



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

Application for Instream Lease

A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/OWRD/PUBS/forms.shtml.

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

Optional Identification by Lessor/Lessee: _____
 Lease Application Number (assigned by WRD): IL-983

This Lease is between:

Lessor #1:

Name Bend Metro Parks & Recreation District
 Mailing address 200 NW Pacific Park Ln
 City, State, Zip Code Bend, OR 97701
 Telephone number 541-389-7275
 Email address _____

Lessor #2, 3, etc.

Arnold Irrigation District
19604 Buck Canyon Rd
Bend, OR 97702

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 700 NW Hill St.
 City, State, Zip Code Bend, OR 97701
 Telephone number 5410322-0479
 Email address _____

Trustee:

Oregon Water Resources Department
 725 Summer Street NE, Suite A
 Salem, OR 97301-1266
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~I~ Water Right Holder and Water Right Information

1.1 Lessor #1 is the water right holder, or authorized agent for water right holder of the property located at: Township 18 S, Range 11 E, Section 13 and Tax Lot number 02402. 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.

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1.2 Lessor #2 is the (Check one):

Not applicable

Official representative of Arnold Irrigation District, the irrigation district which conveys water to the subject water rights.

Another party with an interest in the subject water rights representing _____.

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. 74197

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.: 74197

Priority date: February 1 - April 25, 1905 Type of use: IRRIG

Legal Season of Use: April 1 - October 31

Is the entire water right certificate being leased? Yes No

If no, list the acres of the subject water right by legal description of township, range, section, and 1/4 1/4 which will be dried up as part of this lease, and include a map (Attachment 2) showing the lands which will not receive water.

Place of use: T 18 S, R 11 E, Section 13, SW 1/4 SE 1/4 - ^{6.95 acres} ~~2492.00~~ acres to be leased
Enter additional places of use here, using format above: Tax lot 2402

Page 2 (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres being leased, if for irrigation: 6.95

Acre-feet of storage, if applicable: _____

Maximum rate associated with the right to be leased (cfs): 0.24
(Use additional lines if there is more than one rate associated with the water right.)

Maximum duty associated with the right to be leased (ac-ft): 107.17
(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any: _____

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

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).

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Application for Short-Term Instream Lease / 2

FSD

	→ Feb 1, 1905	April 25, 1905
	Season 1 - 0.040	0.097
	Season 2 - 0.040	0.139
	Season 3 - 0.040	0.198

~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 may 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): Canal diversion river mile 174.5 to Lake Billy Chinook river mile 120 and to the mouth of the Deschutes at river mile 0

Maximum volume in acre-feet: February 1905 - 5.89, April 1905 - 23.90

Rate in cfs: Season 1 - February 1, 1905 - 0.014, April 25, 1905 - 0.034

Season 2 - February 1, 1905 - 0.014, April 25, 1905 - 0.049

Season 3 - February 1, 1905 - 0.014, April 25, 1905 - 0.069

(Use the section below to indicate a more restrictive period of use than allowed by the water right.)

Conditions to prevent injury, if any:

- None
- The instream flow will be allocated on a daily average basis up to the described rate from April 1 through October 31.
- Other (describe): _____

If you need to enter more instream uses, please use the additional water rights form.

2.3 Term of lease. This lease shall terminate on October 31, 2013.

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

Application for Short-Term Instream Lease / 3

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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 lease shall not set a precedent for the amount of water to be leased or transferred instream.

3.4 **Suspension of original use.** During the period of the lease, the water right holder agrees to suspend use of water allowed under the subject water rights and under any water right that is supplemental to the subject water rights.

3.5 **Termination provision.**

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

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

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

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

Lessor #1: *Dave Crowthers* Date: 4/2/09
Dave Crowthers, Director, Bend Metro Parks and Recreation

For additional Lessors, type in space for signature and date

Lessor #2: *Shawn Gerdes* Date: 4/1/09
Shawn Gerdes, Manager, Arnold Irrigation District

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Lessee: *Genevieve Hubert* Date: 4/3/09
Deschutes River Conservancy

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Application for Short-Term Instream Lease / 4

FSD

**This table will calculate flow rate factors and duty for Arnold Irrigation District
Instream Leases**

Enter Total Number of Acres to be Leased Instream Here →	6.950
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Information highlighted with pink font is to be entered on to the Instream Lease Application Form

For Primary Water Right - Certificate 74197

Rate (CFS) associated with leased rights for Section 1.5 of the Lease Application Form			
The rate and duty identified in this section includes the 65% transmission loss.			
Enter Rates by Priority Date on Lease Form	Full Rate	February 1, 1905	April 25, 1905
Season 1	0.136	0.040	0.097
Season 2	0.178	0.040	0.139
Season 3*	0.238	0.040	0.198
* The rate identified for Season 3 has been proportioned such that the max rate allowed by the right (150.0 CFS) will not be exceeded if all acres were being irrigated.			
Duty (AF) associated with leased right for Section 1.5 of the Lease Application Form			
Duty (decree) AF/Acre =	15.42		
	107.17		

