

Lease Agreement Number: 92

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

This Lease Agreement is between:

Lessor:

Russel R. and Sandra G. Lyon
P.O. Box 3
Days Creek, OR 97429
541/ 825-3272-Phone

RECEIVED

JUN 16 1999

WATER RESOURCES DEPT.
SALEM, OREGON

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 97310
(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. 43561 and 52977
- 1.4 **Subject Water Rights.** Lessor proposes to lease 52977 and a portion of 43561, listed in 1.3, above.

The rights are further described as follows:

Water Right Identification No.: 52977

Source: Fate Creek

Priority date: May 21, 1968

Type of use: Irrigation

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

T 30S, R 3W, S 6, NE $\frac{1}{4}$ SE $\frac{1}{4}$ - 6 acres

Rate: 0.05 cfs

Duty: 15 acre-feet (2.5 acre-feet per acre)

Season of use: March 1 to October 31

Point of Diversion (POD):

Lot 2 (SE $\frac{1}{4}$ NE $\frac{1}{4}$), Section 6, T 30S, R 3W, WD; 1790 feet North and 270 feet West from SW Corner of Jas. O'Neil DLC 38.

Conditions or other limitations, if any: None

Water Right Identification No.: 43561

Source: Fate Creek

Priority date: May 21, 1968

Type of use: Irrigation

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

T 30S, R 3W, S 5, SW $\frac{1}{4}$ NW $\frac{1}{4}$ -13.1 acres (11.8 of which are to be leased)

T 30S, R 3W, S 5, SE $\frac{1}{4}$ NW $\frac{1}{4}$ -13.6 acres (11.6 of which are to be leased)

T 30S, R 3W, S 5, NE $\frac{1}{4}$ SW $\frac{1}{4}$ - 8.5 acres (not to be leased)

T 30S, R 3W, S 5, NW $\frac{1}{4}$ SW $\frac{1}{4}$ -28.7 acres (not to be leased)

T 30S, R 3W, S 6, SE $\frac{1}{4}$ NE $\frac{1}{4}$ -1.4 acres (not to be leased)

T 30S, R 3W, S 6, NE $\frac{1}{4}$ SE $\frac{1}{4}$ -12.9 acres (not to be leased)

Total number of acres: 78.2 (23.4 of which are to be leased)

Rate: 0.6 cfs (0.179 cfs of which is to be leased)

Duty: 195.5 acre-feet (58.5 acre-feet of which is to be leased)

Season of use: March 1 - October 31

Point of Diversion (POD): Lot 2 (SE $\frac{1}{4}$ NE $\frac{1}{4}$), Section 6, T 30S, R 3W, W. M. Diversion point located - 1790 feet North and 270 feet West from the SW Corner of Jas. O'Neil DLC 38

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.

RECEIVED

JUN 16 1999

WATER RESOURCES DEPT.
SALEM, OREGON

Vol 53 Pg 1066

- 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. 52977

Fate Creek, Tributary to Days Creek in the Umpqua Basin

Location: POD to mouth of Fate Creek

Priority date: May 21, 1968

Use: Described in Section 2.1, above

Total volume: 15 acre-feet

Rate in cfs: 0.05 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 June 1 until October 29, or until such time that the total duty for the irrigation season is met. Instream use period has been diminished to 151 days to insure the duty limitation is not exceeded during the period of use described above.

No. 43561

Fate Creek, Tributary to Days Creek in the Umpqua Basin

Location: POD to the mouth of Fate Creek

Priority date: May 21, 1968

Use: Described in Section 2.1, above

Total volume: 58.5 acre-feet

Rate in cfs: 0.179 cfs

Period of use: March 1 - October 31

Conditions to prevent or mitigate injury, if any: The instream flow will be allocated of a daily average basis up to the described rate from June 1 until October 29, or until such time that the total duty for the irrigation season is met. Instream use period has been diminished to 151 days to insure the duty limitation is not exceeded during the period of use described above.

RECEIVED

JUN 16 1999

Vol 53 Pg 1062

WATER RESOURCES DEPT.
SALEM, OREGON

- 2.3 **Term of lease.** This Lease shall commence on March 1, 1999 (not before execution by the parties) and continue through October 31, 1999.
- 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.

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.** If the contract of sale is revoked and the seller repossesses the property, then this lease agreement is terminated.

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

RECEIVED

JUN 16 1999

WATER RESOURCES DEPT.
SALEM, OREGON

Watermaster:

Dave Williams

Field Operations, WRD

1036 SE Douglas, Room 306

Roseburg, OR 97470

(541) 440-4255 - Phone

(541) 440-4408 - Fax

Date:

6-13-99

District 15

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:

Russell Lynn

Date:

May 25 1999

Lessor:

Sandra L. Lynn

Date:

May 25, 1999

Lessee:

Andrew Purkey

Date:

May 11 1999

So ordered by Trustee:

Rufus O. Buckley

Date:

7-15-99

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

RECEIVED

JUN 16 1999

WATER RESOURCES DEPT.
SALEM, OREGON