

Lease Agreement Number: 249

**STATE OF OREGON  
WATER RESOURCES DEPARTMENT**

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

This Lease Agreement is between:

**Lessor:**

George W. Banks and Mary M. Eiswerth  
PO Box 625  
Monmouth, OR 97301  
(503) 831-3316

The water right to be leased is located in Polk 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 12<sup>th</sup> Street NE  
Salem OR 97301-4172  
(503)378-8455

~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 copies of all certificated, decreed or permitted rights attached to the property in *Exhibit B*. Those rights are listed below as follows:

Certificate Nos. 22055 and 37040.

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

The right(s) to be leased are further described as follows:

Certificate No.: 22055

Priority date: January 10, 1952

Type of use: Irrigation

Place of use:

T 8 S, R 5 W, W.M., Section 31 NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  – 1.2 acres

T 8 S, R 5 W, W.M., Section 31 SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  – 15.8 acres

T 8 S, R 5 W, W.M., Section 31 NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  – 1.2 acres

T 8 S, R 5 W, W.M., Section 31 SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  – 11.8 acres

All as projected within P. Bowman DLC #55

(If original use is irrigation, include map of irrigated lands in *Exhibit D.*)

Number of acres, if for irrigation: 30.0 acres

Rate: 0.375 cfs

Duty: 75.0 acre-ft.

Season of Use: April 1 to September 30

Point(s) of Diversion (POD): SE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , as projected within P. Bowman DLC #55.

Section 31, Township 8 South, Range 5 West, W.M.

Conditions or other limitations, if any: None

Certificate No.: 37040

Priority date: March 14, 1968

Type of use: Irrigation

Place of use:

T 8 S, R 5 W, W.M., Section 31 SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  – 6.6 acres

T 8 S, R 5 W, W.M., Section 31 NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  – 2.7 acres

T 8 S, R 5 W, W.M., Section 31 SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  – 7.9 acres

All as projected within Bowman DLC 55

(If original use is irrigation, include map of irrigated lands in *Exhibit D.*)

Number of acres, if for irrigation: 17.2 acres

Rate: 0.22 cfs

Duty: 43.0 acre-ft.

Season of Use: April 1 to September 30

Point(s) of Diversion (POD): SE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , as projected within Bowman DLC 55,

Section 31, T. 8 S., R 5 W., W.M. Diversion point located: 840 feet South and 3980 feet West from NE Corner, Bowman DLC 55.

Conditions or other limitations, if any: None

**1.5 Validity of Rights.** Lessor 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 agree 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 690-077-0077.
- 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.

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- 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:

Certificate No. 22055

Little Luckiamute River

Tributary to Luckiamute River in the Willamette Basin.

Priority date: January 10, 1952

Use: Described in Section 2.1, above

Total volume: 75.0 acre-ft.

Rate in cfs: 0.375 cfs

Location: POD (Rm 6.75) to Rm 4.0

Period of use: April 1 to September 30

Conditions to prevent injury, if any: The instream flow will be allocated on a daily average basis up to this rate from June 22 through September 30, or until such time that the total duty for the irrigation season is met.

Certificate No. 37040

Little Luckiamute River

Tributary to Luckiamute River in the Willamette Basin.

Priority date: March 14, 1968

Use: Described in Section 2.1, above

Total volume: 43.0 acre-ft.

Rate in cfs: 0.22 cfs

Location: POD (Rm 6.75) to Rm 4.0

Period of use: April 1 to September 30

Conditions to prevent injury, if any: The instream flow will be allocated on a daily average basis up to this rate from June 24 through September 30, or until such time that the total duty for the irrigation season is met.

- 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.** The Lessor has agreed to lease subject water right for cash, or other valuable considerations and for the benefit 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.** 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

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- 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 rights described in Section 1.4.
- 3.2** A suitable control ~~is~~/will be 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: (Describe. if any)

Watermaster: Bill Ferber

District: 16

Bill Ferber  
Bill Ferber

9.12.2001  
Date

Bill Ferber  
158 12<sup>th</sup> St., NE  
Salem, OR 97301-4172  
(503) 378-6203

~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: Ge L Baul Date: 9/7/01

Lessor: Mary G. Eisenich Date: 9/7/01

Lessee: Rebecca L. Lotig (Oregon Water Trust) Date: 8/30/01

So ordered by Trustee: [Signature] Date: SEPTEMBER 21, 2001

Exhibits:

- Exhibit A: Copy of Property Deed/Power of Attorney Documentation (if needed)
- Exhibit B: Tax Lot Map of Lessor's property
- Exhibit C: Copies of certificates, permits and decreed rights to be leased
- Exhibit D: Detailed map illustrating lands under subject rights to be leased
- Exhibit E: Identification of public use to be served by instream use