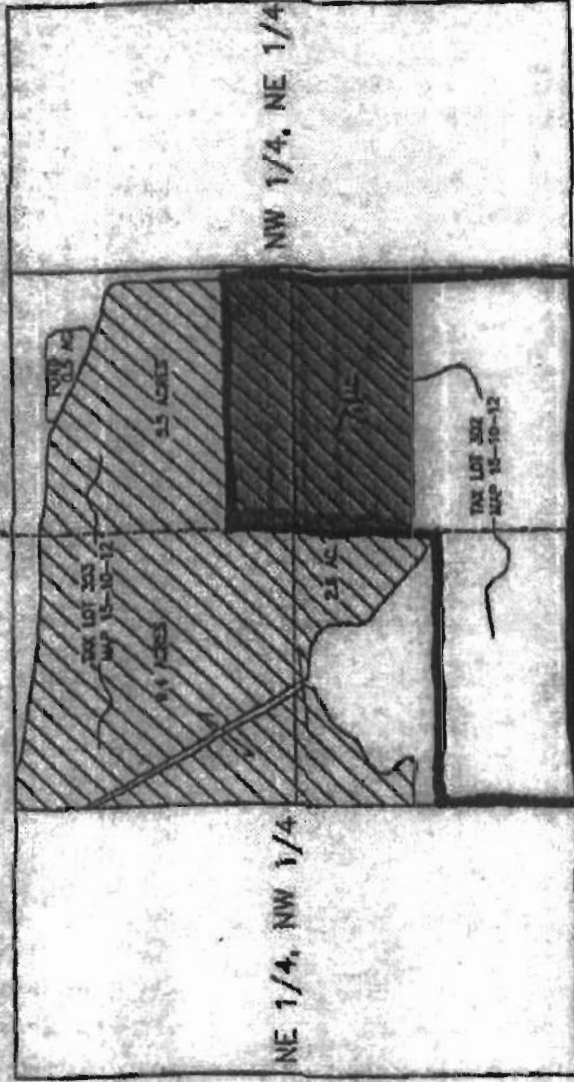


# WATER RIGHTS SEGREGATION MAP

FOR TAX LOTS 302 AND 303, MAP 15-10-12

SEC. 12  
T155, R10E, W.M.  
DESCHUTES COUNTY, OR

N/4 CORNER  
SEC. 12



Wayne Cornick  
T155, R10E, S412  
Tax lot 302  
nwne

7.1 ac leased instream



Wayne Cornick



GRAPHIC SCALE - FEET

SECTION 12 T15S, R10E, S67W  
DESCHUTES COUNTY  
T-400

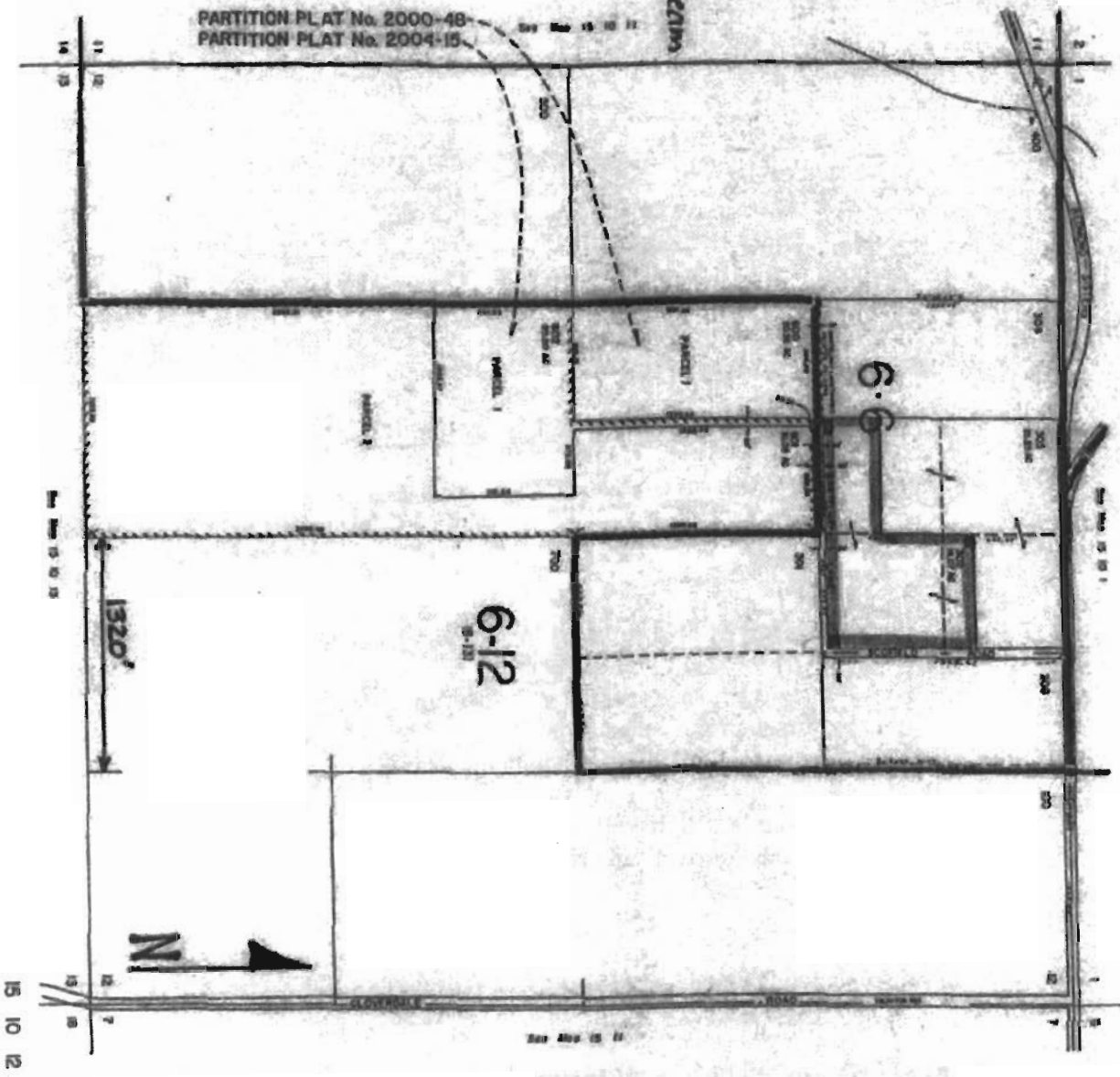
Contract number 200

15 10 12

Acres	Area
1.00	1.00
2.00	2.00
3.00	3.00
4.00	4.00
5.00	5.00
6.00	6.00
7.00	7.00
8.00	8.00
9.00	9.00
10.00	10.00
11.00	11.00
12.00	12.00
13.00	13.00
14.00	14.00
15.00	15.00

Wayne Cornick  
T15S, R10E, Sect 12  
NWNE, taxlot 302  
7.1 acres leased in stream

PARTITION PLAT No. 2000-48  
PARTITION PLAT No. 2004-15



6-6

6-12  
6-12

1320'

N



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

# 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](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 with:

**Lessor #1 (Water Right Holder):**

Name Mike Mansker  
