



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 all 37 ac for mitigation
Lease Application Number (assigned by WRD): IL-1065/MP-134

This Lease is between:

Lessor #1:

Name: City of Prineville
Mailing address: 387 NE 3rd St.
City, State, Zip Code: Prineville, OR 97754
Telephone number: 541-280-4752
Email address: jdobson@cityofprineville.com

Lessor #2, 3, etc.

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

Lessee (if different than Oregon Water Resources Department):

Name: Deschutes River Conservancy – Mitigation Bank
Mailing address: 700 NW Hill
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

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WATER RESOURCES DEPT
SALEM, OREGON

~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 14 S, Range 15 E, Section 26 and Tax Lot number 505. 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.

- 1.2 Lessor #2 is the (Check one):
 Not applicable
 Official representative of _____, 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. 75486 & 75488 Primary & C-83850 Supplemental

- 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.: 75486

Priority date: 09/11/1934 Type of use: IRR

Legal Season of Use: Per Crooked River decree.

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 ¼ ¼ 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 14S, R 15E, NESW Section 26, 20.0 ac., taxlot 505 to be leased
Enter additional places of use here, using format above:

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

Number of acres being leased, if for irrigation: 20

Acre-feet of storage, if applicable: N/A

Maximum rate associated with the right to be leased (cfs): 0.0125 cfs/Ac = 0.25 cfs
(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): 4.0 ac-ft/Ac = 80 ac-ft
(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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~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:

Crooked River
Tributary to Deschutes 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): SE ¼ SE ¼ Section 26, T. 14 S., R. 15 E., W.M.; at the SE corner of Section 26 to Lake Billy Chinook.

Maximum volume in acre-feet: 80 ac-ft

Rate in cfs: 0.25 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 May 6th through October 15th.
- 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 10/31/2014.

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.

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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:

- \$400 for an application with four or more landowners or four or more water rights.
 \$250 for all other applications.

Lessor #1: Jerry M. Brummer Date: 4-2-2010
City of Prineville

For additional Lessors, type in space for signature and date

Lessee: Genevieve Hubert Date: 4/5/2010
Deschutes River Conservancy - Mitigation Bank

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WATER RESOURCES DEPT
SALEM, OREGON

FSD

STATE OF OREGON
COUNTY OF CROOK
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

CLAUDE P. WILLIAMS
PRINEVILLE, OREGON 97754

confirms the right to use the waters of THE CROOKED RIVER, a tributary of THE DESCHUTES RIVER,
for IRRIGATING 20.0 ACRES.

This right was perfected under Permit 11411. The date of priority is SEPTEMBER 11, 1934. The amount
of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed
0.25 CUBIC FOOT PER SECOND or its equivalent in case of rotation, measured at the point of diversion
from the source.

The point of diversion is located as follows:

SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 26, T. 14 S., R. 15 E., W.M.; AT THE SE CORNER OF SECTION 26.

The amount of water used for irrigation, together with the amount secured under any other right existing for
the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for
each acre irrigated and shall be further limited to a diversion of not to exceed 4.0 acre-feet for each acre
irrigated during the irrigation season of each year.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant is as follows:

NE $\frac{1}{4}$ SW $\frac{1}{4}$ 20.0 acres
Section 26
Township 14 South, Range 15 East

This certificate describes that portion of the water right confirmed by Certificate 33010, State Record of
Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director
entered FEB 18 1998, 1998, and recorded in Special Order Volume 52, Page 141, approving a petition
by People's Irrigation Company under ORS 541.325 to 541.333 for mapping water rights within a district
and supersedes certificate of water right numbered 33010.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the
provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place
of use described. The use confirmed herein may be made only at times when sufficient water is available to
satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed FEB 18 1998 .

MARITHA O. PAGEL
Martha O. Pagel, Director

Recorded in State Record of Water Right Certificates numbered 75486 .

