



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

Jan 2007

# 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: IL-2009-08  
 Lease Application Number (assigned by WRD): LL-975

This Lease is between:

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

Name Central Oregon Irrigation District  
 Mailing address 1055 SW Lake Ct  
 City, State, Zip Code Redmond, OR 97756  
 Telephone number 541-504-7577  
 Email address lauraw@coid.org

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 PO Box 1560  
 City, State, Zip Code Bend, OR 97709  
 Telephone number 541-382-5186  
 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 Central Oregon 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. 83571 & 76714

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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.: 83571

Priority date: October 31, 1900 & December 2, 1907 Type of use: Irrig

Legal Season of Use: April 1 to November 1

If an irrigation right, total number of acres to be leased: 40.57

Total acre-feet of storage to be leased, if applicable: 0

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

Priority 10/31/1900: Season 1: 0.505, Season 2: 0.673, Season 3: 0.890

Priority 12/02/1907: Season 3: 0.357

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): 400.29

Conditions or other limitations, if any: None

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:

Deschutes River

Tributary to Columbia 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): POD #1 to Lake Billy Chinook the mouth of the Deschutes

Maximum volume in acre-feet: Priority 10/31/1900: 221.13 at RME

Rate in cfs: Priority 10/31/1900: Season 1: 0.279, Season 2: 0.372, Season 3: 0.689

(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 \_\_\_\_\_ through \_\_\_\_\_.

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

- 2.3 Term of lease.** This lease shall terminate on October 26, 2009.
- 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.

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**3.6 Modification to prevent injury.** Allocation of water to the instream use described in Section 2.2 during the term of this lease is not reasonably expected to cause injury to other rights to use water from the same source. If injury is found after this lease is signed, the lease may be modified or terminated to prevent injury.

**3.7 Fees.** Pursuant to ORS 536.050, the following fee is included:

- \$200 for an application with four or more landowners or four or more water rights.  
 \$100 for all other applications.

Lessor #2: *Steve L. Wolman* Date: 03-24-09  
Central Oregon Irrigation District

Lessee: *Genevieve Hubert* Date: 3/26/09  
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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Pooled Lease Form / 4

FSD

**Central Oregon Irrigation District  
IL-2009-08  
Water Right changes for Instream Maps**

<u>TRS</u>	<u>QQ</u>	<u>AC</u>	<u>OWRD #</u>
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NO CHANGES

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

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](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: 3154  
 Lease Application Number (assigned by WRD): IL-975

This Lease is with:

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

Name Avion Water Company  
 Mailing address 60813 Parrell Rd  
 City, State, Zip Code Bend, OR 97702  
 Telephone number 541-382-5342  
 Email address \_\_\_\_\_

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.

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. 83571 & 76714

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.]

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Pooled Water Right Holder Form / 1

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T	R	Sect	4/4	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.	17 S	12 E	14	NE SE	806	12.00	Irrigation	83571	42	10/31/190 0
2.										
3.										
4.										
5.										

Total number of acres, if for irrigation, by certificate and priority date: Cert #83571, Oct. 31, 1900 - 12.00 acres

Conditions or other limitations, if any: None

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 31, 2009. (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

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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: *[Signature]* Date: 2/25/09  
Avion Water Company

For additional Lessors, type in space for signature and date  
\_\_\_\_\_

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

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Pooled Water Right Holder Form / 3

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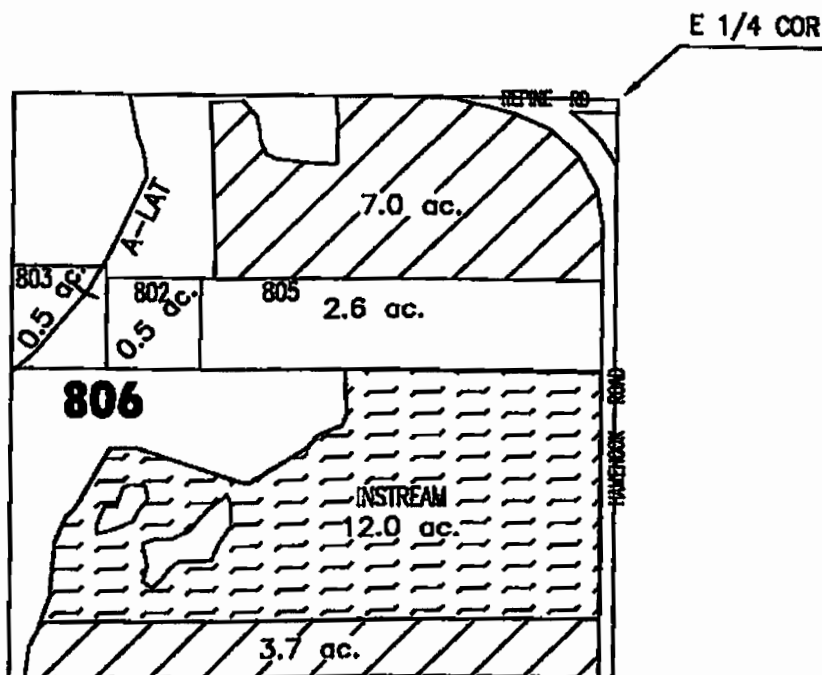


**DESCHUTES COUNTY  
SEC. 14 T17S. R12E. W.M.**

SCALE - 1" = 400'



**NE 1/4 OF THE SE 1/4**



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WATER RESOURCES DEPT  
SALEM, OREGON

	'INSTREAM' LANDS
	EXISTING WATER RIGHTS
	PARCELS W/ WATER RIGHTS



APPLICATION FOR 1 YR INSTREAM LEASE

NAME: AVION WATER CO.

TAXLOT #: 806

12.0 ACRES INSTREAM

DATE: 02-06-09

FILE NO: E:\TRANSFER\INSTREAM\MS2009\118\171214\_1.BE3



Do not remove this page from original document.