Mailing address PO Box 1376  
City, State, Zip Code Sisters, OR 97759  
Telephone number 541-549-7117  
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	Seet	¼ ¼	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	10	26	NW NE	600	22.9	IRR	74135	8	1895
2.	15	10	26	NE NW	600	25	IRR	74135	8	1895
3.	15	10	26	Nw NE	600	15.1	IRR	74135	8	1904
4.										
5.										

Total number of acres, if for irrigation, by certificate and priority date: 47.9 ac IRR 1895  
15.1 ac IRR 1904

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 October 1, 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.

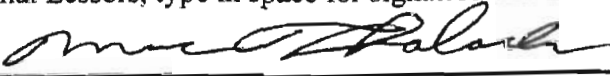
**3.5 Termination provision.**

- 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:  Date: 6/12/02  
Mike Mansker

For additional Lessors, type in space for signature and date

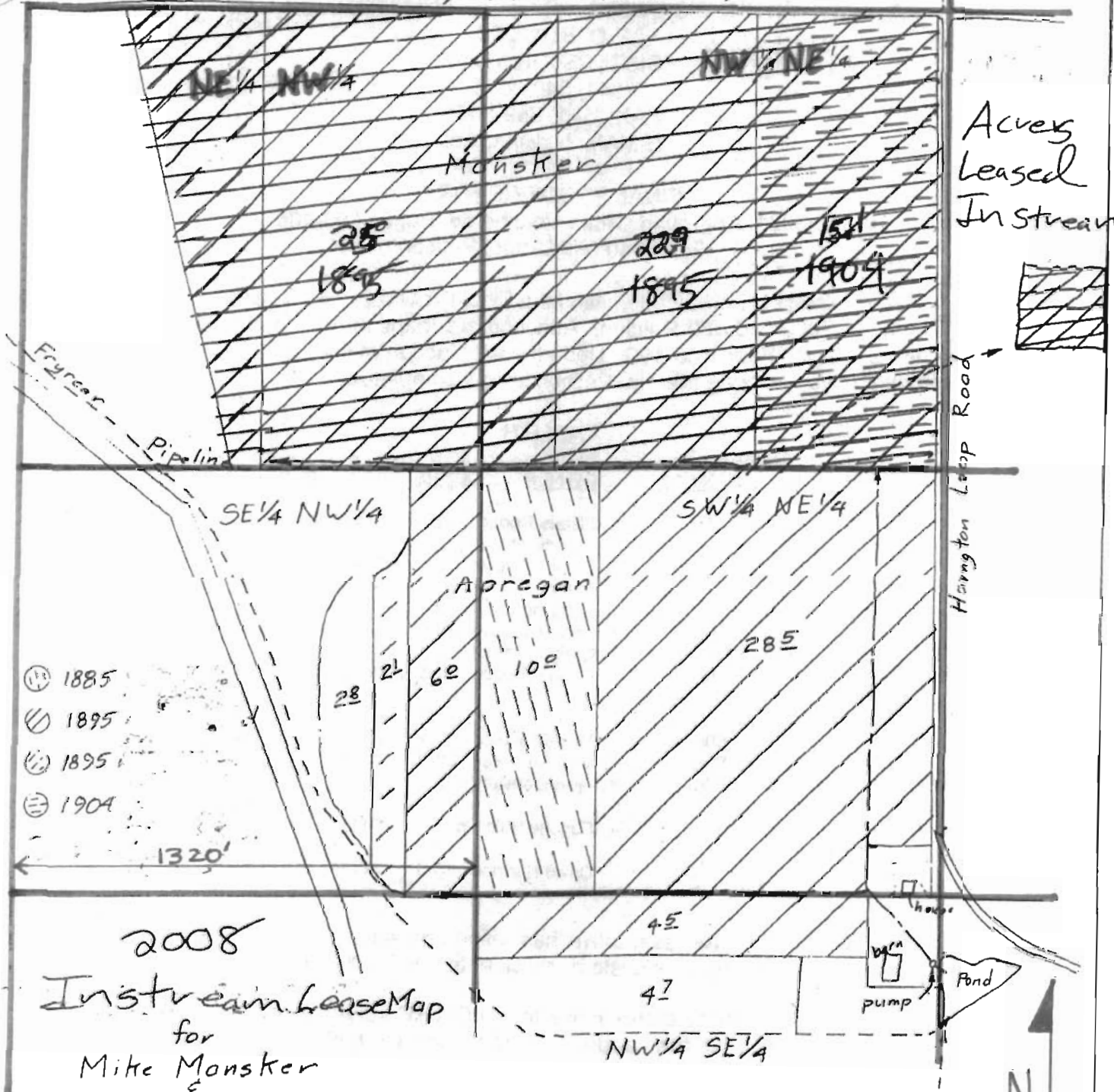
Lessor #2:  Date: 6/19/08  
Three Sisters Irrigation District

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



Section 26  
 TOWNSHIP 15 SOUTH, RANGE 10 EAST, W.M.



