

Lease Agreement Number 214

**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:**

Kristen Crocker, Kate Kelley and Nancy Eriksen; Authorized Agent Steven P. Applegate  
725 S. 57<sup>th</sup> Street  
Independence, OR. 97351  
541-726-8824

The water right to be leased is located in POLK County

**Trustee:**

Oregon Water Resources Department  
158 12th Street. NE  
Salem OR 97310  
(503) 378-8455

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- 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. 10645
- 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.:10645

Source: Luckiamute River  
Priority date: September 19, 1928  
Type of use: Irrigation  
Place of use (map of irrigated lands is in Exhibit D):  
    10 acres in the NE 1/4, SW 1/4  
    10 acres in the SW 1/4, SW 1/4  
    40 acres in the SE 1/4, SW 1/4  
        Section 20  
    40 acres in the NE 1/4, NW 1/4  
    20 acres in the NW 1/4, NW 1/4  
        Section 29  
Township 9 South, Range 4 West, W.M.

Number of acres, if for irrigation: 120 Acres  
Rate: 1.50 cfs  
Duty: 300.0 acre feet  
Season of Use: March 1 Through October 31  
Point(s) of Diversion (POD): NE 1/4, SW 1/4 section 20, NW 1/4, NW 1/4 section 29,  
Township 9S, 4W, W.M.

Conditions or other limitations, if any: None

**1.5 Validity of Rights.** Lessor #1 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(2)(d), and OAR Chapter 690 Division 017 Section 0800 ( which pertains to economic hardship ). Also for further explanation, refer to letter written on June 12, 2001 by Martha Pagel, from Schwabe, Williamson & Wyatt attorneys at law, file # 108298-123956

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 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.

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):

- Mitigation of a deficiency in the water supply for existing instream water right or minimum streamflow located \_\_\_\_\_.
- Mitigation of a deficiency in water supply identified in an application for an instream water right or needed in the State Scenic Waterway flow located \_\_\_\_\_.
- A specific use or need identified by DEQ, Parks or ODFW and further described in Exhibit E.
- 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.: 10645

Luckiamute River, tributary Willamette River in the Middle Willamette Drainage Basin

Location:

10 acres in the NE 1/4, SW 1/4

10 acres in the SW 1/4, SW 1/4

40 acres in the SE 1/4, SW 1/4

Section 20

40 acres in the NE 1/4, NW 1/4

20 acres in the NW 1/4, NW 1/4

Section 29

Township 9 South, Range 4 West, W.M.

Priority date: September 19, 1928

Use: Irrigation

Total volume: 300.0 acre feet

Rate in cfs: 1.5 cfs

Period of use: March 1<sup>st</sup> Through October 31<sup>st</sup>

Protected Reach: POD to Davison Bridge on Corvallis Road T. 9 S, R. 4 W Section 28.

Conditions to prevent or mitigate injury, if any:

2.3 **Term of lease.** This Lease shall commence on March 1, 2001 (not before execution by the parties) and continue through October 31, 2001.

- 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.

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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:

William Ferber  
District: #16 Watermaster  
Oregon Water Resources Department  
158 12<sup>th</sup> Street NE  
Salem, Or. 97310  
503-378-8455 Ext #: 375

District: 16 Watermaster: William Ferber Date: 8.1.2007

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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: *Anna Cappiagata* Date: *July 31, 2001....*

So ordered by Trustee: *Thomas J. [Signature]* Date: *7/31/01*

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