# Deschutes County Clerk

## Certificate Page



If this instrument is being re-recorded, please complete the following statement, in accordance with ORS 205.244:

Re-recorded to correct [give reason] \_\_\_\_\_  
previously recorded in Book \_\_\_\_\_ and Page \_\_\_\_\_  
or as Fee Number \_\_\_\_\_

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SALEM, OREGON



AI

After Recording return to:  
Central Oregon Irrigation District  
1055 S.W. Lake Court  
Redmond, OR 97756

Recorded by Western Title as an  
accommodation only. No liability  
accepted for condition of title or  
validity, sufficiency or affect of  
document. p

MAIL TAX STATEMENT  
TO: NO CHANGE

**QUITCLAIM DEED  
WATER CONVEYANCE AGREEMENT  
FOR TRANSFER OF INTEREST IN A WATER RIGHT**

3,44

Grantor, Dyer Land & Cattle Company LLC, releases and quitclaims to Avion Water Company, an investor owned publicly regulated utility corporation, Grantee, all rights, title and interest in the following: By this agreement, Grantor, the owner of the lands described as: The East Half of the Southeast Quarter ( 1/2 SE 1/4) of Section Fourteen (14), Township Seventeen (17) South, Range Twelve (12), East of the Willamette Meridian, Deschutes County, Oregon, EXCEPT the North 625 feet; ("Subject Lands") and commonly known as: 17-12-14 E 1/2 SE 1/4 TL 806, release their claim and responsibility for 12.0 acres of Central Oregon Irrigation District ("COID") water rights that are appurtenant to the Subject Lands, to Grantee. The water right in question is further described as a portion of Certificate # 76358, priority date of Oct. 31, 1900 and Dec. 2, 1907 and Certificate # 76714, priority date of Feb. 28, 1913.

By entry of this deed, Grantor hereby notifies any subsequent purchaser of the Subject Lands that Grantor, as owner of the Subject Land, approved the transfer (including a change in the place and type of use and point of diversion) of the water rights that are appurtenant to the Subject Land; and that upon completion of a transfer, by election of Grantee and COID, the Subject Land will have 37.60 acres of appurtenant water rights remaining.

Furthermore, upon signing of this agreement, Grantor shall no longer be liable for any district assessment or charges pertaining to the described 12.0 acres of water rights incurred.

This agreement is binding upon the heirs, executors, administrators, successors, and permitted assigns of the parties to this agreement.

Consideration for this Quitclaim: A true and valuable consideration

Grantor:

*Boyd J. Dyer*

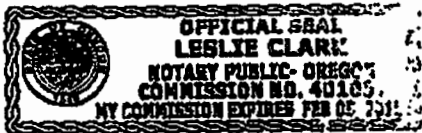
Date 2/20/07

Dyer Land & Cattle Company, LLC

State of Oregon )  
                          ) ss.  
County of Deschutes )

This instrument was acknowledged before me on February 20, 2007 by Boyd J. Dyer as Managing Member for Dyer Land & Cattle Company, LLC

*Leslie Clark*  
Notary Public



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MAR 27 2009

Grantee:

*David Tolre*

Date

*2/23/07*

Avion Water Company

State of Oregon )  
                                  ) ss.  
County of Deschutes )

This instrument was acknowledged before me on February 23, 2007 by David Tolre as Eng. in Charge for Avion Water Company.

*Leslie Clark*  
Notary Public



Approved By

*[Signature]*

Date

*20 Feb. 2007*

Steven C. Johnson, Secretary-Manager Central Oregon Irrigation District

State of Oregon )  
                                  ) ss.  
County of Deschutes)

This instrument was acknowledged before me on February 20, 2007 by Steven C. Johnson as Secretary-Manager for Central Oregon Irrigation District.

*Leslie Clark*  
Notary Public



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WATER RESOURCES DEPT

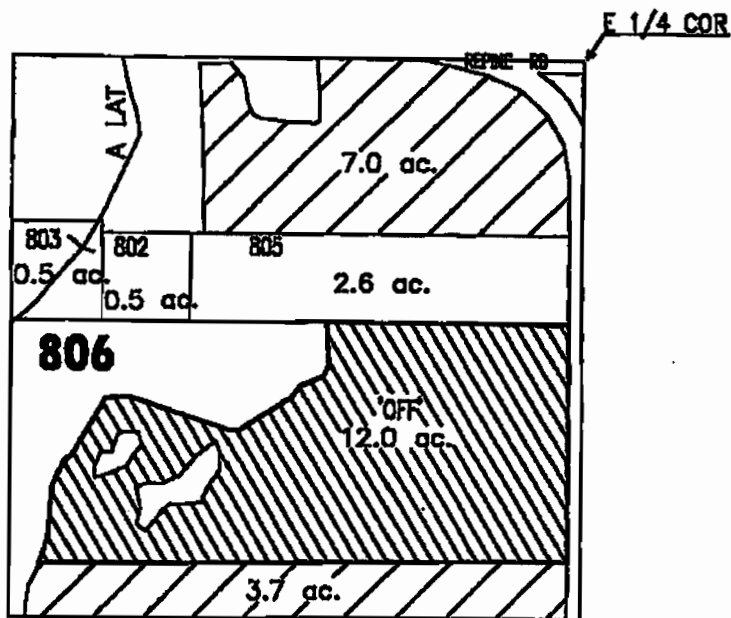
© Central Oregon Irrigation District 2007  
SALEM, OREGON

**DESCHUTES COUNTY  
SEC. 14 T17S. R12E. W.M.**

SCALE - 1" = 400'






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WATER RESOURCES DEPT  
SALEM, OREGON

	"OFF" LANDS
	EXISTING WATER RIGHTS
	PARCELS W/ WATER RIGHTS



QUITCLAIM DEED FOR WATER RIGHTS TRANSFER  
QUITCLAIM MAP

NAME: DYER LAND & CATTLE COMPANY, LLC

TAXLOT #: 806

12.0 ACRES 'QC'

DATE: 02-21-07

FILE NO: E:\TRANSFER\WRIGHT\DYER\_QC



Do not remove this page from original document.