Acres  
 Leased  
 In stream

- ⊙ 1885
- ⊙ 1895
- ⊙ 1895
- ⊙ 1904

2008  
 Instream Lease Map  
 for  
 Mike Monster

T15 R.10 Sect 26 NENW & NWNE TL 600



THREE SISTERS IRRIGATION DISTRICT  
P.O. BOX 2230  
SISTERS, OR 97759  
(541) 549-8815  
FAX: (541) 549-8070  
E-MAIL: tsid@uci.net

FINAL PROOF REPORT  
T-9621, Approved Order, Volume 66, Pages 103-106  
2003 540.580 District Petition

Three Sisters Irrigation District is hereby submitting the Final Proof reports for lands under the approved Transfer 9621, from our 2003 540.580 Petition. Attached are maps of each parcel listed in Table B on the Special Order Volume 66, Page 103-106. Upon the satisfaction of the Director of the Oregon Water Resources Department, we conclude that the Petition is now completed.

TABLE B

<u>TWN</u>	<u>RNG</u>	<u>SEC</u>	<u>QQ</u>	<u>TAX LOT</u>	<u>OWNER</u>	<u>ACRES</u>	<u>CERT</u>	<u>PRIORITY</u>	<u>PREVIOUS OWNER</u>
15S	110E	24	SWNW	900	Sisters Rodeo Association	10	74135	1895	
14S	12E	18	NESW	2200	Dana & Evelyn Dykes	2	74135	1895	
15S	10E	26	SWNE	601	Craig Apregan	10	74135	1885	Weldon Wankier
15S	10E	26	SWNE	601	Craig Apregan	28.5	74135	1895	Weldon Wankier
15S	10E	26	SENE	601	Craig Apregan	8.1	74135	1895	Weldon Wankier
15S	10E	26	NWSE	601	Craig Apregan	4.5	74135	1895	Weldon Wankier
15S	10E	26	NWNE	600	Mike Mansker	15.1	74135	1904	Weldon Wankier
15S	10E	26	NWNE	600	Mike Mansker	22.9	74135	1895	Weldon Wankier
15S	10E	26	NENW	600	Mike Mansker	25	74135	1895	Weldon Wankier
14S	11E	34	SWSW	6100	Eugene Baldwin	5	74135	1895	
15S	10E	15	NESE	1500	David Herman	10.5	74135	1895	

A Three Sisters Irrigation District representative has inspected each property listed above, and has concluded that all lands have an irrigation system sufficient to accomplish irrigation of the lands.

Three Sisters Irrigation District hereby states that either a CWRE surveyor or a Three Sisters Irrigation District representative certifies that the landowners *did improve their lands* as requested in their application for transfer.

  
Marc Thalacker, District Manager

9/25/07  
Date



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

## 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](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 with:

**Lessor #1 (Water Right Holder):**

Name James Enger  
Mailing address 68820 Holmes Rd.  
City, State, Zip Code Sisters, OR 97759  
Telephone number 541-788-5745  
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.

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- 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	¼ ¼	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	04	SW SW	401	30.6	IRR	74135	9	1895
2.										
3.										
4.										
5.										

Total number of acres, if for irrigation, by certificate and priority date: 30.6 ac IRR 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 October 1, 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**

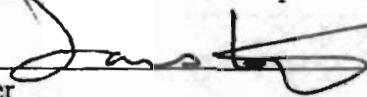
- 3.1 Accuracy.** The Undersigned Lessor(s) and Lessee(s) declare that, to the best of their knowledge and belief, the information contained in this application is true, correct and complete. If after the lease order is signed, any information is determined to be false, the lease order may be modified 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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- 3.3 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.

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  - Consent by all parties to the lease; and/or
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- 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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Lessor #1:  Date: 5/27/08  
James Enger

For additional Lessors, type in space for signature and date

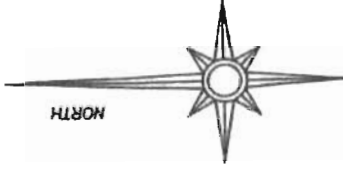
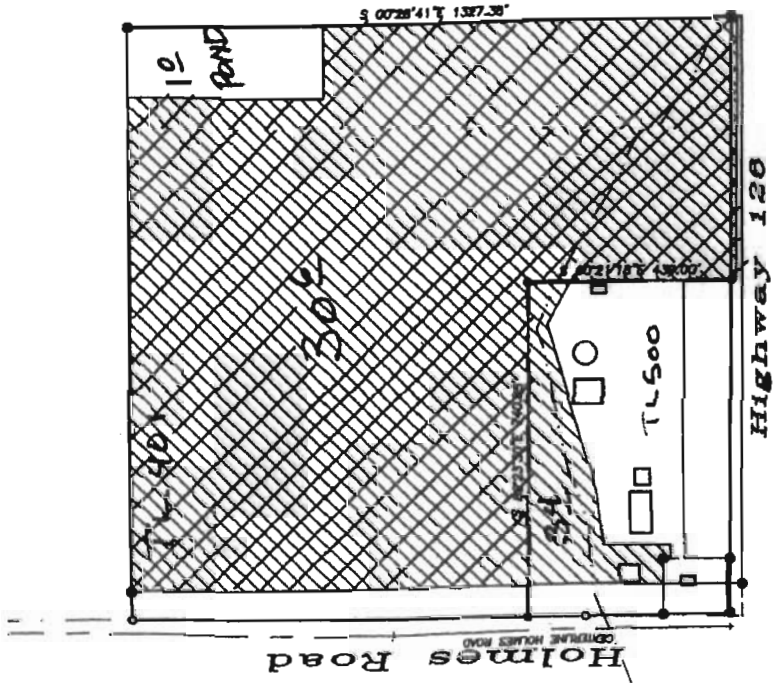
Lessor #2:  Date: 6/19/08  
Three Sisters Irrigation District

