

SWALLEY IRRIGATION DISTRICT

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541-388-0658
(FAX 389-8778)

9631.01

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WATER RESOURCES DEPT.
SALEM, OREGON

Lease of Existing Water Rights for Instream Use

Date: September 2, 1996

Lessor(s): Deschutes County
c/o Tom Blust
61150 SE 27th
Bend OR 97702

Swalley Irrigation District

Trustee: Oregon Water Resources Department
158 12th Street NE
Salem OR 97310
503-378-3739
(fax) 503-378-2496

I.

1.1 Lessor is the owner, or authorized agent for owner (Exhibit A), of property highlighted in Exhibit B.

1.2 Lessee is the:

X Official representative of Swalley Irrigation District, the irrigation district which conveys water to the subject water rights.

1.3 Exhibit C contains copies of all certificated or decreed rights attached to the property in Exhibit B. Those rights are listed below as follows:

Certificated No. 29054
#1 Page No.165 , (Dilley) 1958 Deschutes River Consolidated Decree.
Priority date: September 1, 1899
Type of use: Irrigation

Certificated No. 29054
#2 Page No.167 , (Ross) 1958 Deschutes River Consolidated Decree.
Priority date: September 1, 1899
Type of use: Irrigation

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

The rights to be leased are further described as follows:
(If original use is irrigation, include map of irrigated lands in Exhibit D.)

Place of use: #1 - T. 17S, R. 12E, Sec. 22, SW/SW, (Butler Mkt Rd)
#2 - T. 17S, R. 12E, Sec. 28, NE/NW, (Butler Mkt Rd)

Number of acres, (if for irrigation): #1 = 1.0 acres
#2 = 0.17 acres
1.17 acres

Acre-feet of storage: 0.0

Rate:	April 1-30	0.008	cfs
	May 1-14	0.010	cfs
	May 15-Sept 14	0.020	cfs
	Sept 15-30	0.010	cfs
	Oct 1-31	0.008	cfs

Duty: 6.389 acre feet per season

Season of Use: April 1 - October 31

Point of Diversion (POD): Swalley Canal
(N 985' & W 617' from 1/4 corner - SE/NE of Section 29, T. 17S., R. 12E. WM.)
Conditions or other limitations, if any:

1.5 **Validity of Rights.** Lessor attests that the subject water rights are legally valid by having been beneficially used according to the terms of the rights within the last five years and, if the rights are for irrigation, on all lands indicated in Exhibit D.

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, pursuant to the provisions of ORS 537.348 (2) and OAR 690-77-077.

II.

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 water rights.

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

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):

Mitigation of a deficiency in the water supply for an existing instream water right or minimum stream flow located .

Mitigation of a deficiency in water supply identified in an application for an instream water right or *Diack* flow located .

A specific use or need identified by DEQ, Parks or ODFW and further described in Exhibit E.

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:

For:	Deschutes River, Tributary to <u>Columbia River</u> in the <u>Deschutes Basin</u>		
Location:	From river mile 165 (North Canal Dam), downstream to river mile 120 (Lake Billy Chinook).		
Priority date:	September 1, 1899		
Use:	Described in Section 2.1, above		
Total volume:	6.389 acre feet per season		
Rate:	April 1-30	0.008	cfs
	May 1-14	0.010	cfs
	May 15-Sept 14	0.020	cfs
	Sept 15-30	0.010	cfs
	Oct 1-31	0.008	cfs

Period of use: April 1 to October 31
Conditions to prevent or mitigate injury, if any:

2.3 **Term of lease.** This Lease shall commence upon execution by the parties and continue through **October 31, 1997** (two years), or until terminated by either Swalley Irrigation District or the Oregon Water Resources Department.

2.4 **Compensation.** N/A

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.

III.

Optional Provisions

2.7 Modification or termination provisions.

This lease may be terminated by either Swalley Irrigation District or the Oregon Water Resources Department upon written notice to the other party. The effective date of termination shall not be during the irrigation season (April 1 - October 31). This lease may be extended by mutual agreement of Swalley Irrigation District and the Oregon Water Resources Department.

3.1 Watermaster review. By signature below, the Watermaster for the district where the subject water right is located verifies that:

3.2 Lessor is currently entitled to appropriate water under the water rights described in Section 1.4.

3.3 A Suitable control is/will be in place so the 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.

3.4 Necessary conditions to the proposed instream use:
(Describe, if any)

Watermaster:

Kyle Gorman
South Central Region
1340 NW Wall, Suite 100
Bend OR 97701-1939
541-388-6669
(fax) 388-5101

Kyle Gorman
9-17-96

District:

Charles C. Brown, Office Manager
Swalley Irrigation District
PO Box 5126
Bend OR 97708-5126
541-388-0658
(fax) 389-8778

IV.

The Undersigned Lessor/s, 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: *Thomas E. Blunt* Date: 8-8-96
COUNTY ENGINEER
FOR DESCHUTES COUNTY

Lessee: *Charles C. Brown* Date: 8/13/96
Charles C. Brown, Office Manager for Swalley Irrigation District

So ordered by Trustee:

G. H. Hightower (for) Date: 10/22/96
Director, Oregon Water Resources Department

Effective Date of Lease Agreement: September 15, 1996

Exhibits:

- A:
- B: Map of Lessor's properties, #1 & #2.
Proof of property ownership.
- C: Copies of all certificates and decreed rights attached to property shown in Exhibit B.
- D: Detailed map illustrating lands irrigated by subject rights.

Exhibit B - #1

Swalley Irrigation District

17-12-22-SW/SW

