

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

This Lease Agreement is between:

Lessor:

The Nature Conservancy
Oregon Field Office
821 SE 14th Street
Portland, OR 97214
(503) 230-0707, ext. 334-Phone
(Russell Hoeflich is the contact at the Oregon Field Office)

The water rights to be leased are located in Grant 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) 378-8130-Fax

I.

- 1.1 Lessor is the owner 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:

Certificate Nos.: 25085, 25087, 25260, 25089, 25090, 50488, 50975, 25088, 3945, 25086, 25093, 11636, 14253, 25092, 25094
- 1.4 **Subject Water Rights.** Lessor proposes to lease a portion of the water rights listed in 1.3, above, with the exception of C-50488 and C-50975.

The rights to be leased are further described as follows:

Water Right Identification No.: 25085

Source: Granite Boulder Creek, tributary of Middle Fork John Day River

Priority date: 1885

Type of use: Irrigation, domestic and stock

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

T 10S, R 34E, S 31, SE $\frac{1}{4}$ SE $\frac{1}{4}$ -5.2 acres

Number of acres, if for irrigation: 5.2 acres

Rate: 0.13 cfs (April 1-May 31), 0.065 cfs (June 1-Sept. 30)

Duty: A quantity of water limited to 5.2 acre-feet during any calendar month prior to June 1st, and not to exceed, during the irrigation season, 20.8 acre-feet.

Season of Use: April 1-September 30

Point(s) of Diversion (POD): T 10S, R 34E, S 32, SE $\frac{1}{4}$ NW $\frac{1}{4}$

Conditions or other limitations, if any: None

Water Right Identification No.: 25087

Source: Granite Boulder Creek, tributary of M.F. John Day River, and Springs

Priority date: 1886 (Irrigation, Domestic and Stock) & 1898 (Supplemental Irrigation)

Type of use: Irrigation, Supplemental Irrigation, Domestic and Stock

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

T 10S, R 34E, S 31, SE $\frac{1}{4}$ SE $\frac{1}{4}$ -6 acres

T 11S, R 34E, S 6, NE $\frac{1}{4}$ NE $\frac{1}{4}$ -20.4 acres

T 11S, R 34E, S 6, NW $\frac{1}{4}$ NE $\frac{1}{4}$ -20 acres

T 11S, R 34E, S 6, SW $\frac{1}{4}$ NE $\frac{1}{4}$ -5.6 acres

T 11S, R 34E, S 6, SE $\frac{1}{4}$ NE $\frac{1}{4}$ -27.8 acres (11.2 acres of which are irrigated from springs in the SW $\frac{1}{4}$ NE $\frac{1}{4}$)

T 11S, R 34E, S 6, NE $\frac{1}{4}$ NW $\frac{1}{4}$ -1.6 acres

T 11S, R 34E, S 6, SE $\frac{1}{4}$ NE $\frac{1}{4}$ -12.2 acres (supplemental irrigation)

Number of acres, if for irrigation: 81.4 acres (primary) & 12.2 acres (supplemental)

During the time period the primary right underlying the supplemental portion of C-25087 is met, the prorated rates and duties for only the primary portion of C-25087 can be utilized.

During the time period the primary right underlying the supplemental portion of C-25087 is not met, the prorated rates and duties for both the primary and supplemental portions of C-25087 can be utilized.

Rate (primary): 2.035 cfs (April 1-May 31), 1.018 cfs (June 1-Sept. 30)

Rate (supplemental): 0.305 cfs (April 1-May 31), 0.153 cfs (June 1-Sept. 30)

Duty: For any calendar month prior to June 1st, primary equals a quantity of water limited to 81.4 acre-feet and supplemental equals a quantity of water limited to 12.2 acre-feet, minus the amount of acre-feet already received under the underlying primary right. During the irrigation season, primary equals a quantity of water limited to 325.6 acre-feet and supplemental equals a quantity of water limited to 48.8 acre-feet, minus the amount of acre-feet already received under the underlying primary right.

