

Lease Agreement No.:

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

This Lease Agreement is between:

**Lessor:**

Dan Peterson  
81550 Fairground Road  
Tygh Valley, OR 97063  
(541) 483-2244-Phone

The water right to be leased is located in Wasco 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 (*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 right attached to the property in *Exhibit B*. The right is listed below as follows:

Certificate No. 8873

WATER RIGHT LEASE AGREEMENT

- 1.4 **Subject Water Rights.** Lessor proposes to lease all of the water right listed in 1.3, above.

The right to be leased is further described as follows:

Water Right Identification No.: 8873

Source: Tygh Creek

Priority date: January 20, 1926

Type of use: Irrigation

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

T 3S, R 13E, S 31, SE¼, NW¼-7 acres

T 3S, R 13E, S 31, NE¼, SW¼-7 acres

T 3S, R 13E, S 31, NW¼, SW¼-6 acres

Number of acres, if for irrigation: 20 acres

Rate: 0.25 cfs

Duty: 60 acre-feet

Season of use: April 1 to November 1

Point of Diversion (POD):

About 3/8 of a mile S. from NW cor. of Sec. 31, Tp. 3 S, R. 13 E., being within the SW¼ NW¼ of Sec. 31, T. 3 S. R. 13 E.W.M.

Conditions or other limitations, if any: None

- 1.5 **Validity of Rights.** Lessor attests that the subject water right is legally valid by having been beneficially used according to the terms of the right within the last five years and, if the right is for irrigation, on all lands indicated in *Exhibit D.*
- 1.6 **Lease.** Lessor agrees to lease the water right 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 right and under any water right that is supplemental to the subject water right.
- 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:

specific uses and needs identified in *Exhibit E* as signed off by ODFW.

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

No. 8873

Tygh Creek, tributary to White River in the Deschutes Basin

Location: Approximately RM 6 (point of diversion) to the mouth of Tygh Creek

Priority date: January 20, 1926

Use: Described in Section 2.1, above

Total volume: 60 acre-feet

Rate: 0.25 cfs

Period of use: April 1 to July 29

Conditions to prevent or mitigate injury, if any: Period of use has been restricted

- 2.3 **Term of lease.** This Lease shall commence on April 1, 1996 (not before the date of final execution by the parties) and continue through November 1, 1997.
- 2.4 **Compensation.** Lessor has agreed to lease the water right 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.

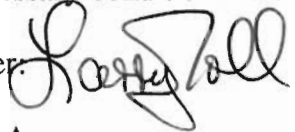
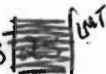
### Optional Provisions

- 2.6 **Additional monitoring.** Lessor/Lessee intends to manage and participate in the protection of the instream use by: possibly collecting information for calculating stream discharge.
- 2.7 **Modification or termination provisions.** None

### III.

- 3 **Watermaster review.** By signature below, the watermaster for the district where the subject water right is located verifies that:

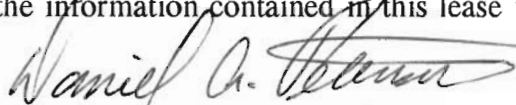
- 3.1 Lessor is currently entitled to appropriate water under the water right described in Section 1.4.
- 3.2 A suitable control is in place so that WRD staff may regulate use of water under the subject right to ensure water is not diverted or applied on lands to which subject right is attached.
- 3.3 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:  District:   
 Larry Toll  
 502 E. 5th Avenue  
 Courthouse Annex B  
 Room 212  
 The Dalles, OR 97058  
 (541) 298-4110

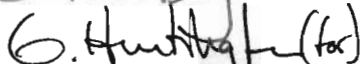
Date: 3/25/96

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: 3-4-96

Lessee:  Date: 3-14-96

So ordered by Trustee:  Date: 5/10/96  
 Director, Oregon Water Resources Department

Effective Date of Lease Agreement: 5/10/96

Exhibits:

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