

SWALLEY IRRIGATION DISTRICT

PO BOX 1149  
BEND OR 97708  
541-388-0658  
(FAX 389-8778)

**Short-Term Water Right Lease Agreement**  
**for**  
**Leases of Existing Water Rights for Instream Use**  
(Used in conjunction with an " agreement to transfer interest in a water right")

Date: 3-17-97

**Lessor(s):** Olympic Mortgage Exchange Inc.  
164 NW Greenwood Ave.  
Bend OR 97701

**Lessee:** Swalley Irrigation District

**Trustee:** Oregon Water Resources Department  
158 12th Street NE  
Salem OR 97310  
503-378-3739  
(fax) 503-378-2496

**RECEIVED**

JUL - 7 1997

WATER RESOURCES DEPT.  
SALEM, OREGON

I.

1.1 Lessor is the owner, or authorized agent for owner (Exhibit A), of property highlighted in Exhibit B.

1.2 Lessee is the:

X Official representative of Swalley Irrigation District, the irrigation district which conveys water to the subject water rights.

1.3 Exhibit C contains copies of all certificated or decreed rights attached to the property in Exhibit B. Those rights are listed below as follows:

Certificated No. 29054

Page No.156, 1958 Deschutes River Consolidated Decree

Priority date: September 1, 1899

Type of use: Irrigation

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

The rights to be leased are further described as follows:

(If original use is irrigation, include map of irrigated lands in Exhibit D.)

Place of use: Tax Lot #00900 in SW1/4 SE1/4 of Section 15, T.17S., R12E., WM.

Number of acres, (if for irrigation): 0.25 acre

Acre-feet of storage: 0.0

|                  |           |
|------------------|-----------|
| Rate: April 1-30 | .0017 cfs |
| May 1-14         | .0023 cfs |
| May 15-Sept 14   | .0043 cfs |
| Sept 15-30       | .0023 cfs |
| Oct 1-31         | .0017 cfs |

Duty: 1.3652 acre feet per season

Season of Use: April 1 - October 31

Point of Diversion (POD): Swalley Canal

(N 985' & w 617' from 1/4 corner - SE/NE of Section 29, T. 17S., R. 12E. WM.)

Conditions or other limitations, if any:

- 1.5 **Validity of Rights.** Swalley Irrigation District inspected property and verified usage of water in last five years. Central Oregon Irrigation District is contracted to deliver the water rights at a COID's weir (Exhibit E). Land owner receives water from private ditch system. The rights are for irrigation, on all lands indicated in Exhibit D.
- 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, 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 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 (Select one):
- Mitigation of a deficiency in the water supply for an existing instream water right or minimum stream flow located
  - Mitigation of a deficiency in water supply identified in an application for an instream water right or *Diack* flow located
  - A specific use or need identified by DEQ, Parks or ODFW and further described in Exhibit E.
  - 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:

For: Deschutes River, Tributary to Columbia River in the  
Deschutes Basin  
Location: From river mile 165 (North Canal Dam), downstream to  
river mile 120 (Lake Billy Chinook).  
Priority date: September 1, 1899  
Use: Described in Section 2.1, above  
Total volume: 1.3652 acre feet per season

|       |                |           |
|-------|----------------|-----------|
| Rate: | April 1-30     | .0017 cfs |
|       | May 1-14       | .0023cfs  |
|       | May 15-Sept 14 | .0043cfs  |
|       | Sept 15-30     | .0023 cfs |
|       | Oct 1-31       | .0017 cfs |

Period of use: April 1 to October 31  
Conditions to prevent or mitigate injury, if any:

2.3 **Term of lease.** This Lease shall commence upon execution by the parties and continue through October 31, 1998 (two years), or until terminated by either Swalley Irrigation District or the Oregon Water Resources Department.

2.4 **Compensation.** The general nature of the lease compensation is removal from the lessor of any further assessments by Swalley Irrigation District for the 0.25 acre water right.

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**

2.7 **Modification or termination provisions.**

This lease may be terminated by either Swalley Irrigation District or the Oregon Water Resources Department upon written notice to the other party. The effective date of termination shall not be during the irrigation season (April 1 - October 31). This lease may be extended by mutual agreement of Swalley Irrigation District and the Oregon Water Resources Department.

III.

- 3.1 **Watermaster review.** By signature below, the Watermaster for the district where the subject water right is located verifies that:
- 3.2 Lessor is currently entitled to appropriate water under the water rights described in Section 1.4.
- 3.3 A Suitable control is/will be in place so the 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.
- 3.4 Necessary conditions to the proposed instream use:  
(Describe, if any)

Watermaster: *Kyle Gorman* District 11  
 Date: 6-30 19 97  
 Kyle Gorman  
 South Central Region  
 1340 NW Wall, Suite 100  
 Bend OR 97701-1939  
 541-388-6669  
 (fax) 388-5101

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: *Robert L. Rister, Pres.* Date: 4-28-97  
 Olympic Mortgage Exchange Inc.

Lessee: *Todd A. Griffith, AST. MGR* Date: 5/1/97  
 Todd Griffith, Swalley Irrigation District

So ordered by Trustee:

*Marcia Pugh* Date: 8/6/97  
 Director, Oregon Water Resources Department

Effective Date of Lease Agreement: \_\_\_\_\_

**Exhibits:**

- A: N/P
- B: Map of Lessor's property.  
Proof of property ownership (copy of property deed and tax lot map).
- C: Copies of all certificates and decreed rights attached to property shown in Exhibit B.
- D: Detailed map illustrating lands irrigated by subject rights.
- E: Central Oregon Irrigation District letter of delivery.

SWALLEY IRRIGATION DISTRICT  
INSTREAM LEASE  
OLYMPIC MORTGAGE EXCHANGE INC.

EXHIBIT E

Central Oregon Irrigation District delivers 18.75 acres of water rights for Swalley Irrigation District at Gate # A-4-2, in which Rodney Hall receives 0.25 acres. This land is located at Tax Lot # 900 in the SW1/4 of the SE1/4 of Section 15, T.17S., R.12E., W.M.

John F. Herlocker                      1 5-20-97  
John Herlocker, Assistant Manager                      Date