

Lease Agreement Number: 227

State of Oregon
Water Resources Department
158 12th Street NE
Salem, OR 97301-4172

**Short-Term Water Right
Lease Agreement
For Leasing Existing Water Rights for Instream Use**

This Lease Agreement is between:

Lessor:

William R. & Vanessa R. Pence
360 Pack Saddle Road
Myrtle Creek, Oregon 97457
541-863-4102

The water right to be leased is located in Douglas County.

Lessee: State of Oregon

Trustee:

Oregon Water Resources Department
158 12th Street NE
Salem, OR 97301-4172
(503) 378-3739-Phone
(503) 378-8130-Fax

I.

- 1.1 Lessor is the owner, or authorized agent for owner (*Exhibit A*), of the property highlighted in *Exhibit B*.
- 1.2 Section 1.2 is not applicable.
- 1.3 *Exhibit C* contains a copy of the certificated, decreed, or permitted rights attached to the property in *Exhibit B*. The right is listed below as follows:

Certificate No. 22034

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

The right to be leased is further described as follows:

Water Right Certificate No.: 22034

Source: South Myrtle Creek

Priority date: May 2, 1951

Type of use: Irrigation

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

T29S, R4W, Section 20, DLC 39, SE $\frac{1}{4}$ NE $\frac{1}{4}$ - 10.8 acres (10.8 acres to be leased)

T29S, R4W, Section 20, DLC 39, SW $\frac{1}{4}$ NE $\frac{1}{4}$ - 0.2 acres (0.2 acres to be leased)

Number of acres, if for irrigation: 11.0 acres

Rate: 0.14 cfs

Duty: 27.5 acft

Season of use: March 1 - October 31

Point of Diversion (POD): SE $\frac{1}{4}$ NE $\frac{1}{4}$, DLC 39, Section 20, T29S, R4W, W.M.

Conditions or other limitations, if any: None

- 1.5 **Validity of Rights.** Lessor attests that the water right is legally valid by having been beneficially used according to the terms of the right or permit. If the right is for irrigation, beneficial use must have occurred in the past five years on all lands indicated in *Exhibit D.*
- 1.6 **Lease.** Lessor agrees to lease the water right 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 right and under any water right that is supplemental to the subject water right.
- 1.8 **Water use reporting.** The Trustee agrees to fulfill legal obligations related to water use reporting.

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:

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 use.

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

Certificate No. 22034

South Myrtle Creek, a tributary of the South Umpqua River

Location: POD to the mouth of the South Myrtle Creek

Priority date: May 2, 1951

Use: Described in Section 2.1, above

Total volume: 27.5 acft

Rate in cfs: 0.14 cfs

Period of use: March 1-October 31

Conditions to prevent or mitigate injury, if any: The instream flow will be allocated on a daily average basis up to the rate from July 25 until October 31, or until such time that the total duty for the irrigation season is met. The instream use period has been diminished to 99 days to insure the duty limitation is not exceeded during the period of use described above.

- 2.3 **Term of lease.** This Lease shall commence on March 1, 2001 (not before execution by the parties) and terminate on October 31, 2001 .
- 2.4 **Compensation.** Lessor has agreed to lease the 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.

Optional Provisions

2.7 **Modification or termination provisions.** None

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 is currently entitled to appropriate water under the water right described in Section 1.4.

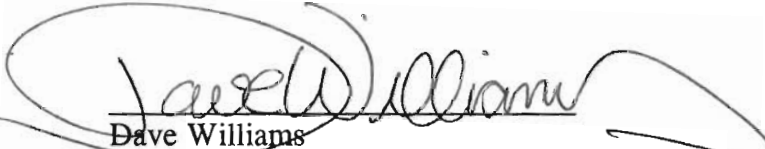
3.2 A suitable control is/will be in place so that WRD staff may regulate use of water under the subject right to ensure water is not diverted or applied on lands to which the subject right is attached.

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: None

Watermaster: Dave Williams

District: 15


Dave Williams

Dave Williams
Field Operations, WRD
Douglas County Courthouse, Room 306
Roseburg, OR 97470-1719
(541) 440-4255-Phone
(541) 440-6264-Fax

Date: 6-9-2001

IV.

The Undersigned Lessor, 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: X [Signature] Date: X 6-18-01

Lessor: X [Signature] Date: X 6-18-01

Lessee: _____ Date: _____

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

[Signature] Director, Oregon Water Resources Department

- Exhibits: A through E are attached.
- Exhibit A: Proof of property ownership
- Exhibit B: Map of Lessor's property
- Exhibit C: Copy of the certificate attached to property shown in Exhibit B
- Exhibit D: Detailed map illustrating lands irrigated under right to be leased
- Exhibit E: Identification of public use to be served by instream use