



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.

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

Optional Identification by Lessor/Lessee: _____
Lease Application Number (assigned by WRD): 22-1013

This Lease is between:

Lessor #2: Irrigation District or Other Water Purveyor

Name Swalley Irrigation District
Mailing address 64672 Cook Ave., Suite #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 700 NW Hill St.
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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Pooled Lease Form / 1

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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: 1899 Type of use: Irrigation

Legal Season of Use: April 1 through October 31

If an irrigation right, total number of acres to be leased: 9.7

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

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) 0.087 Time period: 4/1-4/30, 10/1-10/31

Season 2 (cfs) 0.099 Time period: 5/1-5/14, 9/15-9/30

Season 3 (cfs) 0.199 Time period: 5/15-9/14

Maximum duty associated with subject water rights (ac-ft): 68.59

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): Swalley Main Canal: SE1/4 NE1/4, Section 29, T.17 S., R.12 E., W.M.: 985 feet North and 617 feet West from the East 1/4 corner of Section 29 to the mouth of the Deschutes at River Mile 0.

Maximum volume in acre-feet: 52.86

Rate in cfs: Season 1: 0.067

(If more than one rate, describe the rate associated within each time period or instream reach.)

Rate in cfs: Season 2: 0.089

Rate in cfs: Season 3: 0.165

(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 25.

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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.**
- 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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Pooled Lease Form / 3

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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: Kathy Ferguson Date: 6-18-09
Swalley Irrigation District

Lessee: Genevieve Hubert Date: 6-18-09
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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**This table will calculate flow rate factors and duty for Swalley Irrigation District
Instream Leases & Transfers**

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Canal Diversion - Enter Total Number of Acres to be Leased Instream Here	9700			
Direct Diversion - Enter Total Number of Acres to be Leased Instream Here				
Starting Point - Direct Diversion Only (AF/Acre)	97.310			
Starting Point - Canal Diversion Only (AF/Acre)	43.025			
Starting Point	Full Rate	Duty (AF/Acre)	Rate (CFS)	Rate (AF/Acre)
Season 1	30.99	0.868	39.639	
Season 2	18.99	0.835	45.304	
Season 3	32.593	0.848	80.825	
Duty	1892.130	3.551	31,352.78	

*Approximate starting point

Rate (CFS) associated with leased rights for Section 1.5 of the Lease Application Form		Rate and duty identified in this section includes the 43% transmission loss allowed by decree	
	Full Rate	Duty (AF) associated with leased right for Section 1.5 of the Lease Application Form	
Season 1*		Duty AF/Acre* =	7.07
Season 2*			
Season 3*			

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

Rate (CFS) associated with leased rights for Section 1.5 of the Lease Application Form	Duty (decree) AF/Acre =	5.46
	Total =	52.97
Full Rate	# of Days in each Season	AF/ Season
Season 1	61	8.11
Season 2	30	5.30
Season 3	123	40.25
		53.66

Application for protection to prevent in-stream diversions for Section 1.5 of the Lease Application Form	# days	AF/Season	
Season 1*	55	7.31	
Season 2	30	5.30	
Season 3	123	40.25	
Season total =	208		Does not exceed duty
Water protected instream: April 1 through October 25			

* Note - The number of days that water may be protected instream in Season 1 has been reduced on prevent enlargement of the right. The instream rates identified in this section are based upon the face value of the water right minus 43%.



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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: _____
 Lease Application Number (assigned by WRD): IL-1017

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 WATER RESOURCES DEPT
 SALEM, OREGON

This Lease is with:

Lessor #1 (Water Right Holder):

Name Cramer Farms (Contact: Suzanne Lafky)
 Mailing address P.O. Box 5908
 City, State, Zip Code Bend, OR 97708
 Telephone number (541) 350-7844
 Email address suzannelafky@gmail.com

If additional water right holders, enter water right holder information below

Swalley Irrigation District
64672 Cook Ave., Suite #1
Bend, OR 97701 kathy@swalley.com 541-388-0658

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.]

