

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

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WATER RESOURCES DEPT.
SALEM, OREGON

This Lease Agreement is between:

Lessor:

E. Randolph Labbe
4935 S.W. Barnes Road
Portland, OR 97221

The water right to be leased is located in Wallowa 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 water right attached to the property in *Exhibit B*. The right is listed below as follows:

Certificate No. 41171

- 1.4 **Subject Water Rights.** Lessor proposes to lease all of the water right listed in 1.3, above.

WATER RIGHT LEASE AGREEMENT

The right to be leased is further described as follows:

Water Right Identification No.: 41171

Source: Grande Ronde River and Courtney Creek

Priority date: December 19, 1967

Type of use: Irrigation

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

Grande Ronde River

T 5N, R 43E, S 9, W.M. - 0.1 acre NE $\frac{1}{4}$ NE $\frac{1}{4}$

T 5N, R 43E, S 9, W.M. - 7.8 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$

T 5N, R 43E, S 9, W.M. - 1.3 acres SW $\frac{1}{4}$ NE $\frac{1}{4}$

Courtney Creek

T 5N, R 43E, S 9, W.M. - 1.5 acres NE $\frac{1}{4}$ NE $\frac{1}{4}$

T 5N, R 43E, S 9, W.M. - 0.1 acre SW $\frac{1}{4}$ NE $\frac{1}{4}$

T 5N, R 43E, S 9, W.M. - 5.3 acres SE $\frac{1}{4}$ NE $\frac{1}{4}$

Number of acres, if for irrigation: 16.1 acres

Rate: 0.20 cfs, being 0.09 cfs from Courtney Creek and 0.11 cfs from the Grande Ronde River

Duty: 48.3 acre-feet

Season of use: March 1-October 31

Point of Diversion (POD):

NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 9, T 5N, R 43E W.M. 1050 feet South and 1950 feet East, 1000 feet South and 660 feet East from the N $\frac{1}{4}$ Corner, Section 9.

Conditions or other limitations, if any: None

- 1.5 **Validity of Rights.** Lessor attests that the subject water right is legally valid by having been beneficially used according to the terms of the right within the last five years and, if the right is for irrigation, on all lands indicated in *Exhibit D.*
- 1.6 **Lease.** Lessor agrees to lease the water right 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 right and under any water right that is supplemental to the subject water right.
- 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. 41171

Grand Ronde River and Courtney Creek

Location: Courtney Creek-POD to mouth of creek

Grande Ronde River-approximately RM 47 to RM 39.

Priority date: December 19, 1967

Use: Described in Section 2.1, above

Total volume: 48.3 acre-feet

Rate: 0.20 cfs

Period of use: March 1-October 31

Conditions to prevent or mitigate injury, if any:

The instream flow of 0.20 cfs will be allocated on a daily basis from July 2 until October 31 in order that the seasonal duty limitation is not exceeded. There are no other conditions on the instream right.

- 2.3 **Term of lease.** This Lease shall commence on March 1, 1997 (not before the date of final execution by the parties) and continue through October 31, 1997.
- 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, 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 right is located verifies that:
- 3.1 Lessor is currently entitled to appropriate water under the water right 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:  District: 6
Rick Lusk
10507 N. McAlister
La Grande, OR 97850
(541) 963-1031-Phone
(541) 963-9637-Fax

Date: 2-19-97

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: *E. R. Falbe*

Date: *February 14, 1997*

Lessee: *Andrew Parker*

Date: *February 16, 1997*

So ordered by Trustee: *Monte H. Hefel*
Director, Oregon Water Resources Department

Date: *5/1/97*

Effective Date of Lease Agreement:

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

- Exhibit A: Proof of property ownership
- Exhibit B: Map of Lessor's property
- Exhibit C: Copy of certificate 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