

# 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

		on by Lessor/Lessee: SID - Split Season umber (assigned by WRD):
This L	ease is betwee	n:
Lessor	#2: Irrigatio	n District or Other Water Purveyor
Mailin	g address	Swalley Irrigation District 64672 Cook Ave., Ste #1
City. S	tate. Zip Code	Bend, OR 97701
		541-388-0658
Email	address	kathy@swalley.com
The wa	iter right to be	leased is located in <u>Deschutes</u> County.
		than Oregon Water Resources Department):
Name .		Deschutes River Conservancy
Mailin	g address	P.O. Box 1560
		Bend, OR 97701
		541-382-4077
Email a	address	gen@deschutesriver.org
Truste	e:	
Oregon	Water Resou	rces Department
	mmer Street N	
Salem,	OR 97301-12	66
	86-0900	
(,		~ Water Right Holder and Water Right Information
1.2		he (Check one):
		presentative of <u>Swalley Irrigation District</u> , the irrigation district, which vater to the subject water rights.
	☐ Another p	arty with an interest in the subject water rights representing
	☐ Not applie	eable.
		right(s) being leased, list all water rights appurtenant to the same lands.
	Indicate if the	re are any supplemental or overlying rights.
	Certificate No	o. <u>74145</u>

1.4	Are some or all of the lands being leased part of a Conservation Res Program.   Yes  No	serve Enhancement
1.5	Water Rights Proposed to be Leased Instream.  The first right to be leased identified in Section 1.3 is further described Certificate No.: 74145	ped as follows:
	Priority date: Sept 1, 1899 Type of use: IRR	
	Legal Season of Use: April 1 to November 1	
	If an irrigation right, total number of acres to be leased: 89.85 acres	IRR 0.5 ac Pond
	Total acre-feet of storage to be leased, if applicable: n/a	THE S.S GE T ONG
	Maximum rate associated with subject water rights (cfs) being lease	d.
	If there is more than one rate associated with a water right, describe	
	Season 1 (cfs) 0.843 cfs IRR, .005 cfs Pond	
	May 1, Oct 1-Nov 1	_ ranc period. Apr 1-
	Season 2 (cfs) 1.16 cfs IRR, .006 cfs Pond	Time period: May 1-
	May 15, Sept 15-Oct 15	Time period. May 1-
	Season 3 (cfs) 2.127 cfs IRR, .012 cfs Pond	Time period: May
	15-Sept 15	
	Maximum duty associated with subject water rights (ac-ft):	
	723.50 ac-ft IRR, 4.03 ac-ft Pond	_
	If you need to enter another leased right, please use the additional w	ater 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 de Deschutes River	escribed as follows:
	Tributary to Columbia River in the Columbia Basin.	
	Describe the point of diversion (POD) and any associated reach(es) being created. If possible list the reach by river mile. If no reach 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 PO	
	reach(es) must be identified): Swalley Main Canal - SENE, Sect 29.	
	985 feet North and 617 feet West from the East 1/4 corner of Sect 29	
	Deschutes River at River Mile 0.	to the model of the
	Maximum volume in acre-feet:	
	489.97 ac-ft IRR, 2.83 ac-ft Pond	
	Rate in cfs: Season 1: 0.617 cfs IRR, 0.003 cfs Pond	
	(If more than one rate, describe the rate associated within each time perio	d or instream reach.)
	Rate in cfs: Season 2: 0.826 cfs IRR, 0.005 Pond	,
	Rate in cfs: Season 3: 1.531 cfs IRR, 0.009 Pond	

	(Use the section below to indicate a more restrictive period of use than allowed by the water right.)  Conditions to prevent injury, if any:
	<ul> <li>□ None</li> <li>□ The instream flow will be allocated on a daily average basis up to the described rate</li> </ul>
	fromthrough  Other (describe): Submitted as Pooled District Split Season lease, Split Season form Attached
2.3	Term of lease. This lease shall terminate on November 1, 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 then 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;

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	<ul> <li>Consent by all parties to the lease; and/or</li> <li>Written notice to the Watermaster's office.</li> <li>For multiyear leases, the lessor shall not have the option of terminating the lease, without consent by all parties to the lease.</li> </ul>
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	<ul> <li>Fees. Pursuant to ORS 536.050, the following fee is included:</li> <li></li></ul>
Lessor Swalle	y Irrigation District
Desch	Attachments as Needed:
Attach Attach Attach Attach	ment 1: Tax Lot Map. (See instructions.)  ment 2: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. (See instructions.)  ment 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).  ment 4: Split Season Instream Use Form ment 5: Pooled Lease Water Right Holder Form  ment 5: Pooled Lease Water Right Holder Form  Ment 1: Memo Regarding OWRD discussions of the about  Pine Nursery Acres.



# Application for Split Season 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.

Attachment 4 (Standard Leasing Form). Attachment 5-D (Pooled Leasing Form).

89.85 ac IRR

The standard instream water right form or for pooled leases, the appropriate pooled lease forms, pursuant to ORS 537.348(2) and OAR 690-077 must also be filled out before a Split Season Use Instream Lease Application can be processed.

Note: Split season use lease applications must be submitted to the Department two weeks prior to water being used either for the existing purpose or for the proposed instream purpose. (OAR 690-077-0079)

#### 1. Existing and Instream Use Periods

For the water right being leased instream, as described in Section 1.5, include monthly or partial season rate or duty limitations, if appropriate.

This section replaces the "Total volume, Rate in cfs, and Allowed period of use" portions of Section 2.2 on the standard or pooled instream leasing forms.

The water right will be used for its existing purpose from Sept. 15 to Oct. 1 and Oct. 1 to Nov. 1

The water right will be used for instream use period is from July 21 to Sept. 15

	Rate (cfs)		Conversion Factor 1 cfs = 1.983471 ac-ft/day		Number of days		Duty (ac-ft)
Existing Use	0.62	*	1.983471	*	31.00	=	38.12
use if needed	0.83	*	1.983471	*	16	=	26.34
use if needed		*	1.983471	*		==	0.00
Instream Use	1.53	*	1.983471	*	56	=	169.94
use if needed		*	1.983471	*		=	0.00
use if needed	la l	*	1.983471	*		=	0.00
Total	n/a		n/a		n/a		235.80

#### 2. Measurement and Reporting

The water right lessor or lessee shall contact the watermaster to determine the necessary measurement and reporting requirements associated with leasing a water right. The holders of the water rights shall measure and report the use of the existing water right and instream water right to the satisfaction of the Director, or provide for third party measurement and reporting to the satisfaction of the Director. Pursuant to ORS 537.332(3), the Department holds instream water rights in trust for the benefit of the people of the State of Oregon.

