

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

This Lease Agreement is between:

Lessor:

Jackson County
Dept. of Public Works and Parks
400 Antelope Road
White City, OR 97503
(541) 826-3122-Phone
(541) 826-1655-Fax

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

Lessee:

Oregon Water Trust
111 SW Front Avenue
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 (*Exhibit A*) of property highlighted in *Exhibit B*.
- 1.2 Section 1.2 is not applicable
- 1.3 *Exhibit C* contains copies of the certificated rights attached to the property in *Exhibit B*. The rights are listed below as follows:

Certificate Nos. 36708 and 9693

WATER RIGHT LEASE AGREEMENT

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

The rights to be leased are further described as follows:

Water Right Identification No.: 36708
Source: Rogue River
Priority date: 1898
Type of use: Irrigation
Place of use: (map of irrigated lands is in *Exhibit D.*)
T 36S, R 1W, S 6, SE 1/4, NW 1/4, 13.8 acres
T 36S, R 1W, S 6, NE 1/4, SW 1/4, 25 acres
T 36S, R 1W, S 6, SE 1/4, SW 1/4, 33 acres
Number of acres, if for irrigation: 71.8
Rate: 1.79 cfs
Duty: None
Season of use: April 1 to September 30
Point of diversion (POD):
T 35S, R 1W, S 16, SW 1/4, NW 1/4
Conditions or other limitations, if any: None

Water Right Identification No.: 9693
Source: Rogue River
Priority date: April 16, 1921
Type of use: Irrigation
Place of use: (map of irrigated lands is in *Exhibit D.*)
T 35S, R 1W, S 31, SE 1/4, NE 1/4, 3 acres
T 35S, R 1W, S 31, NE 1/4, SE 1/4, 25 acres
T 35S, R 1W, S 31, NW 1/4, SE 1/4, 3 acres
T 35S, R 1W, S 31, SW 1/4, SE 1/4, 20 acres
Number of acres, if for irrigation: 51
Rate: .64
Duty: None
Season of use: April 1 to September 30
Point of diversion (POD):
T 35S, R 1W, S 20, NE 1/4, SW 1/4-at the center of Section 20
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 immediately preceding the 1996 irrigation year 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.

- 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:

No. 36708

Rogue River, tributary to Pacific Ocean

Location: RM 138 to 126

Priority date: 1898

Use: Described in Section 2.1, above

Total volume: None

Rate: 1.79 cfs

Period of Use: April 1 to September 30

Conditions to prevent or mitigate injury, if any: None

No. 9693

Rogue River, tributary to Pacific Ocean

Location: RM 138 to 126

Priority date: April 16, 1921

Use: Described in Section 2.1, above

Total volume: None

Rate: .64 cfs

Period of Use: April 1 to September 30

Conditions to prevent or mitigate injury, if any: None

- 2.3 **Term of lease.** This Lease shall commence on April 1, 1997 (not before execution by the parties) and continue through September 30, 1998.
- 2.4 **Compensation.** Lessor has agreed to lease 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 **Watermaster review.** By signature below, the watermaster for the district where the subject water rights are 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 in place so that WRD staff may regulate use of water under the subject rights to ensure water is not diverted or applied on lands to which subject rights are 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*
Bruce Sund
Field Operations Division
101 NW "A" Street
Grants Pass, OR 97526
(541) 474-5385-Phone
(541) 474-5389-Fax

Date: *4-8-1997*

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: *Susan & Steve* Date: *12/4/96*
for Bona

Lessee: *Andrew Purkey* Date: *Nov. 11, 1996*

So ordered by Trustee: *William R. Rinkle* Date: *May 14, 1997*
Director, Oregon Water Resources Department

Effective Date of Lease Agreement:

Exhibits: A through D are on record with OWRD. E is attached.

- Exhibit A: Proof of property ownership (copy of property deed)
- Exhibit B: Map of Lessor's property
- Exhibit C: Copies of all certificates attached to property shown in Exhibit B
- Exhibit D: Detailed map illustrating lands irrigated by subject rights
- Exhibit E: Identification of public use to be served by instream use

APPROVED AS TO FORM:
SR
STEVEN R. RINKLE
ASSISTANT CO. COUNSEL

EXHIBIT E

I believe that the water rights described as Certificate Nos. 36708 and 9693 will provide for the conservation maintenance and enhancement of aquatic and fish life and fish habitat in the Rogue River, tributary to the Pacific Ocean, if temporarily converted to instream use during the 1997 and 1998 irrigation seasons. Specifically, the following benefits will likely be provided:

- spawning and rearing habitat for anadromous and resident fish will likely be improved within the reach of the instream water right;
- movement of anadromous fish in the Rogue River will likely be improved within the reach of the instream water right.

Dated:

11/15/96

Signed:

Mike Evenson

Mike Evenson
ODFW Fisheries Biologist
Central Point, Oregon