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SALEM, OREGON

Data for Parcels

Click on the "Property Res" button for more reports

| | |
|---------------|--------------------|
| MAPTAXLOT | 1415260000505 |
| TOWNSHIP | 14 |
| RANGE | 15 |
| ACRES | 262.57 |
| SUBDIVISION | |
| TAX PAYER | PRINEVILLE CITY OF |
| ADDRESS | 387 NE 3RD ST |
| CITY | PRINEVILLE |
| ADDRESS2 | OR, 97754, USA |
| ODF | |
| Parks and Rec | YES |
| IMPROVED | YES |
| In City | |
| zone | EFU2 |

[Property Res](#) [View Tax Map](#)

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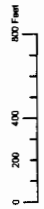
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SALEM, OREGON

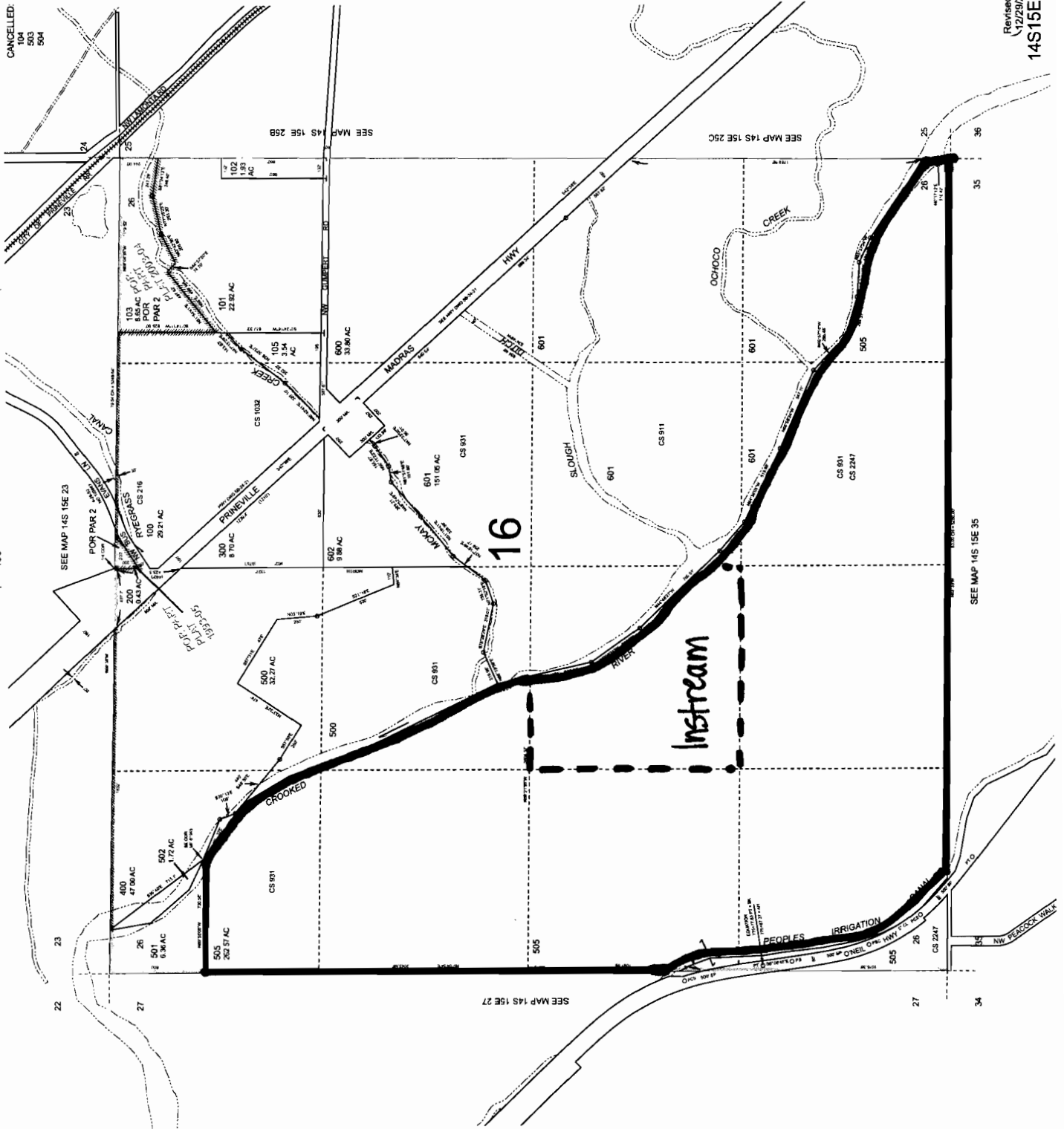
14S15E26

Revised: JK
12/29/2009
14S15E26

SECTION 26 T.14S. R.15E. W.M.
CROOK COUNTY
1" = 400'



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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

Additional Water Right Form Standard 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/OIWRD/PUBS/forms.shtml.

