



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: SID - Direct Diversion WR  
 Lease Application Number (assigned by WRD): Leased all of the last 6 years in L-950, L-432  
IL-978

This Lease is between:

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

Name Swalley Irrigation District  
 Mailing address 64672 Cook Ave., Ste #1  
 City, State, Zip Code Bend, OR 97701  
 Telephone number 541-388-0658  
 Email address kathy@swalley.com

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

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

Name Deschutes River Conservancy  
 Mailing address P.O. Box 1560  
 City, State, Zip Code Bend, OR 97701  
 Telephone number 541-382-4077  
 Email address gen@deschutesriver.org

**Trustee:**

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

**~I~ Water Right Holder and Water Right Information**

- 1.2 Lessor #2 is the (Check one):
- Official representative of Swalley 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. 74145

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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.: 74145

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: 25.0 acres

Diversion #12: 5.4 acres

Diversion #13: 19.6 acres

Total acre-feet of storage to be leased, if applicable: n/a

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

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

Season 1 (cfs) Diversion #12, 0.037 cfs; Diversion #13, 0.135 cfs; total 0.172 cfs

Time period: Apr 1-May 1, Oct 1-Nov 1

Season 2 (cfs) Diversion #12, 0.050 cfs; Diversion #13, 0.180 cfs; total 0.230 cfs

Time period: May 1-May 15, Sept 15-Oct 15

Season 3 (cfs) Diversion #12, 0.092 cfs; Diversion #13, 0.334 cfs; total 0.426 cfs

Time period: May 15-Sept 15

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

Diversion #12: 29.46 ac-ft

Diversion #13: 106.92 ac-ft

Total ac-ft: 136.38 ac-ft

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

If you need to enter another leased right, please use the additional water rights form.

**~II~ Instream Water Right Information**

2.1 **Public use.** This lease will increase streamflows that will benefit:

- Conservation, maintenance and enhancement of aquatic and fish life, wildlife, and fish and wildlife habitat
- Pollution abatement
- Recreation and scenic attraction

2.2 **Instream use created by lease.** The instream use to be created is described as follows:

Deschutes River

Tributary to Columbia River in the Columbia Basin.

Describe the point of diversion (POD) and any associated reach(es) of the instream use being created. If possible list the reach by river mile. If no reach is identified, and there is only one POD listed on the certificate, the lease 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): Diversion #12 (SWNW, Section 20, T16S, R12E, WM; 130 feet North and 340 feet West from the SE Corner of the SWNW, Section 20) & Diversion #13 (NWNW, Section 20, T16S, R12E, WM; 880 feet South and 1010 feet East from the NW Corner of Section 20) to the mouth of the Deschutes River at River Mile 0.

Maximum volume in acre-feet: \_\_\_\_\_

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Diversion #12: 29.46 ac-ft

Diversion #13: 106.92 ac-ft

Total ac-ft: 136.38 ac-ft

Rate in cfs: Season 1: Diversion #12, 0.037 cfs; Diversion #13, 0.135 cfs; total 0.172 cfs  
(If more than one rate, describe the rate associated within each time period or instream reach.)

Rate in cfs: Season 2: Diversion #12, 0.050 cfs; Diversion #13, 0.180 cfs; total 0.230 cfs

Rate in cfs: Season 3: Diversion #12, 0.092 cfs; Diversion #13, 0.334 cfs; total 0.426 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 \_\_\_\_\_.

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

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

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- For multiyear leases, the Lessor(s) shall have the option of terminating the lease each year with written notice to the Department. The lease may be terminated at any time during the calendar year. However, if the termination request is received less than 30-days prior to the period of allowed instream use or after the period of allowed use has begun for the water right(s) being leased, water may not be used under the right(s) leased until the following calendar year, unless the Director determines that enlargement would not occur. The Department may also require:
  - Written notice to the Department with original signatures;
  - Consent by all parties to the lease; and/or
  - Written notice to the Watermaster's office.
- For multiyear leases, the lessor shall not have the option of terminating the lease, without consent by all parties to the lease.

