

7811.02

RECEIVED
APR - 6 1998
WATER RESOURCES DEPT.
SALEM, OREGON

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

This Lease Agreement is between:

Lessor:

Jerry S. Hauser
82510 Shadybrook Road
Tygh Valley, OR 97063
(541) 483-2261-Phone

The water right to be leased is located in Wasco County.

Lessee:

Oregon Water Trust
111 SW Front Avenue
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*.
- 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. 5749, a portion of 58971, and a portion of 58972
- 1.4 **Subject Water Rights.** Lessor proposes to lease 5749 and the portion of 58972 that is held by him.

The rights to be leased are further described as follows:

Water Right Identification No.: 5749

Source: Tygh Creek

Priority date: 1884

Type of use: Irrigation

Place of use: (*Exhibit D-Map*)

T 3S, R 13E, S 31, SW $\frac{1}{4}$ NE $\frac{1}{4}$, 3 acres

T 3S, R 13E, S 31, NE $\frac{1}{4}$ SE $\frac{1}{4}$, 9.5 acres

T 3S, R 13E, S 31, NW $\frac{1}{4}$ SE $\frac{1}{4}$, 14 acres

T 4S, R 13E, S 32, NW $\frac{1}{4}$ SW $\frac{1}{4}$, 4 acres

Number of acres: 31.5

Rate: 0.38 cfs

Duty: 94.5 acre feet

Season of use: April 1 to November 1

Point(s) of diversion (POD): Lot 2, SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31, T 3S, R 13E, W.M.; 1020 Feet South & 1910 Feet West From NE Corner, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31.

Conditions or other limitations, if any: None

Water Right Identification No.: 58972

Source: Tygh Creek

Priority date: June 27, 1977

Type of use: Irrigation

Place of use: (*Exhibit D-Map*)

T 3S, R 13E, S 31, SW $\frac{1}{4}$ NE $\frac{1}{4}$, 0.3 acres

T 3S, R 13E, S 31, NE $\frac{1}{4}$ SE $\frac{1}{4}$, 14.8 acres

T 3S, R 13E, S 31, NW $\frac{1}{4}$ SE $\frac{1}{4}$, 12.3 acres

T 4S, R 13E, S 32, NE $\frac{1}{4}$ SW $\frac{1}{4}$, 6.7 acres (2.3 acres held by Lessor)

T 4S, R 13E, S 32, NW $\frac{1}{4}$ SW $\frac{1}{4}$, 12.4 acres

T 4S, R 13E, S 32, NW $\frac{1}{4}$ SE $\frac{1}{4}$, 1.4 acres (not held by Lessor)

Number of acres: 47.9 (42.1 held by Lessor)

Rate: 0.94 cfs (0.85 cfs held by Lessor)

Duty: 143.7 acre feet (126.3 held by Lessor)

Season of use: April 1 to November 1

Point(s) of diversion (POD): Lot 2 (SW $\frac{1}{4}$ NW $\frac{1}{4}$), NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 31, T 3S, R 13E, W.M.; 1020 Feet South & 1910 Feet West; 2360 Feet South & 1270 Feet East Both From NE Corner, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31.

Conditions or other limitations, if any: None

- 1.5 **Validity of Rights.** Lessor attests 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 1998 irrigation year and, if the rights are for irrigation, on all lands indicated in *Exhibit C*.

- 1.6 **Lease.** Lessor agrees 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 (C-58971) 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:

specific uses and needs identified in *Exhibit E* as signed off by ODFW.

- 2.2 **Instream use created by lease.** The instream use to be created is described as follows:

No.: 5749

Tygh Creek, tributary to the White River

Location: RM 5 to mouth

Priority date: 1884

Use: Described in section 2.1, above

Total volume: 94.5 acre feet

Rate: 0.38 cfs

Period of use: July 1 to October 29

Conditions to prevent or mitigate injury (if any): None

No.: 58972

Tygh Creek, tributary to the White River

Location: RM 5 to mouth

Priority date: June 27, 1977

Use: Described in section 2.1, above

Total volume: 126.3 acre feet

Rate: 0.5 cfs

Period of use: July 1 to October 29

Conditions to prevent or mitigate injury (if any): None

- 2.3 **Term of lease.** This Lease shall commence on April 1, 1998 (not before the date of final execution by the parties) and continue through November 1, 1998.

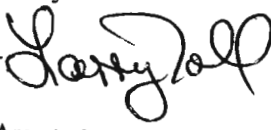
- 2.4 **Compensation.** Lessor has agreed to lease the water rights herein to the Oregon Water Trust for cash and other considerations and for the benefit of the people of the state of Oregon.
- 2.5 **Flow protection.** The Trustee will regulate use of water from the source, subject to prior appropriation 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.** Lessor/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 rights are 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 subject rights are 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  District: 3
 Larry Toll
 502 E. 5th Avenue
 Courthouse Annex B, Room 212
 The Dalles, OR 97058
 (541) 298-4110

Date: 4/11/98

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: *Jerry Hansen* Date: *3-18-98*
Lessee: *Erden Purkey* Date: *3-30-98*
So ordered by Trustee: *Martha Page* Date: *5-8-98*

Director, Oregon Water Resources Department

Effective Date of Lease Agreement:

Exhibits: A through D are on record at OWRD, E is attached.

- Exhibit A: Proof of Property Ownership
- Exhibit B: Map of Property
- Exhibit C: Copy of certificates attached to property shown in Exhibit B
- Exhibit D: Detailed map illustrating lands irrigated by subject right
- Exhibit E: Identification of public use to be served by instream use