(a) Location(s) and type(s) of measuring device(s): Swalley ID Main Diversion

(b) Frequency of measurement: <u>Daily via telemetry on SID Main Canal gage and at DEBO</u> gage on the Deschutes River

(c) Parties responsible for the respective measurements: Swalley Irrigation District

# This table will calculate flow rate factors and duty for Swalley Irrigation District Instream Leases & Transfers

Canal Diversion - Enter Total Number of Acres to be Leased Instream Here Direct Diversion - Enter Total Number of Acres to be Leased Instream Here	89.850	Split S IRR	Scason 2 Acres
Starting Point - Direct Diversion total acres	97.310		
Starting Point - Canal Diversion total acres	4433,625		
Starting Point	Full Right	Direct Diversion only	Canal Diversion only
	Starting Point - Rate*	Starting Point - Rate	Starting Point - Rate
Season 1	42.275	0.668	41.607
Season 2	58.143	0.895	
Season 3	106.611	1.658	
Duty	36232,100	531.371	

For Primary Water Right - Certificate 74145

For Canal	Diversion	Only

\*Approximate starting point

	ciated with leased rights f the Lease Application Form	Rate and duty identified in this section include: 43% transmission loss allowed by decree	s the		
Full Rate		Duty (AF) associated with leased right for			
Season 1*		Section 1.5 of the Lease Application Form			
Season 2*	55	Duty AF/Acre* =	8.05		
Season 3*			723.50		

Note - The rates and duty identified have been proportion to prevent enlargement of the right and to reflect the amount at which the diversion should be reduced. (for example, S3 = starting canal rate divided by 4441.765 canal acres)

Rates and volumes ider not include the 43% train	ntified in this section do	Volume (AF) leased instream for Section 2.2 of the Lease Application Form				
Rate (CFS) leased inst	tream for Section 2.2 of	Duty (decree) AF/Acre =	5.46			
the Lease Application	Form	Total =				
	Full Rate	# of Days in each Season	AF/ Season			
Season 1		61	74.65			
Season 2		30	49.15			
Season 3		123	373.51			
			497.31			
Additional Conditions	to Prevent Inury for Secti	on 2.2 of the Lease Application F	orm			
	# days	AF/Season				
Season 1*	5	67.31				
Season 2	3	0 49.15				
Season 3	12.	373.51				
Season total =	200		Does not exceed duty			
	Water protected instream	: April 1 through October 2				
		in Conson 1 has been reduced as reven				

Note - The number of days that water may be protected instream in Season 1 has been reduced op revent enlargement of the right.

The instream rates identified in this section are based upon the face value of the water right minus 43%.



# Application for Split Season 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.

Attachment 4 (Standard Leasing Form). Attachment 5-D (Pooled Leasing Form).

0.5 ac POND

The standard instream water right form or for pooled leases, the appropriate pooled lease forms, pursuant to ORS 537.348(2) and OAR 690-077 must also be filled out before a Split Season Use Instream Lease Application can be processed.

Note: Split season use lease applications must be submitted to the Department two weeks prior to water being used either for the existing purpose or for the proposed instream purpose. (OAR 690-077-0079)

1. Existing and Instream Use Periods

For the water right being leased instream, as described in Section 1.5, include monthly or partial season rate or duty limitations, if appropriate.

This section replaces the "Total volume, Rate in cfs, and Allowed period of use" portions of Section 2.2 on the standard or pooled instream leasing forms.

The water right will be used for its existing purpose from Sept. 15 to Oct. 1 and Oct. 1 to Nov. 1

The water right will be used for instream use period is from July 21 to Sept. 15

	Rate (cfs)		Conversion Factor 1 cfs = 1.983471 ac-ft/day		Number of days		Duty (ac-ft)
Existing Use	0.003	*	1.983471	*	31.00	=	0.00.18
use if needed	0.005	*	1.983471	*	16	=	0.00,16
use if needed		*	1.983471	*		=	0.00
Instream Use	0.009	*	1.983471	*	56	=	0.001.0
use if needed		*	1.983471	*		=	0.00
use if needed		*	1.983471	*		=	0.00
Total	n/a		n/a		n/a		0.00 1.34

#### 2. Measurement and Reporting

The water right lessor or lessee shall contact the watermaster to determine the necessary measurement and reporting requirements associated with leasing a water right. The holders of the water rights shall measure and report the use of the existing water right and instream water right to the satisfaction of the Director, or provide for third party measurement and reporting to the satisfaction of the Director. Pursuant to ORS 537.332(3), the Department holds instream water rights in trust for the benefit of the people of the State of Oregon.

(a) Location(s) and type(s) of measuring device(s): Swalley ID Main Diversion

(b) Frequency of measurement: <u>Daily via telemetry on SID Main Canal gage and at DEBO</u> gage on the Deschutes River

(c) Parties responsible for the respective measurements: Swalley Irrigation District

# This table will calculate flow rate factors and duty for Swalley Irrigation District Instream Leases & Transfers

Canal Diversion - Enter Total Number of Acres to be Leased Instream Here	0.500	Solit So	rason Z
Direct Diversion - Enter Total Number of Acres to be Leased Instream Here		Split So Pond	Acres
Starting Point - Direct Diversion total acres	97.310		
Starting Point - Canal Diversion total acres	4433.625	San State Company of the Company of	Mary and Mar
Starting Point	Full Right	Direct Diversion only	Canal Diversion only
	Starting Point - Rate*	Starting Point - Rate	Starting Point - Rate
Season 1	42.275	0.668	41.607
Season 2	58.143	0.895	
Season 3	106.611	1.658	
Duty	36232.100	531.371	

\*Approximate starting point

For Primary Water Right - Certificate 74145

For Canal Diver	sion Only	Address of the second s	
	ociated with leased rights of the Lease Application Form	Rate and duty identified in this section includes 43% transmission loss allowed by decree	the
	Full Rate	Duty (AF) associated with leased right for	
Season 1*		Section 1.5 of the Lease Application Form	
Season 2*		Duty AF/Acre* =	8.05
Season 3*	10	the same and the same of the same of	

<sup>\*</sup> Note - The rates and duty identifed have been proportion to prevent enlargement of the right and to reflect the amount at which the diversion should be reduced. (for example, S3 = starting canal rate divided by 4441.765 canal acres)

ntified in this section do	Volume (AF) leased Instream for Section 2.2 of the Lease Application Form				
tream for Section 2.2 of	Duty (decree) AF/Acre =	5.46			
Form	Total =				
Full Rate	# of Days in each Season	AF/ Season			
	61	0.36			
	30	0.30			
	123	2.20			
		2.86			
to Prevent Inury for Secti	on 2.2 of the Lease Application F	orm			
# days	AF/Season				
5	0.33				
30	0.30				
12:	2.20				
208	<b>基本的基本的基本的基本的基本的基本的基本的基本的基本的基本的基本的基本的基本的基</b>	Does not exceed duty			
Water protected instream	April 1 through October 25				
	tream for Section 2.2 of Form Full Rate  to Prevent Inury for Secti # days  50 123	Section   Sect			

Note - The number of days that water may be protected instream in Season 1 has been reduced op revent enlargement of the right.

The instream rates identified in this section are based upon the face value of the water right minus 43%.