Season of Use: April 1-September 30

Points of Diversion: T 10S, R 34E, S 32, SW $\frac{1}{4}$ SW $\frac{1}{4}$ and T 11S, R 34E, S 6, SE $\frac{1}{4}$ NE $\frac{1}{4}$

Conditions or other limitations, if any: None

Water Right Identification No.: 25260

Source: Granite Boulder Creek, tributary of Middle Fork John Day River

Priority date: 1890

Type of use: Irrigation

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

T 11S, R 34E, S 5, SW $\frac{1}{4}$ NW $\frac{1}{4}$ -7.4 acres

T 11S, R 34E, S 5, SE $\frac{1}{4}$ NW $\frac{1}{4}$ -8.4 acres

T 11S, R 34E, S 5, NE $\frac{1}{4}$ SW $\frac{1}{4}$ -1.4 acres

Number of acres, if for irrigation: 17.2 acres

Rate: 0.43 cfs (April 1-May 31), 0.215 cfs (June 1-Sept. 30)

Duty: A quantity of water limited to 17.2 acre-feet during any calendar month prior to June 1st, and not to exceed, during the irrigation season, 68.8 acre-feet.

Season of Use: April 1-September 30

Point(s) of Diversion (POD): T 10S, R 34E, S 32, SW $\frac{1}{4}$ NE $\frac{1}{4}$

Conditions or other limitations, if any: None

Water Right Identification No.: 25089

Source: Granite Boulder Creek, tributary of Middle Fork John Day River

Priority date: 1898

Type of use: Irrigation, Domestic and Stock

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

T 11S, R 34E, S 6, SE $\frac{1}{4}$ NE $\frac{1}{4}$ -7.8 acres

Number of acres, if for irrigation: 7.8 acres

Rate: 0.195 cfs (April 1-May 31), 0.098 cfs (June 1-Sept. 30)

Duty: A quantity of water limited to 7.8 acre-feet during any calendar month prior to June 1st, and not to exceed, during the irrigation season, 31.2 acre-feet.

Season of Use: April 1-September 30

Point(s) of Diversion (POD): T 11S, R 34E, S 6, SE $\frac{1}{4}$ NE $\frac{1}{4}$

Conditions or other limitations, if any: None

Water Right Identification No.: 25090

Source: Granite Boulder Creek, tributary of Middle Fork John Day River

Priority date: 1902

Type of use: Irrigation, Domestic and Stock

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

T 11S, R 34E, S 6, SW $\frac{1}{4}$ NE $\frac{1}{4}$ -16.0 acres

Number of acres, if for irrigation: 16.0 acres

Rate: 0.4 cfs (April 1-May 31), 0.2 cfs (June 1-Sept. 30)

Duty: A quantity of water limited to 16 acre-feet during any calendar month prior to June 1st, and not to exceed, during the irrigation season, 64 acre-feet.

Season of Use: April 1-September 30

Point(s) of Diversion (POD): T 11S, R 34E, S 6, SE $\frac{1}{4}$ NE $\frac{1}{4}$

Conditions or other limitations, if any: None

Water Right Identification No.: 25088

Source: Middle Fork John Day River and Big Butte Creek, tributary of Middle Fork John Day River

Priority date: 1886

Type of use: Irrigation, Domestic and Stock

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

T 11S, R 34E, S 6, SW $\frac{1}{4}$ NE $\frac{1}{4}$ -15.5 acres

Number of acres, if for irrigation: 15.5

Rate: M.F. John Day River-0.388 cfs and Big Butte Creek-0.388 cfs (April 1-May 31), 0.194 cfs (June 1-Sept. 30)

Duty: For the Middle Fork John Day River and Big Butte Creek rights combined, a quantity of water limited to 15.5 acre-feet during any calendar month and not to exceed, during the irrigation season, 77.5 acre-feet.

