

Lease Agreement Number: 3

State of Oregon
Water Resources Department
158 12th Street NE
Salem, OR 97310

**Short-Term Water Right
Lease Agreement
For Leasing Existing Water Rights for Instream Use**

This Lease Agreement is between:

Lessor:

Carolyn Proctor
P.O. Box 5017
Grants Pass, OR 97527
(541) 471-2041 - Phone

The water rights to be leased are located in Josephine 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) 378-2496-Fax

I.

- 1.1 Lessor is the owner, or authorized agent for owner (*Exhibit A*) of the property highlighted in *Exhibit B*.
- 1.2 Section 1.2 is not applicable.
- 1.3 *Exhibit C* contains a copy of the certificated, decreed, or permitted rights attached to the

WJ 53 Pg ^{BR} # 1262

property in *Exhibit B*. The rights are listed below as follows:

Certificate No. 60085 and 60764

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

The rights to be leased are further described as follows:

Water Right Identification No.: 60085

Source: Applegate River and Unnamed Stream

Priority date: August 4, 1977

Type of use: Irrigation

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

T 37S, R 6W, S 8 NE $\frac{1}{4}$ SE $\frac{1}{4}$

Number of acres, if for irrigation: 14 acres

11.8 acres (Applegate River) and 2.2 (Unnamed Stream)

Rate: 0.15 cfs (Applegate River) and 0.03 cfs (Unnamed Stream)

Duty: 4.5 acre-feet

Season of use: April 1-November 1

Point of Diversion (POD): T 37S, R 6W, S 8, NE $\frac{1}{4}$, SE $\frac{1}{4}$; Both from E $\frac{1}{4}$ corner Section 8

Applegate River: 900 Feet South and 1400 Feet West

Unnamed Stream: 170 Feet South and 1190 Feet West

Conditions or other limitations, if any: None

Water Right Identification No.: 60764

Source: Applegate River and Unnamed Stream

Priority date: August 23, 1977

Type of use: Irrigation

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

T 37S, R 6W, S 8 NW $\frac{1}{4}$ SE $\frac{1}{4}$

Number of acres, if for irrigation: 5.6 acres

4.5 acres (Applegate River) and 1.1 (Unnamed Stream)

Rate: ~~0.07~~ cfs (Applegate River) and 0.01 cfs (Unnamed Stream)

Duty: ~~4.5~~ ^{0.06 BR} acre-feet

Season of use: April 1-November 1

Point of Diversion (POD): T 37S, R 6W, S 8, NW $\frac{1}{4}$, SE $\frac{1}{4}$; Both from E $\frac{1}{4}$ corner Section 8

Applegate River: 870 Feet South and 1420 Feet West

Unnamed Stream: 250 Feet South and 1420 Feet West

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 right or permit. If the rights are for

irrigation, beneficial use must have occurred in the past five years on all lands indicated in *Exhibit D*. Subject water rights were leased instream in 1996 (see agreement number 9610.02).

- 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 690-77-0077.
- 1.7 **Suspension of original use.** During the period of the lease, the owner agrees to suspend use of water allowed under the 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:

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 use.

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

Certificate No.: 60085

Applegate River, tributary to the Rogue River in the Rogue Basin

Location: RM 6 to the mouth of Applegate River

Priority date: August 4, 1977

Use: Described in Section 2.1, above

Total volume: 63 acre-feet

Rate in cfs: 0.18 cfs

Period of use: April 1-November 1

Conditions to prevent or mitigate injury, if any: None

Certificate No.: 60764

Applegate River, tributary to the Rogue River in the Rogue Basin

Location: RM 6 to the mouth of Applegate River

Priority date: August 23, 1977

Use: Described in Section 2.1, above

Total volume: 25.2 acre-feet

Rate in cfs: ~~0.08~~ cfs

0.07 BR

Period of use: April 1-November 1

Conditions to prevent or mitigate injury, if any: None

- 2.3 **Term of lease.** This Lease shall commence on April 1, 1999 (not before execution by the parties) and terminate on November 1, 1999.
- 2.4 **Compensation.** Lessor has agreed to lease the water rights 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.

- 3.0 **Watermaster review.** By signature below, the watermaster for the district where the subject portion of the water right is located verifies that:
- 3.1 Lessor is currently entitled to appropriate water under the subject portion of the water right described in Section 1.4.
- 3.2 A suitable control is in place so that WRD staff may regulate use of water under the water rights to ensure water is not diverted or applied on lands to which the 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 B. Sund
Bruce Sund

Bruce Sund
942 SW 6th St.
Suite E
Grants Pass, OR 97526
(541) 471-2886-Phone
(541) 471-2876-Fax

Date: July 1, 1999

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: Carolyn Probst Date: 8/6/99

Lessee: Andrew P. King Date: 8/7/11

So ordered by Trustee: Rufus D. Bradley Date: 9.17.99

Director, Oregon Water Resources Department

- Exhibits: A through E are attached.
- Exhibit A: Proof of property ownership
- Exhibit B: Map of the property on which Lessor holds water rights
- Exhibit C: Copy of the certificate attached to property shown in Exhibit B
- Exhibit D: Detailed map illustrating lands irrigated by subject portion of right
- Exhibit E: Identification of public use to be served by instream use