# Deschutes County Clerk

## Certificate Page

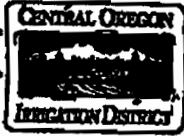


If this instrument is being re-recorded, please complete the following statement, in accordance with ORS 205.244:

Re-recorded to correct [give reason] \_\_\_\_\_  
previously recorded in Book \_\_\_\_\_ and Page \_\_\_\_\_,  
or as Fee Number \_\_\_\_\_

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41

After Recording return to:  
Central Oregon Irrigation District  
1055 S.W. Lake Court  
Redmond, OR 97756

Recorded by Western Title as an accommodation only. No liability accepted for condition of title or validity, sufficiency or affect of document. p

MAIL TAX STATEMENT  
TO: NO CHANGE

**QUITCLAIM DEED  
WATER CONVEYANCE AGREEMENT  
FOR TRANSFER OF INTEREST IN A WATER RIGHT**

3, 44

Grantor, Dyer Land & Cattle Company LLC, releases and quitclaims to Avion Water Company, an investor owned publicly regulated utility corporation, Grantee, all rights, title and interest in the following: By this agreement, Grantor, the owner of the lands described as: The East Half of the Southeast Quarter ( 1/2 SE 1/4) of Section Fourteen (14), Township Seventeen (17) South, Range Twelve (12), East of the Willamette Meridian, Deschutes County, Oregon, EXCEPT the North 625 feet; ("Subject Lands") and commonly known as: 17-12-14 E 1/2 SE 1/4 TL. 806, release their claim and responsibility for 12.0 acres of Central Oregon Irrigation District ("COID") water rights that are appurtenant to the Subject Lands, to Grantee. The water right in question is further described as a portion of Certificate # 76358, priority date of Oct. 31, 1900 and Dec. 2, 1907 and Certificate # 76714, priority date of Feb. 28, 1913.

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Furthermore, upon signing of this agreement, Grantor shall no longer be liable for any district assessment or charges pertaining to the described 12.0 acres of water rights incurred.

This agreement is binding upon the heirs, executors, administrators, successors, and permitted assigns of the parties to this agreement.

Consideration for this Quitclaim: A true and valuable consideration

Grantor:

*Boyd J. Dyer*

Date 2/20/07

Dyer Land & Cattle Company, LLC

State of Oregon )  
  ) ss.  
County of Deschutes )

This instrument was acknowledged before me on February 20, 2007 by Boyd J. Dyer as Managing Member for Dyer Land & Cattle Company, LLC

*Leslie Clark*  
\_\_\_\_\_  
Notary Public



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Grantee:

*David Tolve*

Date

*2/23/07*

Avion Water Company

State of Oregon )

) ss.

County of Deschutes )

This instrument was acknowledged before me on February 23, 2007 by David Tolve as Esq. in Charge for Avion Water Company.

*Leslie Clark*  
Notary Public



Approved By

*[Signature]*

Date

*20 Feb. 2007*

Steven C. Johnson, Secretary-Manager Central Oregon Irrigation District

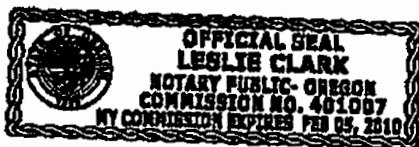
State of Oregon )

) ss.

County of Deschutes)

This instrument was acknowledged before me on February 20, 2007 by Steven C. Johnson as Secretary-Manager for Central Oregon Irrigation District.

*Leslie Clark*  
Notary Public



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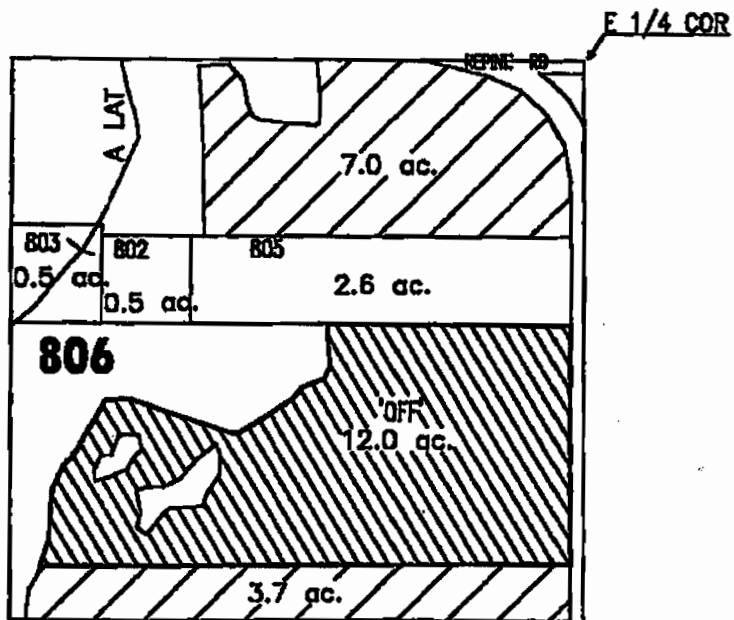


**DESCHUTES COUNTY  
SEC. 14 T17S. R12E. W.M.**

SCALE - 1" = 400'



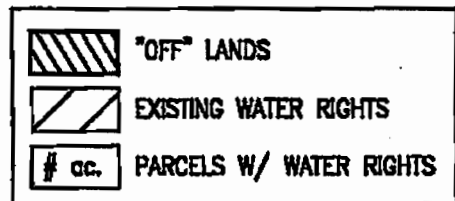
**NE 1/4 OF THE SE 1/4**



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SALEM, OREGON



QUITCLAIM DEED FOR WATER RIGHTS TRANSFER  
QUITCLAIM MAP

NAME: DYER LAND & CATTLE COMPANY, LLC

TAXLOT #: 808

12.0 ACRES 'QC'

DATE: 02-21-07

FILE NO: E:\TRANSFER\WRIGHT\07\DYER\_08

BT 2/18/05 36

DESCHUTES COUNTY OFFICIAL RECORDS  
NANCY BLANKENSHIP, COUNTY CLERK

2006-80005



\$36.00

00513351200600800050020024

12/07/2006 09:20:06 AM

D-D Cnt=1 Stn=3 PG  
\$10.00 \$11.00 \$10.00 \$5.00

After Recording Return To:

Alison A. Huycke  
FRANCIS HANSEN & MARTIN LLP  
1148 NW Hill St  
Bend, OR 97701

Until a change is requested, all  
tax statements shall be sent to:  
Dyer Land & Cattle Company LLC  
63363 Hamhook Road  
Bend, OR 97701

2

WARRANTY DEED

VEVA FAY DYER, Grantor, conveys and warrants to DYER LAND & CATTLE COMPANY LLC,

Grantee, the following described real property free of encumbrances except as specifically set forth herein:

52% undivided interest in the real property located at 63223 Hamhook Road, Bend Oregon

Further described as:

The East Half of the Southeast Quarter (E1/2SE1/4) of Section Fourteen (14), Township  
Seventeen (17) South, Range Twelve (12), East of the Willamette Meridian, Deschutes  
County, Oregon, EXCEPT the North 625 feet.

