

Lease Agreement Number: 154

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

This Lease Agreement is between:

Lessor:

Portland General Electric
Contact: John Esler
121 S.W. Salmon St.
Portland, OR 97204
(503) 464-8563

The water rights to be leased are located in Jefferson County.

Lessee:

Oregon Water Trust
Contact: Ed Goodman
111 SW Naito Parkway
Suite 404
Portland, OR 97204
(503) 552-9022-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 "Water Rights of Record of Watermaster Dist. #11," which describes the certificated water rights attached to the property in *Exhibit B*. The rights are listed below as follows: Certificate No. 2242.

- 1.4 **Subject Water Rights.** Lessor proposes to lease the water rights set out in Certificate No. 2242, listed in 1.3, above.

The rights are further described as follows:

Water Right Identification No.: 2242¹

Source: Trout Creek

Priority date: Set out after each quarter/quarter description below

Type of use: Irrigation

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

T 9 S, R 14 E, Section 10, NW ¼ NE ¼ - 5.6 acres (1887)

T 9 S, R 14 E, Section 10, SW ¼ NE ¼ - 9.4 acres (1887)

T 9 S, R 14 E, Section 10, SE ¼ NE ¼ - 20.1 acres (1887)

T 9 S, R 14 E, Section 10, NE ¼ NW ¼ - 6.8 acres (1903)

T 9 S, R 14 E, Section 11, SW ¼ NW ¼ - 5.8 acres (1887)

T 9 S, R 14 E, Section 11, NE ¼ SW ¼ - 8.9 acres (1887)

T 9 S, R 14 E, Section 11, NW ¼ SW ¼ - 5.7 acres (1887)

T 9 S, R 14 E, Section 11, NW ¼ SE ¼ - 2.0 acres (1904)

T 9 S, R 14 E, Section 11, SW ¼ SE ¼ - 3.2 acres (1887)

T 9 S, R 14 E, Section 11, SE ¼ SE ¼ - 12.9 acres (1899)

T 9 S, R 14 E, Section 13, NW ¼ NW ¼ - 2.1 acres (1899)

T 9 S, R 14 E, Section 14, NE ¼ NE ¼ - 1.3 acres (1899)

Total acres – 102 acres (76.9 acres – 1887; 16.3 acres – 1899; 6.8 acres – 1903; 2.0 acres 1904)

Rate: 2.59 cfs

Duty: 612 acre-feet

Season of use: April 1 to October 31

Point of Diversion (POD):

S. 58 degrees E, 2200' +/- from NW corner of Section 13, T 9 S, R 14 E, 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.** Lessor agrees 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, lessor 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.

¹The full water rights described in Certificate No. 2242 are set out in Exhibit F to this lease. As indicated by a mapping of water rights acres undertaken by Fred Ast, CWRE (Exhibit D), not all of the water right acres described in Certificate No. 2242 are in current use. This lease is for those water rights still deemed to be active and valid pursuant to the Ast map.

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. 2242

Trout Creek, a tributary to the Deschutes River

Location: POD to mouth of Deschutes River

Priority date: 1887, 1899, 1903, 1904

Use: Described in Section 2.1, above

Total volume: 204 acre-feet

Rate in cfs: 1.28 cfs

Period of use: From the date lease is signed by Trustee to 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 the date the lease is signed by the Trustee until October 31, or until such time that the total duty of 204 acre feet has been met. The duty and the rate of this lease have been limited because the lease will not begin until later in the irrigation season.

2.3 **Term of lease.** This Lease shall commence on March 1, 2000 (not before execution by the parties) and continue through November 1, 2000.

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.
- 3.4 Necessary conditions to the proposed instream use: None

Watermaster:
 Kyle Gorman
 1340 NW Wall St., Suite 100
 Bend, OR 97701
 (541) 388-6669 - Phone
 (541) 388-5101 - Fax
 Date:

District: 11

Kyle Gorman
 7-18-00

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: _____

Lessee: *Edna J. Gade*

So ordered by Trustee: *Therese J. ...*

Date: *[Signature]*

Date: July 21, 2000

Date: 25 July 2000

For 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
- Exhibit F: Description of water rights as they appear on Certificate No. 2242