

LA # 0010.01

**Short-Term Water Right Lease Agreement
for
Leases of Existing Water Rights for Instream Use**

This Lease Agreement is between:

(Provide name address, telephone and fax number (if any) for each of the parties)

Lessor:

Laura Smith Ellis and G.T. Smith, Trustees of the Benny and Laura Ellis Trust,
dated July 14, 1994
18485 N. Applegate Road
Grants Pass, OR 97527
(503) 846-6521 (Laura)
(503) 488-1200 (G.T.)
(fax 488-3200)



The water rights to be leased are located in Jackson County.

Lessee:

Oregon Water Trust
5331 SW Macadam Avenue
Suite 286
Portland, OR 97201
(503) 226-9055
(fax 226-3480)

Trustee

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

I.

- 1.1 Lessor is the 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 [Use additional sheet, if necessary]:

Certificate No. 57592 Permit No. 1160
Certificate No. 57595 Permit No. 17890
Certificate No. 62400 Permit No. 45939

- 1.4 **Subject Water Rights.** Lessor proposes to lease a portion of water right No. 57592 and all of water right No. 57595 listed in 1.3, above.

The rights to be leased are further described as follows:

Water Right Identification No.: 57592
Priority date: April 16, 1912 Type of use: Irrigation
Place of use:

T 38S, R 4W, S 21, NE 1/4, NE 1/4-19 acres
T 38S, R 4W, S 21, NW 1/4, NE 1/4-24.3 acres
T 38S, R 4W, S 21, NE 1/4, NW 1/4-5.7 acres

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

Number of acres, if for irrigation: 49 acres (44 as part of lease) *83 LFS*

Acre-feet of storage: None *0.548 83 LFS*
Rate: 0.61 cfs (*0.585* cfs to be leased) Duty: None

Season of Use: April 1-October 31

Point of Diversion (POD):

T 38S, R 4W, S 21, NE 1/4, NE 1/4, W.M.; 1130 FEET SOUTH & 10 FEET WEST FROM NE CORNER SECTION 21

Conditions or other limitations, if any: None

Water Right Identification No.: 57595
Priority date: July 21, 1947 Type of use: Irrigation
Place of use:

T 38S, R 4W, S 21, NW 1/4, NE 1/4-2.64 acres
T 38S, R 4W, S 21, NE 1/4, NW 1/4-27.60 acres

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

Number of acres, if for irrigation: 30.24 acres

Acre-feet of storage: None
Rate: 0.38 cfs Duty: 136.08 acre feet

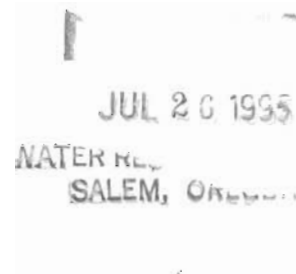
Season of Use: April 2-October 31

Point of Diversion (POD):

T 38S, R 4W, S 21, NW 1/4, NE 1/4, W.M.; 1280 FEET SOUTH & 1830 FEET WEST FROM NE CORNER SECTION 21

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 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.

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- 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:

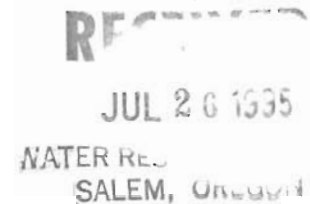
Applegate River
 Tributary to Rogue River in the Rogue Basin
 Location: To RM 0
 [Identify applicable points or reaches of instream use by river mile, description or map.]
 Priority date of: April 16, 1912
 Use: Described in Section 2.1, above
 Total volume: None
 Rate in cfs: ~~0.585~~ cfs 0.548 885 LFS
 Period of use: April 1-October 31
 Conditions to prevent or mitigate injury, if any:

Applegate River
 Tributary to Rogue River in the Rogue Basin
 Location: To RM 0
 [Identify applicable points or reaches of instream use by river mile, description or map.]
 Priority date of: July 21, 1947
 Use: Described in Section 2.1, above
 Total volume: 136.08 acre feet
 Rate in cfs: 0.38 cfs
 Period of use: April 2-October 31
 Conditions to prevent or mitigate injury, if any:

- 2.3 **Term of lease.** This Lease shall commence on April 1, 1995 (not before execution by the parties) and continue through October 31, 1995.
- 2.4 **Compensation.** The general nature of the lease compensation is: Lessor agrees to donate the water right herein to the Oregon Water Trust as a charitable contribution 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 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: None

Watermaster: *Bruce Sund* District: *14*
(Address, telephone, fax)
Bruce Sund
Field Operations, WRD
101 NW "A" Street
Grants Pass, OR 97526
474-5385
(fax 474-5389)

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Date: *JUL 24, 95*

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: *Laura S. Ellis* Date: *6-19-95*
[Signature] Date: *June 19, 1995*
Lessee: *Andrew Purkey* Date: *May 31, 1995*
So ordered by Trustee: *Rebecca A. Hoag* Date: *Aug 23, 1995*
Director, Oregon Water Resources Department
Administrator

Effective Date of Lease Agreement: *Aug 23, 1995*

Exhibits:

- Exhibit A: Power of Attorney Documentation
- Exhibit B: Map of Lessor's property
Proof of property ownership (copy of property deed and tax lot map)
- Exhibit C: Copies of all certificates, permits and decreed rights attached to property shown in Exhibit B

Other Exhibits As Needed:

- Exhibit D: Detailed map illustrating lands irrigated by subject rights
- Exhibit E: Identification of public use to be served by instream use
- Exhibits F, etc:
Information related to Optional Provisions, such as Additional Monitoring or Modifications or Termination of Lease