~I~ Water Right Holder and Water Right Information

Section 1.5 continued from Standard Application for Instream Lease.

Subject Water Rights. Lessor proposes to lease the water rights listed in 1.3.

The right(s) to be leased are further described as follows:

Certificate No.: 75488

Priority date: 3/28/1935 Type of use: IRR

Legal Season of Use (if not listed on the certificate): None listed

Is the entire water right certificate being leased? Yes No

If no, list the acres to be leased by legal description of township, range, section, and 1/4 1/4, which will be dried up as part of this lease. Include a map (Attachment 3) showing the lands that will not receive water.

Place of use: T 14 S, R 15 E, Section 35, NE 1/4 NE 1/4 - 17.00 acres to be leased

Enter additional places of use here, using format above:

(above water right in taxlot 100)

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

Number of acres, if for irrigation: 17

Acre-feet of storage, if applicable: N/A

Rate associated with leased rights (cfs): 0.0125 cfs/ac = 0.213 cfs

(Use additional lines if there is more than one rate associated with the water right.)

Duty associated with leased rights (AF): 4 ac-ft/ac = 68 ac-ft

(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any:

previously leased
in L-541 through
2005.

~II~ Instream Water Right Information

Section 2.2 continued from Standard Application for Short-Term Instream Lease.

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

Crooked River

Tributary to Deschutes 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):

SESE Section 26, T14S, R15E, WM; at the SE corner of section 26 to Lake Billy Chinook

Maximum volume in acre-feet: 68 ac-ft

Rate in cfs: 0.213 cfs

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

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Conditions to prevent injury, if any:

- None
- The instream flow will be allocated on a daily average basis up to the described rate from May 6th through October 15th.
- Other (describe): _____

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WATER RESOURCES DEPT
Salem, Oregon

STATE OF OREGON
COUNTY OF CROOK
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

CLAUDE P. WILLIAMS
PRINEVILLE, OREGON 97754

confirms the right to use the waters of THE CROOKED RIVER, a tributary of THE DESCHUTES RIVER,
for IRRIGATING 17.0 ACRES.

This right was perfected under Permit 11619. The date of priority is MARCH 28, 1935. The amount of
water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.21
CUBIC FOOT PER SECOND or its equivalent in case of rotation, measured at the point of diversion from
the source.

The point of diversion is located as follows:

SE $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 26, T. 14 S., R. 15 E., W.M.; AT THE SE CORNER OF SECTION 26.

The amount of water used for irrigation, together with the amount secured under any other right existing for
the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for
each acre irrigated and shall be further limited to a diversion of not to exceed 4.0 acre-feet for each acre
irrigated during the irrigation season of each year.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant is as follows:

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 17.0 acres
Section 35
Township 14 South, Range 15 East, W.M.

This certificate describes that portion of the water right confirmed by Certificate 33011, State Record of
Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director
entered FEB 18 1998, 1998, and recorded in Special Order Volume 52, Page 141, approving a petition
by People's Irrigation Company under ORS 541.325 to 541.333 for mapping water rights within a district
and supersedes certificate of water right numbered 33011.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the
provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place
of use described. The use confirmed herein may be made only at times when sufficient water is available to
satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed FEB 18 1998

M MARtha O. PAGEL

Martha O. Pagel, Director

Recorded in State Record of Water Right Certificates numbered 75488.

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SALEM, OREGON

Data for Parcels

Click on the "Property Res" button for more reports

| | |
|---------------|--------------------|
| MAPTAXLOT | 1415350000100 |
| TOWNSHIP | 14 |
| RANGE | 15 |
| ACRES | 110.62 |
| SUBDIVISION | |
| TAX PAYER | PRINEVILLE CITY OF |
| ADDRESS | 387 NE 3RD ST |
| CITY | PRINEVILLE |
| ADDRESS2 | OR, 97754, USA |
| ODF | |
| Parks and Rec | YES |
| IMPROVED | |
| In City | |
| zone | EFU2 |

[Property Res.](#) [View Tax Map](#)

