

Lease # 111

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

This Lease Agreement is between:

Lessors:

Lewis Bemrose and Roberta Bemrose
16065 Airlie Road
Monmouth, OR 97361

Deborah J. Rogers
16085 Airlie Road
Monmouth, OR 97361

The water rights to be leased are located in Polk 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 97310
(503) 378-3739-Phone
(503) 378-8130-Fax

I.

- 1.1 Lessors are the owners of the properties (*Exhibit A*) 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 properties in *Exhibit B*. These rights are set out in a single Oregon Water Resources Department Water Rights Certificate, listed below as follows:

Certificate No.: 21279

- 1.4 **Subject Water Rights.** Lessors propose to lease all of the water rights listed in 1.3, above.

The rights to be leased are further described as follows:

Water Right Identification No.: 21279

Source: Little Luckiamute River tributary of Luckiamute River

Priority dates: November 15, 1948

Type of use: Irrigation

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

T 9 S, R 5 W, Section 6, NE ¼ SW ¼ - 14.8 acres

T 9 S, R 5 W, Section 6, NW ¼ SW ¼ - 14.6 acres

T 9 S, R 5 W, Section 6, SW ¼ SW ¼ - 3.4 acres

T 9 S, R 5 W, Section 6, SE ¼ SW ¼ - 3.2 acres

(All as projected within Jones D.L.C. no. 52)

Number of acres, if for irrigation: 36 acres

Rate: 0.45 cfs

Duty: 90 acre-feet (2½ acre feet per acre)

Season of use: Irrigation season of each year

Point(s) of Diversion (POD): T 9 S, R 5 W, Section 6, NE ¼ SE ¼, as projected within Bowman D.L.C. No. 51

Conditions or other limitations, if any: None

SW - KB 3/2/00

- 1.5 **Validity of Rights.** Lessors attest that the subject water rights are legally valid by having been beneficially used according to the terms of the rights within the last five years immediately preceding the 2000 irrigation year and, if the rights are for irrigation, on all lands indicated in *Exhibit D.*
- 1.6 **Lease.** 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 690-77-077.
- 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:

No. 21279

Little Luckiamute River

Tributary to Luckiamute River

Location: P.O.D. to RM 2.25 of Little Luckiamute River (Smith Road Bridge)

Priority date: November 15, 1948

Use: Instream (described in Section 2.1, above)

Total volume: 90.0 acre feet

Rate: 0.45 cfs

Period of use: April 1 - September 30

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 June 22 until September 30, or until such time that the total duty for the irrigation season is met.

2.3 **Term of lease.** This Lease shall commence on April 1, 2000 (not before execution by the parties) and continue through September 30, 2000.

2.4 **Compensation.** Lessor has agreed to lease the water right 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 RM 2.25 of the Little Luckiamute (at the Smith Road Bridge), 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

III.

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 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: None

Watermaster: *Bill Ferber*
Bill Ferber
Oregon Water Resources Department
158 12th Street NE
Salem, OR 97310
(503) 378-3739-Phone
(503) 378-8130-Fax

District: 16

Date: 4.5.2000

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: *Deborah J. Rogers*

Date: 2-11-00

Lessor: *Lewis J. Berrrose*

Date: 2-12-00

Lessor: *Roberta L. Berrrose*

Date: 2-12-00

Lessee: *Edmund J. Staton* (for OREGON WATER TRUST)

Date: 2-09-2000

So ordered by Trustee: *Thomas J. [Signature]*

Date: 4-14-2000

Director, Oregon Water Resources Department