Other Attachments As Needed:

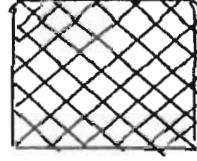
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- Exhibit 5-B: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. Exhibits 5-A and 5-B may be combined into a single map. (See instructions.)
- Exhibit 5-C: Supporting documentation 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 Insteam Lease Map for Jim Enger

15-11-04 Tx Lot 401



Acres Lease  
Instream





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

# 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](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 with:

**Lessor #1 (Water Right Holder):**

Name	<u>Kenneth Tisher</u>	&	<u>Tim &amp; Wendy DiPaolo</u>
Mailing address	<u>2044 NW Trenton</u>		<u>P O Box 482</u>
City, State, Zip Code	<u>Bend, OR 97701</u>		<u>Stinson, CA 94970</u>
Telephone number	<u>541-385-1033</u>		<u>415-868-0239</u>
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:





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

# 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](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 with:

**Lessor #1 (Water Right Holder):**

Name	<u>Kenneth Tisher</u>	&	<u>Tim &amp; Wendy DiPaolo</u>
Mailing address	<u>2044 NW Trenton</u>		<u>P O Box 482</u>
City, State, Zip Code	<u>Bend, OR 97701</u>		<u>Stinson, CA 94970</u>
Telephone number	<u>541-385-1033</u>		<u>415-868-0239</u>
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	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.	14	11	13	SW SW	700	20.5	IRR	74135	3	1895
2.	14	11	13	SW SW	700	.5	IRR	74135	3	1904
3.	14	11	14	SE SE	700	2.5	IRR	74135	3	1895
4.	14	11	13	SW SW	800	4.5	IRR	74135	3	1895
5.	14	11	14	SE SE	800	1.5	IRR	74135	3	1895

Total number of acres, if for irrigation, by certificate and priority date: 29 ac IRR 1895  
.5 ac IRR 1904

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 October 1, 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 provisions.
  - 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: Kenneth Fisher Date: 6/12/08  
 Kenneth Fisher

Lessor #1: Wendy DiPaolo Date: 6/13/08  
 Tim & Wendy DiPaolo

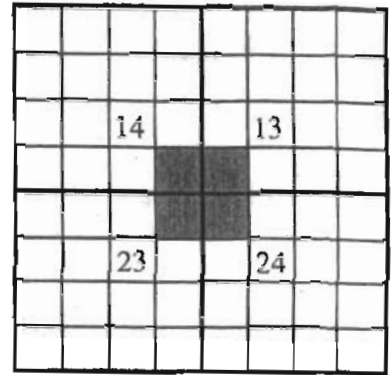
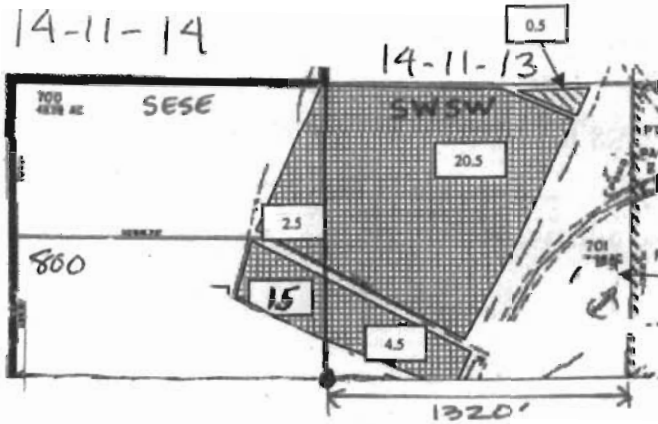
For additional Lessors, type in space for signature and date

Lessor #1: Three Sisters Irrigation District Date: 6/19/08

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

Township 14 South  
Range 11 East





**Section 13 SWSW**  
TL 700, 1895, 20.5 Acres  
TL 700, 1904, 0.5 Acres  
  
TL 800, 1895, 4.5 Acres  
**Section 14, SESE**  
TL 700, 1895, 2.5 Acres  
TL 800, 1895, 15 Acres

Ken + Deborah Tisher  
Tax lot 700

Tim + Wendy DiPaolo  
Tax lot 800

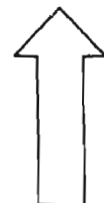
2008 Instream  
Lease

 1895 Place of Use  1904 Place of Use ● Section Corner Marker Location

T14S R11E Sections 13, 14,

1 inch equals 800 feet

NORTH





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

# 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](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: previously leased L-787  
Lease Application Number (assigned by WRD): \_\_\_\_\_

This Lease is with:

**Lessor #1 (Water Right Holder):**

Name Mark Koos  
Mailing address P O Box 796  
City, State, Zip Code Scio, OR 97374-0796  
Telephone number 541-740-7180  
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	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	10	24	SE SE	505	21	IRR	74135	8	1895
2.	15	10	24	NE SE	505	2	IRR	74135	8	1904
3.										
4.										
5.										

