

Lease Agreement Number 177

**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:

Mike Murtha
P.O. Box 383
Wasco, OR 97065
Phone (541) 565-3432

The water right to be leased is located in Sherman County

Lessee:

State of Oregon

Trustee:

Oregon Water Resources Department
158 12th Street NE
Salem OR 97301
(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 No. 30836
- 1.4 **Subject Water Rights.** Lessor proposes to lease all of the water rights listed in 1.3, above.

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

Certificate No.: 30836

Source: John Day River

Priority date: September 12, 1961

Type of use: irrigation

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

0.2 acre in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ (all leased by BLM)

2.7 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ (all leased)

7.4 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ (all leased)

12.0 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ (all leased)

Section 12

Township 1 South, Range 19 East, W.M.

8.7 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ (all leased)

7.9 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ (all leased)

2.4 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ (all leased)

4.3 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ (all leased)

Section 6

7.9 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ (all leased)

0.7 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ (all leased)

2.9 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ (all leased)

0.9 acre in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ (all leased by BLM)

9.4 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ (all leased)

Section 7

Township 1 South, Range 20 East, W.M.

Number of acres, 67.4 acres (66.3 acres leased)

Rate: 1.69 cfs (1.65cfs leased)

Duty: 337 ac-ft not to exceed, during the irrigation season, five acre feet per acre.

Season of Use: April 1st - September 30th

Point(s) of Diversion (POD): South 51 degree 54 minutes West 4257 feet from the NE corner Section 12, being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 12, Township 1 South, Range 19 East, W.M.

Conditions or other limitations, if any: None

- 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 right or permit. If the right is for irrigation, beneficial must have occurred in the last five years on all lands indicated in Exhibit D.
- 1.6 **Lease.** All Lessors 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 690-77-077.

- 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.
- 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: provided by evidence contained in Exhibit E, such as a signed statement by Oregon Department of Fish and Wildlife, 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:
- John Day River, tributary Columbia River in the John Day Basin
Location: South 51 degree 54 minutes West 4257 feet from the NE corner Section 12, being within the NE¼ SW¼, Section 12, Township 1 South, Range 19 East, W.M. to the mouth
Priority date: September 12, 1961
Use: Described in Section 2.1, above
Total volume: 331.5 ac-ft not to exceed, during the irrigation season, five acre feet per acre.
Season of Use: April 1st - September 30th
Rate in cfs: 1.65 cfs
Conditions to prevent or mitigate injury, if any:
- 2.3 **Term of lease.** This Lease shall commence on April 1, 2001 (not before execution by the parties) and continue through September 30, 2002.
- 2.4 **Compensation.** The Lessor has agreed to lease subject water right for the sum of \$1.00, 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.

- 2.6 **Modification or termination** provisions. Lessor shall have an option of terminating lease for the 2002 irrigation season with written notice 30 days prior to April 1, 2002.

~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 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:

Watermaster: Vern Church District: 21



Vernon L. Church

P.O. Box 427

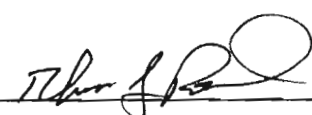
(541) 384-4207

Date: 1-5-2001

~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: Michael R. Munda Date: Jan 5 2001

So ordered by Trustee:  Date: May 23, 2001