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

**3.7 Fees.** Pursuant to ORS 536.050, the following fee is included:  
 \$200 for an application with four or more landowners or four or more water rights.  
 \$100 for all other applications.

Lessor #2: *Paul Lee* Date: 3/31/09  
Swalley Irrigation District

Lessee: *Genevieve Hebert* Date: 4/1/09  
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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State of Oregon  
Water Resources Department  
725 Summer Street NE, Suite A  
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# Application for Instream Lease

## Attachment 5: Pooled Water Right Holder Form

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

Optional Identification by Lessor/Lessee: previously leased L-950, L432  
Lease Application Number (assigned by WRD): IL-978

This Lease is with:

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

Name CLR c/o Jerry Curl  
Mailing address 703 NW Stonepine Dr  
City, State, Zip Code Bend, OR 97701  
Telephone number 541-389-6562  
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. 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.]

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Pooled Water Right Holder Form / 1

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T	R	Sect	¼¼	Tax Lot	Acres	Type of Use	Certificate #	Page(s) #	Priority*	
*(Identify pertinent page number of certificate, if certificate is greater than 10 pages; identify priority date if there is more than one per certificate)										
1.	16 S	12 E	20	nenw	202	9.8	IRR	74145	6	Sept. 1 1899
2.	16 S	12 E	20	nwnw	202	2.9	IRR	74145	6	Sept. 1 1899
3.	16 S	12 E	20	nsw	201	5.4	IRR	74145	6	Sept. 1 1899
4.	16 S	12 E	20	swnw	200	6.9	IRR	74145	6	Sept. 1 1899
5.										

Diversion #13  
#13  
#12  
#13

Total number of acres, if for irrigation, by certificate and priority date: 25.0 acres (previously leased in L-432 & L-950) - 5.4 acres diversion # 12, 19.6 acres diversion #13

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

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

**1.6 Validity of rights. Lessor(s) attests (mark one) that:**

- The water has been used over the past five years according to the terms and conditions of the water right certificate or as an instream water right or
- The water has not been used over the past five years according to the terms and conditions of the water right certificate, however the water right is not subject to forfeiture under ORS 540.610(2)( ) (include necessary supporting documentation as Attachment 3).

**~II~ Instream Water Right Information**

**2.3 Term of lease.** This lease shall terminate on October 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 instream use under ORS 537.348 and OAR 690-077 a new injury review shall be

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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: \_\_\_\_\_  
CLR, c/o Jerry Curl