Total number of acres, if for irrigation, by certificate and priority date: 21 ac IRR 1895  
2 ac IRR 1904 Tax Lot 505 was previously part of Tax lot 500

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 October 1, 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: Mark Kooz Date: 5/28/08  
Mark Kooz

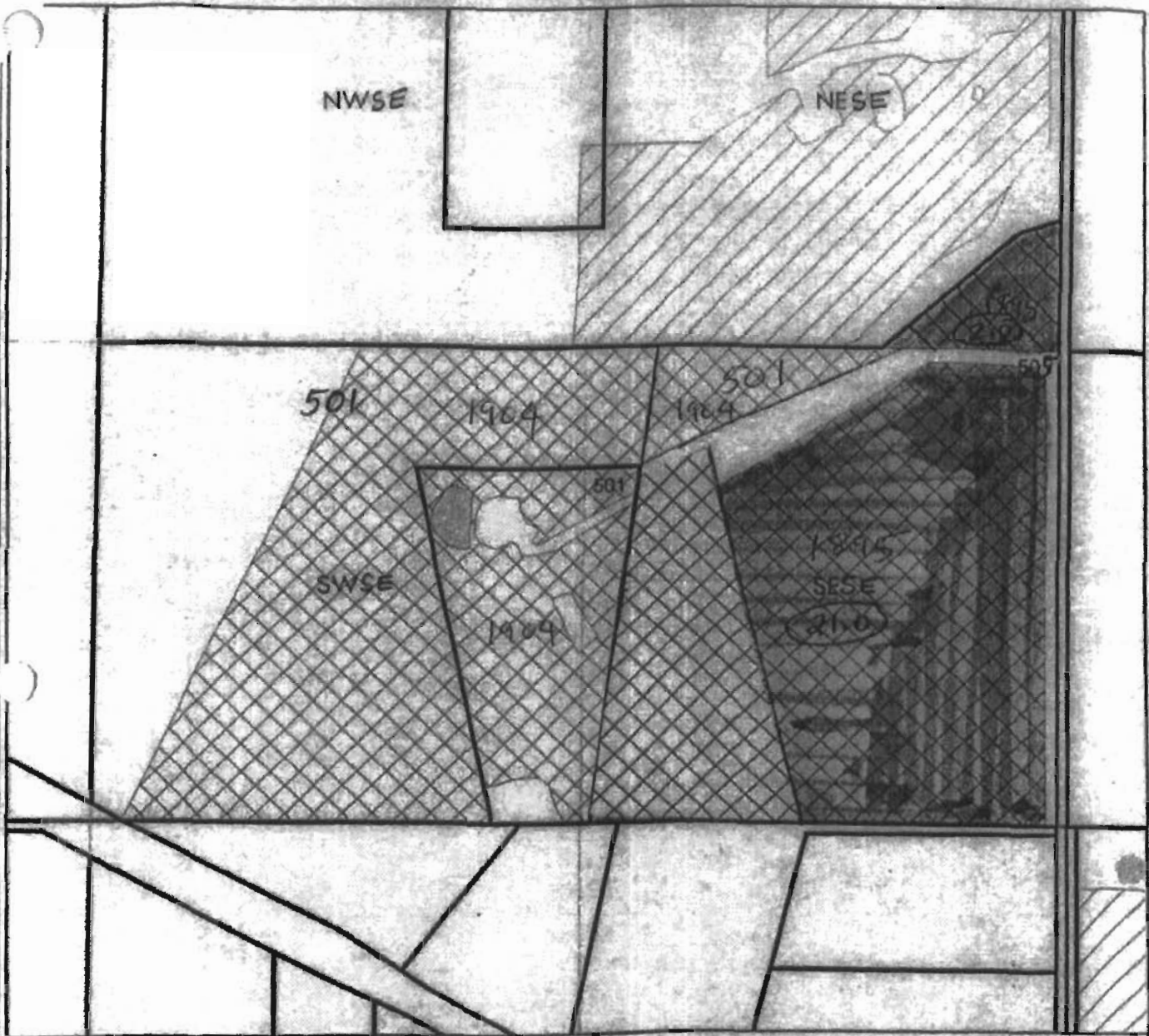
For additional Lessors, type in space for signature and date

Lessor #2: Three Sisters Irrigation District Date: 6/19/08  
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

Stream Lease Map for Three Sisters Irrigation District



Property Owner: Herring, Janet & Mark Keos  
 Legal Description(s): 15-10-24-SE/SE-00500, 15-10-24-SW/SE-00500,  
 15-10-24-SE/SE-00501, 15-10-24-SW/SE-00501  
 Total Acres: 42 ac. (1904), 23 ac. (1895) as indicated by hatching



