

Lease Agreement Number (assigned by WRD): S-1

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

**Short-Term Water Right Lease Agreement
Pursuant to ORS 537.348(2) and OAR 690-077-0077
for
Leases of Existing Water Rights for Instream Use**

This Lease Agreement is between:

Lessor #1:

(Name) J-Diamond L-5 Trust, Lawrence and Sharon Martin, Trustees
(Mailing address) P.O. Box 870
(City, State, Zip Code) Rogue River, OR 97537
(Telephone number) (541) 582-3620

Lessor#2, 3, etc.

The water right to be leased is located in Jackson County

Lessee (if different than Oregon Water Resources Department):

(Name) Oregon Water Trust
(Mailing address) 525 SW Fifth Avenue, Suite 825
(City, State, Zip Code) Portland, OR 97204
(Telephone number) (503) 525-0141

Trustee:

Oregon Water Resources Department
158 12th Street NE
Salem OR 97301
(503) 378-8455

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1.1 Lessor #1 is the owner, or authorized agent for owner of property located at: Township 35 S, Range 4 W, Section 15 and Tax Lot number 400. If the water right appurtenant to these lands is also appurtenant to lands owned by others, then Attachment 1, (tax lot map of lessor's property) needs to be included.

1.2 Lessor #2 is the (Check one):

Not applicable
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- Official representative of _____, the irrigation district which conveys water to the subject water rights.
- Another party with an interest in the subject water rights representing _____.

1.3 For the lands being leased, list all water rights appurtenant to the lessor's property. Indicate if there are any supplemental or overlying rights.

Certificate No. 57576, 57709, 57577, 56490, 56489

1.4 Subject Water Rights. Lessor proposes to lease the water rights listed in 1.3. The right(s) to be leased are further described as follows:

Certificate No.: 57576

Priority date: 1902 Type of use: Stock and Irrigation

Legal Season of Use (if not listed on the certificate): April 1 to October 31

Is the entire water right certificate being leased?: Yes No

If no, list the acres to be leased by legal description of township, range, section, and 1/4 1/4 which will be dried up as part of this lease, and include a map (Attachment 2) showing the lands which will not receive water.

Place of use: T ___, R ___, Section __, ___ 1/4 ___ 1/4 - _____ acres to be leased

Enter additional places of use here, using format above:

Page ___ (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres, if for irrigation: 14.3

Acre-feet of storage, if applicable: na

Rate associated with leased rights (cfs): 0.24

(Use additional lines if there is more than one rate associated with the water right.)

Duty associated with leased rights (AF): None

(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any: The right is limited to not more than 0.24 cfs, if available at the original point of diversion, Vroman Ditch, T 35 S, R 4 W, Section 11, SE 1/4 NE 1/4.

If you need to enter another leased right, please use the additional water rights form.

1.5 Validity of Rights. Lessor(s) 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 as an instream water right or
- the water has not been used over the past five years according to the terms and conditions of the owner's water right certificate, however the water right is not subject to forfeiture under ORS 540.610(2)()(include necessary supporting documentation as Attachment 3).

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2.1 Public Use. This lease will increase streamflows which will benefit:

- Conservation, maintenance and enhancement of aquatic and fish life, wildlife, and fish and wildlife habitat
- Pollution abatement
- Recreation and scenic attraction

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

Evans Creek
Tributary to Rogue River in the Rogue Basin.

Describe the point of diversion and any associated reach(es) of the instream use being created. If possible list the reach by river mile, if no reach is identified, the lease will be processed to be protected at the point of diversion): The point of diversion is located in the SE 1/4 of NW 1/4, Section 15, T 35 S, R 4 W, WM; 1650 feet South and 500 feet West from the North 1/4 corner, Section 15. The instream lease is proposed to be protected at the point of diversion.

Total volume in acre-feet: 39.46

Rate in cfs: 0.24

Allowed period of use: August 1 through October 31

(Use the section below to indicate a more restrictive period of use than allowed by the water right.)

Conditions to prevent injury, if any:

- None
- The instream flow will be allocated on a daily average basis up to the described rate from August 1 through October 23rd.
- Other (describe): The lease will comply with the measurement and reporting requirements for split season instream leasing to ensure the rate and applied duty are not exceeded.