# This table will calculate flow rate factors and duty for Swalley Irrigation District Instream Leases & Transfers

Canal Diversion - Enter Total Number of Acres to be Leased Instream Here	90.350	Split Se	iason 2
Direct Diversion - Enter Total Number of Acres to be Leased Instream Here		total	2 Acres
Starting Point - Direct Diversion total acres	97.310		
Starting Point - Canal Diversion total acres	4433.625		
Starting Point	Full Right	Direct Diversion only	Canal Diversion only
	Starting Point - Rate*	Starting Point - Rate	Starting Point - Rate
Season 1	42.275	0.668	41.607
Season 2	58.143	0.895	
Season 3	106.611	1.658	
CONTRACTOR DESCRIPTION	20000 400	E04 074	

\*Approximate starting point

#### For Primary Water Right - Certificate 74145

		MC-DISSIDE				
For	Canal	Dive	rsion	Or	Ilv	

	ciated with leased rights If the Lease Application Form	Rate and duty identified in this section includes the 43% transmission loss allowed by decree				
Season 1*	Full Rate	Duty (AF) associated with leased right for Section 1.5 of the Lease Application Form				
Season 2*	2-12-136	Duty AF/Acre* =	8.05			
Season 3*	12.13	Section of the second section of the section of the second section of the section of the second section of the sect	727.52			

<sup>\*</sup> Note - The rates and duty identifed have been proportion to prevent enlargement of the right and to reflect the amount at which the diversion should be reduced. (for example, S3 = starting canal rate divided by 4441.765 canal acres)

Rates and volumes in not include the 43%	dentified in this section do transmission loss	Volume (AF) leased instream for Section 2.2 of the Lease Application Form					
Rate (CFS) leased I	nstream for Section 2.2 of	Duty (decree) AF/Acre =	5.46				
the Lease Applicati	on Form	Total =					
	Full Rate	# of Days in each Season	AF/ Season				
Season 1		61	75.01				
Season 2		30	49.45				
Season 3		123	375.71				
			500.17				
Additional Condition	ins to Prevent Inury for Sect	on 2.2 of the Lease Application F	orm				
	# days	AF/Season					
Season 1*	5	5 67.64					
Season 2	3	0 49.45					
Season 3	12	3 375.71					
Season tota	1 = 20	8	Does not exceed duty				
	Water protected instream	April 1 through October 2					

<sup>\*</sup> Note - The number of days that water may be protected instream in Season 1 has been reduced op revent enlargement of the right.

The instream rates identified in this section are based upon the face value of the water right minus 43%.



#### MEMORANDUM

June 27, 2008

To:

Oregon Water Resources Department

From:

Genevieve Hubert, Deschutes River Conservancy

Re:

Bend Metro Parks and Recreation Dept., Pine Nursery Lease

#### Background

A majority of the Bend Pine Nursery property was sold to the Bend Metro Parks and Recreation Department (BMPR) by the U. S. Forest Service. In 2006, BMPR submitted a 5-year instream lease (L-746) for the a large portion of the Pine Nursery water, minus a number of acres retained to continue to water strips of trees. The nursery water rights are listed on the Swalley Certificate #74145 as acre-equivalents (pg 1, pg 23).

Since the submission of L-746, BMPR has determined that they would like to lease all of the water at the Nursery, excluding the strips of trees that are still being irrigated. The water that is still available to lease is in T17S, R12E, Section 22, SENE, tax lot 102. In addition the map for a portion of the BMPR L-746 does not correctly represent the water right on the ground. This inaccurately mapped area is in T17 S, R12E, Section 23, NWNW, tax lot 1802. A correcting map for this particular QQ will be submitted at the same time as the new lease acres for the Pine Nursery.

#### Existing Lease L-746

The inaccurate map for 171223 NWNW 01802 will be updated with a new map. The number of acres leased (13.56 acres) and remaining for use (1.62 acres) in this QQ and tax lot will not change. Per conversations with Laura Snedaker, Oregon Water Resources Department (OWRD), this map will be added to the state's file for L-746 correcting the originally submitted map.

#### New BMPR Lease

BMPR will lease additional acres in 171222 SENE 00102. Swalley Certificate #74145 lists 30.4 and 40.0 acres, for a total of 70.4 acre-equivalents in this specific QQ. Currently, 25.8 acre-equivalents are being leased by BMPR in L-746 with 4.6 acres remaining to water strips of trees. BMPR would like to lease as much of the additional 40.0 acre-equivalents as possible while still watering the strips of trees in this SENE QQ. Per conversations with Laura Snedaker and Bob Rice of OWRD, who also consulted with Greg Nelson of OWRD—the additional acres to be leased will be calculated based off the total acre-equivalents per acre in this QQ minus the strips of trees being irrigated.

#### Action:

- Map correction (highlighted dark grey in Table 1) for 171223 NWNW 01802 for current instream L-746.
- 2.) Instream lease the additional acres in 172322 SENE 00102 with no change to the acres currently leased in L-746. Retain irrigation on the strips of trees in the SENE QQ. Lease an additional 33.95 acre equivalents from 25.8 acres of the SENE QQ. Retain 6.05 acre equivalents to continue to irrigate strips of trees as shown on L-746 (highlighted light grey in Table 1).
- 3.) Lease additional acres in 171223 SWNW and NWNW 01800.

#### Table 1. Pine Nursery Water Rights and lease acre-equivalent calculations.

#### **BMPR - Pine Nursery Acres**

T (S)	R (E)	s	QQ	TL	Total Ac	Acres IS L-746*	Acres for IRR use	Notes
17	12	22	NENE	102	31.30	23.49	7.81	no change
17	12	22	NWNE	102	17.00	14.97	2.03	no change
17	12	22	SWNE	102	7.90	5.35	2.55	no change
17	12	22	SENE	102	30.40	25.80	4.60	acre equiv, for approx 30.4 ac
17	12	22	SENE	102	40.00	33.95	6.05	lease but retain IRR for tree strips
17	12	23	NWNW	1802/1800	21.60	13.56	1.62	tax lot 1802 correcting map
17	12	23	NWNW	1800/1802	Second -	6.42	0.00	USFS to lease tax lot 1800
17	12	23	SWNW	1802/1800	8.80	2.64	0.00	BMPRD to lease tax lot 1802
17	12	23	SWNW	1800/1802		6.16	0.00	USFS to lease tax lot 1800
				Totals	157.00	132 34	24 66	

<sup>&</sup>quot;Italicized acres are currently instream in L-746

How to lease the correct amount of the 40.0 acre equivalents in 171222SENE tax lot 102

- 1.) 70.4 acres of water applied to 30.4 acres of land. 70.4/30.4 = 2.3158 irrigation acre eqivalents per acre
- 2) Currently leasing 25.8 acres of the 30.4 acres listed for QQ leaving 4.6 acres to irrigate trees.
- 3.) 30.4 acre equiv/30.4 acres land = 1.0 acre equivalents per acre
- 4.) 40 acre equiv/30.4 acres land = 1.3158 acre equivalents per acre (plus the 1.0 acre equiv/ac = 2.3158 as listed in #1)
- 5.) 4.6 acres in trees to continue to be watered. 1.3158 ac/equiv \* 4.6 = 6.05 acre equiv to use for irrigation
- 6.) 25.8 acres to remain dry. 1.3158 ac equiv\*25.8 = 33.95 acre equiv to be leased instream

