



Lease Agreement No.:

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

This Lease Agreement is between:

Lessor:

John Justesen
Box 2
Kent, OR 97033
(541) 333-2228

The water right to be leased is located in Wasco 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 water rights attached to the property in *Exhibit B*. The rights are listed below as follows:

Certificate Nos.: ~~27866, 47966, 47968, and 47969~~

9/4/94
 6-11-5/10/96
 9/4
 2-12-96
 6/11-5/10/96

- 1.4 **Subject Water Rights.** Lessor proposes to lease only water right number 47968 listed in 1.3, above.

The right to be leased is further described as follows:

Water Right Identification No.: 47968

Source: Mayfield Spring, tributary of White River

Priority date: July 28, 1976

Type of use: Log Sprinkling & Fire Suppression

Place of use:

NW¹/₄, NE¹/₄

SW¹/₄, NE¹/₄

SE¹/₄, NE¹/₄

T 4S, R 13E, Section 10

Acre-feet of storage: None

Rate: 0.87 cfs

Duty: None

Season of use: January 1 to December 31

Point of Diversion (POD): NE¹/₄, NE¹/₄, Section 16, T. 4 S., R. 13 E., W.M., 165 feet South and 275 feet West from the NE corner, Section 16

Conditions or other limitations, if any: None

- 1.5 **Validity of Rights.** Lessor attests that the subject water right is legally valid by having been beneficially used according to the terms of the right within the last five years.
- 1.6 **Lease.** Lessor agrees to lease 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 690-77-077.
- 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 right and under any water rights that are supplemental to the subject 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:

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. 47968

White River, tributary to Deschutes River

Location: POD at approximately RM 8 to the Mouth of White River

Priority date of: July 28, 1976

Use: Described in Section 2.1, above

Total volume: None

Rate in cfs: 0.87 cfs

Period of use: January 1 to December 31

Conditions to prevent or mitigate injury, if any: None

2.3 **Term of lease.** This Lease shall commence on January 1, 1996, or on the date of final execution by the parties (whichever comes later) and continue through December 31, 1997.

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.** 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 right 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: 

District: 3

Larry Toll
 502 E. 5th Avenue
 Courthouse Annex B
 Room 212
 The Dalles, OR 97058
 (541) 298-4110

Date: 3/20/96

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:  Date: 2-12-96

Lessee:  Date: 2-14-96

So ordered by Trustee:  Date: 5/10/96
 Director, Oregon Water Resources Department

Effective Date of Lease Agreement: 5/10/96

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 E: Identification of public use to be served by instream use