

Lease Agreement No.: 191

**Short-Term Water Right Lease Agreement
for
Leases of Existing Water Rights for Instream Use**

This Lease Agreement is between:

Lessor:

Warren Dan Eddelman

~~P.O. Box 55~~ Box 336

~~Wildorado, TX 79098~~ Haines Ore 97833

(541) 382-6691-Phone

The water rights to be leased are located in Wheeler County.

Lessee:

Oregon Water Trust

111 SW Front Avenue

Suite 404

Portland, OR 97204

(503) 226-9055-Phone

(503) 226-3480-Fax

Trustee

Oregon Water Resources Department

158 12th Street NE

Salem, OR 97310

(503) 378-3739-Phone

(503) 378-2496-Fax

I.

- 1.1 Lessor is the owner, or authorized agent for owner (*Exhibit A*), of property highlighted in *Exhibit B*.
- 1.2 Section 1.2 is not applicable.
- 1.3 *Exhibit C* contains a copy of the certificated rights that are attached to the property in *Exhibit B* and are to be leased. The rights are listed below as follows:

Certificate No. 67640 & 68636 and 67885 & 68638

1.4 **Subject Water Rights.** Lessor proposes to lease all of C-67640, C-68636 and C-68638, plus a portion of C-67885.

The rights to be leased are further described as follows:

Water Right Identification No.: C-67640 and C-68636

Source: John Day River

Priority date: 1900

Type of use: Irrigation

Place of use: (map of irrigated lands is in *Exhibit D.*)

T 9S, R 19E, S 12, NE ¼ SW ¼-7.2 acres (C-67640)

T 9S, R 19E, S 12, NW ¼ SW ¼-1.7 acres (C-67640)

T 9S, R 19E, S 12, SW ¼ SW ¼-14.5 acres (C-67640)

T 9S, R 19E, S 12, SE ¼ SW ¼-15.6 acres (C-67640)

T 9S, R 19E, S 13, NE ¼ NW ¼-10.6 acres (4.8 C-67640 & 5.8 C-68636)

T 9S, R 19E, S 13, NW ¼ NW ¼-7.1 acres (6.0 C-67640 & 1.1 C-68636)

T 9S, R 19E, S 13, SE ¼ NW ¼-0.3 acres (C-68636)

Number of acres, if for irrigation: 57 acres

Rate: 1.425 cfs

Duty: A quantity of water limited to 57 acre feet during any calendar month and not to exceed, during the irrigation season, 285 acre feet.

Season of use: April 1-September 30

Point of Diversion (POD):

T 9S, R 19E W.M., S 12, NW ¼ SW ¼; 1290 Feet North, & 1660 Feet West from the S ¼ Corner of Section 12

Conditions or other limitations, if any: None

Water Right Identification No.: C-67885 and C-68638

Source: John Day River

Priority date: February 23, 1983

Type of use: Irrigation

Place of use: (map of irrigated lands is in *Exhibit D.*)

T 9S, R 19E, S 12, SW ¼ SW ¼-10.5 acres (10.3 C-67885 & 0.2 C-68638)

T 9S, R 19E, S 12, SE ¼ SW ¼-8.7 acres (C-67885)

T 9S, R 19E, S 13, NE ¼ NW ¼-1.1 acres (1.0 C-67885 & 0.1 C-68638)

T 9S, R 19E, S 13, NW ¼ NW ¼-4.9 acres (1.4 C-67885 & 3.5 C-68638)

Number of acres, if for irrigation: 25.2 acres

Rate: 0.62 cfs

Duty: A quantity of water not to exceed 126 acre feet during the irrigation season.

Season of use: April 1-September 30

Point of Diversion (POD):

T 9S, R 19E W.M., S 12, NW ¼ SW ¼; 1290 Feet North, & 1660 Feet West from the S ¼ Corner of Section 12

Conditions or other limitations, if any: None

1.5 **Validity of Rights.** Lessor #1 attests (mark one) that:

☒ the water has been used over the past five years according to the terms and conditions of the owner's water right certificate or

☐ that the water right is not subject to forfeiture under ORS 540.610.

1.6 **Lease.** Lessor agrees to lease the water rights listed in 1.4 for instream use for the term of this Agreement through Lessee to Trustee, the Oregon Water Resources Department, pursuant to the provisions of ORS 537.348(2) and OAR 690-77-077.

1.7 **Suspension of original use.** During the period of the lease, the owner agrees to suspend use of water allowed under the subject water rights and under any water rights that are supplemental to the subject water rights.

1.8 **Water use reporting.** The Trustee agrees to fulfill legal obligations related to water use reporting.

II.

2.1 **Public Use.** The public use served by the amount, timing and location of the instream use provided for under this lease is (Select one):

:

provided by evidence contained in *Exhibit E*, such as a signed statement by Lessee, or other party, explaining how the lease would benefit recreation, scenic attraction, aquatic and fish life, wildlife habitat and ecological values, pollution abatement, navigation or other public uses.

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

Certificates No. 67640 & 68636

John Day River, tributary to the Columbia River, in the John Day Basin

Location: RM 126 to 20.9

Priority date: 1900

Use: Described in Section 2.1, above

Total volume: A quantity of water not to exceed 57 acre feet during any calendar month and a total quantity during the irrigation season not to exceed 285 acre feet.