If you need to enter more instream uses, please use the additional water rights form.

2.3 Term of lease. This lease shall terminate on October 31, 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 Termination provision.

- For multiyear leases, lessor *shall* have the option of terminating the lease each year, prior to the lease being exercised, with 30 day written notice to the Department.
- For multiyear leases, lessor *shall not* have the option of terminating the lease each year, prior to the lease being exercised, with written notice to the Department.

3.1 **Accuracy.** 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. If after the lease is signed, any information is determined to be false, the lease may be modified or terminated. This lease only exercises the water rights being leased; for the term of the lease; it shall not be construed to overcome any claim that the water right may otherwise be subject to forfeiture for nonuse pursuant to ORS 540.610 during the period of time prior to the execution of the lease.

3.2 **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 690-077-0077.

3.3 **Precedent.** If a right which has been leased is later proposed to be leased again or transferred to an instream use under ORS 537.348 and OAR 690-077- 0070 or OAR 690-077-0075 a new injury review shall be required, and a prior short term lease shall not set a precedent for the amount of water to be leased or transferred instream.

3.4 **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. In the event that a supplemental water right is not part of this lease, it may be subject to forfeiture.

Lessor #1: *Sharon J. Martin TTEE* Date: *5-28-02*

For additional Lessors, type in space for signature and date

Date: _____

Lessee: *Steven Parrett* Date: *May 22, 2002*
For OWT

3.5 Allocation of water to the 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. If injury is found after this lease is signed, the lease may be modified or terminated to prevent injury.

So ordered by Trustee: *[Signature]* Date: *July 2, 2002*

Effective date is _____ (if later than the date of the Trustee's signature).

Other Attachments As Needed:

Attachment 1: Tax Lot Map of Lessor's Property (required if landowner is not the sole landowner to lands for which the subject water rights are appurtenant)

Attachment 2: Detailed map illustrating lands under subject rights to be leased (required if only part of a right is being leased instream).

Attachment 3: Supporting documentation indicating why a right is valid and not subject to forfeiture even though the right has not been exercised for five or more consecutive years (required if the second box in Section 1.5 is checked)

dm

Attachment 4: Split Season Instream Use Form

Additional Information

Section 1.4, (Standard Leasing Form) cont.

Subject Water Rights. Lessor proposes to lease the water rights listed in 1.3.

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

Certificate No.: 57709

Priority date: 1902 Type of use: Stock and Irrigation

Legal Season of Use (if not listed on the certificate): April 1 to October 31

Is the entire water right certificate being leased?: Yes No

If no, list the acres to be leased by legal description of township, range, section, and 1/4 1/4 which will be dried up as part of this lease, and include a map (Attachment 3) showing the lands which will not receive water.

Place of use: T __, R __, Section __, 1/4 1/4 - ____ acres to be leased

Enter additional places of use here, using format above:

Page __ (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres, if for irrigation: 3.4

Acre-feet of storage, if applicable: na

Rate associated with leased rights (cfs): 0.058

(Use additional lines if there is more than one rate associated with the water right.)

Duty associated with leased rights (AF): None

(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any: The right is limited to not more than 0.058 cfs, if available at the original point of diversion, Vroman Ditch, T 35 S, R 4 W, Section 11, SE 1/4 NE 1/4.

Section 2.2, cont.

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

Evans Creek

Tributary to Rogue River in the Rogue Basin.

Describe the point of diversion and any associated reach(es) of the instream use being created. If possible list the reach by river mile, if no reach is identified, the lease will be processed to be protected at the point of diversion): The point of diversion is located in the SE 1/4 of the NW 1/4, Section 15, T 35 S, R 4 W, WM; 1650 feet South and 500 feet West from the North 1/4 corner, Section 15. The instream lease is proposed to be protected at the point of diversion.

Total volume in acre-feet: 9.38

Rate in cfs: 0.058 Allowed period of use: August 1 through October 31

Conditions to prevent injury, if any:

None

The instream flow will be allocated on a daily average basis up to the described rate from August 1 until October 22.

