

Lease Agreement Number: 226

**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:**

Larry and Sheila Winn  
500 Martin Road  
Cave Junction, OR 97523  
(541) 592-4966

The water right to be leased is located in Josephine 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 12<sup>th</sup> 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. 2728, 6113, 19989, 57716 and Water Right evidenced by T-3591
- 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 No.: 2728

Priority date: 1900

Source: Althouse Creek, Tributary to Illinois River

Type of use: Irrigation

Place of use:

T 39 S, R 8 W, Sec 27, SE ¼ SE ¼, WM (5.0 acres)

T 39 S, R 8 W, Sec 27, SW ¼ SE ¼, WM (20.0 acres)

T 39 S, R 8 W, Sec 34, NE ¼ NE ¼, WM (5.0 acres)

T 39 S, R 8 W, Sec 34, NW ¼ NE ¼, WM (10.0 acres)

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

Number of acres, if for irrigation: 40.0 acres

Rate: 0.8 cfs

Duty: Not applicable

Season of Use: April 1 to November 1

Point(s) of Diversion (POD): Calvert Ditch – 1660 feet N. and 510 feet W. from S ¼ corner of Section 35, T 39 S, R 8 W, W.M.

Conditions or other limitations, if any: None

Certificate No.: 6113

Priority date: February 20, 1920

Source: Althouse Creek, Tributary of E. Fork Illinois River

Type of use: Irrigation

Place of use:

T 39 S, R 8 W, Sec. 34, NE ¼ NW ¼ (36.0 acres) (20 of which are included in the lease)

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

Number of acres, if for irrigation: 36.0 acres (20 of which are included in the lease)

Rate: 0.45 cfs (.25 of which are included in the lease)

Duty: Not applicable

Season of Use: April 1 to November 1

Point(s) of Diversion (POD): Commencing at the SW Corner of Sec. 36, thence W 161 rods, thence N. 135 rods, being within the NE 1.4 SW 1.4 of Sec. 35, T 39 S, R 8 W, W.M.

Conditions or other limitations, if any: None

Certificate No.: 19989

Priority date: September 19, 1947

Source: East Fork Illinois River, Tributary to Illinois River

Type of use: Irrigation and supplemental irrigation

Place of use:

T 39 S, R 8 W, Sec. 27 SW ¼ SE ¼ (5.0 acres) (primary)

T 39 S, R 8 W, Sec. 27 SE ¼ SE ¼ (10.0 acres) (primary)

T 39 S, R 8 W, Sec. 34 NE ¼ NE ¼ (15.0 acres) (primary)

T 39 S, R 8 W, Sec. 27 SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  (20.0 acres) (supplemental)  
 T 39 S, R 8 W, Sec. 27 SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  (5.0 acres) (supplemental)  
 T 39 S, R 8 W, Sec. 34 NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  (5.0 acres) (supplemental)  
 T 39 S, R 8 W, Sec. 34 NW  $\frac{1}{4}$  NE  $\frac{1}{4}$  (10.0 acres) (supplemental)

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

Number of acres, if for irrigation: 30.0 acres (primary), 40.0 acres (supplemental)

Rate: 0.6 cfs (primary); 0.8 cfs (supplemental)

Duty: Not applicable

Season of Use: April 1 to November 1

Point(s) of Diversion (POD): NW  $\frac{1}{4}$  SW  $\frac{1}{4}$ , Sec. 35, T 39 S, R 8 W, WM.

Conditions or other limitations, if any: None

Certificate No.: 57716

Priority date: March 5, 1912

Source: The Junction of Illinois River, Sucker Creek, and Althouse Creek, tributaries to Rogue River

Type of use: Irrigation

Place of use:

T 39 S, R 8 W, Sec. 27 SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  W.M. (7.0 acres) (4.0 of which are included in the lease)

T 39 S, R 8 W, Sec. 27 NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  W.M. (39.0 acres) (39.0 of which are included) *AS*

T 39 S, R 8 W, Sec. 27 NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  W.M. (14.0 acres) (3.0 of which are included in the lease)

T 39 S, R 8 W, Sec. 27 SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  W.M. (18.0 acres) (16.2 of which are included in the lease)

T 39 S, R 8 W, Sec. 27 SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  W.M. (40.0 acres) (37.0 of which are included in the lease)

T 39 S, R 8 W, Sec. 27 NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  W.M. (28.0 acres) (25.0 of which are included in the lease)

T 39 S, R 8 W, Sec. 28 SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  W.M. (26.0 acres) (0 of which are included in the lease)

T 39 S, R 8 W, Sec. 28 SE  $\frac{1}{4}$  NE  $\frac{1}{4}$  W.M. (25.0 acres) (0 of which are included in the lease)

T 39 S, R 8 W, Sec. 28 NE  $\frac{1}{4}$  SE  $\frac{1}{4}$  W.M. (33.0 acres) (0 of which are included in the lease)

T 39 S, R 8 W, Sec. 28 SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  W.M. (16.0 acres) (0 of which are included in the lease)

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

Number of acres, if for irrigation: 246.0 acres (124.2 of which are included in the lease)

Rate: 3.08 cfs (1.55 of which are included in the lease)

Duty: Not applicable

Season of Use: April 1 to November 1

Point(s) of Diversion (POD): NE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , Section 35, T 39 S, R 8 W, W.M.