Season of Use: April 1-September 30

Point(s) of Diversion (POD): M.F. John Day River-T 11S, R 34E, S 6 & Big Butte Creek-T 11S, R 34E, S 8, NW $\frac{1}{4}$ NW $\frac{1}{4}$

Conditions or other limitations, if any: None

Water Right Identification No.: 3945

Source: Big Butte Creek, tributary of Middle Fork John Day River

Priority date: October 20, 1919

Type of use: Irrigation

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

T 11S, R 34E, S 6, SW $\frac{1}{4}$ NE $\frac{1}{4}$ -10 acres

Number of acres, if for irrigation: 10

Rate: 0.125 cfs

Duty: None

Season of Use: April 1-September 30

Point(s) of Diversion (POD): T 11S, R 34E, S 8, NE $\frac{1}{4}$ NW $\frac{1}{4}$

Conditions or other limitations, if any: None

Water Right Identification No.: 25086

Source: Ruby Creek, tributary of Middle Fork John Day River

Priority date: 1886

Type of use: Irrigation, domestic and stock

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

T 10S, R 34E, S 31, SW $\frac{1}{4}$ SW $\frac{1}{4}$ -32.3 acres

T 10S, R 34E, S 31, SE $\frac{1}{4}$ SW $\frac{1}{4}$ -23.2 acres (6.2 acres subirrigated from MFJD)

T 11S, R 34E, S 6, NE $\frac{1}{4}$ NW $\frac{1}{4}$ -20.1 acres (3.6 acres subirrigated from MFJD)

Number of acres, if for irrigation: 75.6 acres (65.8 acres irrigated from Ruby Cr.)

Rate (Ruby Creek): 1.64 cfs (April 1-May 31), 0.82 cfs (June 1-Sept. 30)

Duty (Ruby Creek): A quantity of water limited to 65.8 acre-feet during any calendar month prior to June 1st, and not to exceed, during the irrigation season, 263.2 acre-feet.

Season of Use: April 1-September 30

Point(s) of Diversion (POD): T 11S, R 34E, S 6, NE $\frac{1}{4}$ NW $\frac{1}{4}$

Conditions or other limitations, if any: None

Water Right Identification No.: 25093

Source: Beaver Creek, tributary of Middle Fork John Day River

Priority date: 1902

Type of use: Irrigation

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

T 10S, R 33E, S 36, SE¼ NE¼-3.2 acres

T 10S, R 33E, S 36, NE¼ SE¼-10 acres

Number of acres, if for irrigation: 13.2 acres

Rate: 0.33 cfs (April 1-May 31), 0.165 cfs (June 1-Sept. 30)

Duty: A quantity of water limited to 13.2 acre-feet during any calendar month prior to June 1st, and not to exceed, during the irrigation season, 52.8 acre-feet.

Season of Use: April 1-September 30

Point(s) of Diversion (POD): T 10S, R 34E, S 31, NW¼ SW¼

Conditions or other limitations, if any: None

Water Right Identification No.: 11636

Source: Beaver Creek, tributary of Middle Fork John Day River

Priority date: November 26, 1934

Type of use: Irrigation

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

T 10S, R 33E, S 36, NE¼ NE¼-10 acres

Number of acres, if for irrigation: 10 acres

Rate: 0.25

Duty: A quantity of water limited to 10 acre-feet during any calendar month and not to exceed, during the irrigation season, 50 acre-feet.

Season of Use: April 1-September 30

Point(s) of Diversion (POD): SE¼ SW¼, Section 30, Township 10 South, Range 34 East, W.M.

Conditions or other limitations, if any: None

Water Right Identification No.: 14253

Source: Corner Creek, tributary of Middle Fork John Day River

Priority date: September 27, 1939

Type of use: Supplemental Irrigation, Domestic and Stock

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

T 10S, R 33E, S 36, NE¼ NE¼-3 acres

Number of acres, if for irrigation: 3 acres (supplemental)

During the time periods the primary right underlying C-14253 is met, C-14253 cannot be utilized. During the time periods the primary right underlying C-14253 is not met, the prorated rate and duty for C-14253 can be utilized.

