

Lease Agreement Number (assigned by WRD): L-311

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

**Short-Term Water Right Lease Agreement
Pursuant to ORS 537.348(2) and OAR 690-077-0077
for
Leases of Existing Water Rights for Instream Use**

This Lease Agreement is between:

Lessor #1:

(Name) Confederated Tribes of Warm Springs
(Mailing address) 39067 Hwy 218
(City, State, Zip Code) Fossil, OR 97830
(Telephone number) (541) 489-3477

Lessor#2, 3, etc.

The water right to be leased is located in Wheeler County

Lessee (if different than Oregon Water Resources Department):

(Name) Oregon Water Trust
(Mailing address) 522 SW 5th Ave., Ste 825
(City, State, Zip Code) Portland, OR 97204
(Telephone number) (503) 226-9055

Trustee:

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

~I~

- 1.1 Lessor #1 is the owner, or authorized agent for owner of property located at: Township 7 S, Range 19 E, Section 33 and Tax Lot number 100, 300, 500 and 2900. If the water right appurtenant to these lands is also appurtenant to lands owned by others, then Attachment 1, (tax lot map of lessor's property) needs to be included.
- 1.2 Lessor #2 is the (Check one):
 Not applicable

- Official representative of _____, the irrigation district which conveys water to the subject water rights.
- Another party with an interest in the subject water rights representing _____.

1.3 For the lands being leased, list all water rights appurtenant to the lessor's property. Indicate if there are any supplemental or overlying rights.

Certificate No. 25332, 24919, 25167, 25333, 25334, 25335, 25365, 25462, 25523

1.4 **Subject Water Rights.** Lessor proposes to lease the water rights listed in 1.3. The right(s) to be leased are further described as follows:

Certificate No.: 25332

Priority date: 1870 Type of use: irrigation, domestic and stock

Legal Season of Use (if not listed on the certificate): April 1st to September 30th

Is the entire water right certificate being leased?: Yes No

If no, list the acres to be leased by legal description of township, range, section, and 1/4 1/4 which will be dried up as part of this lease, and include a map (Attachment 2) showing the lands which will not receive water.

Place of use: T __, R __, Section __, 1/4 1/4 - ____ acres to be leased
Enter additional places of use here, using format above:

Page __ (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres, if for irrigation: 32.5 BR

Acre-feet of storage, if applicable: 0.81 April 1 - June 1; 0.41 June 2 - Sept. 30 BR

Rate associated with leased rights (cfs): _____
(Use additional lines if there is more than one rate associated with the water right.)

Duty associated with leased rights (AF): _____
(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any: _____

If you need to enter another leased right, please use last page.

1.5 **Validity of Rights.** Lessor(s) attests (mark one) that:

- the water has been used over the past five years according to the terms and conditions of the owner's water right certificate or as an instream water right or
- the water has not been used over the past five years according to the terms and conditions of the owner's water right certificate, however the water right is not subject to forfeiture under ORS 540.610(2)(_) (include necessary supporting documentation as Attachment 3).

~II~

2.1 **Public Use.** This lease will increase streamflows which will benefit:

- Conservation, maintenance and enhancement of aquatic and fish life, wildlife, and fish and wildlife habitat
- Pollution abatement
- Recreation and scenic attraction

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

Pine River/Creek

Tributary to John Day River in the John Day Basin.

Describe the point of diversion and any associated reach(es) of the instream use being created. If possible list the reach by river mile, if no reach is identified, the lease will be processed to be protected at the point of diversion): Frickey Ditch (approximately RM 1/2 mile; SW 1/4 SW 1/4, Section 34, Township 7 South, Range 19 East, W.M.) to the mouth

Total volume in acre-feet: 130 ac-ft; a quantity of water limited to one acre foot per acre during any calendar month prior to June, and not to exceed, during the irrigation season, four acre feet per acre.

Rate in cfs: April 9 to May 31st 0.53 cfs - June 1st to September 30th 0.41 cfs at the point of diversion

Original POD	Mouth	Delivery loss
RM 1/2	mouth	per mile
0.53 cfs	0.49 cfs	14%/mile
0.41 cfs	0.38 cfs	15%/mile

Allowed period of use: April 9th to September 30th

Conditions to prevent injury, if any:

- None
- The instream flow will be allocated on a daily average basis up to the described rate from ____ through ____.
- Other (describe): The instream flow will be allocated on a daily average basis of 0.53 cfs from April 9 to May 31. The instream flow will be allocated on a daily average basis up to described rate of 0.41 cfs from June 1 to September 30, or until such time that the total duty for the irrigation season is met. The instream rate use period has been diminished to 145 days and the rate from April to May has been reduced so that the total duty and the monthly duty prior to June 1 is not exceeded.

