

Lease Agreement No. 195

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

This Lease Agreement is between:

Lessor:

Clay Woodward
P.O. Box 663
Prineville, OR 97754
(541) 447-3841

The water rights to be leased are located in Wheeler 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) 378-8130-Fax

I.

- 1.1 Lessor is the owner, or is the agent for the 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 that are appurtenant to the property in *Exhibit B*. Those rights are listed below as follows:

Certificate Nos.: 13549, 13599, 13560, 44343, 44565, 40414, and 31119.

- 1.4 **Subject Water Rights.** Lessor proposes to lease the following water rights from the list set out in 1.3, above: 13549, 13599, 13560, 44343, 44565, 40414, and 31119.

The rights to be leased are further described as follows:

Water Right Identification No.: 13549

Source: Gable Creek, tributary of Thompson Creek

Priority date: 1878, 1880, 1882

Type of use: Irrigation, domestic and stock

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

T 12 S, R 21 E, Section 8 SW $\frac{1}{4}$ NE $\frac{1}{4}$ (17.8 acres) (1878)

T 12 S, R 21 E, Section 8 NE $\frac{1}{4}$ SW $\frac{1}{4}$ (6.0 acres) (1878)

T 12 S, R 21 E, Section 8 NW $\frac{1}{4}$ SE $\frac{1}{4}$ (18.0 acres) (1878)

T 12 S, R 21 E, Section 8 SW $\frac{1}{4}$ SE $\frac{1}{4}$ (1.2 acres) (1878)

T 12 S, R 21 E, Section 8 NE $\frac{1}{4}$ SW $\frac{1}{4}$ (14 acres) (1880)

T 12 S, R 21 E, Section 8 SE $\frac{1}{4}$ SW $\frac{1}{4}$ (20 acres) (1880)

T 12 S, R 21 E, Section 8 SW $\frac{1}{4}$ SW $\frac{1}{4}$ (4 acres) (1880)

T 12 S, R 21 E, Section 17 NE $\frac{1}{4}$ NW $\frac{1}{4}$ (2.7 acres) (1880)

T 12 S, R 21 E, Section 17 NW $\frac{1}{4}$ NE $\frac{1}{4}$ (6 acres) (1880)

T 12 S, R 21 E, Section 8 SE $\frac{1}{4}$ SW $\frac{1}{4}$ (8.7 acres) (1882)

Number of acres, if for irrigation: 98.4 acres (43-1878; 46.7-1880; 8.7-1882)

Rate: 1.23 cfs from March 1 – June 15 (1/80 cfs per acre); 0.984 cfs from June 16 to October 1 (1/100 cfs per acre)

Duty: Not applicable

Season of Use: March 1-October 1

Point(s) of Diversion (POD): Ditch#2(1878 for 43 acres), NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 17, Township 12 South, Range 21 East, WM; Ditch#1 (west side){ 1880 for 46.7 acres and 1882 for 8.7 acres}, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 17, Township 12 South, Range 21 East, WM
Conditions or other limitations, if any: None

Water Right Identification No.: 13599

Source: Gable Creek, tributary of Thompson Creek, and from a permanent spring in the Gable Creek drainage

Priority date: 1905, May 1, 1908

Type of use: Irrigation, stock and domestic

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

T 12 S, R 21 E, Section 17 NW $\frac{1}{4}$ SW $\frac{1}{4}$ (3.2 acres) (1905)

T 12 S, R 21 E, Section 17 SE $\frac{1}{4}$ NW $\frac{1}{4}$ (0.6 acres) (May 1, 1908) (spring)

T 12 S, R 21 E, Section 17 NE $\frac{1}{4}$ SW $\frac{1}{4}$ (5.4 acres) (May 1, 1908) (spring)

T 12 S, R 21 E, Section 17 NE $\frac{1}{4}$ SW $\frac{1}{4}$ (2.0 acres) (1905)

Number of acres, if for irrigation: 11.2 acres (5.2-1905; 6.0-May 1, 1908),

Rate: 0.14 cfs from March 1 – June 15 (1/80 cfs per acre); 0.112 cfs from June 16 to October 1 (1/100 cfs per acre)