Date: 2/23/09

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 13

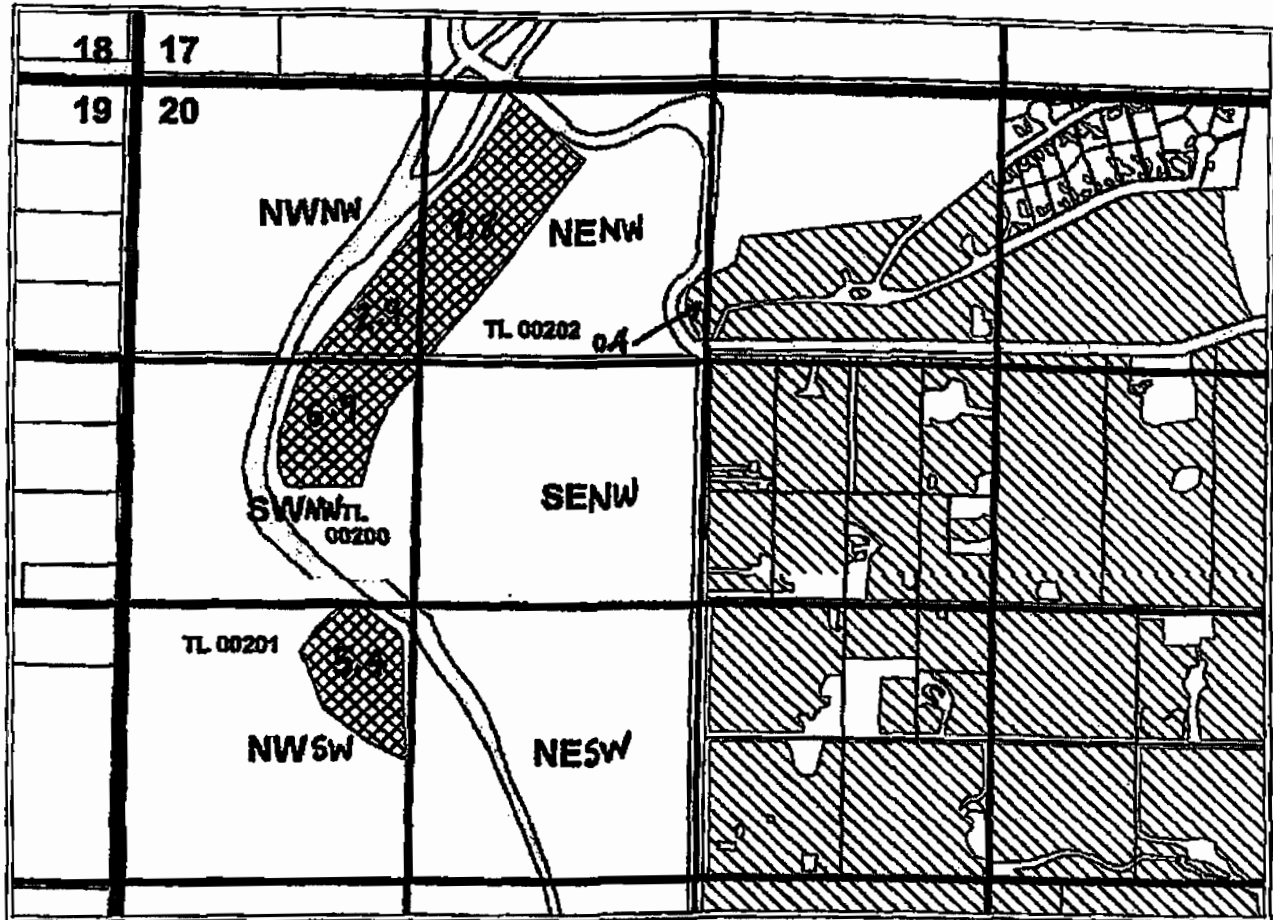
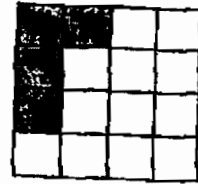
FSD

641-393-2985

Feb 23 09 09:36a

# SWALLEY IRRIGATION DISTRICT INSTREAM LEASE MAP

16S12E20



## APPLICATION FOR INSTREAM LEASE FOR

C L R, INC. (TL 00202) - 12.70 ACRES  
 C L R, INC. (TL 00200) - 6.90 ACRES  
 C L R, INC. (TL 00201) - 5.40 ACRES

- PROPOSED LEASE WATER
- EXISTING WATER



**Geo-Spatial Solutions, Inc.**

[www.geospatialsolutions.com](http://www.geospatialsolutions.com)

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COUNT SID CLR

SW $\frac{1}{4}$ NW $\frac{1}{4}$	1000	FND	0.200	3 & 15	Hanson, Oswald & Ann
SE $\frac{1}{4}$ NW $\frac{1}{4}$	101	IRR	9.000	3 & 15	Hanson, Stephen & Linda
SE $\frac{1}{4}$ NW $\frac{1}{4}$	1300	IRR	3.400	3 & 15	McIntosh, John E. & Patricia L.
SE $\frac{1}{4}$ NW $\frac{1}{4}$	1400	IRR	4.500	3 & 15	McIntosh, John E. & Patricia L.

