

Lease Agreement Number: 121

**Short-Term Water Right Lease Agreement
for
Leases of Existing Water Rights for Instream Use**

This Lease Agreement is between:

Lessor:

Larry and Diana Mathis
262 Lincoln Lane
Oakland, OR 97462
(541) 459-9758

The water rights to be leased are located in Douglas 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 97301-4172
(503) 378-3739-Phone
(503) 378-2496-Fax

I.

- 1.1 Lessor is the owner (*Exhibit A*) of property highlighted in *Exhibit B*. The contract of sale is attached.
- 1.2 Section 1.2 is not applicable.
- 1.3 *Exhibit C* contains a copy of the certificated rights attached to the property in *Exhibit B*. The rights are listed below as follows:
Certificate Nos. 35447 and 40180
- 1.4 **Subject Water Rights.** Lessor proposes to lease the rights in Certificate Nos. 35447 and 40180, listed in 1.3, above.

The rights are further described as follows:

Water Right Identification No.: 35447

Source: Calapooya Creek

Priority date: June 26, 1964

Type of use: Irrigation

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

T 25 S, R 5 W, Section 4, NW $\frac{1}{4}$ NW $\frac{1}{4}$ - 13.0 acres

Total acres - 13.0 acres

Rate: 0.16

Duty: 32.5 acre feet

Season of use: March 1 to October 31

Point of Diversion (POD):

470' S. and 2300' W. from N $\frac{1}{4}$ corner, Section 4, being within NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 4, T 25 S., R 5 W., W.M.

Conditions or other limitations, if any: None

Water Right Identification No. 40180

Source: Calapooya Creek

Priority date: November 2, 1966

Type of use: Irrigation

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

T 25 S, R 5 W, Section 4, NW $\frac{1}{4}$ NW $\frac{1}{4}$ - 3.0 acres

T 25 S, R 5 W, Section 5, NE $\frac{1}{4}$ NE $\frac{1}{4}$ - 0.6 acres

T 24 S, R 5 W, Section 33, SW $\frac{1}{4}$ SW $\frac{1}{4}$ - 2.5 acres

Total acres - 6.1 acres

Rate: 0.08

Duty: 15.25 acre feet

Season of use: March 1 to October 31

Point of Diversion (POD):

430' S. and 320' E. from NW corner, Section 4, being within NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 4, T 25 S., R 5 W., W.M.

Conditions or other limitations, if any: None

- 1.5 **Validity of Rights.** Lessor attests that the water rights to be leased are 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 last five years on all lands indicated in *Exhibit D.*
- 1.6 **Lease.** All lessors agree to lease the subject 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.

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 will 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. 35447

Calapooya Creek, a tributary of the Umpqua River, in the Umpqua Basin

Location: POD to mouth of Calapooya Creek

Priority date: June 26, 1964

Use: Described in Section 2.1, above

Total volume: 32.5 acre feet

Rate in cfs: 0.16 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 described rate from July 22 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 102 days to insure the duty limitation is not exceeded during the period of use described above.

Certificate No. 40180

Calapooya Creek, a tributary of the Umpqua River, in the Umpqua Basin

Location: POD to mouth of Calapooya Creek

Priority date: November 2, 1966

Use: Described in Section 2.1, above

Total volume: 15.25 acre feet

Rate in cfs: 0.08 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 described rate from July 28 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 96 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, 2000 (not before execution by the parties) and continue through October 31, 2001.

- 2.4 **Compensation.** Lessor has agreed to lease the subject water rights herein to the Oregon Water Trust for cash and other considerations and for the benefit of the people 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.

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 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 rights 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.

Necessary conditions to the proposed instream use: None

Watermaster:  District: 15

Dave Williams
Field Operations, WRD
1036 SE Douglas, Room 306
Roseburg, OR 97470
(541) 440-4255 - Phone
(541) 440-6264 - Fax

Date: 4-27-2000

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: *Larry J. Mathis* Date: *5-25-00*

Lessor: *Diana D. Mathis* Date: *5/25/00*

Lessee: *Eduard J. Landa (For OREGON WATER TRUST)* Date: *05/08/2000*

So ordered by Trustee: *[Signature]* Date: *7-7-2000*

Director, Oregon Water Resources Department

Effective Date of Lease Agreement:

Exhibits:

- Exhibit A: Proof of property ownership (Contract of Sale)
- Exhibit B: Tax lot map of Lessor's property
- Exhibit C: Copy of the certificates, permits, and decreed rights to be leased
- Exhibit D: Detailed map illustrating lands under subject right and to be leased
- Exhibit E: Identification of public use to be served by instream use