

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

This Lease Agreement is between:

**Lessor:**

City of Dufur  
P.O. Box 145  
Dufur, OR 97021  
(541) 467-2401-Phone  
(541) 467-2353-Fax

The water rights to be leased are 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 The City of Dufur holds the water rights listed in section 1.3 and has decided to lease these rights instream as evidenced by the minutes of the April 14, 1998 city council meeting contained under (*Exhibit A*).
- 1.2 Section 1.2 is not applicable.
- 1.3 *Exhibit B* contains a copy of the certificated rights held by the lessor. The rights are listed below as follows:

Certificate Nos. 5626, 47332, 47333, 47334, 48315 and 54586

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

The rights to be leased are further described as follows:

Water Right Identification No.: 5626  
Source: Fifteenmile Creek  
Priority date: 1886  
Type of use: Municipal  
Place of use: Dufur city limits  
Rate: 0.46 cfs  
Duty: None  
Season of use: All year  
Point(s) of diversion (POD):  
Within NE ¼ SE ¼, Sec. 15, T. 2S, R 12E, W.M.  
Conditions or other limitations, if any: None

Water Right Identification No.: 47332  
Source: Fifteenmile Creek  
Priority date: August 26, 1921  
Type of use: Municipal use  
Place of use: Dufur city limits  
Rate: 0.025 cfs  
Duty: 6 acre-feet during the irrigation season  
Season of use: Irrigation season only  
Point(s) of diversion (POD):  
Within NE ¼ SE ¼, Sec. 15, T. 2S, R 12E, W.M., 80 feet South and 630 feet West from the E ¼ Corner, Section 15  
Conditions or other limitations, if any: None

Water Right Identification No.: 47333  
Source: Fifteenmile Creek  
Priority date: 1905  
Type of use: Municipal use  
Place of use: Dufur city limits  
Rate: 0.04 cfs  
Duty:  
4.8 acre feet each year, being 1.6 acre feet per 30 day period to July 1 and 1.2 acre feet per 30 day period thereafter.  
Season of use: Irrigation season only  
Point(s) of diversion (POD):  
Within NE ¼ SE ¼, Sec. 15, T. 2S, R 12E, W.M., 80 feet South and 630 feet West from the E ¼ Corner, Section 15  
Conditions or other limitations, if any: None

Water Right Identification No.: 47334

Source: Fifteenmile Creek

Priority date: 1906

Type of use: Municipal use

Place of use: Dufur city limits

Rate: 0.103 cfs

Duty:

12.3 acre feet each year, being 4.1 acre feet per 30 day period to July 1 and 3.08 acre feet per 30 day period thereafter.

Season of use: Irrigation season only

Point(s) of diversion (POD):

Within NE¼ SE¼, Sec. 15, T. 2S, R 12E, W.M., 80 feet South and 630 feet West from the E¼ Corner, Section 15

Conditions or other limitations, if any: None

Water Right Identification No.: 48315

Source: Fifteenmile Creek

Priority date: January 3, 1963

Type of use: Municipal use

Place of use: Dufur city limits

Rate: 1.12 cfs

Duty: None

Season of use: All year

Point(s) of diversion (POD):

Within NE¼ SE¼, Sec. 15, T. 2S, R 12E, W.M., 80 feet South and 630 feet West from the E¼ Corner, Section 15

Conditions or other limitations, if any: None

Water Right Identification No.: 54586

Source: Fifteenmile Creek

Priority date: January 10, 1977

Type of use: Group domestic use for 53 families and Travel Trailer Park

Place of use: Dufur city limits

Rate: 0.1 cfs

Duty: None

Season of use: All year

Point(s) of diversion (POD):

Within NE¼ SE¼, Sec. 15, T. 2S, R 12E, W.M., 80 feet South and 630 feet West from the E¼ Corner, Section 15

Conditions or other limitations, if any: None

1.5 **Validity of Rights.** Section 1.5 is not applicable

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 right that is 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:

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

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

No.: 5626

Fifteenmile Creek, tributary to the Columbia River

Location: RM 40 to 2.75 (confluence of Eightmile Creek)

Priority date: 1886

Use: Described in section 2.1, above

Total volume: None

Rate: 0.46 cfs

Period of use: All year

Conditions to prevent or mitigate injury (if any): None

No.: 47332

Fifteenmile Creek, tributary to the Columbia River

Location: RM 40 to 2.75 (confluence of Eightmile Creek)

Priority date: August 26, 1921

Use: Described in section 2.1, above

Total volume: 6 acre-feet during the irrigation season

Rate: 0.025 cfs

Period of use: Irrigation season only

Conditions to prevent or mitigate injury (if any): The instream flow will be allocated on a daily average basis up to the described rate from July 1 until October 29, or until such time that the total duty for the irrigation season is met.

No.: 47333

Fifteenmile Creek, tributary to the Columbia River

Location: RM 40 to 2.75 (confluence of Eightmile Creek)

Priority date: 1905

Use: Described in section 2.1, above

Total volume:

4.8 acre feet each year, being 1.6 acre feet per 30 day period to July 1 and 1.2 acre feet per 30 day period thereafter.

Rate: 0.04 cfs

Period of use: Irrigation season only

Conditions to prevent or mitigate injury (if any): The instream flow will be allocated on a daily average basis up to the described rate from July 1 until October 29, or until such time that the total duty for the irrigation season is met.

No.: 47334

Fifteenmile Creek, tributary to the Columbia River

Location: RM 40 to 2.75 (confluence of Eightmile Creek)

Priority date: 1906

Use: Described in section 2.1, above

Total volume:

12.3 acre feet each year, being 4.1 acre feet per 30 day period to July 1 and 3.08 acre feet per 30 day period thereafter.

Rate: 0.103 cfs

Period of use: Irrigation season only

Conditions to prevent or mitigate injury (if any): The instream flow will be allocated on a daily average basis up to the described rate from July 1 until October 29, or until such time that the total duty for the irrigation season is met.

No.: 48315

Fifteenmile Creek, tributary to the Columbia River

Location: RM 40 to 2.75 (confluence of Eightmile Creek)

Priority date: January 3, 1963

Use: Described in section 2.1, above

Total volume: None

Rate: 1.12 cfs

Period of use: All year

Conditions to prevent or mitigate injury (if any): None

No.: 54586

Fifteenmile Creek, tributary to the Columbia River

Location: RM 40 to 2.75 (confluence of Eightmile Creek)

Priority date: January 10, 1977

Use: Described in section 2.1, above

Total volume: None

Rate: 0.1 cfs

Period of use: All year

Conditions to prevent or mitigate injury (if any): None

- 2.3 **Term of lease.** This Lease shall commence on July 1, 1998 (not before the date of final execution by the parties) and continue through December 31, 1998.

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.

### **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 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.

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: *Larry Toll*  
Larry Toll  
421 E. 7<sup>th</sup> Avenue  
Courthouse Annex B  
Room 218  
The Dalles, OR 97058  
(541) 298-4110-Phone  
(541) 298-2459-Fax

District: 3

Date: *6/10/98*

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: *John Van Zin*

Date: *6-9-98*

Lessee: *Andrew Pinkney*

Date: *May 5 1998*

So ordered by Trustee: *Rufus St. Aubrey*

Date: *7/8-98*

Director, Oregon Water Resources Department

Effective Date of Lease Agreement:

Exhibits: A and C are attached, B is on record at OWRD

- Exhibit A: Minutes of meeting approving lease agreement
- Exhibit B: Copies of water right certificates
- Exhibit C: Identification of public use to be served by instream use