Rate: 0.08 cfs (April 1-May 31), 0.038 cfs (June 1-Sept. 30)

Duty: For any calendar month prior to June 1st, equals a quantity of water limited to 3 acre-feet, minus the amount of acre-feet already received under the underlying primary right. During the irrigation season, equals a quantity of water limited to 12 acre-feet, minus the amount of acre-feet already received under the underlying primary right.

Season of Use: April 1-September 30

Point(s) of Diversion (POD): T 10S, R 33E, S 36 NE¼ NE¼

Conditions or other limitations, if any: None

Water Right Identification No.: 25092

Source: Middle Fork John Day River and a Slough leading from Granite Boulder Creek

Priority date: 1886

Type of use: Irrigation

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

T 11S, R 34E, S 5, NW¼ SW¼-5 acres

T 11S, R 34E, S 6, NE¼ SE¼-10.2 acres

Number of acres, if for irrigation: 15.2 acres

Rate: M.F. John Day River-0.38 cfs and Slough-0.38 cfs (April 1-May 31), 0.19 cfs (June 1-Sept. 30)

Duty: For the Middle Fork John Day River and Slough leading from Granite Boulder Creek combined, a quantity of water limited to 15.2 acre-feet during any calendar month and not to exceed, during the irrigation season, 76 acre-feet.

Season of Use: April 1-September 30

Point(s) of Diversion (POD): T 11S, R 34E, S 6

Conditions or other limitations, if any: None

Water Right Identification No.: 25094

Source: Slough that heads out of Middle Fork John Day River

Priority date: 1902

Type of use: Irrigation

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

T 10S, R 33E, S 36, SW¼ NE¼-1.2 acres

T 10S, R 33E, S 36, SE¼ NE¼-4.8 acres

T 10S, R 33E, S 36, NE¼ SE¼-16.4 acres

T 10S, R 33E, S 36, NW¼ SE¼-3 acres

T 10S, R 33E, S 36, SE¼ SE¼-6.4 acres

Number of acres, if for irrigation: 31.8 acres

Rate: 0.79 cfs

Duty: A quantity of water limited to 31.8 acre-feet during any calendar month and not to exceed, during the irrigation season, 159 acre-feet

Season of Use: April 1-September 30

Point(s) of Diversion (POD): T 10S, R 34E, S 31, SW¼ SW¼

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 1999 irrigation year and, if the rights are for irrigation, on all lands indicated in *Exhibit D.*
- 1.6 **Lease.** Lessor agrees to lease a portion of 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. 25085

Granite Boulder Creek

Tributary of Middle Fork John Day River in the Columbia Basin

Location: P.O.D. through to RM 50 of Middle Fork John Day River

Priority date: 1885

Use: Instream (described in Section 2.1, above)

Total volume: A quantity of water limited to 5.2 acre-feet during any calendar month prior to June 1st, and not to exceed, during the irrigation season, 20.8 acre-feet.

Rate: 0.13 cfs (April 1-May 31) and 0.065 cfs (June 1-Sept. 30)

Period of use: April 1-September 30

Conditions to prevent or mitigate injury, if any: The rate of the water right has been adjusted as follows to meet seasonal duty restrictions:

The total rate of the instream water right is 0.042 cfs from April 1-May 31 and 0.065 cfs from June 1 to September 30. The instream flow will be allocated on a daily average basis up to these rates from the date of execution until September 30, or until such time that the total duty for the irrigation season is met.

No. 25087

Granite Boulder Creek

Tributary of Middle Fork John Day River in the Columbia Basin

Location: P.O.D. through to RM 50 of Middle Fork John Day River

Priority date: 1886 (primary) and 1898 (supplemental)

Use: Instream (described in Section 2.1, above)

Total volume: For any calendar month prior to June 1st, primary equals a quantity of water limited to 81.4 acre-feet and supplemental equals a quantity of water limited to 12.2 acre-feet, minus the amount of acre-feet already received under the underlying primary right. During the irrigation season, primary equals a quantity of water limited to 325.6 acre-feet and supplemental equals a quantity of water limited to 48.8 acre-feet, minus the amount of acre-feet already received under the underlying primary right.