1 inch equals 400 feet



Denotes Place of Use to be *Leased*

Signed: *Mark Keos*  
 for Three Sisters Irrigation District

Dated: 6/15/06

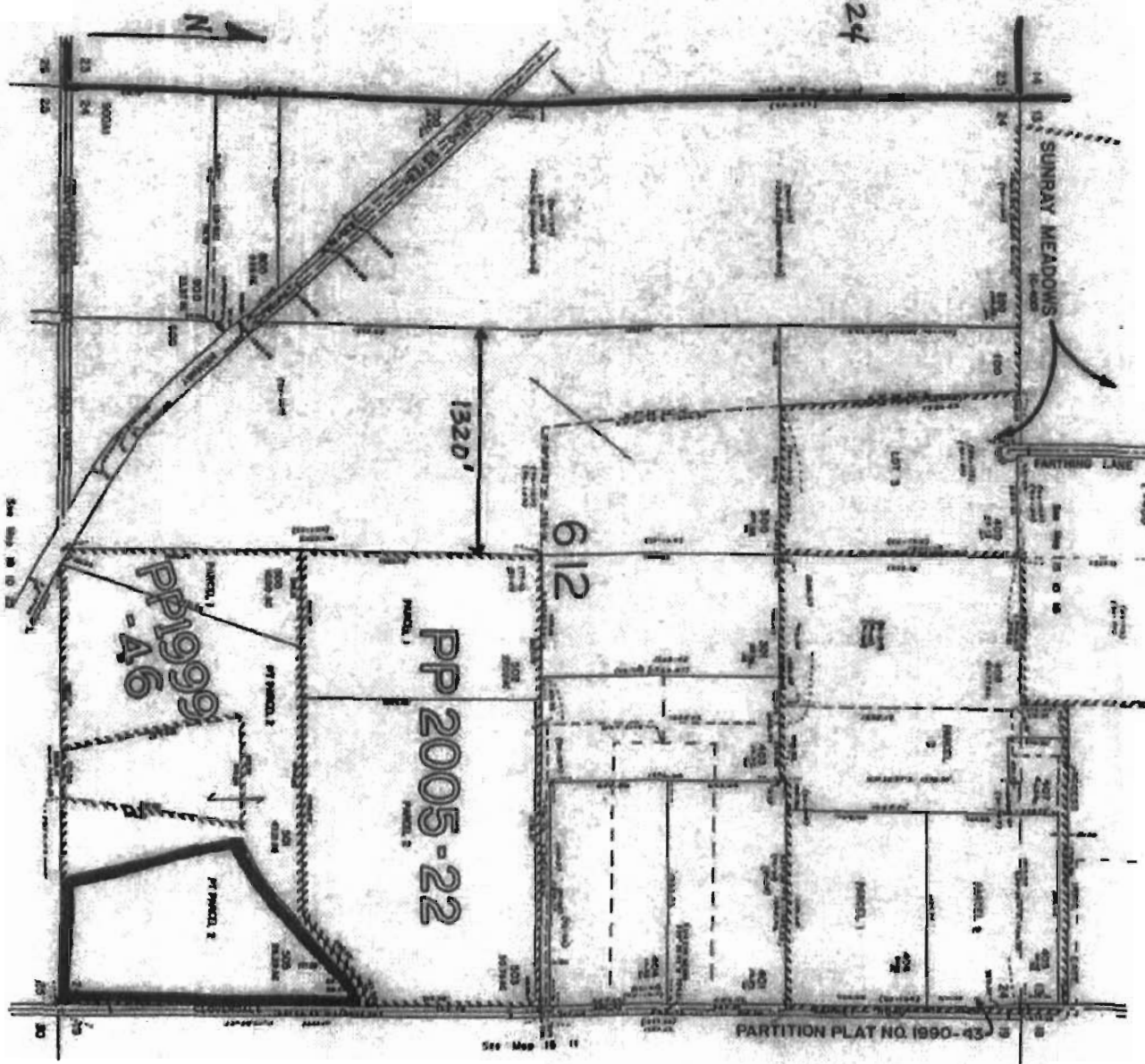
THIS PLAT WAS PREPARED BY  
A LICENSED SURVEYOR  
IN THE STATE OF IOWA

SECTION 24 TISS RIDEWAY  
DESCHUTES COUNTY

Created under 2004/2004/2004/2004

15 N 24

Mark Koos  
TISS, RIDGE, Sect 24  
Tax Lot 505  
SESE 21.0 ac  
NESE 2.0 ac  
Total 23.0 ac  
leased



15 N 24



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

# 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](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 with:

**Lessor #1 (Water Right Holder):**

Name Lazy Z Meadows LLC

Mailing address P O Box 267

City, State, Zip Code Sisters, OR 97759

Telephone number 541-610-3780

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. C-3-03 C-291 C-24167

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:

	I	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	10	10	SW NW	705	28.4	IRR	C-24167	1	1880
2.	15	10	10	SW NW	705	7.2	IRR	C-291	1	1880
3.	15	10	10	NW NW	705	21.1	IRR	C-303	1	1881
4.	15	10	10	SE NW	705	1.6	IRR	C-24167	1	1880
5.	15	10	10	NE NW	705	4.4	IRR	C-303	1	1881

6. 15 10 10 NW/NW 705 0.3 IRR C-291 1 1880

Total number of acres, if for irrigation, by certificate and priority date: 30 ac IRR 1880  
7.5 ac IRR 1880 25.5 ac IRR 1881

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 October 1, 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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- 3.3 **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.
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- 3.5 **Termination provision.**
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    - 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: *Gregory J. Einfeld* Date: 4/8/08  
Lazy Z Meadows, LLC