Cross check the amount to be leased in #6 above

70.4 ac equiv/30.4 acres = 2 3158

Irrigate 25.8 acres, water 4.6 acres

Lease 25.8 ac 2.3158 ac eq = 59.75 ac eq minus the 25.8 ac eq already leased = 33.95 ac eq to lease instream imigate 4.6 ac 2.3158 ac eq = 10.65 ac eq minus the 4.6 ac eq already in use = 6.05 ac eq additional to be used

Jan 2007



## 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.shiml.

		Pursuant to ORS 537.348(2) and OAR 690-077
Ontic	mal Identificati	on by Lessor/Lessee:
Lease	e Application N	umber (assigned by WRD):
This	Lease is with:	
Less	or #1 (Water F	light Holder):
Nam	c	Bend Metro Parks and Recreation District
Mail	ing address	Bend Metro Parks and Recreation District 1675 SW Simpson
City.	State, Zip Cod	Bend, OR 97702
		541-389-7275
Ema	l address	Dave Crowther / dave@bendparksandrec.org
If ad	ditional water r	ght holders, enter water right holder information below
Appli	cation" form. The nation as the "Stan ntial.  Lessor #1 is	ering associated with this form corresponds to that found on the "Standard Instream Lease "Pooled Lease" form and "Pooled Water Right Holder" form(s) are used to provide the same dard Instream Lease Application" form. Consequently, the numbering on this form is not always "I~ Water Right Holder and Water Right Information the water right holder, or authorized agent for property described in Section 1.5. ight appurtenant to these lands is also appurtenant to lands owned by others who
	are not inclu	ded in this application, then Attachment 1 (tax lot map), needs to be included.
1.3	For the water if there are a	right(s) being leased, list all water rights appurtenant to the same lands. Indicate my supplemental or overlying rights.
	Certificate N	o. <u>74145</u>
1.4	Are some or Program.	all of the lands being leased part of a Conservation Reserve Enhancement  Yes No
1.5	water rights: [This informati area of water ri	t(s) Proposed to be Leased Instream. Water right holder proposes to lease the shown on the map attached as Exhibit 5-B and described as follows: on may be included on Exhibit 5-A, or an additional map may be attached. Crosshatch the ghts being leased. Attached map(s) must identify water right holder, township, range.

	T	R	Sect		Tay Lat	Acres	Type of Use	Certificate /	Page(s) #	Priority.
	*(Iden	tify pertin	ent page n	umber of	certificate,	if certificate than one p	e is greater than 1 per certificate)	0 pages; identif	y priority date	if there is
į.	17	12	23	swnw	1802	2.64	IRR	74145	23	1899
2.	17	12	22	56116	102	33.95	IRR	74145	23	1899
3	17	12	17	swse.	7400	1.5	IRR	74145	21	1899
4										
5.					<b>†</b>					

Total number of acres, if for irrigation, by certificate and priority date: 1.5 ac IRR & 36.59 ac Nursery - total 38.09 ac, 1899 priority

There have been lot line adjustments or lot divisitons on tax lots 1802, 102 and 7400 since issuance of the 3111 Certificate 74145. Adjustments explained in attachment

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 <u>not</u> 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 November 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.

Exhibit 5-C:

Exhibit 5-D:

Precedent. If a right which has been leased is later proposed to be leased again or transferred 3.3 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. Suspension of original use. During the period of the lease, the water right holder agrees to 3.4 suspend use of water allowed under the subject water rights and under any water right that is supplemental to the subject water rights. Termination provision. 3.5 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 then 30days 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. Modification to prevent injury. Allocation of water to the instream use described in Section 3.6 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. Date: 6-27-08 Lessor #1: ( Bend Metro Parks and Recreation District For additional Lessors, type in space for signature and date Swalley 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

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

into a single map. (See instructions.)

Split Season Instream Use Form



# **Application for Instream Lease**



Proposed Lease of Irrigation Rights



Water Rights

Bend Metro Parks and Recreation District
Bend Pine Nursery
taxlot 102- 33.95 acre equivalence
in 171222SENE
6.05 acre equivalence remaining
in taxlot 102 in 171222SENE

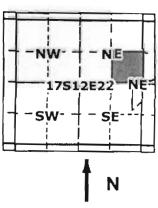
Total Lease of 33.95 Acres



Geo-Spatial Solutions, Inc.

www.geospatialsolutions.com

Date Created: June 2008



1 inch equals 400 feet



## **Application for Instream Lease**

10

Proposed Lease of Irrigation Rights

Water Rights

Bend Metro Parks and Recreation District
Bend Pine Nursery

taxlot 1802- 13.56 acres (revision of existing lease) in 171223NWNW

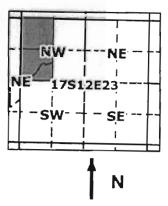
1.62 acres remaining in taxlot 1802 in 171223NWNW

taxlot 1802- 2.64 acres (new application)

in 1712235WNW 0 acres remaining 1 taylot 1802 1712235WNV

in taxlot 1802 171223SWNW Total Lease of 16.2 Acres

Date Created: June 2008

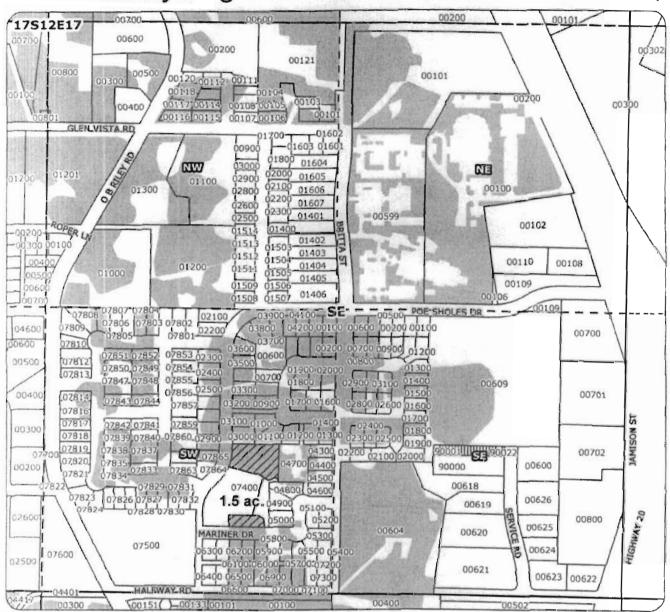


1 inch equals 400 feet

(A)GSS

Geo-Spatial Solutions, Inc.

www.geaspatialsolutions.com



## Application for Instream Lease

Proposed Lease of Irrigation Rights



Water Rights

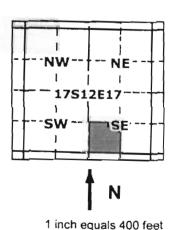
Bend Metro Parks and Recreation District
Harvest Park
taxlot 7400- 1.5 acres
in 171217SWSE
0 acres remaining in taxlot
Total Lease of 1.5 Acres



Geo-Spatial Solutions, Inc.

www.geospatialsolutions.com

Date Created: June 2008





#### **MEMORANDUM**

June 27. 2008

To:

Oregon Water Resources Department

From:

Genevieve Hubert, Deschutes River Conservancy

Re:

Bend Metro Parks and Recreation Dept., Pine Nursery Lease

Background

A majority of the Bend Pine Nursery property was sold to the Bend Metro Parks and Recreation Department (BMPR) by the U. S. Forest Service. In 2006, BMPR submitted a 5-year instream lease (L-746) for the a large portion of the Pine Nursery water, minus a number of acres retained to continue to water strips of trees. The nursery water rights are listed on the Swalley Certificate #74145 as acre-equivalents (pg 1, pg 23).