If you need to enter more instream uses, please use last page.

2.3 Term of lease. This lease shall terminate on September 30, 2002.

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

2.6 Termination provision.

Additional Information

Section 1.4, (Standard Leasing Form) cont.

Subject Water Rights. Lessor proposes to lease the water rights listed in 1.3. The right(s) to be leased are further described as follows:

Certificate No.: 24919

Priority date: 1871 Type of use: irrigation

Legal Season of Use (if not listed on the certificate): April 1st to September 30th

Is the entire water right certificate being leased?: Yes No

If no, list the acres to be leased by legal description of township, range, section, and 1/4 1/4 which will be dried up as part of this lease, and include a map (Attachment 3) showing the lands which will not receive water.

Place of use: T __, R __, Section __, 1/4 1/4 - __ acres to be leased
Enter additional places of use here, using format above:

Page __ (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres, if for irrigation: 28.6 ^{BR}

Acre-feet of storage, if applicable: __

Rate associated with leased rights (cfs): 0.71 / 0.36 ^{BR}
(Use additional lines if there is more than one rate associated with the water right.)

Duty associated with leased rights (AF): __
(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any: __

Section 2.2, cont.

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

Pine River/Creek

Tributary to John Day River in the John Day Basin.

Describe the point of diversion and any associated reach(es) of the instream use being created. If possible list the reach by river mile, if no reach is identified, the lease will be processed to be protected at the point of diversion): dam and ditches (approximately RM 2 1/2; NE 1/4 SE 1/4, Section 35, Township 7 South, Range 19 East, WM) to the mouth

Total volume in acre-feet: 114.4 ac-ft; A quantity of water limited to one acre foot per acre during any calendar month prior to June 1st, and not to exceed, during the irrigation season, four acre feet per acre.

Rate in cfs: April 9 - May 31 1: 0.71 cfs June 1 - September 30: 0.35 cfs

Original POD	Mouth	Delivery loss
RM 1/4 mile	mouth	per mile
0.71 cfs	0.49 cfs	14%/mile
0.35 cfs	0.23 cfs	15%/mile

Allowed period of use: April 9th to September 30th

Conditions to prevent injury, if any:

None

Additional Information

- The instream flow will be allocated on a daily average basis up to the described rate from ____ until ____.
- Other (describe): The instream flow will be allocated on a daily average basis of 0.71 cfs from April 9 to May 31. The instream flow will be allocated on a daily average basis up to described rate of 0.35 cfs from June 1 to September 30, or until such time that the total duty for the irrigation season is met. The instream rate use period has been diminished to 145 days and the rate from April to May has been reduced so that the total duty and the monthly duty prior to June 1 is not exceeded.

Additional Information

Section 1.4, (Standard Leasing Form) cont.

Subject Water Rights. Lessor proposes to lease the water rights listed in 1.3. The right(s) to be leased are further described as follows:

Certificate No.: 25167

Priority date: March 1881 Type of use: irrigation

Legal Season of Use (if not listed on the certificate): _____

Is the entire water right certificate being leased?: Yes No

If no, list the acres to be leased by legal description of township, range, section, and 1/4 1/4 which will be dried up as part of this lease, and include a map (Attachment 3) showing the lands which will not receive water.

Place of use: T ___, R ___, Section __, 1/4 ___ 1/4 - ___ acres to be leased
Enter additional places of use here, using format above:

Page ___ (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres, if for irrigation: 14.3 ^{BR}

Acre-feet of storage, if applicable: _____

Rate associated with leased rights (cfs): 0.36 / 0.18 ^{BR}
(Use additional lines if there is more than one rate associated with the water right.)

Duty associated with leased rights (AF): _____
(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any: _____

Section 2.2, cont.

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

Pine Creek and spring in Lot 4 (NW3 NW3) Sec. 1, T8S, R20E, W.M. and Lone Pine Creek
River/Creek
Tributary to John Day River in the John Day Basin.

Describe the point of diversion and any associated reach(es) of the instream use being created. If possible list the reach by river mile, if no reach is identified, the lease will be processed to be protected at the point of diversion): John F. Jordan Ditch (approximately 9 miles; NE 1/4 NW 1/4, Section 1, Township 8 South, Range 20 East, WM) to the mouth

Total volume in acre-feet: 57.2 ac-ft. A quantity of water limited to one acre foot per acre during any calendar month prior to June 1st, and not to exceed, during the irrigation season, four acre feet per acre.