	T	R	Sect	1/24	Tax Lot	Acres	Type of Use	Certificate #	Pages #	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	12	04	sesc	901	4.2	IRR	74104	14	9/1/1899
2.										
3.										
4.										
5.										

Total number of acres, if for irrigation, by certificate and priority date: 4.2

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 to an instream use under ORS 537.348 and OAR 690-077 a new injury review shall be required, and a prior short term lease shall not set a precedent for the amount of water to be leased or transferred instream.

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3.4 **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: _____

Cramer Farms

Date: _____

6/2/09

For additional Lessors, type in space for signature and date
Swalley Irrigation District

Other Attachments As Needed:

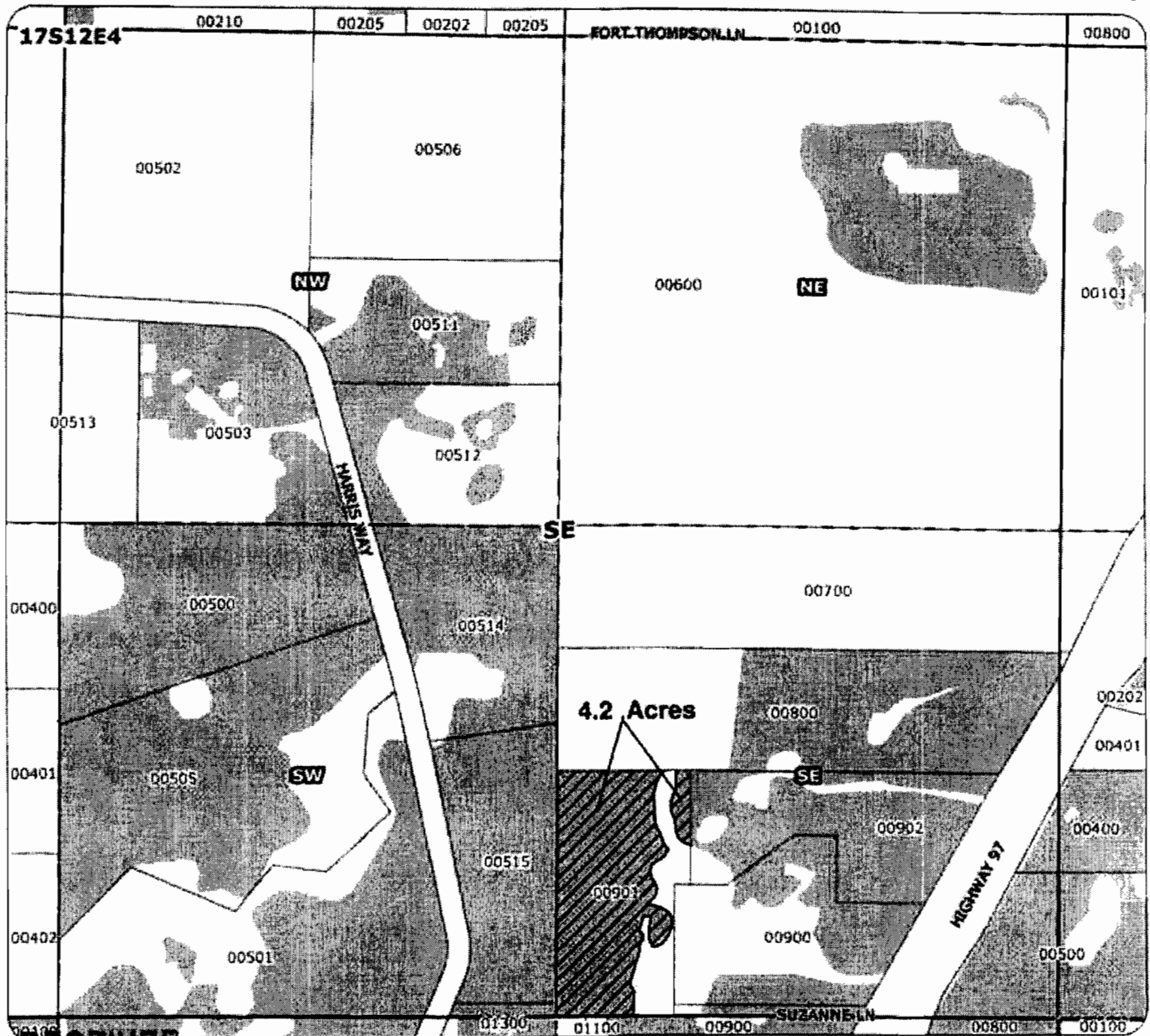
- Exhibit 5-A: Tax Lot Map. (See instructions.)
- Exhibit 5-B: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. Exhibits 5-A and 5-B may be combined into a single map. (See instructions.)
- Exhibit 5-C: Supporting documentation 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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2009 Swalley Irrigation District Instream Lease Map