For additional Lessors, type in space for signature and date

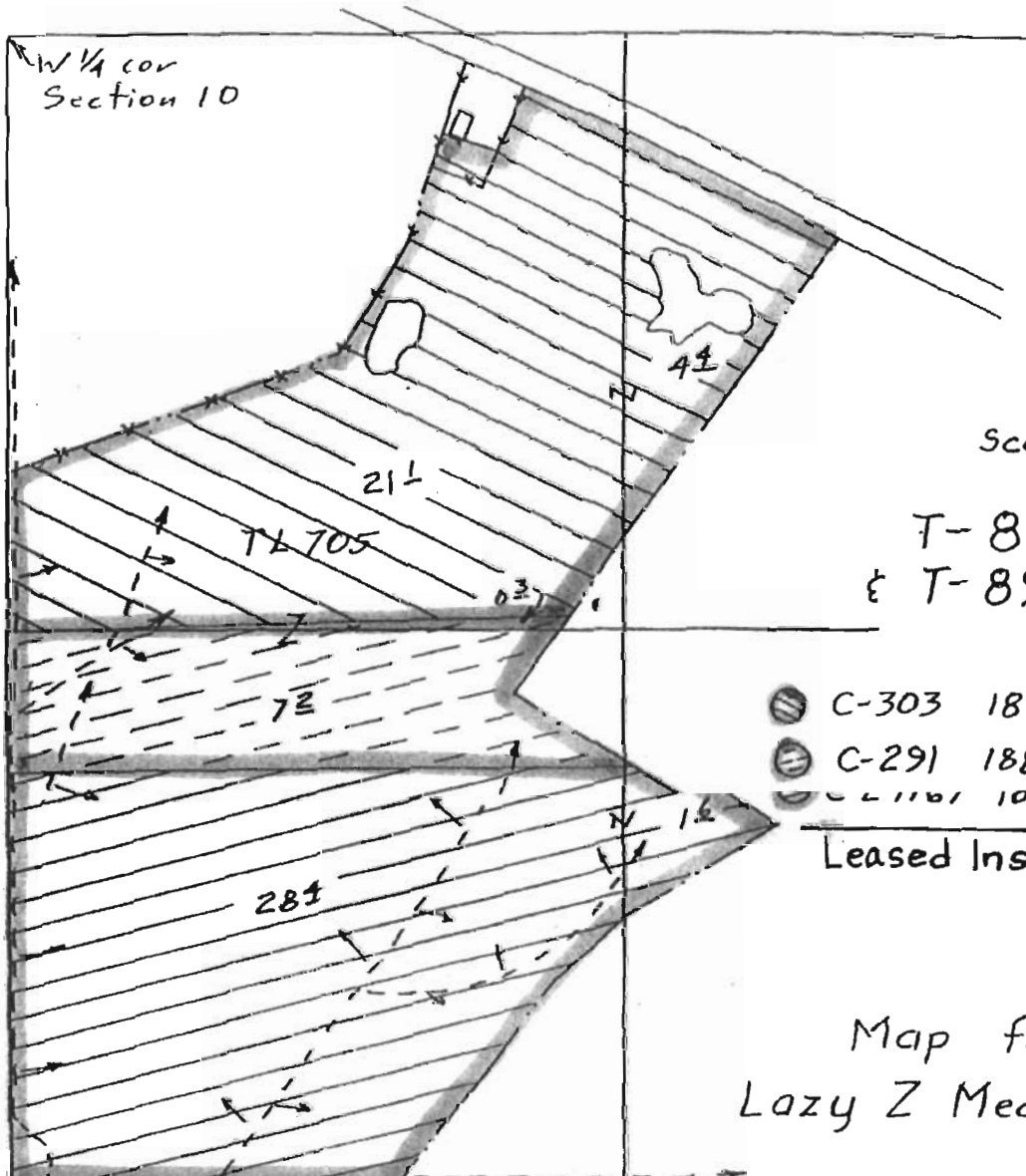
Lessor #2: *Three Sisters Irrigation District* Date: 6/19/08  
Three Sisters Irrigation District

- 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



T. 15 S., R. 10 E., W. M.

W 1/4 cor  
Section 10



Scale 1" = 1320'

T-8900  
& T-8902

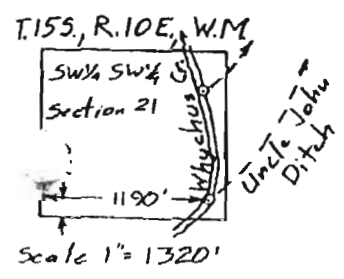
- C-303 1881 25<sup>±</sup> acres
- C-291 1880 7<sup>±</sup> acres
- C-1101 1000 50<sup>±</sup> acres

Leased Instream - 63.0 ac.

Map for  
Lazy Z Meadows, LLC

Surveyed Aug 23, 2006

Uncle John Ditch



This map is for the purpose of locating a water right only and has no intent to provide legal dimensions or the location of property lines.

Deschutes County

EXHIBIT B

SALE AGREEMENT  
NUMBER MFR 20060118

### INCLUSION AGREEMENT

THIS INCLUSION AGREEMENT (the "Agreement") is made and entered into this first day of October, 2001, by and between Lazy Z Partners, LLC, 1628 N.W. Everett Street, Portland, Oregon, 97209-2109, (the "Lazy Z"), and Squaw Creek Irrigation District, 68000 Highway 20, Sisters, Oregon, 97759 (the "Irrigation District").

### WITNESSETH:

WHEREAS, Irrigation District and Lazy Z are cooperating in the preparation and submission of a petition to include within the service area of the Irrigation District all land owned by Lazy Z south and west of Highway 20, an area of 442 acres irrigated from Squaw Creek; therefore

#### IT IS HEREBY AGREED:

#### 1. LANDS TO BE INCLUDED WITHIN THE IRRIGATION DISTRICT

Upon approval of the petition, the Irrigation District boundaries shall be expanded by 442 acres, as shown on Exhibit "A" attached hereto.

#### 2. LANDS TO BE SUBSEQUENTLY EXCLUDED FROM THE IRRIGATION DISTRICT

After the approval of the inclusion petition by the Oregon Water Resources Department, the parties shall cooperate in filing a 580-transfer petition for the movement of the newly included 442 irrigated acres. After the Oregon Water Resources Department's certification of the Lazy Z acres under the 580 petition both parties shall cooperate in filing for the exclusion of 201.2 acres of water right from the Irrigation District. The future exclusion boundary is shown on Exhibit "A" attached hereto. The parcel is located on the SW side of Hwy 20.