Duty: Not applicable

Season of Use: April 1-September 30

Point(s) of Diversion (POD): Gable Creek Ditch#3(1905 for 3.2 acres) – SE¼ SW¼, Section 17, Township 12 South, Range 21 East, WM; Ditch #1(permanent spring) (May 1, 1908 for 6.0 acres)

Conditions or other limitations, if any: None

Water Right Identification No.: 13560

Source: West Fork of Thompson Creek, tributary of Thompson Creek

Priority date: 1884

Type of use: Irrigation and stock

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

T 12 S, R 20 E, Section 13 NE ¼ SE ¼ (12.2 acres)

T 12 S, R 20 E, Section 13 NW ¼ SE ¼ (4.4 acres)

T 12 S, R 21 E, Section 18 NW ¼ SW ¼ (3.3 acres)

Number of acres, if for irrigation: 19.9 acres

Rate: 0.248 cfs from March 1 – June 15 (1/80 cfs per acre); 0.199 cfs from June 16 to October 1 (1/100 cfs per acre)

Duty: Not applicable

Season of Use: March 1-October 1

Point(s) of Diversion (POD): Payne Dove Specht Ditch heads in spring at head of Thompson Creek

Conditions or other limitations, if any: None

Water Right Identification No.: 44343

Source: East Fork and West Fork of Thompson Creek, tributaries of Thompson Creek

Priority date: 1898, 1897

Type of use: Irrigation and stock

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

T 12 S, R 21 E, Section 6 SW ¼ SE ¼ (4.6 acres) (1898)

T 12 S, R 21 E, Section 6 NW ¼ SE ¼ (2.2 acres) (1897)

T 12 S, R 21 E, Section 6 SW ¼ SE ¼ (7.8 acres) (1897)

Number of acres, if for irrigation: 14.6 acres

Rate: 0.182 cfs from March 1 to June 15; 0.146 cfs from June 16 to October 1

Duty: Not applicable

Season of Use: March 1-October 1

Point(s) of Diversion (POD): East Fork Thompson Creek—SE ¼ NE ¼, Section 25, T 12 S, R 20 E, W.M., 1750' S and 590' W from the NE Corner, Section 25; West Fork Thompson Creek—SW ¼ NE ¼, Section 25 T 12 S, R 20 E, W.M., 1440' S and 1500' W from the NE Corner, Section 25.

Conditions or other limitations, if any: None

Water Right Identification No.: 44565

Source: East Fork Thompson Creek, tributary of Gable Creek

Priority date: February 23, 1972

Type of use: Irrigation

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

T 12 S, R 21 E, Section 6 SE $\frac{1}{4}$ SW $\frac{1}{4}$ (34.1 acres)

T 12 S, R 21 E, Section 6 NW $\frac{1}{4}$ SE $\frac{1}{4}$ (13.9 acres)

T 12 S, R 21 E, Section 7 NE $\frac{1}{4}$ NW $\frac{1}{4}$ (16.0 acres)

Number of acres, if for irrigation: 64 acres

Rate: 0.56 cfs

Duty: 256 acre feet

Season of Use: March 1-October 1

Point(s) of Diversion (POD): SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 25, T 12 S, R 20 E, W.M., 1750' S and 590' W from the NE Corner, Section 25.

Conditions or other limitations, if any: None

Water Right Identification No.: 40414

Source: West Fork Thompson Creek, tributary of Thompson Creek

Priority date: 1882

Type of use: Irrigation and stock

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

T 12 S, R 20 E, Section 13 SE $\frac{1}{4}$ NE $\frac{1}{4}$ (10 acres)

T 12 S, R 21 E, Section 18 NW $\frac{1}{4}$ NW $\frac{1}{4}$ (6.5 acres)

T 12 S, R 21 E, Section 18 SW $\frac{1}{4}$ NW $\frac{1}{4}$ (24.4 acres)

Number of acres, if for irrigation: 40.9 acres

Rate: 0.51 cfs from March 1 to June 15; 0.409 from June 16 to October 1

Duty: Not applicable

Season of Use: March 1-October 1

Point(s) of Diversion (POD): Chitman-Howard Ditch

Conditions or other limitations, if any: None

Water Right Identification No.: 31119

Source: West Fork Thompson Creek, tributary of Table Creek (Bridge Creek)

