

Lease Agreement No.:

9615.03

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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:**

Wayne L. Webb  
Auction Sales Co.  
P.O. Box 692  
The Dalles, OR 97058  
(541) 296-1012-Phone

The water rights to be leased are located in Sherman 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 authorized agent for the owner (*Exhibit A*), of property shown in *Exhibit B*, having water rights that are to be leased.
- 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:

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Certificate Nos. 38374, 51048 and 51049

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

The rights to be leased are further described as follows:

Water Right Identification No.: 38374

Source: Buck Hollow Creek

Priority date: December 10, 1962

Type of use: Irrigation

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

T 3S, R 14E, S 35, NE $\frac{1}{4}$  SW $\frac{1}{4}$ , 0.1 acres

T 3S, R 14E, S 35, NW $\frac{1}{4}$  SE $\frac{1}{4}$ , 9.4 acres

T 3S, R 14E, S 35, SW $\frac{1}{4}$  SE $\frac{1}{4}$ , 14.7 acres

T 4S, R 14E, S 2, NW $\frac{1}{4}$  NE $\frac{1}{4}$ , 7.4 acres

T 4S, R 14E, S 2, SW $\frac{1}{4}$  NE $\frac{1}{4}$ , 5.7 acres

Number of acres: 37.3

Rate: .93 cfs

Duty: 149.2 acre feet

Season of use: April 1 to November 1

Point(s) of diversion (POD):

180'S and 2660' W; 1940'S and 2790'W; both from NE corner, Sec. 2, being within the NE $\frac{1}{4}$ , NW $\frac{1}{4}$  and SE $\frac{1}{4}$ , NW $\frac{1}{4}$ , Sec. 2, T 4S, R 14E, W.M.

Conditions or other limitations, if any: None

Water Right Identification No.: 51048 and 51049

Source: Buck Hollow and Kerr creeks

Priority date: March 1, 1975

Type of use: Irrigation

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

Buck Hollow Creek

T 3S, R 14E, S 35, NW $\frac{1}{4}$  SE $\frac{1}{4}$ , 1.6 acres

T 3S, R 14E, S 35, SW $\frac{1}{4}$  SE $\frac{1}{4}$ , 4.4 acres

T 4S, R 14E, S 2, NW $\frac{1}{4}$  NE $\frac{1}{4}$ , 0.5 acres

Kerr Creek & Reservoir

Primary

T 4S, R 14E, S 2, NW $\frac{1}{4}$  NE $\frac{1}{4}$ , 4.4 acres

T 4S, R 14E, S 2, SW $\frac{1}{4}$  NE $\frac{1}{4}$ , 1.0 acres

Supplemental

T 4S, R 14E, S 2, NW $\frac{1}{4}$  NE $\frac{1}{4}$ , 4.4 acres

T 4S, R 14E, S 2, SW $\frac{1}{4}$  NE $\frac{1}{4}$ , 3.0 acres

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Number of acres: 11.9 (primary) and 7.4 (supplemental)

Rate: .3 (primary) and .18 (supplemental)

Duty: 47.6 acre feet (primary) and up to 29.6 acre feet (supplemental)

Season of use: April 1 to November 1

Point(s) of diversion (POD):

NE $\frac{1}{4}$ , NW $\frac{1}{4}$  and SW $\frac{1}{4}$ , NE $\frac{1}{4}$ , Sec. 2, T 4S, R 14E, W.M., Buck Hollow Creek - 180'S and 2,660'W, Kerr Creek - 1,850'S and 2,520'W both from NE corner, Section 2.

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 1996 irrigation year and, if 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, 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 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.: 38374  
Buck Hollow Creek, tributary to the Deschutes River  
Location: RM 0.8 to 0  
Priority date: December 10, 1962  
Use: Described in section 2.1, above

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Total volume: 149.2 acre feet  
Rate: 0.93 cfs  
Period of use: July 1 to September 19, 1996  
Conditions to prevent or mitigate injury (if any): None

Nos.: 51048 and 51049  
Buck Hollow Creek, tributary to the Deschutes River  
Location: RM 0.8 to 0  
Priority date: March 10, 1975  
Use: Described in section 2.1, above  
Total volume: 47.6 acre feet (primary) and up to 29.6 acre feet (supplemental)  
Rate: .3 cfs (primary) and .18 cfs (supplemental)  
Period of use: July 1 to September 19, 1996  
Conditions to prevent or mitigate injury (if any): None

- 2.3 **Term of lease.** This Lease shall commence on April 1, 1996 (not before the date of final execution by the parties) and continue through November 1, 1996.
- 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

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Watermaster: *[Signature]*  
 Larry Toll  
 502 E. 5th Avenue  
 Courthouse Annex B  
 Room 212  
 The Dalles, OR 97058  
 (541) 298-4110

District: 3

Date: 5/14/96

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: *Wayne L Webb*

Date: May 2, 1996

Lessee: *Arden Park*

Date: April 30, 1996

So ordered by Trustee: *Mark D. [Signature]*  
 Director, Oregon Water Resources Department

Date: 6/19/96

Effective Date of Lease Agreement:

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

- Exhibit A: Power of Attorney Documentation
- Exhibit B: Description of Property and Proof of Property Ownership
- 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