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APR 26 1999

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

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WATER RESOURCES DEPT.
SALEM, OREGON

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 Naito Parkway
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 letter dated October 15, 1998, whereupon the lease will renew automatically in annual increments unless canceled by either party upon written notice mailed 6 months in advance of the annual termination date (December 31st of each year) provided for in the lease (*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 NE¼ SE¼, 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 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.: 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 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

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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)

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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, 1999 (not before the date of final execution by the parties) and continue through December 31, 1999.
- 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

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

#3
District: *4/26/1999*
Date *↑*

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Date:

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:

Les Mead

Date:

4/20/99

Lessee:

Adrian Turkey

Date:

4/23/99

So ordered by Trustee:

Rifan D. Buckley

Date:

7/6-99

Director, Oregon Water Resources Department

Effective Date of Lease Agreement: *7/6-99*

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

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EXHIBIT C

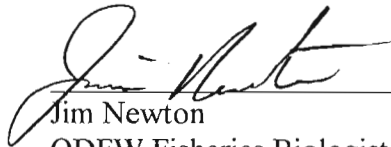
PUBLIC USE PROVIDED BY INSTREAM WATER RIGHTS

I believe that the water rights described as Certificate Nos. 5626, 47332, 47333, 47334, 48315 and 54586 will provide for the conservation maintenance and enhancement of aquatic and fish life and fish habitat in Fifteenmile Creek, tributary to the Columbia River, if temporarily converted to instream use July 1, 1999 to December 31, 1999. Specifically, the following benefits will likely be provided:

- spawning and rearing habitat for winter steelhead will likely be improved within the designated reach; and
- passage for early migrating adult winter steelhead back into Fifteenmile Creek could be improved.

Dated: 3-22-99

Signed:



Jim Newton
ODFW Fisheries Biologist
The Dalles, Oregon