Rate in cfs: April 9 - May 31 1: 0.236 cfs	June 1 - September 30: 0.179 cfs	
Original POD	Mouth	Delivery loss
RM 9 miles	mouth	per mile
0.236 cfs	0.06 cfs	14%/mile
0.179 cfs	0.04 cfs	15%/mile

Allowed period of use: April 9th to September 30th

Conditions to prevent injury, if any:

Additional Information

- None
- The instream flow will be allocated on a daily average basis up to the described rate from ____ until ____.
- Other (describe): The instream flow will be allocated on a daily average basis of 0.236 cfs from April 9 to May 31. The instream flow will be allocated on a daily average basis up to described rate of 0.179 cfs from June 1 to September 30, or until such time that the total duty for the irrigation season is met. The instream rate use period has been diminished to 145 days and the rate from April to May has been reduced so that the total duty and the monthly duty prior to June 1 is not exceeded.

Additional Information

Section 1.4, (Standard Leasing Form) cont.

Subject Water Rights. Lessor proposes to lease the water rights listed in 1.3.

The right(s) to be leased are further described as follows:

Certificate No.: 25333

Priority date: 1872 Type of use: irrigation, domestic and stock

Legal Season of Use (if not listed on the certificate): _____

Is the entire water right certificate being leased?: Yes No

If no, list the acres to be leased by legal description of township, range, section, and ¼ ¼ which will be dried up as part of this lease, and include a map (Attachment 3) showing the lands which will not receive water.

Place of use: T __, R __, Section __, ¼ ¼ - _____ acres to be leased

Enter additional places of use here, using format above:

Page __ (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres, if for irrigation: 3.6

Acre-feet of storage, if applicable: _____

Rate associated with leased rights (cfs): 0.08 / 0.045

(Use additional lines if there is more than one rate associated with the water right.)

Duty associated with leased rights (AF): _____

(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any: _____

Section 2.2, cont.

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

Pine River/Creek

Tributary to John Day River in the John Day Basin.

Describe the point of diversion and any associated reach(es) of the instream use being created. If possible list the reach by river mile, if no reach is identified, the lease will be processed to be protected at the point of diversion): Titus Ditch (approximately RM 7½ miles; SE¼ NE¼, Section 3, Township 8 South, Range 20 East, W.M.) to the mouth

Total volume in acre-feet: 14.4 ac-ft; A quantity of water limited to one acre foot per acre during any calendar month prior to June 1st, and not to exceed, during the irrigation season, four acre feet per acre.

Rate in cfs: April 9 – May 31 1: 0.059 cfs	June 1 - September 30: 0.045 cfs	
Original POD	Mouth	Delivery loss
RM 7½	mouth	per mile
0.059 cfs	0.02 cfs	14%/mile
0.045 cfs	0.01 cfs	15%/mile

Allowed period of use: April 9th to September 30th

Conditions to prevent injury, if any:

None

Additional Information

- The instream flow will be allocated on a daily average basis up to the described rate from ____ until ____.
- Other (describe): The instream flow will be allocated on a daily average basis of 0.059 cfs from April 9 to May 31. The instream flow will be allocated on a daily average basis up to described rate of 0.045 cfs from June 1 to September 30, or until such time that the total duty for the irrigation season is met. The instream rate use period has been diminished to 145 days and the rate from April to May has been reduced so that the total duty and the monthly duty prior to June 1 is not exceeded.

Additional Information

Section 1.4, (Standard Leasing Form) cont.

Subject Water Rights. Lessor proposes to lease the water rights listed in 1.3.

The right(s) to be leased are further described as follows:

Certificate No.: 25334

Priority date: 1874 Type of use: irrigation, domestic and stock

Legal Season of Use (if not listed on the certificate):

Is the entire water right certificate being leased?: [X] Yes [] No

If no, list the acres to be leased by legal description of township, range, section, and 1/4 1/4 which will be dried up as part of this lease, and include a map (Attachment 3) showing the lands which will not receive water.

Place of use: T __, R __, Section __, 1/4 1/4 - __ acres to be leased
Enter additional places of use here, using format above:

Page __ (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres, if for irrigation: 19.2

Acre-feet of storage, if applicable:

Rate associated with leased rights (cfs): 0.48 / 0.24

(Use additional lines if there is more than one rate associated with the water right.)