The true consideration for this conveyance is ONE MILLION FOUR HUNDRED SEVENTY FOUR  
THOUSAND TWO HUNDRED DOLLARS (\$1,474,200.00).

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON  
TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF  
ANY, UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT MEASURE 37 (2004)). THIS  
INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS  
INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND  
REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE  
PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE  
APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY  
APPROVED USES, AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST  
FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE  
ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER  
CHAPTER 1, OREGON LAWS 2005 (BALLOT MEASURE 37 (2004)).

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MAR 27 2009

[signature page follows]

WATER RESOURCES DEPT  
SALEM, OREGON  
After recording, return to  
Amerititle  
15 OREGON AVENUE, BEND

Francis Hansen & Martin, LLP  
1148 N.W. Hill Street • Bend, Oregon 97701-1934  
(541) 389-5010

DATED this 29 day of November, 2006.

GRANTOR:

Veve Fay Dyer  
VEVA FAY DYER

STATE OF OREGON     )  
                                  ) ss.  
County of Deschutes    )

On this 29 day of November, 2006, personally appeared before me the above-named  
VEVA FAY DYER and acknowledged the foregoing instrument to be his voluntary act.

Betsy Rafail  
Notary Public for Oregon  
My commission expires: 2/28/2010



**Francis Hansen & Martin, LLP**  
1148 N.W. Hill Street • Bend, Oregon 97701-1934  
(541) 389-5010

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SALEM, OREGON

Pt 92448 36



\$36.00

00513380200600000040020028

12/07/2006 09:20:06 AM

D-D Cnt=1 Stn=3 PG  
\$10.00 \$11.00 \$10.00 \$5.00

**After Recording Return To:**

Alison A. Huycke  
FRANCIS HANSEN & MARTIN LLP  
1148 NW Hill St  
Bend, OR 97701

Until a change is requested, all  
tax statements shall be sent to:  
Dyer Land & Cattle Company LLC  
63363 Hamehook Road  
Bend, OR 97701

**CORRECTED DEED**

DYER LAND & CATTLE COMPANY, LLC, Grantor, conveys and warrants to DYER LAND & CATTLE COMPANY, LLC, Grantee, the following described real property free of encumbrances except as specifically set forth herein:

48% undivided interest in the real property located at 63223 Hamehook Road, Bend

Oregon

Further described as:

The East Half of the Southeast Quarter (E1/2SE1/4) of Section Fourteen (14), Township Seventeen (17) South, Range Twelve (12), East of the Willamette Meridian, Deschutes County, Oregon, EXCEPT the North 625 feet.

Rerecorded to correct the legal description of the previously recorded deed. Vol. 2006 Page 59250

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT MEASURE 37 (2004)). THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES, AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT MEASURE 37 (2004)).

**RECEIVED**

[signature page follows]

MAR 27 2009

WATER RESOURCES DEPT  
SALEM, OREGON

After recording, return to  
Amerititle  
15 OREGON AVENUE, BEND

Francis Hansen & Martin, LLP  
1148 N.W. Hill Street • Bend, Oregon 97701-1934  
(541) 389-5010

2

DATED this 29 day of November, 2006.

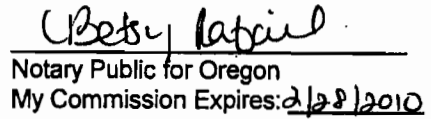
GRANTOR:  
DYER LAND & CATTLE COMPANY, LLC

  
Boyd J. Dyer, Managing Member

STATE OF OREGON    )  
                                  ) ss.  
County of Deschutes    )

On this 29 day of November, 2006, personally appeared before me the above-named BOYD J. DYER and acknowledged the foregoing instrument to be his voluntary act.



  
Notary Public for Oregon  
My Commission Expires: 2/28/2010

**Francis Hansen & Martin, LLP**  
1148 N.W. Hill Street • Bend, Oregon 97701-1934  
(541) 389-5010

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WATER RESOURCES DEPT  
SALEM, OREGON



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

# Application for Instream Lease

## 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: 148160

Lease Application Number (assigned by WRD): IL-975

This Lease is with:

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

Name Jean Curl

Mailing address 63135 Cole Rd

City, State, Zip Code Bend, OR 97701

Telephone number 541-382-1141

Email address \_\_\_\_\_

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.

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. 83571 & 76714

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, tax lot number, map orientation and scale.]

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Pooled Water Right Holder Form / 1

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MAR 27 2009

T	R	Sec	Lot	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.	17 S	12 E	23	NE NW	700	5.00	Irrigation	83571	43	10/31/1900	✓
2.	17 S	12 E	23	NE NW	704	3.80	Irrigation	83571	43	10/31/1900	✓
3.	17 S	12 E	23	NE NW	707	7.20	Irrigation	83571	43	10/31/1900	✓
4.											
5.											