Since the submission of L-746, BMPR has determined that they would like to lease all of the water at the Nursery, excluding the strips of trees that are still being irrigated. The water that is still available to lease is in T17S, R12E, Section 22, SENE, tax lot 102. In addition the map for a portion of the BMPR L-746 does not correctly represent the water right on the ground. This inaccurately mapped area is in T17 S, R12E, Section 23, NWNW, tax lot 1802. A correcting map for this particular QQ will be submitted at the same time as the new lease acres for the Pine Nursery.

#### Existing Lease L-746

The inaccurate map for 171223 NWNW 01802 will be updated with a new map. The number of acres leased (13.56 acres) and remaining for use (1.62 acres) in this QQ and tax lot will not change. Per conversations with Laura Snedaker, Oregon Water Resources Department (OWRD), this map will be added to the state's file for L-746 correcting the originally submitted map.

#### New BMPR Lease

BMPR will lease additional acres in 171222 SENE 00102. Swalley Certificate #74145 lists 30.4 and 40.0 acres, for a total of 70.4 acre-equivalents in this specific QQ. Currently, 25.8 acre-equivalents are being leased by BMPR in L-746 with 4.6 acres remaining to water strips of trees. BMPR would like to lease as much of the additional 40.0 acre-equivalents as possible while still watering the strips of trees in this SENE QQ. Per conversations with Laura Snedaker and Bob Rice of OWRD, who also consulted with Greg Nelson of OWRD – the additional acres to be leased will be calculated based off the total acre-equivalents per acre in this QQ minus the strips of trees being irrigated.

#### Action:

- Map correction (highlighted dark grey in Table 1) for 171223 NWNW 01802 for current instream L-746.
- 2.) Instream lease the additional acres in 172322 SENE 00102 with no change to the acres currently leased in L-746. Retain irrigation on the strips of trees in the SENE QQ. Lease an additional 33.95 acre equivalents from 25.8 acres of the SENE QQ. Retain 6.05 acre equivalents to continue to irrigate strips of trees as shown on L-746 (highlighted light grey in Table 1).
- 3.) Lease additional acres in 171223 SWNW and NWNW 01800.

#### Table 1. Pine Nursery Water Rights and lease acre-equivalent calculations.

#### **BMPR - Pine Nursery Acres**

T (S)	R (E)	s	qq	TL	Total Ac	100	Acres for IRR use	Notes
17	12	22	NENE	102	31.30	23.49	7.81	no change
17	12	22	NWNE	102	17.00	14.97	2.03	no change
17	12	22	SWNE	102	7.90	5.35	2.55	no change
17	12	22	SENE	102	30.40	25.80	4.60	acre equiv. for approx 30.4 ac
17	12	22	SENE	102	40.00	33.95	6.05	lease but retain IRR for tree strips
17	12	23	NWNW	1802/1800	21.60	13.56	1.62	tax lot 1802 correcting map
17	12	23	NWNW	1800/1802		6.42	0.00	USFS to lease tax lot 1800
17	12	23	SWNW	1802/1800	8.80	2.64	0.00	BMPRD to lease tax lot 1802
17	12	23	SWNW	1800/1802	M20142	6.16	0.00	USFS to lease tax lot 1800
				Totals	157.00	132.34	24.66	STATE OF THE STATE OF THE STATE OF

<sup>\*</sup>Italicized acres are currently Instream in L-746

How to lease the correct amount of the 40.0 acre equivalents in 171222SENE tax lot 102

- 1.) 70.4 acres of water applied to 30.4 acres of land. 70.4/30.4 = 2.3158 irrigation acre eqivalents per acre
- 2.) Currently leasing 25.8 acres of the 30.4 acres listed for QQ leaving 4.6 acres to irrigate trees.
- 3.) 30.4 acre equiv/30.4 acres land = 1.0 acre equivalents per acre
- 4.) 40 acre equiv/30.4 acres land = 1.3158 acre equivalents per acre (plus the 1.0 acre equiv/ac = 2.3158 as listed in #1)
- 5.) 4.6 acres in trees to continue to be watered. 1.3158 ac/equiv \* 4.6 = 6.05 acre equiv to use for irrigation
- 6.) 25.8 acres to remain dry. 1.3158 ac equiv\*25.8 = 33.95 acre equiv to be leased instream

Cross check the amount to be leased in #6 above

70.4 ac equiv/30.4 acres = 2.3158

Irrigate 25.8 acres, water 4.6 acres

Lease 25.8 ac 2.3158 ac eq = 59.75 ac eq minus the 25.8 ac eq already leased = 33.95 ac eq to lease instream Irrigate 4.6 ac 2.3158 ac eq = 10.65 ac eq minus the 4.6 ac eq already in use = 6.05 ac eq additional to be used

Jan 2007



#### 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): This Lease is with: Lessor #1 (Water Right Holder): USDA Forest Service - Deschutes National Forest 1001 SW Emkay Drive Mailing address City, State, Zip Code Bend, OR 97701 Telephone number 541-383-5512 Email address jpallen@fs.fed.us If additional water right holders, enter water right holder information below 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. For the water right(s) being leased, list all water rights appurtenant to the same lands. 1.3 Indicate if there are any supplemental or overlying rights. Certificate No. 74145 1.4 Are some or all of the lands being leased part of a Conservation Reserve Enhancement Program. Yes X 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: [This information may be included on Exhibit 5-A, or an additional map may be attached. Crosshatch the area of water rights being leased. Attached map(s) must identify water right holder, township, range,

section and ¼ ¼, tax lot number, map orientation and scale.]

	T	R	Sect	14.14	Tax Lot	Acres	Type of Use	Certificate#	Page(s)#	Priority*
	*(Iden	tify pertin	ent page r	umber of	certificate, more	if certificate than one p	e is greater than 1 er certificate)	0 pages; identify	priority date	if there is
1.	17	12	23	nwnw	1800	6.42	IRR	74145	23	1899
2.	17	12	23	swnw	1800	6.16	IRR	74145	23	1899
3.								es communication of the commun		
4.								and the same of		
5.										

