

Lease Agreement Number: 179

**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:

S & R Rodoni Farms LP
44212 Alder Creek Road
Fossil, OR 97830
Phone (541) 468-2170

The water right to be leased is located in Wheeler 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.43947
- 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.: 43947

Source: Alder Creek

Priority date: April 17, 1967

Type of use: irrigation

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

NE $\frac{1}{4}$ SE $\frac{1}{4}$ 35.2 acres (21.1 acres leased)
NW $\frac{1}{4}$ SE $\frac{1}{4}$ 8.0 acres (0.6 acre leased)
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 7.4 acres (5.0 acres leased)
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 19.1 acres (5.0 acres leased)

Section 12

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 13.5 acres (11.5 acres leased)
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 19.8 acres (17.4 acres leased)

SW $\frac{1}{4}$ NE $\frac{1}{4}$ 3.2 acres

SE $\frac{1}{4}$ NE $\frac{1}{4}$ 11.1 acres (9.5 acres leased)

Section 13

Township 8 South, Range 23 East, W.M.

SW $\frac{1}{4}$ NW $\frac{1}{4}$ 3.8 acres (all leased)
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 5.7 acres (all leased)
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 0.6 acres (all leased)
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 14.7 acres (12.0 acres leased)
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 0.4 acres (all leased)

Section 7

NW $\frac{1}{4}$ NW $\frac{1}{4}$ 0.1 acres (all leased)
SW $\frac{1}{4}$ NW $\frac{1}{4}$ 1.1 acres (all leased)

Section 18

Township 8 South, Range 24 East, W.M.

Number of acres, 143.7 acres (93.8 acres leased)

Rate: 0.89 cfs (0.58 cfs leased)

Duty: 4 acre-feet per acre

Season of Use: April 1st to September 30

Point(s) of Diversion (POD): #1-NW $\frac{1}{4}$ SW $\frac{1}{4}$; #2-SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 7, Township 8 South, Range 24 East, W.M., #3-SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 12; #4-NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 13, Township 8 South, Range 23 East, W.M. #1-2550 feet North and 1030 feet East from the SW corner of Section 7, #2-1190 feet North and 700 feet East from the SW corner of Section 7, #3-550 feet North and 100 feet West from the SE corner of Section 12, #4-570 feet South and 1240 feet West from the NE corner of Section 13.

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.

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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: 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:

Alder Creek, tributary John Day River in the John Day Basin

Location:): #1-NW $\frac{1}{4}$ SW $\frac{1}{4}$; #2-SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 7, Township 8 South, Range 24 East, W.M., #3-SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 12; #4-NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 13, Township 8 South, Range 23 East, W.M. #1-2550 feet North and 1030 feet East from the SW corner of Section 7, #2-1190 feet North and 700 feet East from the SW corner of Section 7, #3-550 feet North and 100 feet West from the SE corner of Section 12, #4-570 feet South and 1240 feet West from the NE corner of Section 13 to the next senior diversion

Priority date: April 17, 1967

Use: Described in Section 2.1, above

Total volume: 375.2 acre-feet

Season of Use: April 1st to September 30

Rate in cfs: 0.58 cfs

Conditions to prevent or mitigate injury, if any:

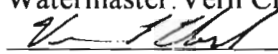
- 2.3 **Term of lease.** This Lease shall commence on April 1, 2001 (not before execution by the parties) and continue through ~~August 1, 2002.~~
September 30,
- 2.4 **Compensation.** The Lessor has agreed to lease subject water right for the sum of \$1.00, or other valuable considerations and for the 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.

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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:

Watermaster: Vern Church District: 21

 5-22-01

Vernon L. Church

P.O. Box 427

(541) 384-4207

Date:

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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: Richard Radone 7-9-2001 Date:

Lessor: _____ Date:

So ordered by Trustee: Ther J. RO Date: July 31, 2001

Exhibits:

- Exhibit A: Proof of property ownership/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