

Lease Agreement Number: 244

**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 #1:

Amos Y. Vahrenwald
4091 Holland Loop Road
Cave Junction, Oregon 97301
(541) 378-8455 97523 BR

Lessor #2

Norma L. Vahrenwald
4091 Holland Loop Road
Cave Junction, Oregon 97301
(541) 378-8455 97523 BR

The water right to be leased is located in Josephine County

Lessee:

State of Oregon

Trustee:

Oregon Water Resources Department
158 12th Street NE
Salem OR 97301
(503) 378-8455

~I~

- 1.1 Lessor #1 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. 7148
Certificate No. 63788
- 1.4 **Subject Water Rights.** Lessor proposes to lease a portion of the water rights listed in 1.3, above.

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

Certificate No.: 7148

Priority date: 1872 for Tract #1 and 1908 for Tract #2 Type of use: Irrigation

Place of use: Tract #1

T 40 S, R 8 W, Section 1, NE $\frac{1}{4}$ NW $\frac{1}{4}$ 22 Acres (9.96 of which are included in the lease)

T 40 S, R 8 W, Section 1, NW $\frac{1}{4}$ NW $\frac{1}{4}$ 27 Acres (0 of which are included in the lease)

T 39S, R 8 W, Section 36, SW $\frac{1}{4}$ SW $\frac{1}{4}$ 25 Acres (0 of which are included in the lease)

T 39 S, R 8 W, Section 36, SE $\frac{1}{4}$ SW $\frac{1}{4}$ 26 Acres (0 of which are included in the lease)

Tract #2

T 39 S, R 8 W, Section 36, SW $\frac{1}{4}$ SE $\frac{1}{4}$ 2 Acres (0 of which are included in the lease)

T 40 S, R 8 W, Section 1, NE $\frac{1}{4}$ NW $\frac{1}{4}$ 12 Acres (0 of which are included in the lease)

T 40 S, R 8 W, Section 1, NW $\frac{1}{4}$ NW $\frac{1}{4}$ 1.5 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: 22 acres (Lease 9.96)

Acre feet of storage: NA

Rate: 2.00 CFS (Lease 0.199 CFS) Duty: NA

Season of Use: April 1 to October 31

Point of Diversion (POD):. No POD is listed.

Conditions or other limitations, if any: None

Certificate No.: 63788

Priority date: 1919 Type of use: Irrigation

Place of use: T 40 S, R 8 W, W.M., Section 1, NE $\frac{1}{4}$ NW $\frac{1}{4}$ 16 acres

T 40 S, R 8 W, W.M., Section 1, SE $\frac{1}{4}$ NW $\frac{1}{4}$ 5 acres

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

Number of acres, if for irrigation: NE $\frac{1}{4}$ NW $\frac{1}{4}$ 16 acres (Lease 1 acres)

SE $\frac{1}{4}$ NW $\frac{1}{4}$ 5 acres (Lease 5 acres)

Acre feet of storage: NA

Rate: 0.27 CFS (0.075 CFS) Duty: NA

Season of Use: April 1 to October 31

Point of Diversion (POD): NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 31, T 39 S, R 7 W, W.M.; 1420' North and 75' East of the SW Corner, Section 31.

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.

- 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 690-077-0077.
- 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):

^{pt} 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:

Sucker Creek, Tributary to East Fork Illinois Creek, in the Rogue Basin.

Location: NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 31, T 39 S, R 7 W, W.M.; 1420' North and 75' East of the SW Corner, Section 31.

Priority date: 1872

Use: Described in Section 2.1, above

Total volume: NA

Rate in cfs: 0.199

Period of use: April 1 to October 31

Conditions to prevent injury, if any: NONE BX

Sucker Creek, Tributary to East Fork Illinois Creek, in the Rogue Basin.

Location: At the Original Point of diversion

Priority date: 1919

Use: Described in Section 2.1, above

Total volume: NA

Rate in cfs: 0.075

Period of use: April 1 to October 31

Conditions to prevent injury, if any: NONE BX

- 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 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 #1 is currently entitled to appropriate water under the water rights described in Section 1.4.

3.2 A suitable control is 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.

Watermaster: Norman E. Jeff District 14

(Address & telephone) 942 S.W. 6th St., SUITE E
GRANTS PASS, OR 97526

(541) 471-2886

Date: 9-6-2001

~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: Arnoel Wehrenwald Date: Sept 19 2001

Lessor #2: Norma S. Wehrenwald Date: Sept 19 2001

Lessee: _____ Date: _____

So ordered by Trustee: Thom J. [Signature] Date: OCTOBER 2, 2001