Total number of acres, if for irrigation, by certificate and priority date: 12.58 acres	
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 <u>not</u> 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 November 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	suspend use	of original use. During the period of the lease, the water right holder agrees to of water allowed under the subject water rights and under any water right that it to the subject water rights.
3.5	year with during to days print begun for leased under the consultation of the consulta	tiyear leases, the Lessor(s) shall have the option of terminating the lease each the written notice to the Department. The lease may be terminated at any time the calendar year. However, if the termination request is received less then 30-or to the period of allowed instream use or after the period of allowed use has for the water right(s) being leased, water may not be used under the right(s) until the following calendar year, unless the Director determines that ment would not occur. The Department may also require: then notice to the Department with original signatures; then the period of the Watermaster's office. It is a solution of terminating the lease, consent by all parties to the lease.
3.6	Section 2.2 orights to use	n to prevent injury. Allocation of water to the instream use described in during the term of this lease is not reasonably expected to cause injury to other water from the same source. If injury is found after this lease is signed, the modified or terminated to prevent injury.
Lesson	r#1: <i>d</i>	Date: 6-25-2008
		Forest, Forest Supervisor - John P. Allen
	lditional Lesson ey Irrigation I	ors, type in space for signature and date District
Other	Attachments	As Needed:
		ax Lot Map. (See instructions.)
Exhibi	it 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.)
Exhibi	it 5-C: S	Supporting documentation indicating why a right is valid and not subject to orfeiture even though the right has not been exercised for five or more onsecutive years (required if the second box in Section 1.6 of this form is hecked)
Exhibi		Split Season Instream Use Form



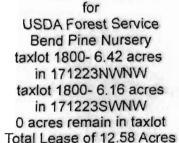
#### **Application for Instream Lease**



Proposed Lease of Irrigation Rights



Water Rights



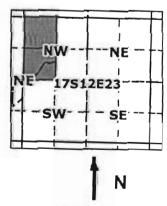


Geo Stati al Solution

Geo-Spatial Solutions, Inc.

www.geospatialsolutions.com

Date Created: June 2008



1 inch equals 400 feet



Forest Service **Deschutes National Forest** 

1001 SW Emkay Drive Bend, OR 97702 (541) 383-5300

File Code: 2540-1/5530 Date: June 23, 2008

Genevieve Hubert Program Manager Deschutes River Conservancy 700 NW Hill Street Bend, OR 97701

Dear Ms. Hubert:

Enclosed please find the signed in-stream lease form for the US Forest Service, Deschutes National Forest, for the Forest Service interest in the water right tied to the Bend Pine Work Center, tax lot 1712230001800. This right is for approximately 12.58 acres of water and is part of a pooled water right held by the Swalley Irrigation District under certificate no. 74147. We believe it is in the public interest to preserve this water right by leasing it for in-stream benefit and thereby preserving it for possible future use by the Forest or future in-stream lease opportunities

C-94145

We appreciate the assistance the Deschutes River Conservancy (DRC) has provided by preparing the pooled lease form for signature, and for the monitoring of the lease that DRC provides.

We understand the Forest only has limited time to file an application with the State for the lease, and that it needs to be filed with the OWRD by June 30, 2008. We would also like to continue discussions with the Deschutes River Conservancy for possible additional leases in the future. If you have questions, please contact Charles Kurtz of my staff at 541-383-5615 or Trish Carroll at the Regional Office at 503-808-2905.

Sincerely,

JOHN ALLEN Forest Supervisor

cc: Trish A Carroll, Bill Bliesner, NJ Erickson, Charles H Kurtz, Bob Deane, Marc Wilcox



Jan 2007



# 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 or way, wild state or us/OWRD/PUBS/orms.shiml.

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

Opti Loss	conal Identification by Lessor/Lessee: Previously leased L-4 2% a Application Number (assigned by WRD):
This	Loase is with:
	or #1 (Water Right Holder):
	ing address 10521 SW 11th Drive
	State, Zip Code Portland, OR 97219
	phone number 503-246-2040
	il address pat@pacwestlumber.com
٠,	
If ad	ditional water right holders, enter water right holder information below
Appli	The section numbering associated with this form corresponds to that found on the "Standard Instrum Leave cation" form. The "Pooled Lease" form and "Pooled Water Right Holder" form(s) are used to provide the same nation as the "Standard Instrum Lease Application" form. Consequently, the numbering on this form is not always utial.
	-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. 74145
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:  [This information may be included on Exhibit 5-A, or an additional map may be stached. Crosshatch the area of water rights being leased. Attached map(s) must identify water right holder, township, range, section and N. M, tax for number, map orientation and scale.)
	Pooled Water Right Holder Form / 1. 75D

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CHIL	"(Idea)	ify pertine	ut belle	number o	certificati	, if cortific		un 10 pages; iden		
1.	178	12 E	9	nenw	1100	0.5	IRR	74145	17	Sept 1 1899
2.	175	12 E	9	SEDM	1100	2.0	TRR	74145	18	Sept. 1 1899
3.										
4.						Co				
5.										

1	d [-4]	tal number of acres, if for irrigation, by certificate and priority date: 2.5 acres (previously 28)
	Con	aditions or other limitations, if any:
		to enter another leased right, please use the Additional Water Right Form for Pooled at Holder.
1.6	Valid	lity 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 pertificate 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		of lease. This lease shall terminate on November 1, 2008 (If there is a conflict borween 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 Lesson(s) and Lesson(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 lesse order may be modified or terminated. The lesse only exercises the water rights being lessed, for the term of the lesse. 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 lessed is later proposed to be lessed again or transferred to an instream use under ORS 537.348 and OAR 690-077 a new injury review shall be

Pooled Water Right Holder Form / 2

FID

541 -382~4879

required, and a prior short term lease shall not set a precedent for the amount of water to be eased or transferred instream.

Suspension of original use. During the period of the lease, the water right holder agrees to 3.4 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 your 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 then 30days 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. Modification to prevent lajury. Allocation of water to the instream use described in Section 3.6 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 termina Lassor #1: Pat Murphy

For additional Lessora, type in space for signature and date

Other Attachments As Nacded:

Exhibit 5-A: Tax Let Map. (See instructions.)

Detailed map illustrating lands under subject rights to be leased; required if only Exhibit, 5-B:

part of a right is being leased instream. Exhibits 5-A and 5-B may be combined

into a single map. (See instructions.)

Supporting documentation indicating why a right is valid and not subject to Exhibit 5-C:

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

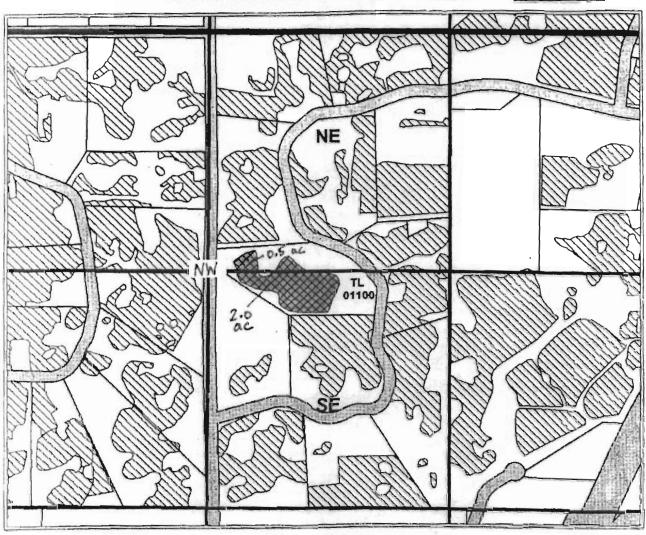
checked)

Split Season Instream Use Form Exhibit 5-D:

Pooled Water Right Holder Form / 3

# SWALLEY IRRIGATION DISTRICT **INSTREAM LEASE MAP**

17S12E09NENW & 17S12E09SENW



APPLICATION FOR INSTREAM LEASE FOR

PATRICK MURPHY - 2.50 ACRES \ 2.0 AC SENW

10.5 ac NENW





- PROPOSED LEASE WATER



- EXISTING WATER

Date: 05/23/03

Jan 2007



#### 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/PUSS/forms.shiml.

	Pursuant to ORS 537.348(2) and OAR 690-077
Optio	onal Identification by Lessor/Lessee:
Leas	e Application Number (assigned by WRD):
This	Lease is with:
	or #1 (Water Right Holder):
Nam	e RYMILAKA, LLC and East Slope Investments, LLC
Mail	ing address P.O. Box 6195
City,	State, Zip Code Bend, OR 97708
	phone number 541-915-2950 contact: Randy Thornton
Ema	il address
If ad	ditional water right holders, enter water right holder information below
Appli	The section numbering associated with this form corresponds to that found on the "Standard Instream Lease cation" form. The "Pooled Lease" form and "Pooled Water Right Holder" form(s) are used to provide the same nation as the "Standard Instream Lease Application" form. Consequently, the numbering on this form is not always nits.  ~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. 74145
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:  [This information may be included on Exhibit 5-A, or an additional map may be attached. Crosshatch the area of water rights being leased. Attached map(s) must identify water right holder, township, range, section and ¼ ¼, tax lot number, map orientation and scale.]

				-	mo	re than one	per certificate)			and any areas are
1.	16	12	27	SEST	Helli	29.95	HER	74145	8	9/1 1899
2.	16	12	27	SUSE	1100	0.5	Pond	74145	8	9,1:1899
3.	16	12	27	51,81	1,5(8)	6.73	IRR	74145	8	9/1/1899
6.				1						
5.	+	-	+	+		+	<del>                                     </del>			+

	Co	nditions or other limitations, if any:
		to enter another leased right, please use the Additional Water Right Form for Pooled at Holder.
1.6	Valid	dity of rights. Lessor(s) attests (mark one) that:
	$\boxtimes$	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	Tes the	rm of lease. This lease shall terminate on October 31, 2008. (If there is a conflict between Pooled Lease Form and this form, the Pooled Lease Form will be the official term of the lease.)
		The state of the s

#### ~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 nonusc 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 transfero to an instream use under ORS 537.348 and OAR 690-077 a new injury review shall be

	T	R	Sect	1414	Tax Lot	Acres	Type of Use	Certificate #	Page(s) #	Priority*
	*(Iden	tify pertin	ent page n	umber of			e is greater than 1 er certificate)	0 pages; identify	priority date	if there is
١.	16	12	27	SESE	1100	29.95	IRR	74145	8	9/1/1899
2.	16	12	27	SESE	1100	0.5	Pond	74145	8	9/1/1899
3.	16	12	27	SESE	1300	6.73	IRR	74145	8	9/1/1899
4.										
5.										

Ponc		al number of acres, if for irrigation, by certificate and priority date: 36.68 ac IRR, 0.5 ac line adjustments made in 2006 - see attachment.
	Cor	nditions or other limitations, if any:
		to enter another leased right, please use the Additional Water Right Form for Pooled at Holder.
1.6	Valid	lity of rights. Lessor(s) attests (mark one) that:
	$\boxtimes$	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 <u>not</u> 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	Tor	em of lease. This lease shall terminate on October 31, 2009

# the Pooled Lease Form and this form, the Pooled Lease Form will be the official term of the lease.) ~III~ Other Information

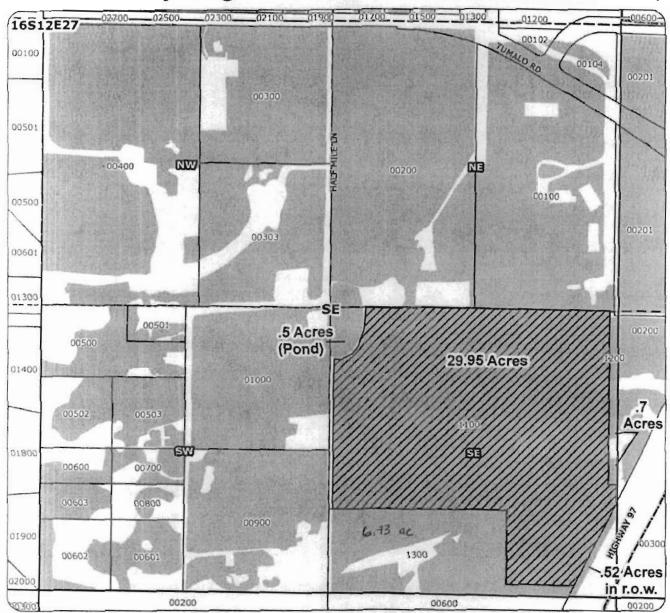
- 3.1 Accuracy. The Undersigned Lessor(s) and Lessee(s) declare that, to the best of their knowledge and belief, the information contained in this application is true, correct and complete. If after the lease order is signed, any information is determined to be false, the lease order may be modified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

Exhibit 5-D:

Exhibit 6:

	required,	and a prior short	term lease shall not	set a precedent f	or the amount of w	ater to be
3.4	Suspensi suspend u	on of original us	se. During the period wed under the subject	d of the lease, the	water right holder I under any water r	agrees to ight that is
3.5	For a year during days begunntil not constituted with the constituted wi	with written noting the calendar y prior to the perion for the water in the following capecur. The Deparation notice to the consent by all paratiten notice to the paratiten notice to the consent by all paratiten notice to the consent paraticle in the consent paratiten notice to the period not the period not the period not the period not the period notice to the period notice to the period not the period not the period notice to the period not the p	the Lessor(s) shall lice to the Department of allowed instrement in the deared allowed instrement may also require to the lesse; and the Watermaster's of the lessor shall not to the lesse.	nt. The lease may te termination requ am use or after the water may not be the Director deter uire: original signature frice.	be terminated at a sest is received less e period of allowed e used under the rig mines that enlarger es;	my time then 30- i use has ght(s) leased ment would
3.6	2.2 during	g the term of this	injury. Allocation is lease is not reason source. If injury is it proventing in the control of t	ably expected to	ause injury to othe	r rights to
	or #1: /	350		Date:	27 June	98
RYN	III.AKA.					
	16	246		Date:	27 June	80
East	Slope Inve	treens LLC				
For a	dditional L	essors, type in sp	pace for signature an	d date		
	ley Irrigation			Date:		
Othe	Attachme	nts As Needed				
	bit 5-A:	Tax Lot Map	(See instructions.)			
Exhi	bit 5-B:	part of a right	illustrating lands un is being leased instruction nap. (See instruction	cam. Exhibits 5-	to be leased; require A and 5-B may be	red if only combined
Exhi	bit 5-C:	Supporting do forfeiture ever	n though the right had cars (required if the	ing why a right is as not been exerci	sed for five or mor	e