Total number of acres, if for irrigation, by certificate and priority date: Cert #83571, Oct. 31, 1900 - 16.00 acres

Conditions or other limitations, if any: None

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 31, 2009. (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

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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: Jean Curl Date: Feb 17, 09  
Jean Curl

For additional Lessors, type in space for signature and date  
\_\_\_\_\_

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

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Pooled Water Right Holder Form / 3

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WATER RESOURCES DEPT  
SALEM, OREGON

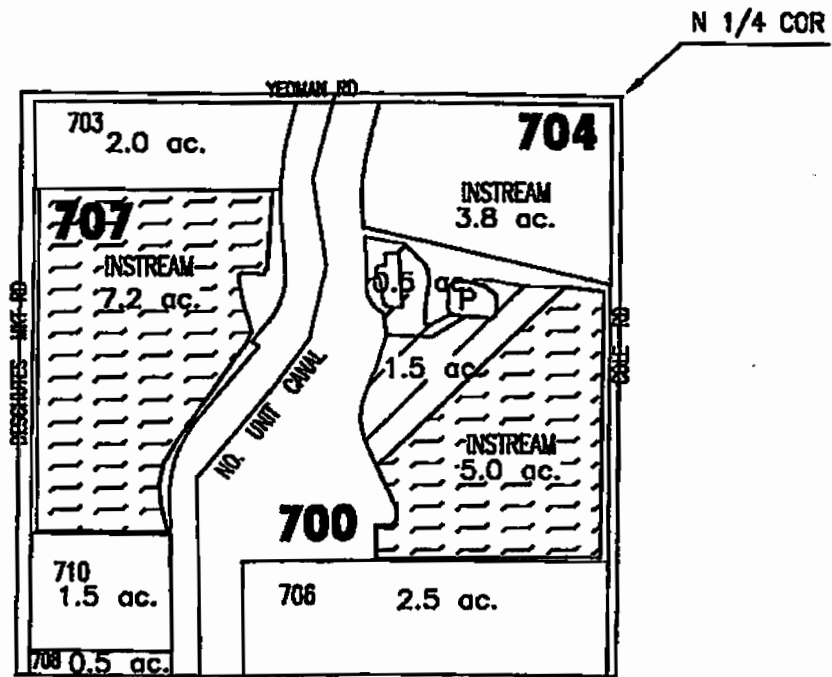


**DESCHUTES COUNTY  
SEC.23 T17S. R12E. W.M.**

SCALE - 1" = 400'



**NE 1/4 OF THE NW 1/4**



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SALEM, OREGON

	'INSTREAM' LANDS
	EXISTING WATER RIGHTS
	'INSTREAM' LAND PARCELS
	PARCELS W/ WATER RIGHTS



APPLICATION FOR 1 YR INSTREAM LEASE

NAME: JEAN CURL

TAXLOT #: 700, 704, 707      16.0 ACRES INSTREAM

DATE: 02-19-09

FILE NO: E:\TRANSFER\INSTREAM\INSTRM00\TTR\171223\_NEW



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: 901788

Lease Application Number (assigned by WRD): IL-975

This Lease is with:

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

Name Daly Estates Investments, LLC

Mailing address 21755 Old Red Rd

City, State, Zip Code Bend, OR 97702

Telephone number 541-389-0084

Email address \_\_\_\_\_

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.

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. 83571 & 76714

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.]

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Pooled Water Right Holder Form / 1

FSD

T	R	Sect	1/4	Tax Lot	Acres	Type of Use	Certificate #	Page(s) #	Priority *	
*(Identify pertinent page number of certificate, if certificate is greater than 10 pages; identify priority date if there is more than one per certificate)										
1.	18 S	12 E	03	SE SE	3200	0.50	Irrigation	83571	54	10/31/1900
2.										
3.										
4.										
5.										

Total number of acres, if for irrigation, by certificate and priority date: Cert #83571, Oct. 31, 1900 - 0.50 acres

Conditions or other limitations, if any: None

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 31, 2009. (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

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WATER RESOURCES DEPT.

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: Keith H. Sturdevant Manager/Member Date: 19<sup>th</sup> Feb 2009  
Daly Estates Investments, LLC

For additional Lessors, type in space for signature and date

\_\_\_\_\_

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

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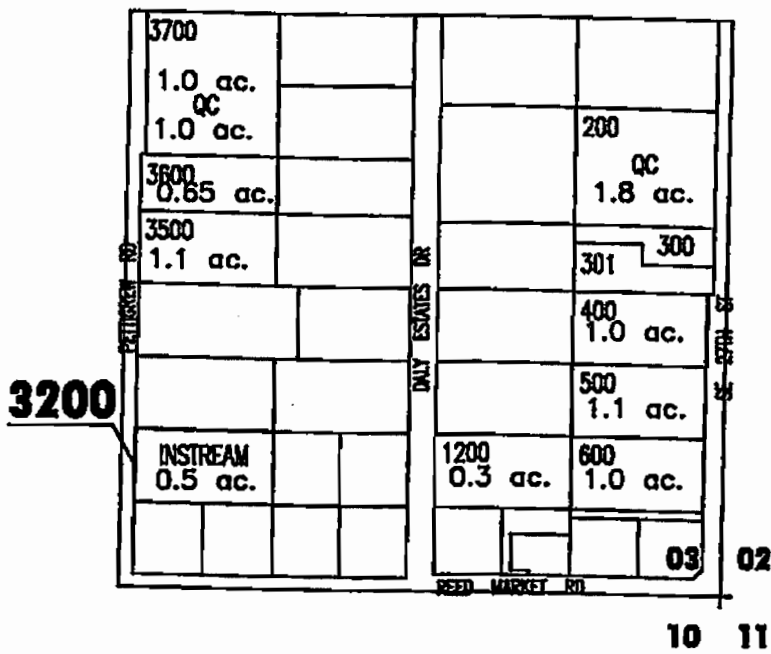
WATER RESOURCES DEPT  
SALEM, OREGON

**DESCHUTES COUNTY  
SEC.03 T18S. R12E. W.M.**

SCALE - 1" = 400'



SE 1/4 OF THE SE 1/4



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WATER RESOURCES DEPT  
SALEM, OREGON

# ac.	PARCELS W/ WATER RIGHTS
# ac.	'INSTREAM' LAND PARCELS



APPLICATION FOR 1 YR INSTREAM LEASE

NAME: DALY ESTATES INVESTMENT, LLC

TAXLOT #: 3200

0.5 ACRES INSTREAM

DATE: 02-09-09

FILE NO: E:\TRANSFER\INSTREAM\DIST0809\TAX\181203\_SE02



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

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](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: 935000

Lease Application Number (assigned by WRD): LC-975

This Lease is with:

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

Name Karl Goshorn, Jr. etux

Mailing address 21646 Old Red Rd

City, State, Zip Code Bend, OR 97702

Telephone number 541-382-8674

Email address \_\_\_\_\_

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.

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. 83571 & 76714

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 1/4, tax lot number, map orientation and scale.]