Priority date: August 8, 1960

Type of use: Irrigation

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

T 12 S, R 21 E, Section 7 NW $\frac{1}{4}$ NE $\frac{1}{4}$ (20.2 acres)

T 12 S, R 21 E, Section 7 SW $\frac{1}{4}$ NE $\frac{1}{4}$ (1.7 acres)

T 12 S, R 21 E, Section 7 NE $\frac{1}{4}$ NW $\frac{1}{4}$ (18.8 acres)

T 12 S, R 21 E, Section 7 SE $\frac{1}{4}$ NW $\frac{1}{4}$ (9.3 acres)

Number of acres, if for irrigation: 50.0 acres

Rate: 0.51 cfs

Duty: 200 acre feet

Season of Use: March 1-October 1

Point(s) of Diversion (POD): SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 25, T 12 S, R 20 E, W.M., County of Wheeler

Conditions or other limitations, if any: None

1.5 **Validity of Rights.** Lessor #1 attests 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 agrees to lease a portion of 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 (select one):

provided by evidence contained in *Exhibit E*, such as a signed statement by lessee, or other party, explaining how the lease will benefit recreation, scenic attraction, aquatic and fish life, wildlife habitat and ecological values, pollution abatement, navigation or other public use.

2.2 **Instream use created by lease.** The instream use to be created is described as follows:

Water Right Identification No.: 13549

Source: Gable Creek, tributary of Thompson Creek

In the John Day Basin

Priority date: 1878, 1880, 1882

Type of use: Instream (described in Section 2.1, above)

Location of use: POD to mouth of Bridge Creek

Total volume: None

Rate: 1.23 cfs from March 1 – June 15; 0.984 cfs from June 16 to October 1

Period of Use: March 1-October 1

Conditions to prevent or mitigate injury, if any:

Original POD	Reach	Delivery loss	Month
RM 15	mouth of Bridge Creek	per mile	

1.23 cfs	1.05 cfs	1%/mile	Mar.-June 15
0.984 cfs	0.84 cfs	1%/mile	June 16-Oct 1

Water Right Identification No.: 13599

Source: Gable Creek, tributary of Thompson Creek, and from a permanent spring in the Gable Creek drainage

In the John Day Basin

Priority date: 1905, May 1, 1908

Type of use: Instream (described in Section 2.1, above)

Location of use: POD to mouth of Bridge Creek

Total volume: Not applicable

Rate: 0.14 cfs from March 1 - June 15, and 0.118cfs from June 16 to October 1.

Period of Use: April 1-September 30

Conditions to prevent or mitigate injury, if any:

Original POD	Reach	Delivery loss	Month
RM 16	mouth of Bridge Creek	per mile	
0.14 cfs	0.118 cfs	1%/mile	Mar.-June 15
0.112 cfs	0.096cfs	1%/mile	June 16-Oct 1

Water Right Identification No.: 13560

Source: West Fork of Thompson Creek, tributary of Thompson Creek

In the John Day Basin

Priority date: 1884

Type of use: Instream (described in Section 2.1, above)

Location of use: POD to mouth of Bridge Creek

Total volume: Not applicable

Rate: 0.248 cfs from March 1 - June 15, and 0.199 cfs from June 16 to October 1.

Period of Use: March 1-October 1

Conditions to prevent or mitigate injury, if any:

Original POD	Reach	Delivery loss	Month
RM 17	mouth of Bridge Creek	per mile	
0.248 cfs	0.206 cfs	1%/mile	Mar.-June 15.
0.199 cfs	0.165 cfs	1%/mile	June 16-Oct 1

Water Right Identification No.: 44343

Source: East Fork and West Fork of Thompson Creek, tributaries of Thompson Creek

In the John Day Basin

Priority date: 1898, 1897

Type of use: Instream (described in Section 2.1, above)

Location of use: POD to mouth of Bridge Creek

Total volume: Not applicable

Rate: 0.182 cfs from March 1 to June 15; 0.146 cfs from June 16 to October 1

Period of Use: March 1-October 1

Conditions to prevent or mitigate injury, if any:

Original POD	Reach	Delivery loss	Month
RM 16	mouth of Bridge Creek	per mile	
0.182 cfs	0.153 cfs	1%/mile	Mar.-June 15
0.146 cfs	0.123 cfs	1%/mile	June 16-Oct 1

Water Right Identification No.: 44565

Source: East Fork Thompson Creek, tributary of Thompson Creek

In the John Day Basin

Priority date: February 23, 1972

Type of use: Instream (described in Section 2.1, above)

Location: POD to mouth of Bridge Creek

Total volume: 256 acre feet

Rate: 0.56 cfs

Period of Use: March 1-October 1

Conditions to prevent or mitigate injury, if any: None.