Section 15

NE $\frac{1}{4}$ NE $\frac{1}{4}$	100	IRR	5.500	3 & 15	Brown, Harper & Frances
NE $\frac{1}{4}$ NE $\frac{1}{4}$	200	IRR	29.800	3 & 15	Hanson, Stephen & Linda
NW $\frac{1}{4}$ NE $\frac{1}{4}$	300	IRR	30.000	3 & 15	Hanson, David & Diane
SW $\frac{1}{4}$ NE $\frac{1}{4}$	300	IRR	29.200	3 & 15	Hanson, David & Diane
SE $\frac{1}{4}$ NE $\frac{1}{4}$	200	IRR	32.400	3 & 15	Hanson, Stephen & Linda
NE $\frac{1}{4}$ NW $\frac{1}{4}$	500	IRR	2.000	14	Westlund II, Bernard J.
SE $\frac{1}{4}$ NW $\frac{1}{4}$	500	IRR	8.500	14	Westlund II, Bernard J.
NE $\frac{1}{4}$ SW $\frac{1}{4}$	1200	IRR	1.100	3 & 15	G K L Ranch
SE $\frac{1}{4}$ SW $\frac{1}{4}$	1701	IRR	14.300	3 & 15	Heath, Jeffery M. & Susan C.
SE $\frac{1}{4}$ SW $\frac{1}{4}$	1702	IRR	18.900	3 & 15	Bemis, Thomas H.
NE $\frac{1}{4}$ SE $\frac{1}{4}$	200	IRR	22.500	3 & 15	Hanson, Stephen & Linda
NW $\frac{1}{4}$ SE $\frac{1}{4}$	1300	IRR	27.600	3 & 15	G K L Ranch
NW $\frac{1}{4}$ SE $\frac{1}{4}$	1400	IRR	0.600	3 & 15	G K L Ranch
NW $\frac{1}{4}$ SE $\frac{1}{4}$	1500	IRR	0.100	3 & 15	G K L Ranch
NW $\frac{1}{4}$ SE $\frac{1}{4}$	1600	IRR	0.400	3 & 15	G K L Ranch
SW $\frac{1}{4}$ SE $\frac{1}{4}$	1700	IRR	16.900	3 & 15	Bemis, Thomas H.
SW $\frac{1}{4}$ SE $\frac{1}{4}$	1701	IRR	5.700	3 & 15	Heath, Jeffery M. & Susan C.
SW $\frac{1}{4}$ SE $\frac{1}{4}$	1702	IRR	2.100	3 & 15	Bemis, Thomas H.
SE $\frac{1}{4}$ SE $\frac{1}{4}$	200	IRR	0.300	3 & 15	Hanson, Stephen & Linda
SE $\frac{1}{4}$ SE $\frac{1}{4}$	1700	IRR	4.100	3 & 15	Bemis, Thomas H.
SE $\frac{1}{4}$ SE $\frac{1}{4}$	1800	IRR	3.700	3 & 15	G K L Ranch