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Pooled Water Right Holder Form / 1

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WATER RESOURCES DEPT  
 SALEM, OREGON

T	R	Sec	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.	18 S	12 E	01	NW NW	7300	0.62	Irrigation	83571	53	10/31/190 0
2.										
3.										
4.										
5.										

Total number of acres, if for irrigation, by certificate and priority date: Cert #83571, Oct. 31, 1900 - 0.62 acres

Conditions or other limitations, if any: None

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 31, 2009. (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

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Pooled Water Right Holder Form 1 2

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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: Karl W. Goshorn Jr. Date: 2-17-09  
Karl Goshorn, Jr.

For additional Lessors, type in space for signature and date

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

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Pooled Water Right Holder Form / 3

FSD

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SALEM, OREGON

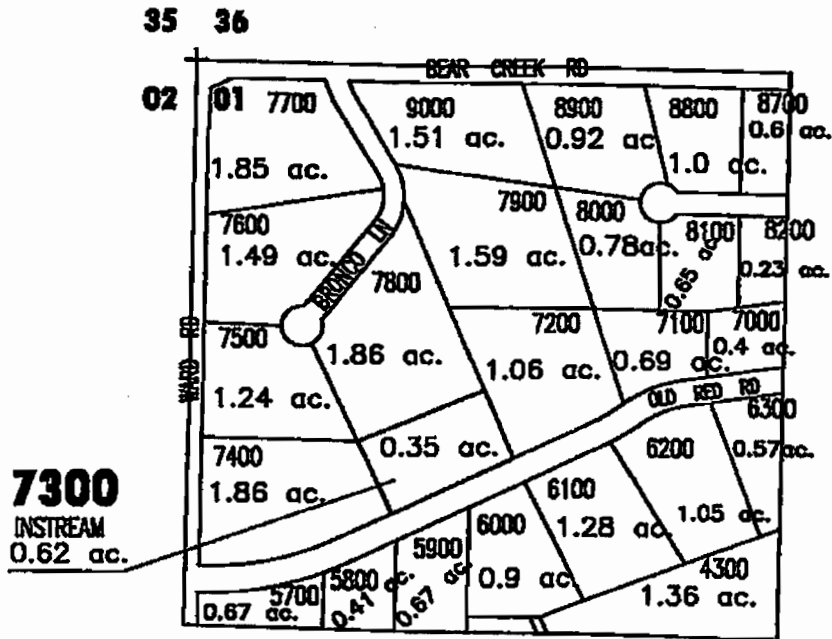


**DESCHUTES COUNTY  
SEC.01 T18S. R12E. W.M.**

SCALE - 1" = 400'



**NW 1/4 OF THE NW 1/4**



**RECEIVED**

MAR 27 2009

WATER RESOURCES DEPT  
SALEM, OREGON

# ac.	PARCELS W/ WATER RIGHTS
# ac.	'INSTREAM' LAND PARCELS



APPLICATION FOR 1 YR INSTREAM LEASE

NAME: KARL GOSHORN, JR.

TAXLOT #: 7300

0.62 ACRES INSTREAM

DATE: 02-24-09

FILE NO: 21-000000-INST-000000000-000-0000-0000



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

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](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: 611520

Lease Application Number (assigned by WRD): IL-975

This Lease is with:

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

Name William (Deceased) & Margaret Robinson

Mailing address 24350 Dodds Rd

City, State, Zip Code Bend, OR 97701

Telephone number 541-382-0446

Email address \_\_\_\_\_

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.

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. 83571 & 76714

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 1/4, tax lot number, map orientation and scale.]

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T	R	Sec	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.	18 S	13 E	12	NE NE	100	5.80	Irrigation	83571	56	10/31/190 0	✓
2.	18 S	13 E	12	SW NE	100	2.20	Irrigation	83571	56	10/31/190 0	✓
3.	18 S	13 E	12	SE NE	100	3.30	Irrigation	83571	56	10/31/190 0	✓
4.	18 S	14 E	07	NW NW	500	0.15	Irrigation	83571	57	10/31/190 0	✓
5.											

Total number of acres, if for irrigation, by certificate and priority date: Cert #83571, Oct. 31, 1900 - 11.45 acres

Conditions or other limitations, if any: None

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 26, 2009. (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.

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Pooled Water Right Holder Form / 2

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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.
- 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: Pat Harman - POA for Date: 3-15-09  
Margaret Robinson margaret Robinson

\_\_\_\_\_  
 Date: \_\_\_\_\_  
William Robinson (Deceased)