Original POD	Reach	Delivery loss	Month
RM 16	mouth of Bridge Creek	per mile	
0.56 cfs	0.47 cfs	1%/mile	March 1-Oct. 1

Water Right Identification No.: 40414

Source: West Fork Thompson Creek, tributary of Thompson Creek

In the John Day Basin

Priority date: 1882

Type of use: Instream (described in Section 2.1, above)

Location: POD to mouth of Bridge Creek

Total volume: Not applicable

Rate: 0.51 cfs from March 1 to June 15; 0.409 from June 16 to October 1

Season of Use: March 1-October 1

Conditions to prevent or mitigate injury, if any:

Original POD	Reach	Delivery loss	Month
RM 17	mouth of Bridge Creek	per mile	
0.51 cfs	0.43 cfs	1%/mile	Mar.-June 15

0.409 cfs

0.339 cfs

1%/mile

June 16-Oct 1

Water Right Identification No.: 31119

Source: West Fork Thompson Creek, tributary of Thompson Creek

Priority date: August 8, 1960

Type of use: Instream (described in Section 2.1, above)

Location: POD to mouth of Bridge Creek

Total volume: 200 acre feet

Rate: 0.51 cfs

Period of Use: March 1-October 1

Conditions to prevent or mitigate injury, if any: The rate of the water right has been adjusted as follows to meet seasonal duty restrictions: The instream flow will be allocated on a daily average basis up to this rate from March 19 to October 1, or until such time that the total duty for the irrigation season is met.

Original POD	Reach	Delivery loss	Month
RM 16	mouth of Bridge Creek	per mile	
0.51 cfs	0.428 cfs	1%/mile	March 1-Oct 1

- 2.3 **Term of lease.** This Lease shall commence on April 1, 2001 (not before execution by the parties) and continue through October 1, 2001.
- 2.4 **Compensation.** Lessor has agreed to lease the water right 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.
- 2.6 **Loss.** If the actual loss rate is determined to be different than the 1% per mile listed in Section 2.2, then a finding indicating this change shall be made, and the actual loss rate shall be adjusted appropriately.

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 in place so that WRD staff may regulate use of water under the subject rights to ensure water is not diverted or applied on lands to which subject rights are attached. In addition, the landowner agrees not to divert water under the subject water rights during the period of the lease.
- 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

Watermaster: Vernon Church

District: # 21



Vernon Church

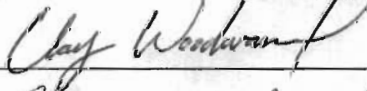
5-4-01

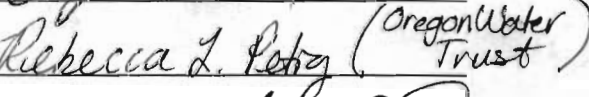
Date

Vernon Church
OWRD
P.O. Box 427
Condon, OR 97823
(541) 384-4207
(541) 384-2167

IV.

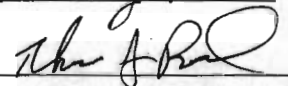
The Undersigned Lessor/s, Lessee and Trustee declare that, to the best of their knowledge and belief, the information contained in this lease is true, correct and complete.

Lessor: 

Lessee:  (Oregon Water Trust)

Date: 6/10/01

Date: 6/15/01

So ordered by Trustee: 

Director, Oregon Water Resources Department

Date: 6/25/2001

Exhibits:

Exhibit A: Proof of property ownership (copy of property deed)

- Exhibit B: Map of Lessor's property
- Exhibit C: Copies of all certificates, permits and decreed rights attached to property shown in Exhibit B
- Exhibit D: Detailed map illustrating lands irrigated by subject rights
- Exhibit E: Identification of public use to be served by instream use