Rate (primary): 2.035 cfs (April 1-May 31), 1.018 cfs (June 1-Sept. 30)

Rate (supplemental): 0.305 cfs (April 1-May 31), 0.153 cfs (June 1-Sept. 30)

Period of use: April 1-September 30

Conditions to prevent or mitigate injury, if any: The rate of the water right has been adjusted as follows to meet seasonal duty restrictions:

The total rate of the primary instream water right is 0.659 cfs from April 1-May 31 and 1.018 cfs from June 1 to September 30. The instream flow will be allocated on a daily average basis up to these rates from the date of execution until September 30, or until such time that the total duty for the irrigation season is met. If the supplemental portion is used, up to 0.305 cfs can be allocated on a daily basis from April 1-May 31 and 0.153 cfs can be allocated on a daily basis from June 1-Sept. 30 until an additional 48.8 acre-feet, minus the amount of acre-feet already received under the underlying primary portion of C-25087, is met.

No. 25260

Granite Boulder Creek

Tributary of Middle Fork John Day River in the Columbia Basin

Location: P.O.D. through to RM 50 of Middle Fork John Day River

Priority date: 1890

Use: Instream (described in Section 2.1, above)

Total volume: A quantity of water limited to 17.2 acre-feet during any calendar month prior to June 1st, and not to exceed, during the irrigation season, 68.8 acre-feet.

Rate: 0.43 cfs (April 1-May 31) and 0.215 cfs (June 1-Sept. 30)

Period of use: April 1-September 30

Conditions to prevent or mitigate injury, if any: The rate of the water right has been adjusted as follows to meet seasonal duty restrictions:

The total rate of the instream water right is 0.139 cfs from April 1-May 31 and 0.215 cfs from June 1 to September 30. The instream flow will be allocated on a daily average basis up to these rates from the date of execution until September 30, or until such time that the total duty for the irrigation season is met.

No. 25089

Granite Boulder Creek

Tributary of Middle Fork John Day River in the Columbia Basin

Location: P.O.D. through to RM 50 of Middle Fork John Day River

Priority date: 1898

Use: Instream (described in Section 2.1, above)

Total volume: A quantity of water limited to 7.8 acre-feet during any calendar month prior to June 1st, and not to exceed, during the irrigation season, 31.2 acre-feet.

Rate: 0.195 cfs (April 1-May 31) and 0.098 cfs (June 1-Sept. 30)

Period of use: April 1-September 30

Conditions to prevent or mitigate injury, if any: The rate of the water right has been adjusted as follows to meet seasonal duty restrictions:

The total rate of the instream water right is 0.062 cfs from April 1-May 31 and 0.098 cfs from June 1 to September 30. The instream flow will be allocated on a daily average basis up to these rates from the date of execution until September 30, or until such time that the total duty for the irrigation season is met.

No. 25090

Granite Boulder Creek

Tributary of Middle Fork John Day River in the Columbia Basin

Location: P.O.D. through to RM 50 of Middle Fork John Day River

Priority date: 1902

Use: Instream (described in Section 2.1, above)

Total volume: A quantity of water limited to 16 acre-feet during any calendar month prior to June 1st, and not to exceed, during the irrigation season, 64 acre-feet.

Rate: 0.4 cfs (April 1-May 31) and 0.2 cfs (June 1-Sept. 30)

Period of use: April 1-September 30

Conditions to prevent or mitigate injury, if any: The rate of the water right has been adjusted as follows to meet seasonal duty restrictions:

The total rate of the instream water right is 0.129 cfs from April 1-May 31 and 0.2 cfs from June 1 to September 30. The instream flow will be allocated on a daily average basis up to these rates from the date of execution until September 30, or until such time that the total duty for the irrigation season is met.