For additional Lessors, type in space for signature and date

\_\_\_\_\_

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

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SEC. 12 T18S. R13E. W.M.**

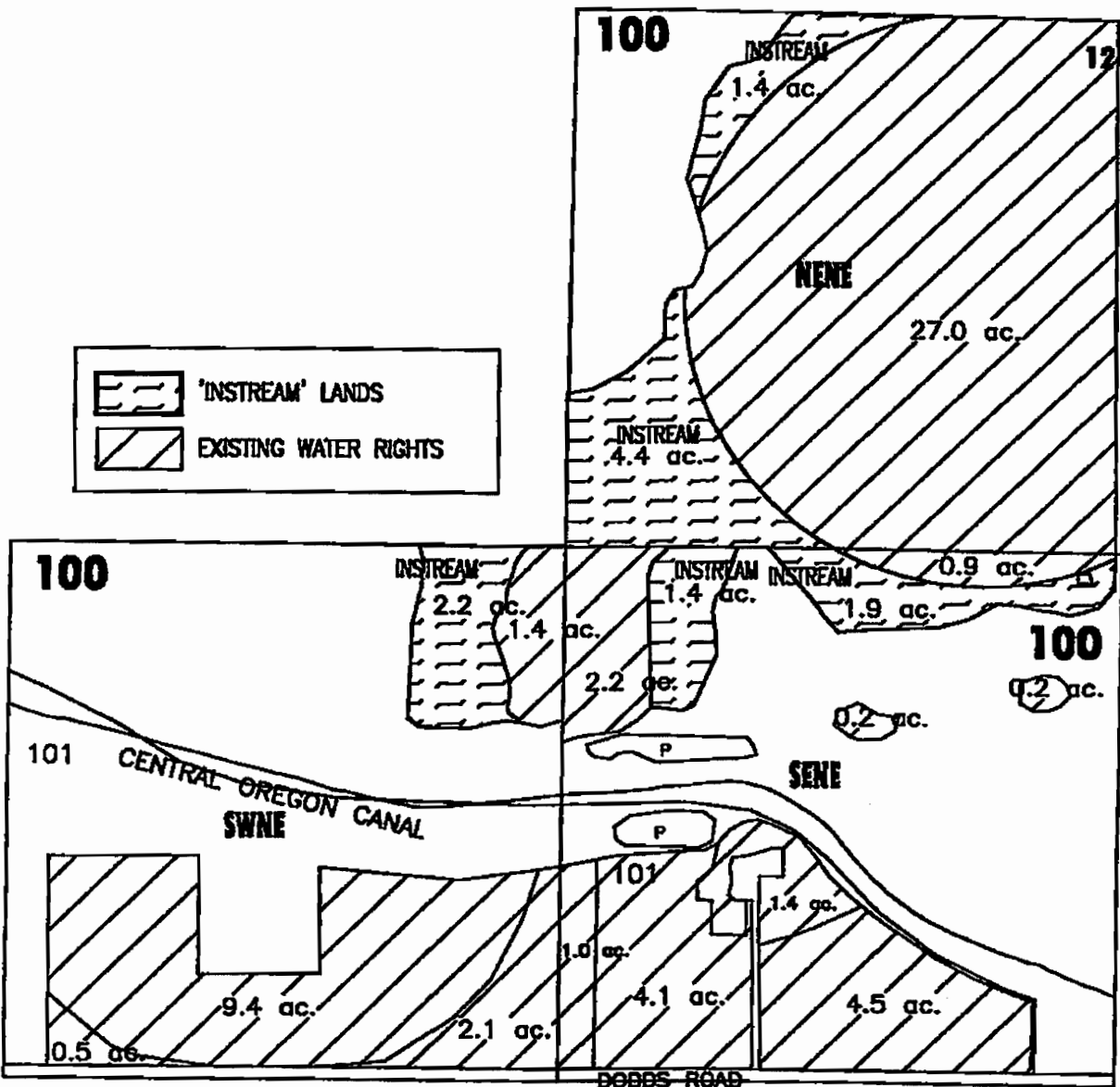
SCALE - 1" = 400'



NE 1/4

01 06  
12 07

	'INSTREAM' LANDS
	EXISTING WATER RIGHTS



APPLICATION FOR 1 YR INSTREAM LEASE  
 NAME: MARGARET ROBINSON  
 TAXLOT #: 100                      11.3 ACRES INSTREAM  
 DATE: 03-04-09

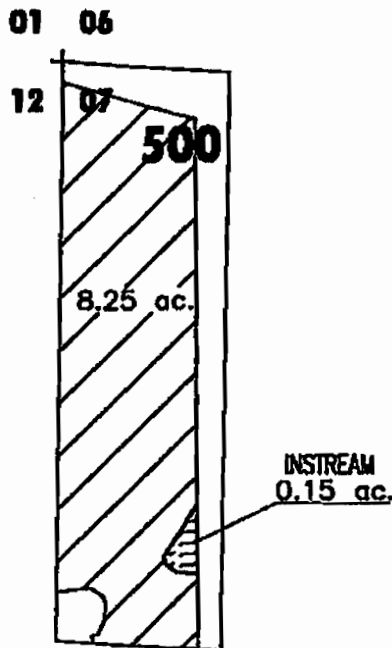
MAR 27 2009

**DESCHUTES COUNTY  
SEC.07 T18S. R14E. W.M.**

SCALE - 1" = 400'



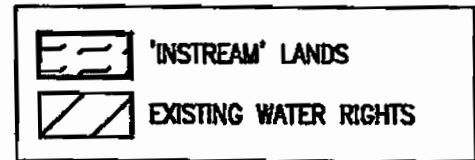
**NW 1/4 OF THE NW 1/4**



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SALEM, OREGON



APPLICATION FOR 1 YR INSTREAM LEASE

NAME: MARGARET ROBINSON

TAXLOT #: 500

0.15 ACRES INSTREAM

DATE: 03-04-09

FILE NO: 23-2009-03-04-09

CERTIFICATION OF VITAL RECORD

OREGON DEPARTMENT OF HUMAN SERVICES  
CENTER FOR HEALTH STATISTICS  
CERTIFICATE OF DEATH

H86511  
UL TAG NO.

