

Lease Agreement Number 39

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WATER RESOURCES DEPT.  
SALEM, OREGON

**STATE OF OREGON  
WATER RESOURCES DEPARTMENT**

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

This Lease Agreement is between:

**Lessor:**

*Bill Rupert*

City of Myrtle Creek  
P.O. Box 940  
Myrtle Creek, OR 97457

Phone: 541-863-3171 (office)

The water right to be leased is located in Douglas County

**Lessee:** State of Oregon

**Trustee:**

Oregon Water Resources Department  
158 12th Street NE  
Salem OR 97310  
(503)378-8455 (fax 378-2496)

~I~

- 1.1 Lessor is the owner, or authorized agent for owner, of property highlighted in Exhibit B.
- 1.2 n/a
- 1.3 Exhibit C contains copies of all certificated, decreed or permitted rights attached to the property in Exhibit B. Those rights are listed below as follows:

Certificate No. 1375,	Permit No. 1753
Certificate No. 14223 ,	Permit No. 13637
Certificate No. 22954 ,	Permit No. 21032
Certificate No. 45919 ,	Permit No. 39305
Certificate No. 65826 ,	Permit No. 45073
Certificate No. 51766 ,	Permit No. 38433

1.4 **Subject Water Rights.** Lessor proposes to lease all/a portion of the water rights listed in 1.3, above.

Water Right Identification No.:	Appln. No.	3177
	Permit No.	1753
	Certificate No.	1375
Priority date:	9/9/13	
Type of use:	Irrigation	
Place of use:	Sec. 27, T 29 S, R 5 W	
(As shown on map of irrigated lands in <i>EXHIBIT B.</i> )		
Number of acres, for irrigation:	4 acres (0.2 acres to be leased)	
Rate:	0.05 cfs (0.0025 cfs to be leased)	
Duty:	10 ac-ft (0.50 ac-ft to be leased)	
Season of Use:	March 1 through October 31	
Point of Diversion. (POD):	SE1/4 SE1/4 Sec 27, T 29 S, R 5 W	
	Record POD.	

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Water Right Identification No.:	Appln. No.	17595
	Permit No.	13637
	Certificate No.	14223
Priority date:	4/29/39	
Type of use:	Irrigation	
Place of use:	Sec. 27, T 29 S, R 5 W	
(As shown on map of irrigated lands in <i>EXHIBIT B.</i> )		
Number of acres, for irrigation:	7.8 acres	
Rate:	0.10 cfs	
Duty:	19.5 ac-ft	
Season of Use:	March 1 through October 31	
Point of Diversion. (POD):	SW1/4 SE1/4 Sec 27, T 29 S, R 5 W	

Water Right Identification No.:	Appln. No.	26766
	Permit No.	21032
	Certificate No.	22954
Priority date:	1/7/52	
Type of use:	Irrigation	
Place of use:	Sec. 27, T 29 S, R 5 W	



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Permit No. 38433

Certificate No. 51766

Priority date: 1/30/74  
Type of use: Irrigation, Domestic & Stock  
Place of use: Sec. 27 & 34, T 29 S, R 5 W  
(As shown on map of irrigated lands in *EXHIBIT B*.)

Number of acres, for irrigation: 12.0 acres  
Rate: 0.04 cfs for irrigation  
Rate: 0.005 cfs for domestic  
Rate: 0.005 cfs for stock water  
Duty: 19.4 ac-ft  
Season of Use: March 1 through October 31 for  
irrigation  
Point of Diversion. (POD): SW1/4 SE1/4 Sec 27, T 29 S, R 5 W

- 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 and on all lands indicated in *EXHIBIT B*.
- 1.6 **Lease.** All 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 690-77-0077.
- 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 would benefit recreation, scenic attraction, aquatic and fish life, wildlife habitat and ecological values, pollution abatement, navigation or other public uses.

- 2.2 **Instream use created by lease.** The instream use to be created is described as follows: South Myrtle Creek, tributary of Myrtle Creek, in the Umpqua River Basin

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Location: T 29 S, R 5 W, Douglas County

River mile 0.0 to 1.5

Use: Described in Section 2.1, above

Total Volume: 120.9 Acre-Feet

Total Rate: 0.249 cfs for irrigation, 0.005 for domestic, and 0.005 for stock water.

Period of Use: March 1 through October 31 for irrigation rights, year around for domestic and stock.

Rate and Date of Priority:

For March 1 through October 31:

0.001 cfs, 9/9/13; 0.040 cfs, 4/29/39; 0.054 cfs, 1/7/52; 0.037 cfs, 11/20/74; 0.077 cfs, 4/11/80; 0.04 cfs, 1/30/74;

For Year around:

0.01 cfs, 1/30/74

Conditions to prevent or mitigate injury, if any: None

- 2.3 **Term of lease.** This Lease shall commence on March 1, 1999 (not before execution by the parties) and shall continue through October 31, 2000.
- 2.4 **Compensation.** The Lessor has agreed to lease subject water right for the sum of \$1.00, other valuable considerations and for the benefit 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: n/a
  - 2.7 **Modification or termination provisions.** (Describe any such provisions)  
At the option of the lessor, this lease can be terminated and would occur prior to or after an irrigation season.
- ~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/will be 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: *Dave Williams* District: 15 Date: 7-2-99

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

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~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:

City of Myrtle Creek

*Joseph G. Wolf* Date: 7/2/99  
City Administrator Joseph G. Wolf

So ordered by Trustee:

*Martha O. Pagel* Date: 7/2-99  
Martha O. Pagel  
Director, Oregon Water Resources Department

Exhibits:

- Exhibit B: Map of Lessor's property, and detailed map illustrating lands irrigated by subject rights
- Exhibit C: Proof of property ownership (copy of property deed and tax lot map)
- Exhibit D: Copies of all certificates, permits and decreed rights attached to property shown in Exhibit B
- Exhibit E: Identification of public use to be served by instream use

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