

Lease Agreement Number: 267

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

This Lease Agreement is between:

Lessor #1:

*Ronald G. & Barbara A. Smith
7530 Gold Creek
Willamina, OR 97396-9722
(503)-876-2933*

The water right to be leased is located in *and Polk County*

Trustee:

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

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- 1.1 Lessor #1 is the owner, or authorized agent for owner (Exhibit A), of property highlighted in Exhibit B.
- 1.2 Lessor #2 is the (Check one) [If Agreement includes multiple lessors, complete same for each additional party.]: N/A
- 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. 39447

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

The rights to be leased are further described as follows:

Certificate No. 39447

Permit No.: 33488

Priority date: June 10, 1968

Source: South Yamhill River

Type of use: Irrigation

Place of use:

4.0 acres NE1/4 SW1/4

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1.4 acres NW1/4 SW1/4

7.2 acres SW1/4 SW1/4

32.0 acres SE1/4 SW1/4

12.0 acres SW1/4 SE1/4

All as projected within Eades DLC 47

2.0 acres SW1/4 SE1/4

As projected within Tharp DLC 52

1.1 acres Lot 1 (SW1/4 SE1/4)

0.2 acre Lot 1 (SE1/4 SE1/4)

2.1 acres SE1/4 SE1/4

as projected within Tharp DLC 52

Section 15

0.1 acre Lot 1 (NW1/4 NE1/4)

8.5 acres NW1/4 NE1/4

28.0 acres NE1/4 NW1/4

1.0 acre SE1/4 NW1/4

All as projected within Eades DLC 47

Section 22

Township 6 South, Range 7 West W.M.

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

Number of acres, if for irrigation: 99.7

Rate: 0.94 cfs

Duty: 249.2 Acre Ft.

Season of Use: April 1st through September 30th

Point(s) of Diversion (POD): SE1/4, SW1/4 as projected within Eades DLC 47, section 15, Town 6 South, Range 7 West, W.M., 700 feet South and 800 Feet East from NW Corner, Eades DLC 47.

Conditions or other limitations, if any:

- 1.5 **Validity of Rights.** Lessor #1 attests that the subject water rights are legally valid by having been beneficially used according to the terms of the right or permit.
- 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. This lease is through a CREP program which begins October 01, 2001 and will terminate on September 20, 2016. We will renew this instream lease every 2 years until the end of the CREP program.
- 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.

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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 (Select one):

- Mitigation of a deficiency in the water supply for an existing instream water right or minimum streamflow located_____.
- Mitigation of a deficiency in water supply identified in an application for an instream water right or *Diack* flow located_____.
- A specific use or need identified by DEQ, Parks or ODFW and further described in *Exhibit E*.
- 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 uses.

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

A Portion of Certificate # 39447

South Yamhil River Tributary to Yamhil River in the Willamette Basin.

Location: From the POD SE1/4, SW1/4 as projected within Eades DLC 47, section 15, Town 6 South, Range 7 West, W.M., 700 feet South and 800 Feet East from NW Corner, Eades DLC 47. (RM # 47 to RM # 44.75 Hwy Bridge # 18).

[Identify applicable points or reaches of instream use by river mile, description or map.]

Priority date of: June 10, 1968

Use: Described in Section 2.1 above

Number of Acres: 99.7 acres, being 14.9 acres leased and 84.8 acres (irrigated)

Total volume: 249.2 acre ft. being 37.25 acre ft. leased and 211.95 acre ft. (irrigated)

Rate in cfs: 0.94 cfs, being 0.186 cfs leased and .754 cfs (irrigated)

Period of use: April 1st through September 30

Conditions to prevent or mitigate injury, if any:

2.3 **Term of lease.** This Lease shall commence on April 1, 2002

(not before execution by the parties) and continue through September 30, 2003

2.4 **Compensation.** The Lessor has agreed to lease a subject water right for the sum of \$1.00, 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.

Optional Provisions

2.6 **Additional monitoring.** Lessor/Lessee intends to manage and participate in the protection of the instream use by: (Describe plans)

2.7 **Modification or termination provisions.** (Describe any such provisions)

~III.~

3 **Watermaster review.** By signature below, the watermaster for the district where the subject water right is located verifies that:

3.1 Lessor #1 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: (Describe, if any)

Watermaster: _____ District #16

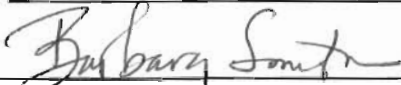
William Ferber
158 12th Street NE
Salem, Or. 97301

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: 11-15-01

Lessor:  Date: 11-15-01

So ordered by Trustee: _____ Date: _____

Director, Oregon Water Resources Department