No. 25088

Middle Fork John Day River and Big Butte Creek

Tributaries of N.F. John Day River and of M.F. John Day River, in the Columbia Basin

Location: P.O.D. through to RM 50 of Middle Fork John Day River

Priority date: 1886

Use: Instream (described in Section 2.1, above)

Total volume: A quantity of water limited to 15.5 acre-feet during any calendar month, and not to exceed, during the irrigation season, 77.5 acre-feet.

Rate: M.F. John Day River and Big Butte Creek-0.388 cfs

[Big Butte Creek-0.388 cfs (April 1-May 31) and 0.194 cfs (June 1-Sept. 30)]

Period of use: April 1-September 30

Conditions to prevent or mitigate injury, if any: The rate of the water right has been adjusted as follows to meet seasonal duty restrictions:

The total rate of the instream water right is 0.135 cfs from April 1-May 31 and 0.253 cfs from June 1 to September 30. The instream flow will be allocated on a daily average basis up to these rates from the date of execution until September 30, or until such time that the total duty for the irrigation season is met.

No. 3945

Big Butte Creek

Tributary of Middle Fork John Day River in the Columbia Basin

Location: P.O.D. through to RM 50 of Middle Fork John Day River

Priority date: October 20, 1919

Use: Instream (described in Section 2.1, above)

Total volume: A quantity of water equal to 45.29 acre-feet during irrigation season

Rate: 0.125

Period of use: April 1-September 30

Conditions to prevent or mitigate injury, if any: None

No. 25086

Ruby Creek

Tributary of Middle Fork John Day River in the Columbia Basin

Location: P.O.D. through to RM 50 of Middle Fork John Day River

Priority date: 1886

Use: Instream (described in Section 2.1, above)

Total volume (Ruby Creek): A quantity of water limited to 65.8 acre-feet during any calendar month prior to June 1st, and not to exceed, during the irrigation season, 263.2 acre-feet.

Rate (Ruby Creek): 1.645 cfs (April 1-May 31) and 0.82 cfs (June 1-Sept. 30)

Period of use: April 1-September 30

Conditions to prevent or mitigate injury, if any: The rate of the water right has been adjusted as follows to meet seasonal duty restrictions:

The total rate of the instream water right is 0.534 cfs from April 1-May 31 and 0.82 cfs from June 1 to September 30. The instream flow will be allocated on a daily average basis up to these rates from the date of execution until September 30, or until such time that the total duty for the irrigation season is met.

No. 25093

Beaver Creek

Tributary of Middle Fork John Day River in the Columbia Basin

Location: P.O.D. through to RM 50 of Middle Fork John Day River

Priority date: 1902

Use: Instream (described in Section 2.1, above)

Total volume: A quantity of water limited to 13.2 acre-feet during any calendar month prior to June 1st, and not to exceed, during the irrigation season, 52.8 acre-feet.

Rate: 0.33 cfs (April 1-May 31) and 0.165 cfs (June 1-Sept. 30)

Period of use: April 1-September 30

Conditions to prevent or mitigate injury, if any: The rate of the water right has been adjusted as follows to meet seasonal duty restrictions:

The total rate of the instream water right is 0.107 cfs from April 1-May 31 and 0.165 cfs from June 1 to September 30. The instream flow will be allocated on a daily average basis up to these rates from the date of execution until September 30, or until such time that the total duty for the irrigation season is met.

No. 11636

Beaver Creek

Tributary of Middle Fork John Day River in the Columbia Basin

Location: P.O.D. through to RM 50 of Middle Fork John Day River

Priority date: November 26, 1934

Use: Instream (described in Section 2.1, above)

Total volume: A quantity of water limited to 10 acre-feet during any calendar month and not to exceed 50 acre-feet during the irrigation season

Rate: 0.25

Period of use: April 1-September 30

Conditions to prevent or mitigate injury, if any: The rate of the water right has been adjusted as follows to meet seasonal duty restrictions:

The total rate of the instream water right is 0.163 cfs. The instream flow will be allocated on a daily average basis up to this rate from April 30 until September 30, or until such time that the total duty for the irrigation season is met.