Section 16

NE $\frac{1}{4}$ NE $\frac{1}{4}$	100	IRR	17.900	3 & 15	Deschutes River Ranch
NE $\frac{1}{4}$ NE $\frac{1}{4}$	1001	IRR	0.300	3 & 15	Kelley, Betty
NE $\frac{1}{4}$ NE $\frac{1}{4}$	1002	IRR	0.300	3 & 15	Kelley, Betty
NE $\frac{1}{4}$ NE $\frac{1}{4}$	1003	IRR	1.100	3 & 15	Kelley, Betty
NW $\frac{1}{4}$ NE $\frac{1}{4}$	100	IRR	14.700	3 & 15	Deschutes River Ranch
SW $\frac{1}{4}$ NE $\frac{1}{4}$	400	IRR	4.000	3 & 15	Dahlen, R. Scott
SW $\frac{1}{4}$ NE $\frac{1}{4}$	500	IRR	3.800	3 & 15	Marchbanks, Randy & Vicki
SW $\frac{1}{4}$ NE $\frac{1}{4}$	600	IRR	5.000	3 & 15	Dearing, Curtis E. & Donna
SW $\frac{1}{4}$ NE $\frac{1}{4}$	601	IRR	4.000	3 & 15	Harris, David J. & Penny L.
SW $\frac{1}{4}$ NE $\frac{1}{4}$	700	IRR	4.000	3 & 15	Henry, Billy D. Jr. & Valerie
SW $\frac{1}{4}$ NE $\frac{1}{4}$	701	IRR	3.600	3 & 15	Johnston, Michael & Donna
SW $\frac{1}{4}$ NE $\frac{1}{4}$	702	IRR	4.200	3 & 15	Trink, R. Dale & Pamela
SW $\frac{1}{4}$ NE $\frac{1}{4}$	703	IRR	3.800	3 & 15	Trink, R. Dale & Pamela
SW $\frac{1}{4}$ NE $\frac{1}{4}$	800	IRR	0.400	3 & 15	Johnston, Michael & Donna
SE $\frac{1}{4}$ NE $\frac{1}{4}$	1001	IRR	14.900	3 & 15	Kelley, Betty
SE $\frac{1}{4}$ NE $\frac{1}{4}$	1002	IRR	13.200	3 & 15	Kelley, Betty
SE $\frac{1}{4}$ NE $\frac{1}{4}$	1003	IRR	10.200	3 & 15	Kelley, Betty
<del>NE<math>\frac{1}{4}</math> NW<math>\frac{1}{4}</math></del>	<del>202</del>	<del>IRR</del>	<del>9.800</del>	<del>13</del>	<del>C.L.R. Inc.</del>
NE $\frac{1}{4}$ NW $\frac{1}{4}$	204	IRR	0.400	3 & 15	Deschutes River Ranch
<del>NW<math>\frac{1}{4}</math> NW<math>\frac{1}{4}</math></del>	<del>208</del>	<del>IRR</del>	<del>2.900</del>	<del>13</del>	<del>C.L.R. Inc.</del>
<del>SW<math>\frac{1}{4}</math> NW<math>\frac{1}{4}</math></del>	<del>200</del>	<del>IRR</del>	<del>6.900</del>	<del>13</del>	<del>C.L.R. Inc.</del>
<del>NW<math>\frac{1}{4}</math> SW<math>\frac{1}{4}</math></del>	<del>201</del>	<del>IRR</del>	<del>4.400</del>	<del>12</del>	<del>C.L.R. Inc.</del>
NE $\frac{1}{4}$ SE $\frac{1}{4}$	1103	IRR	8.750	3 & 15	Lantz, Gerald & Christine
NE $\frac{1}{4}$ SE $\frac{1}{4}$	1103	FND	0.500	3 & 15	Lantz, Gerald & Christine
NE $\frac{1}{4}$ SE $\frac{1}{4}$	1104	IRR	9.000	3 & 15	Owen, Daniel
NE $\frac{1}{4}$ SE $\frac{1}{4}$	1107	IRR	9.750	3 & 15	Lantz, Gerald & Christine
NE $\frac{1}{4}$ SE $\frac{1}{4}$	1300	IRR	9.200	3 & 15	Cozzens, John & Ruth
NW $\frac{1}{4}$ SE $\frac{1}{4}$	1100	IRR	8.500	3 & 15	LaDuke, James H.
NW $\frac{1}{4}$ SE $\frac{1}{4}$	1101	IRR	1.800	3 & 15	Dutton, Bill & Phyllis
NW $\frac{1}{4}$ SE $\frac{1}{4}$	1102	IRR	2.200	3 & 15	Dutton, Bill & Phyllis

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