

AUG 24 1999

WATER RESOURCES DEPT.
SALEM, OREGON
OWT:17/8/99

Lease Agreement Number: 100

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:

Wayne M. And Donna M. Spicer
P.O. Box 571
Winchester, Oregon 97495
(541) 672-5339 - Phone

The water right to be leased is located in Douglas 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. 75632

- 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.: 75632

Source: North Umpqua River

Priority date: March 22, 1982

Type of use: Irrigation

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

T 26S, R 6W, S 23 SW $\frac{1}{4}$ SW $\frac{1}{4}$ - 16.4 acres (not part of this lease)

T 26S, R 6W, S 23 SE $\frac{1}{4}$ SW $\frac{1}{4}$ - 16 acres (3 of which are held by lessor, 2.75 of which are part of this lease)

Number of acres, if for irrigation: 32.4 acres (3 of which are held by lessor, 2.75 of which are part of this lease)

Rate: 0.4 cfs (0.037 cfs of which are held by lessor, 0.034 of which are part of this lease)

Duty: 81 acre-feet-2.5 ac-ft/acre (7.5 acre-feet of which are held by lessor, 6.87 of which are part of this lease)

Season of use: March 1 - October 31

Point of Diversion (POD): SE $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 22, T 26 S, R 6 W, W.M.; 120 FEET NORTH AND 450 FEET WEST FROM SE CORNER SECTION 22.

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*.
- 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:

North Umpqua River, tributary of the Umpqua River

Location: RM 3.5 to mouth of North Umpqua River

Priority date: March 22, 1982

Use: Described in Section 2.1, above

Total volume: 6.87 acre-feet

Rate in cfs: 0.034 cfs

Period of use: March 1-October 31

Conditions to prevent or mitigate injury, if any:

The instream flow will be allocated on a daily average basis up to the rate from July 22 until October 31, or until such time that the total duty for the irrigation season is met

- 2.3 **Term of lease.** This Lease shall commence on March 1, 1999 (not before execution by the parties) and terminate on October 31, 1999.
- 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

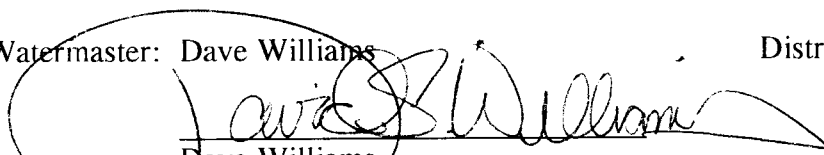
- 2.6 **Additional monitoring.** Lessee intends to manage and participate in the protection of the instream use by: possibly collecting information for calculating stream discharge.
- 2.7 **Modification or termination provisions.** None

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: Dave Williams

District: 15


Dave Williams

Dave Williams
Field Operations, WRD
Rm 306 Courthouse
Roseburg, OR 97470-1719
(541) 440-4255-Phone
(541) 440-6264-Fax

Date: 7-9-99

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: Rayne M. Spicer Date: 7-9-99
Lessor: Nenna M. Spicer Date: 7-9-99
Lessee: Robert Rusk Date: 7-13-99
So ordered by Trustee: Robert Rusk Date: 9-24-99

Director, Oregon Water Resources Department

- Exhibits: A through E 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