No. 14253

Corner Creek

Tributary of Middle Fork John Day River in the Columbia Basin

Location: P.O.D. through to RM 50 of Middle Fork John Day River

Priority date: September 27, 1939 (supplemental)

Use: Instream (described in Section 2.1, above)

Total volume: For any calendar month prior to June 1st, equals a quantity of water limited to 3 acre-feet, minus the amount of acre-feet already received under the underlying primary right.

During the irrigation season, equals a quantity of water limited to 12 acre-feet, minus the amount of acre-feet already received under the underlying primary right.

Rate: 0.08 cfs (April 1-May 31), 0.038 cfs (June 1-Sept. 30)

Period of use: April 1-September 30

Conditions to prevent or mitigate injury, if any: The rate of the water right has been adjusted as follows to meet seasonal duty restrictions:

If the supplemental right is used, up to 0.023 cfs can be allocated on a daily basis from April 1-May 31 and 0.038 cfs can be allocated on a daily basis from June 1-Sept. 30 until an additional 12 acre-feet, minus the amount of acre-feet already received under the underlying primary right, is met.

No. 25092

Middle Fork John Day River and a Slough leading from Granite Boulder Creek

Tributaries to N.F. John Day River and M.F. John Day River, in the Columbia Basin

Location: P.O.D. to RM 50 of the Middle Fork John Day River

Priority date of: 1886

Use: Described in Section 2.1, above

Total volume: A quantity of water not to exceed 15.2 acre-feet during any calendar month and a total quantity during the irrigation season not to exceed 76 acre-feet.

Rate: M.F. John Day River and Slough-0.38 cfs

[Slough-0.38 cfs (April 1-May 31) and 0.19 cfs (June 1-Sept. 30)]

Period of use: April 1-September 30

Conditions to prevent or mitigate injury, if any: The rate of the water right has been adjusted as follows to meet seasonal duty restrictions:

The total rate of the instream water right is 0.139 cfs from April 1-May 31 and 0.245 cfs from June 1 to September 30. The instream flow will be allocated on a daily average basis up to these rates from the date of execution until September 30, or until such time that the total duty for the irrigation season is met.

No. 25094

Slough that heads out of Middle Fork John Day River

Tributary to North Fork John Day River in the Columbia Basin

Location: P.O.D. to RM 50 of the Middle Fork John Day River

Priority date of: 1902

Use: Described in Section 2.1, above

Total volume: A quantity of water not to exceed 31.8 acre-feet during any calendar month and a total quantity during the irrigation season not to exceed 159 acre-feet.

Rate: 0.79 cfs

Period of use: April 1-September 30

Conditions to prevent or mitigate injury, if any: The rate of the water right has been adjusted as follows to meet seasonal duty restrictions:

The total rate of the instream water right is 0.517 cfs. The instream flow will be allocated on a daily average basis up to this rate from April 29 until September 30, or until such time that the total duty for the irrigation season is met.

- 2.3 **Term of lease.** This Lease shall commence on April 1, 1999 (not before execution by the parties) and continue through September 30, 1999.
- 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 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 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. In addition, the landowner agrees not to divert water under the subject water rights during the period of the lease.

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: *Kelly Rise* District: 4
Kelly Rise
OWRD
201 S. Humbolt Street, Suite 180
Grant County Courthouse
Canyon City, Oregon 97820
(541) 575-0119-Phone
(541) 575-2248-Fax

Date:

8/2/99

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:

[Signature]

Date: *Aug 6th 1999*

Lessee:

Adrian Parky

Date: *July 30 1999*

So ordered by Trustee:

Do Smiley

Date: *9-1-99*

Director, Oregon Water Resources Department

Effective Date of Lease Agreement:

Exhibits:

- Exhibit A: Proof of property ownership (copy of property deed)
- Exhibit B: Map of Lessor's property
- Exhibit C: Copies of all certificates, permits and decreed rights 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