Conditions or other limitations, if any: None

Water Right evidenced by T-3591

Priority date: March 5, 1912

Source: Waters from the junction of the East Fork Illinois River, Sucker Creek, and Althouse Creek

Type of use: Irrigation

Place of use:

T 39 S, R 8 W, Sec 27, NE ¼ SE ¼, WM (1.0 acres)

T 39 S, R 8 W, Sec 27, SW ¼ SE ¼, WM (15.0 acres)

T 39 S, R 8 W, Sec 34, NW ¼ NE ¼, WM (26.0 acres)

T 39 S, R 8 W, Sec 34, NE ¼ NE ¼, WM (5.0 acres)

T 39 S, R 8 W, Sec 34, SE ¼ NW ¼, WM (7.0 acres)

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

Number of acres, if for irrigation: 54.0 acres

Rate: 0.68 cfs

Duty: Not applicable

Season of Use: April 1 to November 1

Point(s) of Diversion (POD): 1122 ft. S and 1716 ft. E from the W ¼ corner of Section 35 being within the NE ¼ SW ¼ of Section 35, T 39 S, R 8 W W.M. in the county of Josephine. The name of the ditch used is Calvert-Hunt Ditch.

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 (Select one):

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. 2728

Althouse Creek, Tributary to Illinois River, in the Rogue River Basin

Priority date: 1900

Use: Instream (described in Section 2.1, above)

Total volume: Not applicable

Rate in cfs: 0.8 cfs

Location: POD to confluence of E. Fk. Illinois River and W. Fk. Illinois River.

Period of use: April 1 to November 1

Conditions to prevent injury, if any: None

Certificate No. 6113

Althouse Creek, Tributary to E Fk. Illinois River, in the Rogue River Basin

Priority date: February 20, 1920

Use: Instream (described in Section 2.1, above)

Total volume: Not applicable

Rate in cfs: 0.25 cfs

Location: POD to confluence of E. Fk. Illinois River and W. Fk. Illinois River.

Period of use: April 1 to November 1

Conditions to prevent injury, if any: None

Certificate No. 19989

East Fork Illinois River, Tributary to Illinois River, in the Rogue River Basin

Priority date: September 19, 1947

Use: Instream (described in Section 2.1, above)

Total volume: Not applicable

Rate in cfs: 0.6 cfs

Location: POD to confluence of E. Fk. Illinois River and W. Fk. Illinois River.

Period of use: April 1 to November 1

Conditions to prevent injury, if any: None

Certificate No. 57716

Junction of Illinois River, Sucker Creek and Althouse Creek, Tributaries to Rogue River, in the Rogue River Basin

Priority date: March 5, 1912

Use: Instream (described in Section 2.1, above)

Total volume: Not applicable

Rate in cfs: 1.55 cfs

Location: POD to confluence of E. Fk. Illinois River and W. Fk. Illinois River.

Period of use: April 1 to November 1

Conditions to prevent injury, if any: None

Water Right evidenced by T-3591

Waters from the junction of the East Fork Illinois River, Sucker Creek, and Althouse Creek, tributary to E Fk. Illinois River, in the Rogue River Basin

Priority date: March 5, 1912  
 Use: Instream (described in Section 2.1, above)  
 Total volume: Not applicable  
 Rate in cfs: 0.68 cfs  
 Location: POD to confluence of E. Fk. Illinois River and W. Fk. Illinois River.  
 Period of use: April 1 to November 1  
 Conditions to prevent injury, if any: None

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

### Optional Provisions

- 2.6 Additional monitoring.** Lessee intends to manage and participate in the protection of the instream use by: possibly collecting information for calculating stream discharge.
- 2.7 Modification or termination provisions.** None

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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: (Describe, if any)

Watermaster: Norm Daft

District: 14

*Norman E. Daft*

Norm Daft  
942 SW 6<sup>th</sup> St., Ste. E  
Grants Pass, OR 97526  
(541) 471-2886 - Phone

Date: 7-3-2001

~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: *[Signature]* Date: July 5, 2001

Lessor #2: \_\_\_\_\_ Date: \_\_\_\_\_

Lessee: *Rebecca L. Retz (Oregon Water Trust)* Date: 7/9/01

So ordered by Trustee: *[Signature]* Date: July 31, 2001

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