

Lease Agreement Number

231

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:

U.S. Bureau of Land Management
P.O. Box 550
Prineville, Oregon 97754
(541)416-6700

The water right to be leased is located in Wheeler County

Lessee:

State of Oregon

Trustee:

Oregon Water Resources Department
158 12th Street NE
Salem OR 97301
(503) 378-8455

~I~

- 1.1 Lessor is the owner, or authorized agent for owner (Exhibit A), of property highlighted in Exhibit B.
- 1.2 Section 1.2 is not applicable.
- 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. 13570
- 1.4 **Subject Water Rights.** Lessor proposes to lease all of the water rights listed in 1.3, above.

The right(s) to be leased are further described as follows:

Certificate No.: 13570

Source: Bridge Creek (Jones Ditch #4)

Priority date: 1889 *done*

Type of use: irrigation and stock

Place of use (map of irrigated lands is in Exhibit D): *Tract 1*

1.0 acre in the NW $\frac{1}{4}$ NE $\frac{1}{4}$

3.0 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$

7.0 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$

8.0 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$

6.0 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$

2.0 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 27

1.0 acre in the NE $\frac{1}{4}$ NE $\frac{1}{4}$

Section 28

Township 11 South, Range 21 East, W.M.

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~~Source: Bridge Creek (Jones Ditch #5)~~

~~Priority date: 1889~~

~~Type of use: irrigation and stock~~

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

~~7.8 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$~~

~~3.3 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$~~

~~11.1 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$~~

~~Section 27~~

~~0.5 acre in the NE $\frac{1}{4}$ NE $\frac{1}{4}$~~

~~Section 28~~

~~Township 11 South, Range 21 East, W.M.~~

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Tract 2

Source: Gable Creek (Jones Ditch #6)

Priority date: 1876 *d*

Type of use: irrigation and stock

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

4.5 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$

0.1 acre in the NE $\frac{1}{4}$ SE $\frac{1}{4}$

10.2 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$

5.7 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$

Section 28

1.5 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$

Section 33

Township 11 South, Range 21 East, W.M.

Tract 3

Source: Bridge Creek (Jones Ditch #2)

Priority date: 1889

Type of use: irrigation and stock

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

- 3.9 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$
- 3.5 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$
- 2.0 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$
- Section 35
- 1.3 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$
- 5.0 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$
- 5.0 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$
- Section 26

Township 11 South, Range 21 East, W.M.

T 4

Source: Bridge Creek (Jones Ditch #3)

Priority date: 1889

Type of use: irrigation and stock

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

- 3.0 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$
- 2.0 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$
- 3.0 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$
- Section 26
- 3.5 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$
- Section 35

Township 11 South, Range 21 East, W.M.

T 5

Source: Bridge Creek (Jones Ditch #1)

Priority date: 1889

Type of use: irrigation and stock

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

- 5.0 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$
- 1.0 acre in the SE $\frac{1}{4}$ NE $\frac{1}{4}$
- 17.0 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$
- 4.8 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$
- 0.4 acre in the SE $\frac{1}{4}$ SE $\frac{1}{4}$
- Section 27
- 2.0 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$
- 2.0 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$
- Section 26
- 2.0 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$
- 5.0 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$
- 0.2 acre in the SE $\frac{1}{4}$ NW $\frac{1}{4}$
- Section 35

Township 11 South, Range 21 East, W.M.

T 6

Source: Bridge Creek

Priority date: 1897

Type of use: irrigation and stock
Place of use (map of irrigated lands is in Exhibit D):
3.0 acres in the SW¼ NE¼
Section 35
Township 11 South, Range 21 East, W.M.

T7

Number of acres, Bridge Creek (1889) 125.3 acres (122.3 acres leased) > 1/90
Bridge Creek (1897) 3.0 acres (3.0 acres leased)
Gable Creek (1876) 22.0 acres (22.0 acres leased)
Rate: Bridge Creek : 3.13 cfs from March 1 - June 15, and 1.56 cfs from June 16 to Sept. 30. (1/80) (1/90)
Gable Creek 0.27 cfs from March 1st to June 15 and 0.22 cfs from June 16 to October 1st. (1/90) (500) (800) (1/100)
Rate: 589.2 ac-ft ← separate out for Bridge & Gable
Season of Use: March 1st - September 30th

Not on WR

Point(s) of Diversion (POD): Bridge Creek: Jones Ditch #5 located within SE¼ NE¼, Section 27, Jones Ditch #4 located within NW¼ SW¼, Section 26, Jones Ditch #1 located within NE¼ SE¼, Section 35, Jones Ditch #2 located within SW¼ NE¼, Section 35, Jones Ditch #3 located within SE¼ NW¼, Section 35. Gable Creek: Jones Ditch #6 located in NE¼ NW¼, Section 33, Township 11 South, Range 21 East, WM.

Conditions or other limitations, if any: None

1.5 **Validity of Rights.** Lessor #1 attests (mark one) that:

- the water has been used over the past five years according to the terms and conditions of the owner's water right certificate or
- that the water right is not subject to forfeiture under ORS 540.610.

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 690-77-077.

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.