Rate (CFS) leased instream for Section 2.2 of the Lease Application Form			
The rate and duty identified in this section does not include the 65% transmission loss.			
Enter Rates by Priority Date on Lease Form	Full Rate	February 1, 1905	April 25, 1905
Season 1	0.048	0.014	0.034
Season 2	0.062	0.014	0.049
Season 3	0.083	0.014	0.069
Volume (AF) leased instream for Section 2.2 of the Lease Application Form			
	# days	AF/Season	Duty (decree) AF/Acre = 5.40
Season 1	61	5.77	Total = 37.51
Season 2	30	3.71	Feb. 1905 portion = 5.89
Season 3	123	20.30	April 1905 portion = 23.90
		29.79	
Additional Conditions to Prevent Injury for Section 2.2 of the Lease Application Form			
Water protected instream:	April 1 through October 31		

For Supplemental Water Right from Crane Prairie Reservoir - Certificate 76714

Duty Associated with Leased Right for Section 1.5 of the Additional Water Right Form	
	107.17

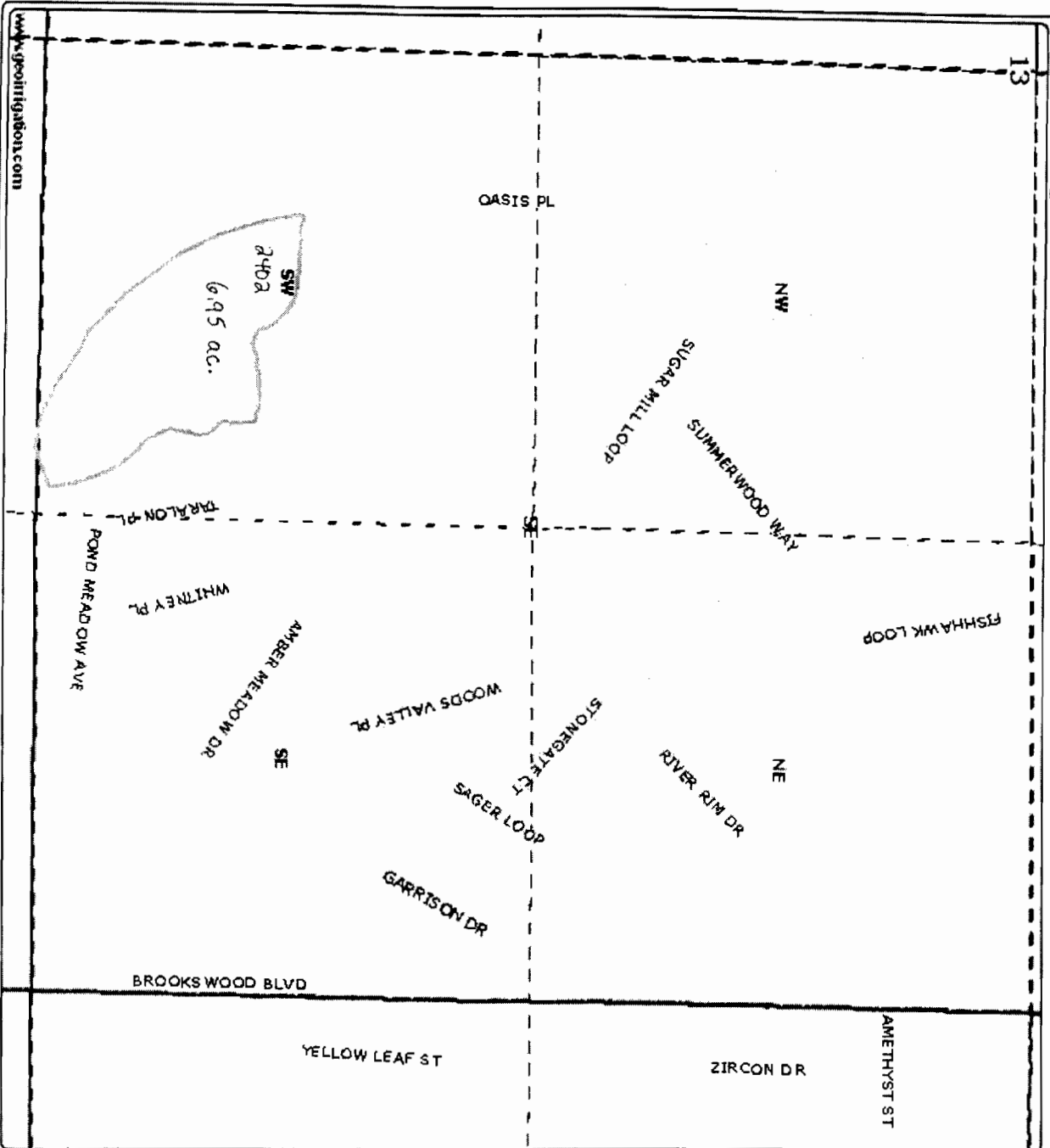
Volume (AF) leased instream for Section 2.2 of the Additional Water Right Form	
	21.40