Split Season Instream Use Form County Lot Line Adjustment Record



## **Application for Instream Lease**



Proposed Lease of Irrigation Rights



Water Rights

for Rymilaka, LLC taxlot 1100- 29.95 acres in 161227SESE

.5 acres of pond rights remaining in taxlot
Total Lease of 29.95 Acres IRR

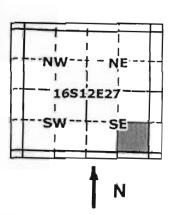
+ Lease of 0.5 Acres POND



Geo-Spatial Solutions, Inc.

www.geospatialsolutions.com

Date Created: June 2008



1 inch equals 400 feet



# **Application for Instream Lease**



Proposed Lease of Irrigation Rights



Water Rights

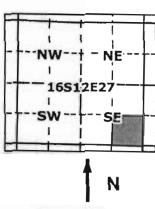
for
East Slope, LLC
taxlot 1300- 6.73 acres
in 161227SESE
0 acres remaining in taxlot
Total Lease of 6.73 Acres



Geo-Spatial Solutions, Inc.

www.geospatialsolutions.com

Date Created: June 2008



1 inch equals 400 feet

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Lot line Adjustments

# DESCHUTES COUNTY ASSESSOR'S NAME LEDGER

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		4 4	BARRETT, GARY BARRETT, BRUCE	JEY UCE	11	, Sign			OWNER	a . lan	
	Size Changes	S Code	+/-Size	3	Afternate Size		Code Area Deleted	Deleted	Move to Acct. Move	Move To Code	
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ffect	Add: tive Date 23	ld: 23-Sep-20	Add: Effective Date 23-Sep-2005 9:20 AM Transaction ID 882824	Trans	saction ID	882824		Entry D	Entry Date 23-Sep-2005	Recorded Date 16-Sep-2005	Sale Price \$700,000 5 Sale Date 16-Sep-2005
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5	929047	2005	CLERK - BOR		WD	2005	62517	-		PT NAME CHANGE	
	Name Changes	es Status	Name						Name Type	Ownership Type	Ownership %
		□ □ ∢	BARRETT, BRUCE BARRETT, GARY EAST SLOPE INVESTMENT LLC	UCE RY INVESTR	MENT LLC				OWNER OWNER	OWNER OWNER	100.0000
-1	Size Totals	Code	Acres	Š	Sqft	Alternate Size	te Size				

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	006 Sale Date 21-Mar-2006	To/From Map				14					Part Lype		Cale Price \$328 302		To/From Map		Ownership %	100,0000		Sale Price \$329,338 306 Sale Date 20-Oct-2006	To/From Map
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hip Range Section 12 27	06 9:25 AM Transaction		N N		Acres Sqft	V		2.40 Acres	Acres Sqft	NEW LEGAL DESCRIPTION	sion	nd Bounds	SEE WD 2006-19495			CLERK - BOR V	Name	EAST SLOPE INVESTMENT LLC BOSSERT, J SCOTT	Acres Sqft	06 7:17 AM Transaction ID	
Account ID Township 133173 16	Effective Date 12-May-2006 9:25 AM	Seq Voucher ID Tax Year Document Source	1 1221262 2006 CLERK - BC ACREAGE ADJUSTMENT (-0.52 AC)	Size Changes Code	Size Totals Code	2 1221264 2006 CLERK - BO LLA WITH TAX LOT 1300 (*2.40 AC).	Class Changes	2		Notes: NEW LEG	Delete:	Action Metes a	Add SEE WD	Effective Date 30-Oct-2006 3:40 PM	Seq Voucher ID Tax Year Document Source	1 1615857 2007	Name Changes Status Name	Q «	Size Totals Code	Effective Date 06-Nov-2006 7:17 AM	Seq Voucher ID Tax Year Document Source

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hip		8 Name	MCDO	ROGE	ROGE	ROGE	THOR	THOR	ROGE	ROGE	THOR	THOR	THOR	ROGE	ROGE	ROGE	THOR	THOR	ROGE	ROGE	THOR	THOR	THOR	Acres	10:8 200	Docum	CLERK - BOR	s Name	ROGE	ROGE	ROGE	THOR	THOR	ROGE	ROGE	THOR	THOR.	RYMIII	Acres
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Lot Line Adjustments DESCHUTES COUNTY ASSESSOR'S NAME LEDGER

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Township   Range Section   1/4   1/16   Taxlot Special Interest   1/2													
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erest	Ownership Type		OWNER		Recorded Date 16-Sep-2005	PT Operation	PT NAME CHANGE	Ownership Type	OWNER	OWNER	OWNER		Recorded Date 21-Mar-2006	PT Operation	PT SIZE CHANGE		To Code	1			Direction Part Part Type		
Taxlot Special Interest 01300	Name Type	OWNER OWNER OWNER	OWNER		Entry Date 23-Sep-2005	PID Source ID	1	Name Type	OWNER	OWNER	OWNER		Entry Date 10-May-2006	PID Source ID	-		Code Area Deleied Move to Acct Move To Code				Lot		
1/4 1/16 T D 0 C		3 1 2 1 2 1 2 1 2 1 2 1 2 1 2 1 2 1 2 1	TT, BRUCE G	Alternate Size		ID#1 ID#2	2005 62517			IT, GARY W	TT, BRUCE G	Alternate Sizo		10 #1 10 #2	2006 19496			l s	8710 818111811		Block		
Section 27		CE G ECCAL OE G	RIGHT OF SURVIVORSHIP—BARRETT, GART W. RIGHT OF SURVIVORSHIP—BARRETT, BRUCE G	Sqft	Transaction ID 882824	в Турв	CIW		CEG	RIGHT OF SURVIVORSHIP-BARRETT, GARY WARRETT, GARY W	RIGHT OF SURVIVORSHIP~BARRETT, BRUCE G EAST SLOPE INVESTMENT LLC	Sqft	Transaction ID 1158123	е Туре	QW	**	Alternate Size	es Suff	1100	Z			
ship Range 12	Status Name	BARRETT, BRUCE G BARRETT, REBECCA L BARRETT, BRUCE G	BARRETT, GARY W RIGHT OF SURVIN	Acres	Effective Date 23-Sep-2005 9:20 AM	Voucher ID Tax Year Document Source	CLERK - BOR	s Name	BARRETT, BRUCE G	BARRETT, GARY W	RIGHT OF SL EAST SLOPE IN	Acres	Effective Date 12-May-2006 9:25 AM	Tax Year Document Source	CLERK - BOR	0 (-2.40 AC)	+ / - Size	-2.40 Acres	200	Notes: NEW LEGAL DESCRIPTION	vision		Action Metes and Bounds Add SEE WD 2006-19496
Township 16		l .	∢	Code	23-Sep-20	Tax Year	2005	ges Status	a	0	4	Codo	12-May-2	1 1	2006	AX LOT 110	se Code	2007 Code	900	NEWLE	on Subdivision	te.	Add: SEE W
Account ID 133171	Name Changes			Size Totals	tive Date	Voucher ID	929045	Name Changes				Size Totals	ctive Date	Voucher ID	1221265	LLA WITH TAX LOT 1100 (-2.40 AC)	Size Changes	Siza Totale	2170 101013	Notes:	Action	Delete	Acti
Acc 13					Effec	Seq	-						Effec	Seq	6								