Duty associated with leased rights (AF):

(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any:

Section 2.2, cont.

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

Pine River/Creek

Tributary to John Day River in the John Day Basin.

Describe the point of diversion and any associated reach(es) of the instream use being created. If possible list the reach by river mile, if no reach is identified, the lease will be processed to be protected at the point of diversion): dams and ditches (approximately RM 5 1/2 miles: SE 1/4 NE 1/4, Section 5, Township 8 South, Range 20 East, W.M.) to the mouth.

Total volume in acre-feet: 76.8 ac-ft: A quantity of water limited to one acre foot per acre during any calendar month prior to June 1st, and not to exceed, during the irrigation season, four acre feet per acre.

Rate in cfs: April 9 - May 31 1: 0.32 cfs June 1 - September 30: 0.24 cfs

Table with 3 columns: Original POD, Mouth, Delivery loss. Rows show RM 5 1/2 miles, 0.32 cfs, 0.24 cfs and corresponding mouth rates and delivery loss percentages.

Allowed period of use: April 9th to September 30th

Conditions to prevent injury, if any:

[] None

Additional Information

- The instream flow will be allocated on a daily average basis up to the described rate from ____ until ____.
- Other (describe): The instream flow will be allocated on a daily average basis of 0.32 cfs from April 9 to May 31. The instream flow will be allocated on a daily average basis up to described rate of 0.24 cfs from June 1 to September 30, or until such time that the total duty for the irrigation season is met. The instream rate use period has been diminished to 145 days and the rate from April to May has been reduced so that the total duty and the monthly duty prior to June 1 is not exceeded.

Additional Information

Section 1.4, (Standard Leasing Form) cont.

Subject Water Rights. Lessor proposes to lease the water rights listed in 1.3.

The right(s) to be leased are further described as follows:

Certificate No.: 25335

Priority date: 1874 Type of use: irrigation, domestic and stock

Legal Season of Use (if not listed on the certificate):

Is the entire water right certificate being leased?: [X] Yes [] No

If no, list the acres to be leased by legal description of township, range, section, and 1/4 1/4 which will be dried up as part of this lease, and include a map (Attachment 3) showing the lands which will not receive water.

Place of use: T __, R __, Section __, 1/4 1/4 - __ acres to be leased
Enter additional places of use here, using format above:

Page __ (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres, if for irrigation: 7.5 BR

Acre-feet of storage, if applicable:

Rate associated with leased rights (cfs): 0.19 / 0.09

(Use additional lines if there is more than one rate associated with the water right.)

Duty associated with leased rights (AF):

(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any:

Section 2.2, cont.

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

Pine River/Creek

Tributary to John Day River in the John Day Basin.

Describe the point of diversion and any associated reach(es) of the instream use being created. If possible list the reach by river mile, if no reach is identified, the lease will be processed to be protected at the point of diversion): Titus or Caven Ditches (approximately 6 1/4 miles: SE 1/4 NW 1/4, Section 4, Township 8 South, Range 20 East, W.M.) to the mouth

Total volume in acre-feet: 30.0 ac-ft: A quantity of water limited to one acre foot per acre during any calendar month prior to June 1st, and not to exceed, during the irrigation season, four acre feet per acre.

Table with 3 columns: Rate in cfs, Original POD, Mouth, Delivery loss per mile. Rows include rates for April 9-May 31 and June 1-September 30, and corresponding POD and delivery loss percentages.

Allowed period of use: April 9th to September 30th

Conditions to prevent injury, if any:

[] None

Additional Information

- The instream flow will be allocated on a daily average basis up to the described rate from ____ until ____.
- Other (describe):** The instream flow will be allocated on a daily average basis of 0.123 cfs from April 9 to May 31. The instream flow will be allocated on a daily average basis up to described rate of 0.093 cfs from June 1 to September 30, or until such time that the total duty for the irrigation season is met. The instream rate use period has been diminished to 145 days and the rate from April to May has been reduced so that the total duty and the monthly duty prior to June 1 is not exceeded.

Additional Information

Section 1.4, (Standard Leasing Form) cont.

Subject Water Rights. Lessor proposes to lease the water rights listed in 1.3. The right(s) to be leased are further described as follows:

Certificate No.: 25365

Priority date: 1870 Type of use: irrigation

Legal Season of Use (if not listed on the certificate): _____

Is the entire water right certificate being leased?: Yes No

If no, list the acres to be leased by legal description of township, range, section, and 1/4 1/4 which will be dried up as part of this lease, and include a map (Attachment 3) showing the lands which will not receive water.