STATE FILE NUMBER

\*135023\*

TO BE COMPLETED BY FUNERAL FACILITY

TO BE COMPLETED BY MEDICAL CERTIFIER

1. Legal Name First: William, Middle: Joseph, Last: Robinson			2. Death Date November 08, 2008	
3. Sex Male	4. Age 80 years	5. Social Security Number 566-30-3837	6. County of Death Deschutes	
7. Birthdate June 10, 1928	8. Birthplace Clovis, California		9. Decedent's Education 9th - 12th grade	
10. Was Decedent of Hispanic Origin? No		11. Decedent's Race(s) White	12. Was Decedent Ever in U.S. Armed Forces? Yes	
13. Residence Number and Street 24350 Dodds Road		14. City/Town Bend	15. Residence County Deschutes	
16. State or Foreign Country Oregon		17. Zip Code + 4 97701	18. Inside City Limit? No	
19. Marital Status at Time of Death Married		20. Spouse's Name Prior to First Marriage Margaret Bucknell		
21. Usual Occupation Rancher		22. Kind of Business/Industry Ranching		
23. Father's Name Jay Sterling Robinson		24. Mother's Name Prior to First Marriage Elsie Smith		
25. Informant's Name Margaret Robinson		26. Telephone Number Not Available	27. Relationship to Decedent Spouse	28. Mailing Address 24350 Dodds Road, Bend, OR 97701
29. Place of Death Hospice Facility		30. Facility Name Hospice Center		
31. Location of Death 2075 NE Wyatt Court		32. City/Town or Location of Death Bend	33. State Oregon	34. Zip Code + 4 97701
35. Method of Disposition Cremation		36. Place of Disposition Autumn Crematory		37. Location Bend, Oregon
38. Name and Complete Address of Funeral Facility Autumn Funerals, Bend 61555 Parrell Rd, Bend, Oregon 97702				
39. Date of Disposition TRD		40. Funeral Director's Signature Cynthia E. Larson		41. OR License Number FS-0369
42. Registrar's Signature Andria Mitchell		43. Date Received November 12, 2008		44. Local File Number 1048
45. Amendment				
46. Was case referred to Medical Examiner? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		47. Autopsy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	48. Were autopsy findings available to complete the cause of death? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
49. Time of Death 8:30 PM		CAUSE OF DEATH		
50. Enter the chain of events - diseases, injuries, or complications - that directly caused the death. DO NOT ENTER TERMINAL EVENTS such as cardiac arrest, respiratory arrest, or ventricular fibrillation without showing the etiology. DO NOT ABBREVIATE.				Approximate Interval Grant to Death
Final disease or condition resulting in death - Sequentially list conditions, if any, leading to the cause listed on first line. ENTER THE UNDERLYING CAUSE LAST (disease or injury that initiated the events resulting in death).		IMMEDIATE CAUSE Non Hodgkins Lymphoma		7 years
51. Other significant conditions contributing to death, but not resulting in the underlying cause given above:				
52. Manner of Death <input checked="" type="checkbox"/> Natural <input type="checkbox"/> Homicide <input type="checkbox"/> Undetermined <input type="checkbox"/> Suicide <input type="checkbox"/> Pending		53. If Female <input type="checkbox"/> Not pregnant within past year <input type="checkbox"/> Not pregnant, but pregnant 43 days to 1 year before death <input type="checkbox"/> Pregnant at time of death <input type="checkbox"/> Unknown if pregnant within the past year <input type="checkbox"/> Not pregnant, but pregnant within 43 days before death		54. Did tobacco use contribute to death? <input type="checkbox"/> Yes <input type="checkbox"/> Probably <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown
55. Date of injury (mm/yyyy)	56. Time of injury	57. Place of injury (e.g., Decedent's home, construction site, restaurant, wooded area)		58. Injury at Work? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown
59. Location of injury (Number & Street or RFD No., City/Town, State, Zip + 4)				
60. Describe how injury occurred			61. If transportation injury, specify. <input type="checkbox"/> Driver/Operator <input type="checkbox"/> Passenger <input type="checkbox"/> Pedestrian <input type="checkbox"/> Other (Specify)	
62. Name and Address of Certifier (Number & Street or RFD No., City/Town, State, Zip + 4) Theodore Braich M.D. 1501 NE Medical Center Dr. Bend, OR 97701				
63. Name and Title of Attending Physician (if Other than Certifier)				
64. Title of Certifier M.D.		65. License Number 21310	66. Date Signed (mm/yyyy) 11/11/08	
67. Medical Certifier - To the best of my knowledge, death occurred at the time, date, and place, and due to the cause(s) and manner stated.			68. Medical Examiner - On the basis of examination, and/or investigation, in my opinion, death occurred at the time, date, and place, and due to the cause(s) and manner stated.	
69. Amendment				

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48-2DP (01/08)

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THIS IS A TRUE AND EXACT REPRODUCTION OF THE DOCUMENT OFFICIALLY  
RECORDED IN THE OFFICE OF THE DESCHUTES COUNTY REGISTRAR.

DATE ISSUED: Nov 12, 2008

THIS COPY IS NOT VALID WITHOUT INTACT STATE SEAL AND BORDER.

Daniel W. Peddyford  
DANIEL W. PEDDYFORD  
COUNTY REGISTRAR  
DESCHUTES COUNTY, OREGON



## DURABLE POWER OF ATTORNEY

I, MARGARET B. ROBINSON, of Deschutes County, Oregon, appoint PATRICIA L. HANNEN my Agent and attorney-in-fact ("my Agent"), with power and authority to:

1. Support. Make expenditures for my health, education, support, maintenance, and general welfare, and for the health, education, support, and maintenance of any members of my immediate family who are or become dependent upon me for support.
2. Managing and Disposing of Assets. Take possession of, retain, change the form of, manage, maintain, improve, lease, grant options on, encumber, sell, exchange, or otherwise dispose of any of my real or personal property or any interest in property, in any manner and on any terms my Agent considers to be in my best interests.
3. Checks and Notes. Receive, endorse, sign, sell, discount, deliver, and deposit checks, drafts, notes, and negotiable or nonnegotiable instruments, including any drawn on the Treasury of the United States or the state of Oregon or any other state or governmental entity.
4. Financial Institutions. Enter into any transaction with and contract for any services rendered by a financial institution, including continuing, modifying, or terminating existing accounts; opening new accounts; drawing, endorsing, or depositing checks, drafts, and other negotiable instruments; acquiring and transferring certificates of deposit; withdrawing funds deposited in my name alone or in my name and the name of any other person or persons; and providing or receiving financial statements. "Financial institutions" means banks, trust companies, savings banks, commercial banks, savings and loan associations, credit unions, loan companies, thrift institutions, mutual fund companies, investment advisors, brokerage firms, and other similar institutions.
5. Investments and Securities Transactions. Invest and reinvest in common or preferred stocks, bonds, mutual funds, common trust funds, money market accounts, secured and unsecured obligations, mortgages, and other real or personal property; engage in investment transactions with any financial institution; and hold my securities in the name of my Agent's nominee or in unregistered form.
6. Insurance and Annuity Contracts. Purchase, maintain, modify, renew, convert, exchange, borrow against, surrender, cancel, and collect or select payment options under any insurance or annuity contract. This power shall extend to any insurance I own on the life of my Agent. Any receipt, release, or other instrument executed by my Agent in connection with any insurance or annuity contract shall be binding and conclusive upon all persons.
7. Business Interests. Continue, participate in, sell, reorganize, or liquidate any business or other enterprise owned by me, either alone or with any other person or persons.
8. Voting. Appear and vote for me in person or by proxy at any corporate or other meeting.

Page 1 DURABLE POWER OF ATTORNEY



KARNOPP PETERSEN LLP  
ATTORNEYS AT LAW

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541.382.3011

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