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 Oregon Department of Fish and Wildlife, 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:

Bridge Creek, tributary John Day River in the John Day Basin

Location: Bridge Creek: Jones Ditch #5 located within SE¼ NE¼, Section 27, Jones Ditch #4 located within NW¼ SW¼, Section 26, Jones Ditch #1 located within NE¼ SE¼, Section 35, Jones Ditch #2 located within SW¼ NE¼, Section 35, Jones Ditch #3 located within SE¼ NW¼, Section 35, Township 11 South, Range 21 East, WM. to the mouth, then into the John Day River until water is lost to the system. *need to describe*

Priority date: 1889 and 1897

Use: Described in Section 2.1, above

Total volume: ~~501.2~~ *DTF* ac-ft not to exceed, during the irrigation season, four acre feet per acre.

Season of Use: March 1st – October 1st

Rate in cfs: Bridge Creek : 3.13 cfs from March 1 - June 15, and 1.56 cfs from June 16 to Sept. 30.

Conditions to prevent or mitigate injury, if any: Two kinds of mitigation methods need to be used. Using USGS consumptive figures 1.9 ac-ft per acre for 4.0 acre-feet the loss is 48%. The area adjustment has been made of 13%. Total consumptive use loss of 60% or 2.4 ac-ft per acre. *It is necessary to account for both return flows and channel losses since flow is being protected*

March 1st to June 15th : 3.13 cfs x 0.60 = 1.878 cfs

June 16th to October 1st: 1.56 cfs x 0.60 = 0.936 cfs

Average 0.01852 cfs loss per mile reduce by 10% in Bridge Creek system, while in the John Day River, the loss reverts back to 0.01852 cfs loss per mile.

Original POD	Reach	Delivery loss	Month
RM 10-13	mouth of Bridge Creek	per mile	
1.878 cfs	1.711 cfs	0.01667 cfs mile	March-June 15
0.936 cfs	0.769 cfs	0.01667 cfs mile	June 16-Oct 1st

Bridge Creeks flows into John Day River at river mile

Mouth into John Day R.	Reach	Delivery loss	Month
RM	down John Day River	per mile	
1.711 cfs	0.00 cfs(90 miles downstream)	0.01852 cfs mile	March-June 15
0.769 cfs	0.00 cfs(40 miles downstream)	0.01852 cfs mile	June 16-Oct 1st

Gable Creek, tributary Bridge Creek in the John Day Basin

Location: Gable Creek: Jones Ditch #6 located in NE¼ NW¼, Section 33, Township 11 South, Range 21 East, WM. to the mouth of Bridge Creek.

Priority date: 1876

Use: Described in Section 2.1, above

Total volume: 88.0 ac-ft not to exceed, during the irrigation season, four acre feet per acre.

Season of Use: March 1st – October 1st

Rate in cfs: Gable Creek 0.27 cfs from March 1st to June 15 and 0.22 cfs from June 16 to October 1st.

Conditions to prevent or mitigate injury, if any: Two kinds of mitigation methods need to be used. Using USGS consumptive figures 1.9 ac-ft per acre for 4.0 acre-feet the loss is 48%. The area adjustment has been made of 13%. Total consumptive use loss of 60% or 2.4 ac-ft per acre.

March 1st to June 15th : $0.27 \text{ cfs} \times 0.60 = 0.162 \text{ cfs}$

June 16th to October 1st: $0.22 \text{ cfs} \times 0.60 = 0.132 \text{ cfs}$

Average 0.01852 cfs loss per mile reduce by 10% in Bridge Creek system, while in the John Day River, the loss reverts back to 0.01852 cfs loss per mile. The distance to the mouth of Gable Creek does not illustrate a need for loss in the first mile.

Original POD	Reach	Delivery loss	Month
RM 1	mouth of Gable Creek	per mile	
0.162 cfs	0.162 cfs	0.0 cfs mile	March-June 15
0.132 cfs	0.132 cfs	0.0 cfs mile	June 16-Oct 1st

Gable Creek flows into Bridge Creek at river mile 10

Mouth of into John Day R.	Reach	Delivery loss	Month
RM	down John Day River	per mile	
0.162 cfs	0.00 cfs(10 miles downstream)	0.01667 cfs mile	March-June 15
0.132 cfs	0.00 cfs(8 miles downstream)	0.01667 cfs mile	June 16-Oct 1st

2.3 **Term of lease.** This Lease shall commence on April 1, 2001 (not before execution by the parties) and continue through September 30, 2002.

2.4 **Compensation.** The Lessor has agreed to lease subject water right for the sum of \$1.00, or 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.
- 2.6 **Modification or termination** provisions. Lessor shall have an option of terminating lease for the 2002 irrigation season with written notice 30 days prior to April 1, 2002.

~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 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:
 Section 2.2 of this lease includes some adjudgment figure for the system that is being leased to migrate injury.
 Watermaster: Vern Church District: 21

 Vernon L. Church
 P.O. Box 427
 (541) 384-4207
 Date: _____

~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: _____ Date: _____

So ordered by Trustee: _____ Date: _____

Exhibits:

- Exhibit A: Proof of property ownership/Power of Attorney Documentation (if needed)
- Exhibit B: Tax Lot Map of Lessor's property
- Exhibit C: Copies of certificates, permits and decreed rights to be leased
- Exhibit D: Detailed map illustrating lands under subject rights to be leased
- Exhibit E: Identification of public use to be served by instream use