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Application for Instream Lease

for

Cramer Farms
 taxlot 901 - 4.2 acres
 in 171204SESE

0 acres remaining in taxlot
 Total Lease of 4.2 Acres
 Water Right matches
 3111 mapped representation

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SALEM, OREGON
 Proposed Lease of
 Irrigation Rights

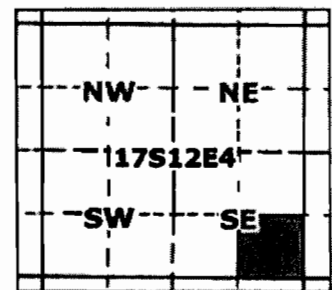
 Water Rights



Geo-Spatial Solutions, Inc.

www.geospatialsolutions.com

Date Created: June 2009



1 inch equals 400 feet



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

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Application for Instream Lease

Attachment 5: Pooled Water Right Holder Form

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

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

Optional Identification by Lessor/Lessee: _____
Lease Application Number (assigned by WRD): IL-1013

This Lease is with:

Lessor #1 (Water Right Holder):

Name Anthony O'Keefe and Michelle Baker-O'Keefe
Mailing address 20560 Lowe Lane
City, State, Zip Code Bend, OR 97701
Telephone number 541-280-6820
Email address _____

If additional water right holders, enter water right holder information below

Swalley Irrigation District
64672 Cook Ave., Suite #1
Bend, OR 97701 kathy@swalley.com 541-388-0658

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

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	I	R	Sec	1/4	Tax Lot	Acres	Type of Use	Certificate #	Pages #	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	12	04	nenw	220	0.5	IRR	74145	13/14	9/1/1899
2.	17	12	04	nenw	220	1.5	IRR	74145	13/14	9/1/1899
3.										
4.										
5.										

Total number of acres, if for irrigation, by certificate and priority date: 2 ac leased instream
Water right does not appear on paper C-74145, but should be on pages 13/14. However, it
does show on the electronic certificate 74145 for Swalley ID in OWRD's WRIS.

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.

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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.**

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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.

Lessor #1: 
Anthony O'Keefe and Michelle Baker-O'Keefe

Date: 5.12.09

For additional Lessors, type in space for signature and date
Swalley Irrigation District

Other Attachments As Needed:

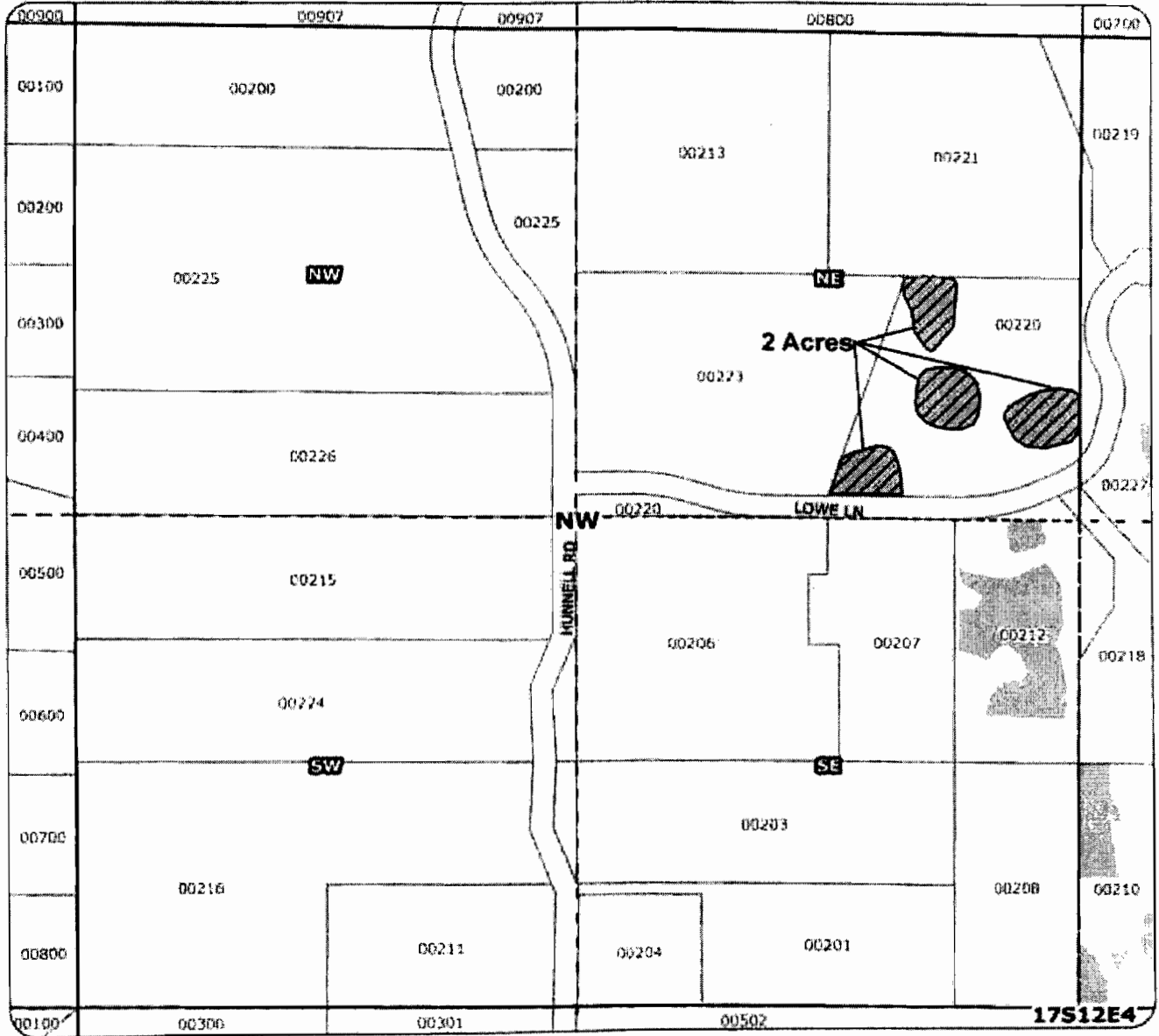
- Exhibit 5-A: Tax Lot Map. (See instructions.)
Exhibit 5-B: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. Exhibits 5-A and 5-B may be combined into a single map. (See instructions.)
Exhibit 5-C: Supporting documentation 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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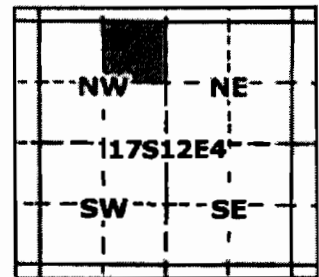
2009 Swalley Irrigation District Instream Lease Map



Application for Instream Lease

-  Proposed Lease of Irrigation Rights
-  Water Rights

for
O'Keefe
 taxlot 220- 2.0 acres
 in 17124NENW
 0 acres remaining in taxlot 220
 Total Lease of 2.0 Acres



Geo-Spatial Solutions, Inc.
www.geospatialsolutions.com

Date Created: May 2009

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1 inch equals 400 feet



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

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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: _____
 Lease Application Number (assigned by WRD): IL-1013