Period of use: April 1-September 30

Rate in cfs: April 9 - May 31: 0.94 cfs

June 1 - September 30: 0.7125 cfs

Conditions to prevent or mitigate injury, if any: The instream flow will be allocated on a daily average basis up to described rate of 0.94 cfs from April 9 to May 31. The instream flow will be allocated on a daily average basis up to described rate of 0.7125 cfs from June 1 to September 30, or until such time that the total duty for the irrigation season is met. The instream rate use period has been diminished to 145 days and the rate from April to

May has been reduced so that the total duty and the monthly duty prior to June 1 is not exceeded. The watermaster has made the determination that because of potential losses in the system, some loss should be accounted for in the instream right in order to prevent injury. These loss calculations are set out in the following table:

Original POD	McDonald Ferry St.	Delivery loss	Month
RM126	RM 20.9	per mile	
0.94 cfs	0.66 cfs	0.00263cfs/mile	April
0.94 cfs	0.64 cfs	0.00277cfs/mile	May
0.7125 cfs	0.47 cfs	0.00228cfs/mile	June
0.7125 cfs	0.46 cfs	0.00238cfs/mile	July
0.7125 cfs	0.38 cfs	0.00304cfs/mile	Aug
0.7125 cfs	0.35 cfs	0.00343cfs/mile	Sept

Certificates No. 67885 & 68638

John Day River, tributary to the Columbia River, in the John Day Basin

Location: RM 126 to 20.9

Priority date: February 23, 1983

Use: Instream, described in Section 2.1, above

Total volume: A total quantity of water not to exceed 126 acre feet during the irrigation season.

Rate in cfs: 0.347 cfs

Period of use: April 1-September 30

Conditions to prevent or mitigate injury, if any: The instream flow will be allocated on a daily average basis of 0.347 cfs from April 1 to September 30th. The instream flow will be allocated on a daily average basis up to the described rate, or until such time that the total duty for the irrigation season is met. The instream rate use period has been set at 183 days and the rate from April 1st to September 30th has been reduced so that the total duty is not exceeded. The watermaster has made the determination that because of potential losses in the system, some loss should be accounted for in the instream right in order to prevent injury. These loss calculations are set out in the following table:

Original POD	McDonald Ferry St.	Delivery loss	Month
RM126	RM 20.9	per mile	
0.347 cfs	0.07 cfs	0.00263cfs/mile	April
0.347 cfs	0.06 cfs	0.00277cfs/mile	May
0.347 cfs	0.11 cfs	0.00228cfs/mile	June

0.347 cfs	0.10 cfs	0.00238cfs/mile	July
0.347 cfs	0.03 cfs	0.00304cfs/mile	Aug
0.347 cfs	0.00 cfs	0.00343cfs/mile	Sept

- 2.3 **Term of lease.** This Lease shall commence on April 1, 2001 (not before execution by the parties) and continue through September 30, 2001.
- 2.4 **Compensation.** Lessor has agreed to lease the water rights herein to the Oregon Water Trust for cash and other considerations and for the benefit of the people of the state of Oregon.
- 2.5 **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). No party is required to continuously measure the flow of the waterway described in Section 2.2.
- 2.6 **Revision to loss calculation, if necessary.** If the actual loss rate is determined to be different than the per mile rate listed in Section 2.2, then a finding indicating this change shall be made, and the actual loss rate shall be adjusted appropriately.

III.

- 3 **Watermaster review.** By signature below, the watermaster for the district where the subject water rights are located verifies that:
- 3.1 Lessor is currently entitled to appropriate water under the water rights described in Section 1.4.
- 3.2 A suitable control is in place so that WRD staff may regulate use of water under the subject rights to ensure water is not diverted or applied on lands to which subject rights are attached.
- 3.3 Allocation of water to the new 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.
- 3.4 Necessary conditions to the proposed instream use: None

Watermaster: Vernon Church

District:

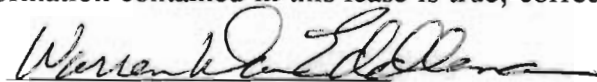

Vernon Church

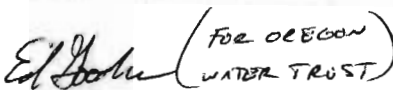
5-10-01
Date

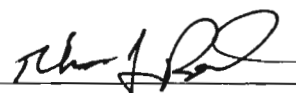
Vernon L. Church
Watermaster, District 21
P.O. Box 427
Condon, Oregon 97823
(541) 384-4207 Phone
(541) 384-2167 Fax

IV.

The Undersigned Lessor, Lessee and Trustee declare that, to the best of their knowledge and belief, the information contained in this lease is true, correct and complete.

Lessor:  Date: 5/20/01

Lessee:  (FOR OREGON WATER TRUST) Date: 5-15-01

So ordered by Trustee:  Date: JUL 19 2001
for Director, Oregon Water Resources Department

Exhibits:

Exhibit A: Proof of property ownership
Exhibit B: Map of Lessor's property
Exhibit C: Copies of the subject certificates attached to property shown in Exhibit B
Exhibit D: Detailed map illustrating lands irrigated by subject rights
Exhibit E: Identification of public use to be served by instream use