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Arnold Irrigation District

13



www.geointelligence.com

DISCLAIMER: This map is intended for display purposes only and is not intended for any legal representation. There are no warranties, express or implied, that accompany this product.

Bend Metro Parks & Rec -
1811130002402

181113-SWSE-02402 - 6.95 ac

tax lot has been divided

- District Boundary
- County Boundary
- Road Labels
- Township Range
- Sections
- Section Labels
- Quarters
- Quarter Labels
- Quarter Quarters
- Quarter Quarter Labels
- Taxlots
- Canal All
- Canal Piped
- Canal Open
- POU District Primary Fill
- Rivers



Scale 1" = 400'
Created: 4/1/2009

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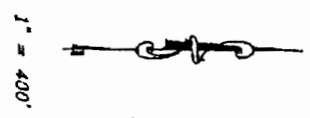
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CHELLIE DRESON

WATER RIGHTS TRANSFER MAP OFF - ARNOLD IRRIGATION DISTRICT
 LOCATED IN SECTION 13, T8S, R1E, W1E,
 CITY OF BEND, DESCHUTES COUNTY, OREGON
 FOR NW-PRIVERM LLC
 PREPARED BY:

SWP
 SURVEYING ENGINEERS
 & PLANNERS
 MICHAEL WILLIAMS & ASSOCIATES, INC.
 602 SW INDUSTRIAL WAY, SUITE 10, BEND, OR 97703-0602
 PHONE (503) 338-4331 FAX (503) 338-5418

THE PREPARATION OF THIS MAP IS FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE WATER RIGHT ONLY AND HAS NO INTENT TO PROMOTE DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES



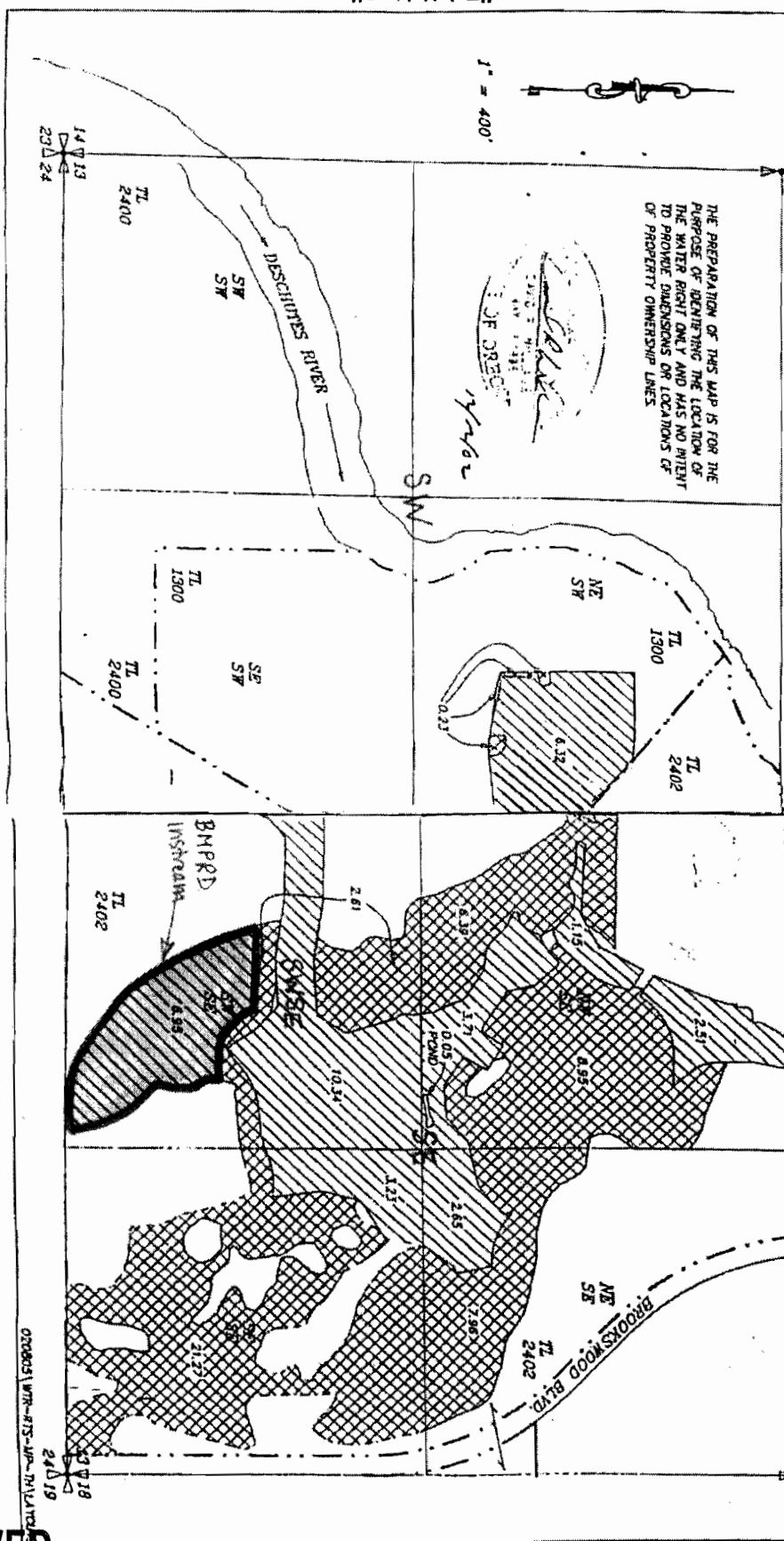
WATER TRANSFERRED OFF:

NE SW TL-1300	0.23 AC
NW SE TL-2402	6.39 AC
NW SE TL-2402	6.85 AC
SW SE TL-2402	2.61 AC
SE SE TL-2402	21.27 AC
NE SE TL-2402	7.98 AC
TOTAL:	47.41 AC

WATER TO REMAIN:

NE SW TL-1300	6.32 AC
NW SW TL-2402	2.51 AC
NW SE TL-2402	1.15 AC
NW SE TL-2402	1.71 AC
SW SE TL-2402	0.05 (POND)
SW SE TL-2402	6.85 AC
SW SE TL-2402	10.34 AC
SE SE TL-2402	12.53 AC
NE SE TL-2402	2.65 AC
TOTAL:	36.91 AC

LEGEND:
 --- DEVOTES TAX LOT LINE
 DEVOTES WATER TO REMAIN
 DEVOTES WATER TO BE TRANSFERRED OFF (INSTREAM) WARD LEADS



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"Exhibit A"

EXHIBIT "A"

A parcel of land located in a portion of the South One-half (S1/2) of Section Thirteen (13), Township Eighteen (18) South, Range Eleven (11), East of the Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Beginning at a point on the East-West centerline of said Section 13 which bears North 89°29'34" East, a distance of 2389.15 feet from the West one-quarter corner of said Section 13, said beginning point also being on the ordinary high water line of the Deschutes River; thence leaving said East-West Section centerline and along said ordinary high water line the following eight (8) courses:

South 40°57'02" West a distance of 15.13 feet;
South 61°57'25" West a distance of 23.50 feet;
South 28°36'40" West a distance of 34.34 feet;
South 53°20'47" West a distance of 52.85 feet;
South 67°07'14" West a distance of 147.12 feet;
South 70°17'16" West a distance of 123.01 feet;
North 87°35'01" West a distance of 95.85 feet;
South 57°11'24" West a distance of 40.66 feet;

Thence leaving said ordinary high water line South 53°17'37" East a distance of 882.74 feet; thence South 01°01'21" West a distance of 20.00 feet; thence South 88°58'39" East a distance of 5.43 feet; thence 32.15 feet along the arc of a tangent curve to the left with a radius of 28.00 feet, the chord of which bears North 54°10'33" East a distance of 29.98 feet; thence 35.94 feet along the arc of a reverse curve to the right with a radius of 40.00 feet, the chord of which bears North 43°04'11" East, a distance of 34.74 feet; thence North 00°00'00" East a distance of 32.16 feet; thence South 49°54'37" West a distance of 33.56 feet; thence North 90°00'00" West a distance of 30.38 feet; thence North 53°17'37" West a distance of 431.39 feet; thence North 07°24'32" West a distance of 38.80 feet; thence North 28°43'19" East a distance of 100.75 feet; thence North 49°32'53" East a distance of 100.01 feet; thence North 58°44'18" East a distance of 91.39 feet; thence North 57°03'41" East a distance of 370.81 feet to a point on said East-West centerline of Section 13 which bears South 89°29'34" West a distance of 2492.11 feet from the east one-quarter corner of said Section 13; thence along said East-West Section centerline South 89°29'34" West a distance of 396.97 feet to the point of beginning, the terminus of this description.

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