This Lease is with:

Lessor #1 (Water Right Holder):

Name Jeffrey and Anna Phelps
 Mailing address 2301 NW Thurman St., STE 0
 City, State, Zip Code Portland, OR 97210
 Telephone number _____
 Email address _____

If additional water right holders, enter water right holder information below

Swalley Irrigation District
64672 Cook Ave., Suite #1
Bend, OR 97701 kathy@swalley.com 541-388-0658

Note: The section numbering associated with this form corresponds to that found on the "Standard Instream Lease Application" form. The "Pooled Lease" form and "Pooled Water Right Holder" form(s) are used to provide the same information as the "Standard Instream Lease Application" form. Consequently, the numbering on this form is not always sequential.

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- 1.3 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 1/4, tax lot number, map orientation and scale.]

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T	R	Sect	1/4	Tax Lot	Acres	Type of Use	Certificate #	Paget(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	12	29	nesw	03500	0.50	IRR	74145	10	1899
2.										
3.										
4.										
5.										

Total number of acres, if for irrigation, by certificate and priority date: 0.50 leased instream, 0.5 acre remaining

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 Oct. 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 shall be

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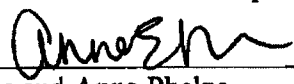

required, and a prior short term lease shall not set a precedent for the amount of water to be leased or transferred instream.

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:   Date: May 17, 2009
Jeffrey Phelps and Anna Phelps

For additional Lessors, type in space for signature and date
Swalley Irrigation District

Other Attachments As Needed:

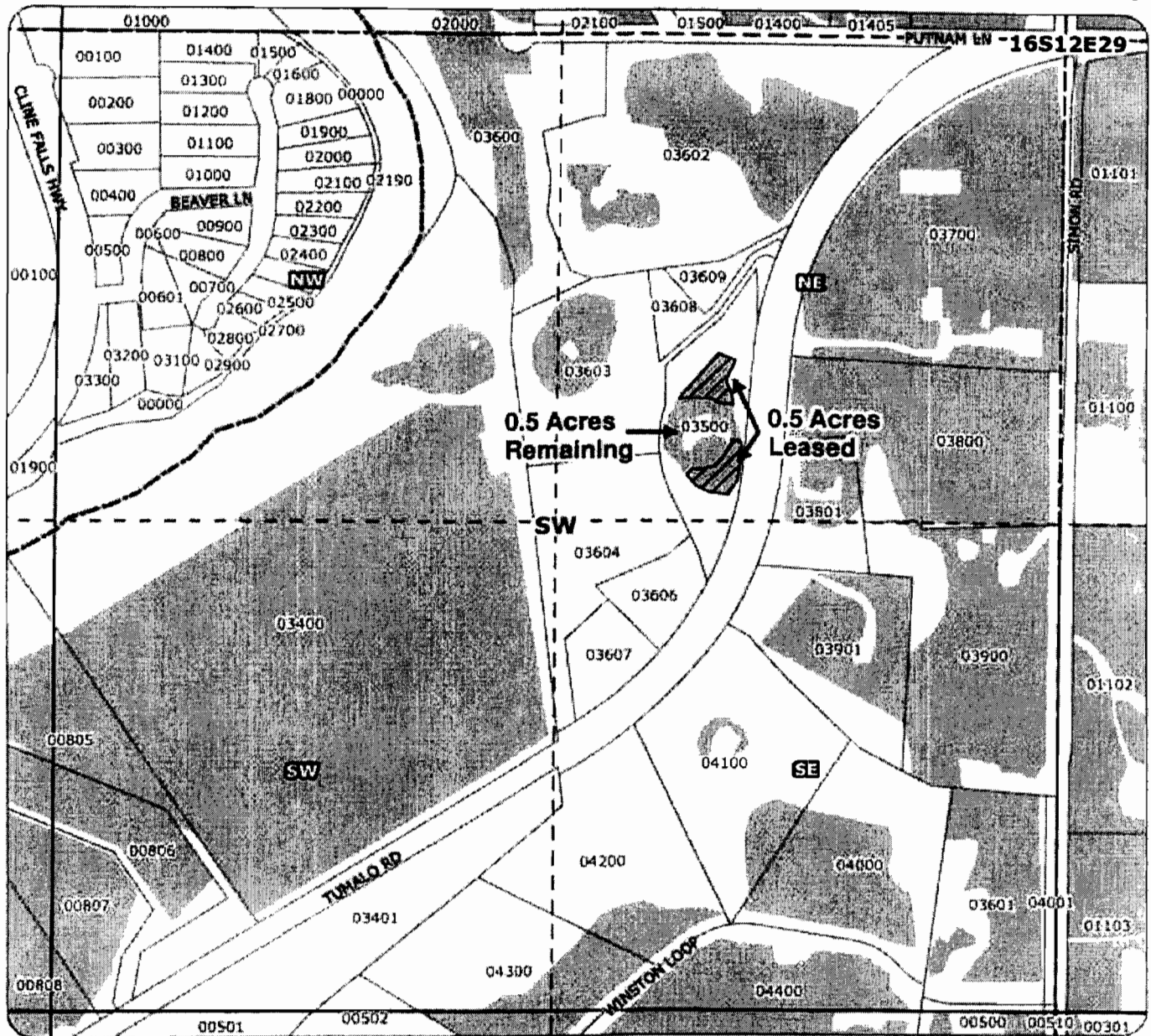
- Exhibit 5-A: Tax Lot Map. (See instructions.)
Exhibit 5-B: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. Exhibits 5-A and 5-B may be combined into a single map. (See instructions.)
Exhibit 5-C: Supporting documentation 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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2009 Swalley Irrigation District Instream Lease Map





