

Lease Agreement Number: 216

**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:

Richard E. Neal
4820 Davis Cutoff Road
The Dalles, OR 97058
(541) 296-4940

The water rights to be leased are located in Wasco 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 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.: 5136 and a portion of Certificate Nos. 3506 and 5645.

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

The rights to be leased are further described as follows:

Water Right Certificate No.: 5136

Source: Springs and Eightmile Creek, tributary of Fifteenmile Creek

Priority date: December 29, 1921

Type of use: Irrigation

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

T 1 N, R 14 E, W.M., Section 29, SE ¼ SE ¼ - 3 acres

T 1 N, R 14 E, W.M., Section 28, SW ¼, SW ¼ - 1.3 acres

T 1 N, R 14 E, W.M., Section 32, NE ¼, NE ¼ - 0.850 acres

T 1 N, R 14 E, W.M., Section 32, NW ¼, NE ¼ - 0.5 acres

Number of acres, if for irrigation: 5.65 acres

Rate: 0.08 cfs

Duty: 16.95 acre-ft. (3 acre-ft./acre)

Season of use: Irrigation season of each year.

Conditions or other limitations, if any: None

A Portion of Water Right Certificate No.: 3506

Source: Two springs, tributary of Eightmile Creek

Priority date: March 9, 1920

Type of use: Supplemental Irrigation and Domestic

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

T 1 N, R 14 E, W.M., Section 28, NE ¼ SW ¼ - 3.47 acres

T 1 N, R 14 E, W.M., Section 28, NW ¼ SW ¼ - 4.57 acres (0.45 of which are included in the lease)

Number of acres, if for irrigation: 8.04 acres (3.92 of which are included in the lease)

Rate: 0.21 cfs (0.10 of which is included in the lease)

Duty: 24.13 acre-ft. (3 acre-ft./acre) (11.76 of which are included in the lease)

Season of use: Irrigation season of each year

Conditions or other limitations, if any: None

A Portion of Water Right Certificate No.: 5645

Source: Two springs and Eightmile Creek, tributary of Fifteenmile Creek

Priority date: 1885

Type of use: Irrigation

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

T 1 N, R 14 E, W.M., Section 28, NE ¼ SW ¼ - 12.8 acres

T 1 N, R 14 E, W.M., Section 28, NW ¼ SW ¼ - 6.4 acres (2.18 of which are included in the lease)

Number of acres, if for irrigation: 19.2 acres (14.98 of which are included in this lease)

Rate: 0.24 cfs (0.19 of which are included in this lease)

Duty: 57.6 ac-ft (3 acre-ft./acre) (44.9 of which are included in this lease)

Season of use: Irrigation season of each year

Conditions or other limitations, if any: None

- 1.5 **Validity of Rights.** Lessor 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.
- 1.6 **Lease.** Lessor 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.
- 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.

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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 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. 5136

Springs and Eightmile Creek, tributary of Fifteenmile Creek, in the Hood Basin.

Location: POD to mouth of Eightmile Creek

Priority date: December 29, 1921

Use: Described in Section 2.1, above

Total volume: 10.17 acre-ft .

Rate: 0.048 cfs

Period of use: Irrigation season of each year

Conditions to prevent or mitigate injury, if any: The instream flow will be allocated on a daily average basis up to the described rate from June 15 to September 28, or until such time that the total duty for the irrigation season is met. Both the rate and duty have been reduced by 20% from the certificated right (see 1.4, above) to reflect that approximately 20% of the irrigation right is met from use of springs on the property. In addition, the rate and duty have been reduced by an additional 25% to account for possible return flows and losses between the POD and the mouth of Eightmile Creek.

Certificate No. 5645

Two springs and Eightmile Creek, tributary of Fifteenmile Creek in the Hood Basin.

Location: POD to mouth of Eightmile Creek

Priority date: 1885

Use: Described in Section 2.1, above

Total volume: 29.64 acre-ft.

Rate: 0.11 cfs

Period of use: Irrigation season of each year

Conditions to prevent or mitigate injury, if any: The instream flow will be allocated on a daily average basis up to the described rate from June 1 to September 28, or until such time that the total duty for the irrigation season is met. Both the rate and duty have been reduced by 20% from the certificated right (see 1.4, above) to reflect that approximately 20% of the irrigation right is met from use of springs on the property. In addition, the rate and duty have been reduced by an additional 25% to account for possible return flows and losses between the POD and the mouth of Eightmile Creek.

- 2.3 Term of lease.** This Lease shall commence on April 1, 2001 (not before execution by the parties) and continue through October 31, 2002.
- 2.4 Compensation.** The Lessor has agreed to lease subject water right for cash, 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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- 3.0 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: If the actual return flow and/or loss rate is determined to be different from the estimated return flow and/or loss rate (25%)

set out as a condition to the instream right under section 2.2, then the loss rate shall be adjusted appropriately.

Watermaster: Larry Toll

District: 3


Larry Toll

Larry Toll
421 E. 7th St.
Courthouse Annex B, Rm. 218
The Dalles, OR 97058
(541) 298-4110 – Phone
(541) 298-2459 – Fax

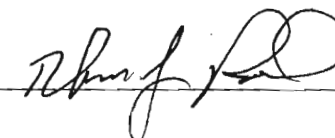
Date: 9/21/01

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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 Neal Date: 9-20-01

Lessee: Edward Ayres (For Oregon WATER TRUST) Date: 09-06-01

So ordered by Trustee:  Date: 9-27-01

Exhibits:

- Exhibit A: Proof of property ownership
- 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