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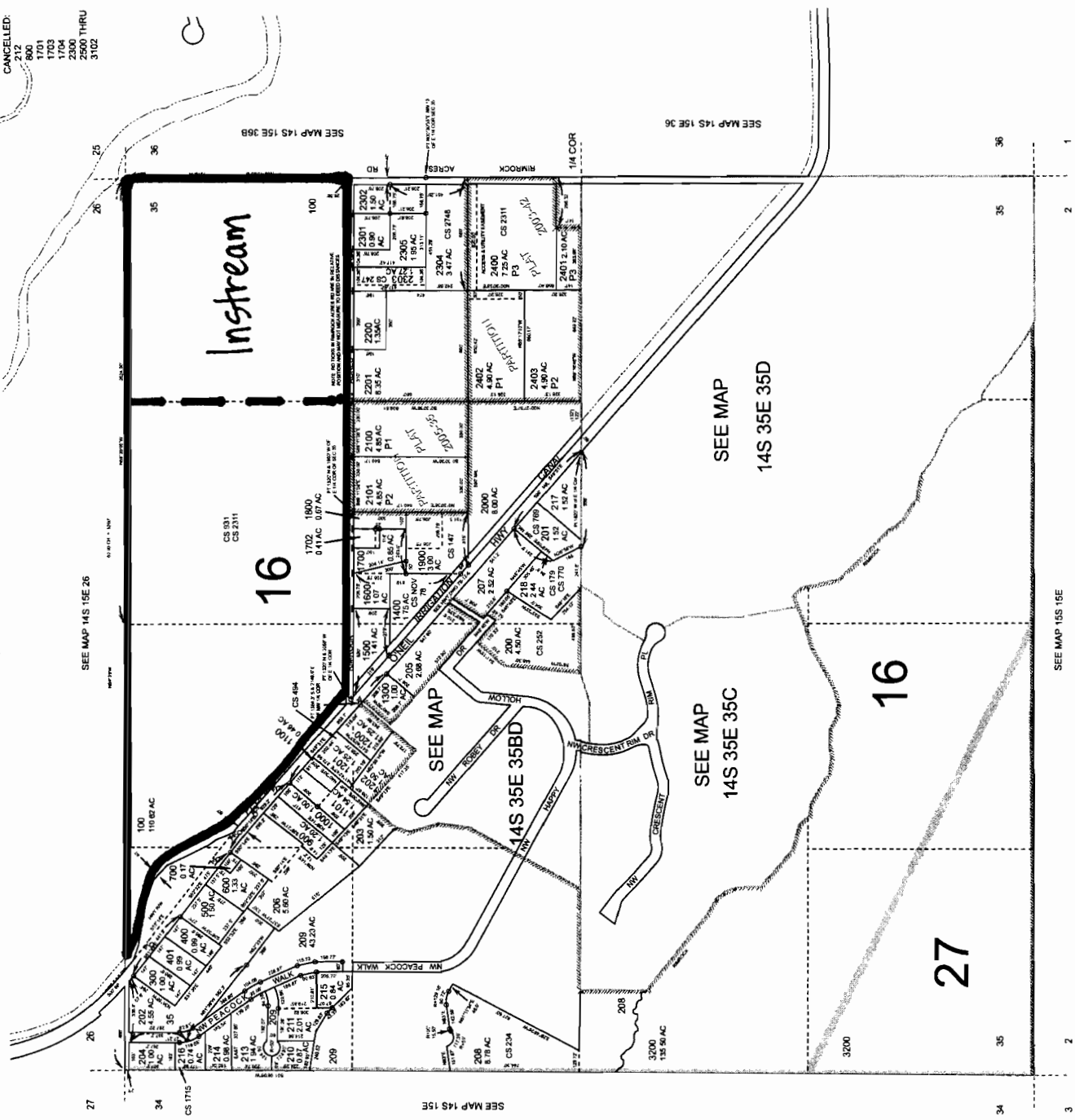
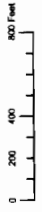
WATER RESOURCES DEPT
SALEM, OREGON

SECTION 35 T.14S. R.15E. W.M.
CROOK COUNTY

14S15E35

CANCELLED:
212
800
1701
1702
1703
1704
2300
2500 THRU
3102

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Revised: JK
12/29/2009
14S15E35