Place of use: T __, R __, Section __, 1/4 1/4 - _____ acres to be leased
Enter additional places of use here, using format above:

Page __ (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres, if for irrigation: 73.6

Acre-feet of storage, if applicable: _____

Rate associated with leased rights (cfs): 1.84 / 0.92

(Use additional lines if there is more than one rate associated with the water right.)

Duty associated with leased rights (AF): _____

(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any: _____

Section 2.2, cont.

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

Pine River/Creek

Tributary to John Day River in the John Day Basin.

Describe the point of diversion and any associated reach(es) of the instream use being created. If possible list the reach by river mile, if no reach is identified, the lease will be processed to be protected at the point of diversion): Huntley Ditch (approximately 4.0 miles; SE 1/4 SW 1/4, Section 31, Township 7 south, Range 20 East, W.M.) to the mouth

Total volume in acre-feet: 294.4 ac-ft; A quantity of water limited to one acre foot per acre during any calendar month prior to June 1st, and not to exceed, during the irrigation season, four acre feet per acre.

Rate in cfs: April 9 – May 31 1: 1.214 cfs		June 1 - September 30: 0.92 cfs
Original POD	Mouth	Delivery loss
RM 4 miles	mouth	per mile
1.214 cfs	0.66 cfs	14%/mile
0.92 cfs	0.48 cfs	15%/mile

Allowed period of use: April 9th to September 30th

Conditions to prevent injury, if any:

None

Additional Information

- The instream flow will be allocated on a daily average basis up to the described rate from ____ until ____.
- Other (describe): The instream flow will be allocated on a daily average basis of 1.214 cfs from April 9 to May 31. The instream flow will be allocated on a daily average basis up to described rate of 0.92 cfs from June 1 to September 30, or until such time that the total duty for the irrigation season is met. The instream rate use period has been diminished to 145 days and the rate from April to May has been reduced so that the total duty and the monthly duty prior to June 1 is not exceeded.

Additional Information

Section 1.4, (Standard Leasing Form) cont.

Subject Water Rights. Lessor proposes to lease the water rights listed in 1.3.

The right(s) to be leased are further described as follows:

Certificate No.: 25462

Priority date: 1871 Type of use: irrigation

Legal Season of Use (if not listed on the certificate): _____

Is the entire water right certificate being leased?: Yes No

If no, list the acres to be leased by legal description of township, range, section, and 1/4 1/4 which will be dried up as part of this lease, and include a map (Attachment 3) showing the lands which will not receive water.

Place of use: T __, R __, Section __, 1/4 1/4 - _____ acres to be leased
Enter additional places of use here, using format above:

Page __ (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres, if for irrigation: 22.3 ^{BA}

Acre-feet of storage, if applicable: _____

Rate associated with leased rights (cfs): 0.56 / 0.28

(Use additional lines if there is more than one rate associated with the water right.)

Duty associated with leased rights (AF): _____

(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any: _____

Section 2.2, cont.

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

Pine River/Creek

Tributary to John Day River in the John Day Basin.

Describe the point of diversion and any associated reach(es) of the instream use being created. If possible list the reach by river mile, if no reach is identified, the lease will be processed to be protected at the point of diversion): dam and ditches (approximately RM 2 1/2, NE 1/4 SE 1/4, Section 35, Township 7 South, Range 19 East, WM) to the mouth

Total volume in acre-feet: 89.2 ac-ft. A quantity of water limited to one acre foot per acre during any calendar month prior to June 1st, and not to exceed, during the irrigation season, four acre feet per acre.

Rate in cfs: April 9 - May 31	1: 0.367 cfs	June 1 - September 30:	0.279 cfs
Original POD		Mouth	Delivery loss
RM 2 1/2 mile		mouth	per mile
0.367 cfs		0.25 cfs	14%/mile
0.279 cfs		0.19 cfs	15%/mile

Allowed period of use: April 9th to September 30th

Conditions to prevent injury, if any:

None

Additional Information

- The instream flow will be allocated on a daily average basis up to the described rate from ____ until ____.
- Other (describe): The instream flow will be allocated on a daily average basis of 0.367 cfs from April 9 to May 31. The instream flow will be allocated on a daily average basis up to described rate of 0.279 cfs from June 1 to September 30, or until such time that the total duty for the irrigation season is met. The instream rate use period has been diminished to 145 days and the rate from April to May has been reduced so that the total duty and the monthly duty prior to June 1 is not exceeded.