LM

Additional Information

Other (describe): The lease will comply with the measurement and reporting requirements for split-season instream leasing to ensure the rate and applied duty are not exceeded.

dm

Additional Information

Section 1.4, (Standard Leasing Form) cont.

Subject Water Rights. Lessor proposes to lease the water rights listed in 1.3.

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

Certificate No.: 57577

Priority date: 1902 Type of use: Stock and Irrigation

Legal Season of Use (if not listed on the certificate): April 1 to October 31

Is the entire water right certificate being leased?: Yes No

If no, list the acres to be leased by legal description of township, range, section, and 1/4 1/4 which will be dried up as part of this lease, and include a map (Attachment 3) showing the lands which will not receive water.

Place of use: T __, R __, Section __, __ 1/4 __ 1/4 - ____ acres to be leased

Enter additional places of use here, using format above:

Page ____ (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres, if for irrigation: 1.9

Acre-feet of storage, if applicable: na

Rate associated with leased rights (cfs): 0.032

(Use additional lines if there is more than one rate associated with the water right.)

Duty associated with leased rights (AF): None

(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any: The right is limited to not more than 0.032 cfs, if available at the original point of diversion, Vroman Ditch, T 35 S, R 4 W, Section 11, SE 1/4 NE 1/4.

Section 2.2, cont.

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

Evans Creek

Tributary to Rogue River in the Rogue Basin.

Describe the point of diversion and any associated reach(es) of the instream use being created. If possible list the reach by river mile, if no reach is identified, the lease will be processed to be protected at the point of diversion): The point of diversion is located in the SE 1/4 of NW 1/4, Section 15, T 35 S, R 4 W, WM; 1650 feet South and 500 feet West from the North 1/4 corner, Section 15. The instream lease is proposed to be protected at the point of diversion.

Total volume in acre-feet: 5.24

Rate in cfs: 0.032 Allowed period of use: August 1 through October 31

Conditions to prevent injury, if any:

None

The instream flow will be allocated on a daily average basis up to the described rate from August 1 until October 22.

Additional Information

- Other (describe): The lease will comply with the measurement and reporting requirements for split-season instream leasing to ensure the rate and applied duty are not exceeded.

dm

Additional Information

Section 1.4, (Standard Leasing Form) cont.

Subject Water Rights. Lessor proposes to lease the water rights listed in 1.3. The right(s) to be leased are further described as follows:

Certificate No.: 56490

Priority date: 1902 Type of use: Domestic, stock and Irrigation

Legal Season of Use (if not listed on the certificate): April 1 to October 31

Is the entire water right certificate being leased?: Yes No

If no, list the acres to be leased by legal description of township, range, section, and ¼ ¼ which will be dried up as part of this lease, and include a map (Attachment 3) showing the lands which will not receive water.

Place of use: T __, R __, Section __, ¼ ¼ - ____ acres to be leased

Enter additional places of use here, using format above:

Page __ (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres, if for irrigation: 54.0

Acre-feet of storage, if applicable: na

Rate associated with leased rights (cfs): 0.90

(Use additional lines if there is more than one rate associated with the water right.)

Duty associated with leased rights (AF): None

(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any: None

Section 2.2, cont.

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

Evans Creek

Tributary to Rogue River in the Rogue Basin.

Describe the point of diversion and any associated reach(es) of the instream use being created. If possible list the reach by river mile, if no reach is identified, the lease will be processed to be protected at the point of diversion): The point of diversion is located in the SE 1/4 of NW 1/4, Section 15, T 35 S, R 4 W, WM; 1650 feet South and 500 feet West from the North 1/4 corner, Section 15. The instream lease is proposed to be protected at the point of diversion.

Total volume in acre-feet: 149.04

Rate in cfs: 0.90 Allowed period of use: August 1 through October 31

Conditions to prevent injury, if any:

None

The instream flow will be allocated on a daily average basis up to the described rate from August 1 until October 22.

Other (describe): The lease will comply with the measurement and reporting requirements for split season instream leasing to ensure the rate and applied duty are not exceeded.

Additional Information

Section 1.4, (Standard Leasing Form) cont.