Application for Instream Lease

for

Jeffery & Anna Phelps
 taxlot 3500- 0.5 acres
 in 161229NSW

0.5 acres remaining in taxlot
 Total Lease of 0.5 Acres
 Water Right matches
 3111 mapped representation

-  Proposed Lease of Irrigation Rights
-  Water Rights

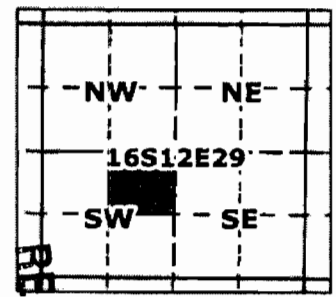


Geo-Spatial Solutions, Inc.
www.geospatialolutions.com

Date Created: June 2009

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1 inch equals 400 feet



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.

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

Optional Identification by Lessor/Lessee: _____
Lease Application Number (assigned by WRD): IL-1013

This Lease is with:

Lessor #1 (Water Right Holder):

Name Elaine Yandle Roth (formerly Elaine Harmon-Yandle)
Mailing address 2219 Arbor Dr.
City, State, Zip Code West Linn, OR 97068
Telephone number 503-913-0555
Email address yandleroth@aol.com

If additional water right holders, enter water right holder information below

Swalley Irrigation District
64672 Cook Ave., Suite #1
Bend, OR 97701 kathy@swalley.com 541-388-0658

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

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	I	R	Sect	Loc	Tax Lot	Acres	Type of Use	Certificate #	Pages #	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	12	09	swnw	02200	3.0	IRR	74145	18	1899
2.										
3.										
4.										
5.										

Total number of acres, if for irrigation, by certificate and priority date: 3.0 acres leased, 0.0 acres remaining

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 Oct. 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 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 instrument.

3.4 **Responsibility of original user.** 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 Lessee(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 instrument 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 endangerment 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 instrument 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.

Sign Here →

Lessee #1: x Elaine Yandle-Rahn Date: 6-5-09
Elaine Yandle-Rahn

For additional Lessees, type in space for signature and date
Salem Irrigation District

Other Attachments As Needed:

- Exhibit 5-A: Tax Lot Map. (See instructions.)
- Exhibit 5-B: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instrument. 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 Instrument Use Form

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