



State of Oregon  
**Water Resources Department**  
 158 12th Street NE  
 Salem, OR 97310  
 (503)378-8455

# 124

# Short Term Water Right Lease Agreement

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WATER RESOURCES DEPT  
 SALEM, OREGON

## For Leases of Existing Water Rights for Instream Use

*Please type or print in dark ink. If your application is found to be incomplete or inaccurate, we will return it to you. If any requested information does not apply to your application, insert "n/a". If you need additional space to answer any of the questions, attach a separate sheet of writing paper and reference the section number and question.*

### 1. APPLICATION INFORMATION

This Lease Agreement is between:

**Lessor #1:**

Eagle Crest Inc.  
 PO Box 1215  
 Redmond OR 97756

**Lessor #2,3,etc:**

n/a

The water right to be leased is located in Deschutes (County)

**Lessee:**

Swalley Irrigation District  
 PO Box 5126  
 Bend OR 97708-5126

**Trustee:**

Oregon Water Resources Department  
 158 12th Street NE  
 Salem OR 97310  
 503-378-3739

### SECTION I

**1.1** Lessor #1 is the owner, or authorized agent for owner (Exhibit A), of property highlighted in Exhibit B.

**1.2** Lessor #2 is the (check one) [If Agreement includes multiple lessors, complete same for each additional party.]:

- Official representative of \_\_\_\_\_, the irrigation district which conveys water to the subject water rights.
- Owner, or authorized agent for owner, of the storage facility which is the source of the subject water rights.
- Another party with an interest in the subject water rights representing.

**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 [Use additional sheet, if necessary]:

Certificate No. 74145 Permit No. \_\_\_\_\_  
Certificate No. \_\_\_\_\_ Permit No. \_\_\_\_\_  
Page No. \_\_\_\_\_ Decree \_\_\_\_\_  
Page No. \_\_\_\_\_ Decree \_\_\_\_\_

**1.4 Subject Water Rights.** Lessor proposes to lease all/a portion of the water rights listed in 1.3, above.

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

Certificate / Permit No.: 74145

Priority date: September 1, 1899 Type of Use: Irrigation

Place of Use:

(If original use is irrigation, include map of irrigated lands in Exhibit D.)

Number of acres, (if for irrigation): 21

Acre-feet of storage: 0.0

Rate: Season #1 0.142 Duty: 115.27 AF  
Season #2 0.190  
Season #3 0.352

Season of Use: April 1 - October 31

Point(s) of Diversion (POD):

a) Certificate No. 74145 Diversion point #15 - proposed site -

NW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 14, T15S, R12E, W.M.: 2170 feet North and 1350 feet West from the SE corner of Section 14.

b) Final Proof: 1719.36 feet North and 732.22 feet East from the south one-quarter corner of Section 14, Township 15 South, Range 12 East, W.M.

Conditions or other limitations, if any: \_\_\_\_\_

**1.5 Validity of Rights.** Lessor #1 attests that the subject water rights are legally valid by having been beneficially used according to the terms of the rights 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 690-77-0077.

**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.

## SECTION 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):

- Mitigation of a deficiency in the water supply for an existing instream water right or minimum streamflow located \_\_\_\_\_.

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- Mitigation of a deficiency in water supply identified in an application for an in-stream water right or Diack 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:

Deschutes River/Creek,

Tributary to Columbia River in the Deschutes Basin.

Location: From river mile 146, downstream to river mile 120 (Lake Billy Chinook).  
[Identify applicable points or reaches of instream use by river mile, description or map.]

Priority date: September 1, 1899

Use: Described in Section 2.1, above

Total volume: 115.27

Rate in cfs: Season #1 0.142  
 Season #2 0.190  
 Season #3 0.352

Period of use: April 1 to October 31

Conditions to prevent or mitigate injury, if any: \_\_\_\_\_

**2.3 Term of lease.** This Lease shall commence on March 13, 2000  
(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, 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.

Optional Provisions

**2.6 Additional monitoring.** Lessor/Lessee intends to manage and participate in the protection of the instream use by: (Describe plans)

\_\_\_\_\_  
\_\_\_\_\_

**2.7 Modification or termination provisions.** (Describe any such provisions)

\_\_\_\_\_  
\_\_\_\_\_

SECTION III

- 3.0 Watermaster review.** By signature below, the Watermaster for the district where the subject water right is located verifies that:
- 3.1** Lessor #1 is currently entitled to appropriate water under the water rights described in Section 1.4.
- 3.2** Suitable control is/will be in place so the 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: (Describe, if any)

Watermaster: *Tyle Brown*  
District #11 South Central Region  
(Address & telephone) 1340 NW Wall, Suite 100, Bend OR 97701-1939  
541-388-6669  
Date: 3-13-00

SECTION 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 #1: *Jevel E Andrus* Date: 3-10-00  
Lessor #2: \_\_\_\_\_ Date: \_\_\_\_\_  
→ Lessee: *Todd A CA* Date: 3-14-00  
So ordered by Trustee: *Richard [Signature]* Date: 5-10-2000

Please include the following exhibits:

A. Copy of Property Deed/Power of Attorney Documentation (if needed)	Etc: Information related to Optional Provisions, such as Additional Monitoring or Modification or Termination of lease
B. Tax Lot Map of Lessor's property	
C. Copies of certificates, permits and decreed rights to be leased	Other Exhibit as Needed: _____ _____
D. Detailed map illustrating lands under subject rights to be leased	
E. Identification of public use to be served by instream use	