Subject Water Rights. Lessor proposes to lease the water rights listed in 1.3.

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

Certificate No.: 56489

Priority date: 1902 Type of use: Stock and Irrigation

Legal Season of Use (if not listed on the certificate): April 1 to October 31

Is the entire water right certificate being leased?: Yes No

If no, list the acres to be leased by legal description of township, range, section, and 1/4 1/4 which will be dried up as part of this lease, and include a map (Attachment 3) showing the lands which will not receive water.

Place of use: T __, R __, Section __, 1/4 1/4 - ____ acres to be leased

Enter additional places of use here, using format above:

Page __ (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres, if for irrigation: 5.5

Acre-feet of storage, if applicable: na

Rate associated with leased rights (cfs): 0.09

(Use additional lines if there is more than one rate associated with the water right.)

Duty associated with leased rights (AF): None

(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any: The right is limited to no more than 0.09 cfs, if available at the original point of diversion, Vroman Ditch, T 35 S, R 4 W, Section 11, SE 1/4 NE 1/4.

Section 2.2, cont.

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

Evans Creek

Tributary to Rogue River in the Rogue Basin.

Describe the point of diversion and any associated reach(es) of the instream use being created. If possible list the reach by river mile, if no reach is identified, the lease will be processed to be protected at the point of diversion): The point of diversion is located in the SE 1/4 of NW 1/4, Section 15, T 35 S, R 4 W, WM; 1650 feet South and 500 feet West from the North 1/4 corner, Section 15. The instream lease is proposed to be protected at the point of diversion.

Total volume in acre-feet: 15.18

Rate in cfs: 0.09 Allowed period of use: August 1 through October 31

Conditions to prevent injury, if any:

None

The instream flow will be allocated on a daily average basis up to the described rate from August 1 until October 22.

km

Additional Information

Other (describe): The lease will comply with the measurement and reporting requirements for split-season instream leasing to ensure the rate and applied duty are not exceeded.

lm

**Attachment 4 (Standard Leasing Form). Split Season Instream Use Form
Attachment 5-D (Pooled Leasing Form)**

The standard instream water right form pursuant to ORS 537.348(2) and OAR 690-077-0077 must also be filled out before a Split Season Use Instream Lease Application can be processed.

Note: The terms of all split season use leases are limited to one year, with renewability. Split season use lease applications must be submitted to the Department two weeks prior to water being used either for the existing purpose or for the proposed instream purpose. (OAR 690-077-0079)

1. Existing and Instream Use Periods

For the water right being leased instream, as described in Section 1.4, include monthly or partial season rate or duty limitations, if appropriate.

This section replaces the “Total volume, Rate in cfs, and Allowed period of use” portions of Section 2.2 on the standard instream leasing form.

The water right will be used for its existing purpose from June 10 to July 31.

The water right will be used for instream use period is from August 1 to October 22.

	Rate (cfs)		Conversion Factor 1 cfs = 1.983471 ac-ft/day		Number of days		Duty (ac-ft)
Existing Use	1.32	*	1.983471	*	52.00	=	136.14
use if needed		*	1.983471	*		=	0.00
use if needed		*	1.983471	*		=	0.00
Instream Use	1.32	*	1.983471	*	83	=	217.30
use if needed		*	1.983471	*		=	0.00
use if needed		*	1.983471	*		=	0.00
Total	n/a		n/a		n/a		353.89

2. Measurement and Reporting

The water right lessor or lessee shall contact the watermaster to determine the necessary measurement and reporting requirements associated with leasing a water right.

The holders of the water rights shall measure and report the use of the existing water right and instream water right to the satisfaction of the Director, or provide for third party measurement and reporting to the satisfaction of the Director. Pursuant to ORS 537.332(3), the Department holds instream water rights in trust for the benefit of the people of the State of Oregon.

(a) Location(s) and type(s) of measuring device(s): The measuring device will be an inline flow totalizer placed at the junction between the first and second lengths of irrigation pipe near the pump

(b) Frequency of measurement: Measurement will be recorded daily.

(c) Parties responsible for the respective measurements: The Lessor will be responsible for the respective measurements.