Additional Information

Section 1.4, (Standard Leasing Form) cont.

Subject Water Rights. Lessor proposes to lease the water rights listed in 1.3. The right(s) to be leased are further described as follows:

Certificate No.: 25523

Priority date: 1880 Type of use: irrigation

Legal Season of Use (if not listed on the certificate):

Is the entire water right certificate being leased?: [X] Yes [] No

If no, list the acres to be leased by legal description of township, range, section, and 1/4 1/4 which will be dried up as part of this lease, and include a map (Attachment 3) showing the lands which will not receive water.

Place of use: T __, R __, Section __, 1/4 1/4 - __ acres to be leased
Enter additional places of use here, using format above:

Page __ (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres, if for irrigation: 13.9

Acre-feet of storage, if applicable:

Rate associated with leased rights (cfs): 0.35 / 0.17

(Use additional lines if there is more than one rate associated with the water right.)

Duty associated with leased rights (AF):

(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any:

Section 2.2, cont.

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

Pine River/Creek

Tributary to John Day River in the John Day Basin.

Describe the point of diversion and any associated reach(es) of the instream use being created. If possible list the reach by river mile, if no reach is identified, the lease will be processed to be protected at the point of diversion: Clarno Ditch (approximately RM 1/4; NE 1/4 NE 1/4, Section 4, Township 8 South, Range 19 East, WM) to the mouth

Total volume in acre-feet: 55.6 ac-ft. A quantity of water limited to one acre foot per acre during any calendar month prior to June 1st, and not to exceed, during the irrigation season, four acre feet per acre.

Rate in cfs: April 9 - May 31 1: 0.229 cfs June 1 - September 30: 0.175 cfs

Table with 2 columns: Original POD, Mouth. Rows include RM 1/4 mile, 0.229 cfs, 0.175 cfs and Mouth, mouth, 0.22 cfs, 0.17 cfs.

Allowed period of use: April 9th to September 30th

Conditions to prevent injury, if any:

[] None

Additional Information

- The instream flow will be allocated on a daily average basis up to the described rate from ____ until ____.
- Other (describe): The instream flow will be allocated on a daily average basis of 0.229 cfs from April 9 to May 31. The instream flow will be allocated on a daily average basis up to described rate of 0.175 cfs from June 1 to September 30, or until such time that the total duty for the irrigation season is met. The instream rate use period has been diminished to 145 days and the rate from April to May has been reduced so that the total duty and the monthly duty prior to June 1 is not exceeded.

- For multiyear leases, lessor *shall* have the option of terminating the lease each year, prior to the lease being exercised, with written notice to the Department.
- For multiyear leases, lessor *shall not* have the option of terminating the lease each year, prior to the lease being exercised, with written notice to the Department.

~III~

- 3.1 Accuracy.** 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. If after the lease is signed, any information is determined to be false, the lease may be modified or terminated. This lease only exercises the water rights being leased; for the term of the lease; it shall not be construed to overcome any claim that the water right may otherwise be subject to forfeiture for nonuse pursuant to ORS 540.610 during the period of time prior to the execution of the lease.
- 3.2 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 690-077-0077.
- 3.3 Precedent.** If a right which has been leased is later proposed to be leased again or transferred to an instream use under ORS 537.348 and OAR 690-077-0070 or OAR 690-077-0075 a new injury review shall be required, and a prior short term lease shall not set a precedent for the amount of water to be leased or transferred instream.
- 3.4 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. In the event that a supplemental water right is not part of this lease, it may be subject to forfeiture.

Lessor #1:  Date: 6/17/02

For additional Lessors, type in space for signature and date

Lessee:  for Oregon Water Trust Date: 6/20/02

- 3.5 Allocation of water to the 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. If injury is found after this lease is signed, the lease may be modified or terminated to prevent injury.**

So ordered by Trustee:  Date: JULY 24, 2002

Effective date is _____ (if later than the date of the Trustee's signature).

Other Attachments As Needed:

Attachment 1: Tax Lot Map of Lessor's Property (required if landowner is not the sole landowner to lands for which the subject water rights are appurtenant)

- Attachment 2: Detailed map illustrating lands under subject rights to be leased (required if only part of a right is being leased instream).
- Attachment 3: Supporting documentation indicating why a right is valid and not subject to forfeiture even though the right has not been exercised for five or more consecutive years (required if the second box in Section 1.5 is checked)
- Attachment 4: Split Season Instream Use Form