#### 3. GRANT OF RIGHT-OF-WAY

(a) Lazy Z grants to Irrigation District a non exclusive maintenance easement on the ditch known as the Uncle John Ditch from Squaw Creek (identified as the Reed Ditch on the 1909 Squaw Creek Adjudication Map) with the point of diversion in the SW 1/4 SW 1/4 of Section 21, T.15S., R.10E. W.M. and running in a Northeasterly direction to the Southwest corner of the Lazy Z Ranch located near the Southwest corner of Section 10, Township 15 South, Range 10 East, W.M. ALSO: The centerline description of a 20' non exclusive easement for an existing delivery ditch from the Uncle John Ditch located: beginning at a point which is 85' east

of the southwest corner of Section 10, Township 15 South, Range 10 East, W.M. on the south line of said section ; thence North approximately 65'; thence N 36 degrees W - approximately 45'; thence N 61 degrees W - approximately 71' to a point which is 10' East of the west line of Section 10; thence North on a line 10' east of the West line of Section 10 to a point 10' East of the West 1/4 corner of said Section.

(b) Lazy Z grants to Irrigation District an irrevocable and perpetual easement to come onto the property to the Lazy Z, in a reasonable manner, at all reasonable times, for the purpose of inspecting, operating, repairing, and maintaining the irrigation water transmission system located in the areas described in paragraph 1(a) herein above.

#### 4. LOCATON OF IRRIGATION WATER MEASURING DEVICES

The map attached thereto as Exhibit "A" and hereinafter incorporated by this reference, was prepared by Bruce Estes, irrigation water consultant for Lazy Z. This exhibit includes notations that correctly represent the proposed location of irrigation water measuring devices that will be installed in cooperation with Irrigation District, at Lazy Z's sole cost and expense prior to February 15, 2002. The Irrigation District shall have sole descretion on where these measuring devices will be located.

#### 5. MAINTENANCE OF THE UNCLE JOHN DITCH FROM THE DIVERSION TO THE LAST D-BOX SOUTH OF THE SOUTHWEST PROPERTY LINE OF THE LAZY Z RANCH.

Maintenance of the Uncle John Ditch lateral from the diversion from Squaw Creek, through United States Forest Service lands, to the last D-box south of the southwest corner of the Lazy Z Ranch shall be the sole responsibility of the landowner of the excluded boundary as shown on Exhibit "A" attached hereto. All maintenance of the Uncle John Ditch and its laterals shall be the sole responsibility of the landowners receiving water through the Uncle John Ditch.


#### 6. MISCELLANEOUS

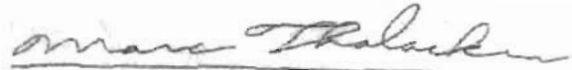
(a) All obligations imposed by this Agreement and the rights and remedies available hereunder shall be in addition to and not in limitation of any duties, obligations, rights, and remedies otherwise imposed available by law.

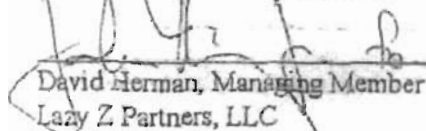
(b) This Agreement shall be binding upon and shall insure to the benefit of all of the parties hereto, their beneficiaries, successors and permitted assigns.

(c) In the event that any dispute arises out of this agreement all parties agree to settle dispute by binding mediation.

THE PARTIES HERETO have executed this Inclusion Agreement as of the date and year first above written.

  
Lee Christensen, Board Chairman  
Squaw Creek Irrigation District

  
Marc Thalacker, Manager  
Squaw Creek Irrigation District

  
David Herman, Managing Member  
Lazy Z Partners, LLC

David Herman, Oct 1, 2001

STATE OF OREGON, County of Deschutes, SS:

Lee Christensen, Board Chairman, Squaw Creek Irrigation District, acknowledged this instrument before me on this tenth day of November 2000.



  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 9-17-2005

STATE OF OREGON, County of Deschutes, SS:

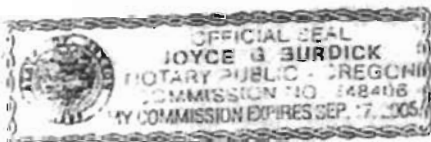
Marc Thalacker, Manager, Squaw Creek Irrigation District, acknowledged this instrument before me on this tenth day of November 2000.

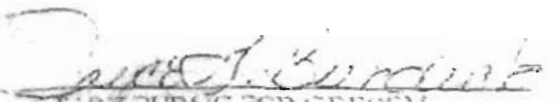


  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 9-17-2005

STATE OF OREGON, County of Deschutes, SS:

me on this tenth day of November 2000.



  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 9-17-2005

TOWNSHIP 15 SOUTH, RANGE 10 EAST, W. M.



Scale 1" = 1320'

INCLUSION MAP  
for  
LAZY Z RANCH, LLC  
Squaw Creek Irrigation Dist.



This map is for the purpose of locating a water right only and has no intent to provide legal dimensions or the location of property lines.

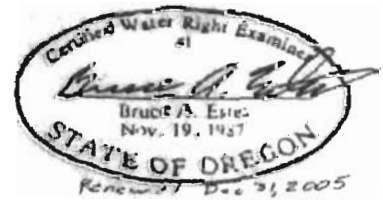
**ESTES SURVEYS, LLC**  
PO Box 17519 Salem, OR 97305-7519 (503) 585-7593  
60382 Arnold Rd Bend, OR 97702 (541) 362-7391

TOWNSHIP 15 SOUTH, RANGE 10 EAST, W. M.



Scale 1" = 1320'

FUTURE EXCLUSION MAP  
for  
LAZY Z RANCH, LLC  
from  
Squaw Creek Irrigation Dist.



This map is for the purpose of locating a water right only and has no intent to provide legal dimensions or the location of property lines.

**ESTES SURVEYS, LLC**

PO Box 17519      60382 Arnold Rd  
Salem, OR 97305-7519      Bend, OR 97702  
(503) 585-7593      (541) 382-7391