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Lease Agreement Number: 98

WATERMASTER
DISTRICT 13

OWT.1

State of Oregon
Water Resources Department
158 12th Street NE
Salem, OR 97310

**Short-Term Water Right
Lease Agreement
For Leasing Existing Water Rights for Instream Use**

This Lease Agreement is between:

Lessor:

Jackson County Roads & Parks
400 Antelope Road
White City, OR 97503
(541) 774-6303 - Phone

The water right to be leased is located in Jackson County.

Lessee:

Oregon Water Trust
111 SW Naito Parkway, 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, or authorized agent for owner (*Exhibit A*) of the property highlighted in *Exhibit B*.
- 1.2 Section 1.2 is not applicable.
- 1.3 *Exhibit C* contains a copy of the certificated, decreed, or permitted rights attached to the

property in *Exhibit B*. The right is listed below as follows:

Certificate No. 17221

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

The portion of the right to be leased is further described as follows:

Water Right Identification No.: 17221

Source: Little Butte Creek

Priority date: 1908

Type of use: Irrigation

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

T 36S, R 1E, S 5 NW $\frac{1}{4}$ SE $\frac{1}{4}$ - 11.7 acres (2 of which are to be leased)

T 36S, R 1E, S 5 SW $\frac{1}{4}$ NE $\frac{1}{4}$ - 7.8 acres (none of which are to be leased)

Number of acres, if for irrigation: 19.5 acres (2 of which are to be leased)

Rate: 0.5 cfs (0.05 cfs to be leased)

Duty: None

Season of use: April 1-October 1

Point of Diversion (POD): NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 4, T.36 S., R.1 E., W.M.

Conditions or other limitations, if any: None

Water Right Identification No.: 17221

Source: Little Butte Creek

Priority date: 1875

Type of use: Irrigation

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

T 36S, R 1E, S 5 NE $\frac{1}{4}$ SE $\frac{1}{4}$ - 11 acres (5.6 of which are to be leased)

T 36S, R 1E, S 5 NW $\frac{1}{4}$ SE $\frac{1}{4}$ - 4.5 acres (none of which are to be leased)

T 36S, R 1E, S 5 SW $\frac{1}{4}$ NE $\frac{1}{4}$ - 6.0 acres (none of which are to be leased)

Number of acres, if for irrigation: 21.5 acres (5.6 of which are to be leased)

Rate: 0.5 cfs (0.13 cfs to be leased)

Duty: None

Season of use: April 1-October 1

Point of Diversion (POD): NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 4, T.36 S., R.1 E., W.M.

Conditions or other limitations, if any: None

- 1.5 **Validity of Rights.** Lessor attests that the subject portion of the water right is legally valid by having been beneficially used according to the terms of the right or permit. If the right is for irrigation, beneficial use must have occurred in the past five years on all lands

indicated in *Exhibit D*. Signed affidavit is attached as *Exhibit F*.

- 1.6 **Lease.** Lessor agrees to lease the subject portion of 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 690-77-0077.
- 1.7 **Suspension of original use.** During the period of the lease, the owner agrees to suspend use of water allowed under the subject portion of the water right and under any water right that is supplemental to the subject portion of the 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:

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 use.

- 2.2 **Instream use created by lease.** The instream use to be created is described as follows:

Little Butte Creek, tributary of the Rogue River in the Rogue Basin

Location: RM 10 to the mouth of Little Butte Creek

Priority date: 1908

Use: Described in Section 2.1, above

Total volume: None

Rate in cfs: 0.05 cfs

Period of use: April 1-October 1

Conditions to prevent or mitigate injury, if any: None

Little Butte Creek, tributary of the Rogue River on the Rogue Basin

Location: RM 10 to the mouth of Little Butte Creek

Priority date: 1875

Use: Described in Section 2.1, above

Total volume: None

Rate in cfs: 0.13 cfs

Period of use: April 1 - October 1

Conditions to prevent or mitigate injury, if any: None

- 2.3 **Term of lease.** This Lease shall commence on April 1, 1999 (not before execution by the parties) and terminate on October 1, 2000.
- 2.4 **Compensation.** Lessor has agreed to lease the subject portion of 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

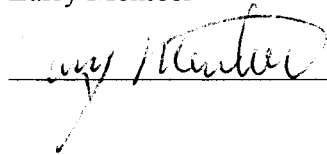
- 2.6 **Additional monitoring.** Lessee intends to manage and participate in the protection of the instream use by: possibly collecting information for calculating stream discharge.
- 2.7 **Modification or termination provisions.** None

III.

- 3.0 **Watermaster review.** By signature below, the watermaster for the district where the subject portion of the water right is located verifies that:
 - 3.1 Lessor is currently entitled to appropriate water under the subject portion of 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 portion of the water right to ensure water is not diverted or applied on lands to which subject portion of 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: Larry Mentee

District: 13



7-16-99

APPROVED AS TO FORM:



Douglas M. McGeary
Assistant County Counsel

Larry Menteer

Larry Menteer
Field Operations Division
10 South Oakdale
Medford, Oregon 97501
(541) 776-7056-Phone
(541) 776-7189-Fax

Date: _____

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: [Signature]

Date: August 11, 1997

Lessee: [Signature]

Date: July 13 1999

So ordered by Trustee: [Signature]

Date: 9-17-99

Director, Oregon Water Resources Department

- Exhibits: A through F are attached.
- Exhibit A: Proof of property ownership
- Exhibit B: Map of the property on which Lessor holds water rights
- Exhibit C: Copy of the certificate attached to property shown in Exhibit B
- Exhibit D: Detailed map illustrating lands irrigated by subject portion of right
- Exhibit E: Identification of public use to be served by instream use
- Exhibit F: Signed affidavit supporting validity of water rights