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WATER RESOURCES DEPT
SALEM, OREGON

Lease Agreement Number (assigned by WRD): L-407

**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:

Joanne Vidondo
Route 2, P.O. Box 720
Prairie City, OR 97869
(541) 820-4793

The water rights to be leased are located in Grant County

Lessee:

Oregon Water Trust
522 SW 5th Avenue, Suite 825
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, or authorized agent for owner (*Exhibit A*), 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 that are appurtenant to the property in *Exhibit B*. Those rights are listed below as follows:

Certificate Nos.: 39037, 39039, 75142, 65139, 24845, 24846, 25659, 39038, 21919.
- 1.4 **Subject Water Rights.** Lessor proposes to lease the following water rights from the list set out in 1.3, above: 39037, 39039, 75142, 65139, 24845, 24846, 25659, 39038, 21919.

The rights to be leased are further described as follows:

Water Right Identification No.: 39037

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

Priority date: April 28, 1960

Type of use: Irrigation and supplemental irrigation

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

T 11 S, R 35 E, Section 16 SE $\frac{1}{4}$ SE $\frac{1}{4}$ (5.4 acres) (primary)

T 11 S, R 35 E, Section 21 NW $\frac{1}{4}$ NE $\frac{1}{4}$ (12.5 acres) (primary)

T 11 S, R 35 E, Section 21 NE $\frac{1}{4}$ NE $\frac{1}{4}$ (5.0 acres) (primary)

T 11 S, R 35 E, Section 21 SE $\frac{1}{4}$ SE $\frac{1}{4}$ (2.3 acres) (supplemental)

T 11 S, R 35 E, Section 21 SW $\frac{1}{4}$ SE $\frac{1}{4}$ (11.0 acres) (supplemental)

T 11 S, R 35 E, Section 21 NW $\frac{1}{4}$ SE $\frac{1}{4}$ (6.4 acres) (supplemental)

T 11 S, R 35 E, Section 21 NE $\frac{1}{4}$ SE $\frac{1}{4}$ (14.8 acres) (supplemental)

T 11 S, R 35 E, Section 21 SE $\frac{1}{4}$ SW $\frac{1}{4}$ (3.6 acres) (supplemental)

T 11 S, R 35 E, Section 21 SE $\frac{1}{4}$ NE $\frac{1}{4}$ (1.0 acres) (supplemental)

T 11 S, R 35 E, Section 21 NW $\frac{1}{4}$ NE $\frac{1}{4}$ (27.4 acres) (supplemental)

T 11 S, R 35 E, Section 21 NE $\frac{1}{4}$ NE $\frac{1}{4}$ (26.2 acres) (supplemental)

T 11 S, R 35 E, Section 15 SW $\frac{1}{4}$ SW $\frac{1}{4}$ (4.4 acres) (supplemental)

T 11 S, R 35 E, Section 16 SE $\frac{1}{4}$ SE $\frac{1}{4}$ (26 acres) (supplemental)

Number of acres, if for irrigation: 22.9 acres (primary); 123.1 acres (supplemental)

Rate: 0.57 cfs (primary)

3.08 cfs (supplemental)

During the time period the primary right underlying the supplemental portion of C-39037 is met, the prorated rates and duties for only the primary portion of C-39037 can be utilized. During the time period the primary right underlying the supplemental portion of C-39037 is not met, the prorated rates and duties for both the primary and supplemental portions of C39037 can be utilized.

Duty: 91.6 acre feet (primary), 492.4 acre feet (supplemental)

Season of Use: April 1-September 30

Point(s) of Diversion (POD): 1830' S & 1760' W from NE Corner, Sec. 9, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 9, T 11 S, R 35 E., W.M.,

Water Right Identification No.: 39039

Source: Clear Creek, tributary of M.F. John Day River

Priority date: December 24, 1962

Type of use: Irrigation

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

T 11S, R 35E, S 28, NE $\frac{1}{4}$ NE $\frac{1}{4}$ -2.4 acres

T 11S, R 35E, S 28, NW $\frac{1}{4}$ NE $\frac{1}{4}$ -21.2 acres

T 11S, R 35E, S 28, SW $\frac{1}{4}$ NE $\frac{1}{4}$ -13.6 acres

T 11S, R 35E, S 28, NE $\frac{1}{4}$ SE $\frac{1}{4}$ -0.1 acres

T 11S, R 35E, S 28, NW $\frac{1}{4}$ SE $\frac{1}{4}$ -9.6 acres

Number of acres, if for irrigation: 46.9

Rate: 1.17 cfs

Duty: 187.6 acre feet

Season of Use: April 1-September 30

Points of Diversion: 460' S & 290' E from NW Corner, Sec. 34, being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, T 11 S, R 35 E., W.M., in Grant County.

Conditions or other limitations, if any: The right to the use of this water is limited to the period when the flow of the John Day River is more than 10 cfs at USGS No. 14-0440, more than 55 cfs at USFS No. 14-0460, more than 30 cfs at USGS No. 14-0465, and more than 20 cfs at USGS No. 14-0480, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Water Right Identification No.: 75142

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

Priority date: 1895

Type of use: Irrigation

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

T 11S, R 35E, S 21, SE $\frac{1}{4}$ SW $\frac{1}{4}$ -3.8 acres

T 11S, R 35E, S 28, NE $\frac{1}{4}$ NW $\frac{1}{4}$ -7.8 acres

Number of acres, if for irrigation: 11.6 acres

Rate: 0.29 cfs (April 1-May 31), 0.15 cfs (June 1-Sept. 30)

Duty: A quantity of water limited to 11.6 acre-feet during any calendar month prior to June 1st, and not to exceed, during the irrigation season, 46.4 acre-feet.

Season of Use: April 1-September 30

Point(s) of Diversion (POD): SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 28, T. 11 S., R 35 E., W.M.; 1130' North and 1500' West from the SE Corner of Sec. 28.

Conditions or other limitations, if any: None

Water Right Identification No.: 65139

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

Priority date: 1895

Type of use: Irrigation

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

T 11S, R 35E, S 21, SE $\frac{1}{4}$ SW $\frac{1}{4}$ -11.1 acres

T 11S, R 35E, S 21, SW $\frac{1}{4}$ SE $\frac{1}{4}$ -4.6 acres

T 11S, R 35E, S 28, NE $\frac{1}{4}$ NW $\frac{1}{4}$ -11.2 acres

Number of acres, if for irrigation: 26.9 acres

Rate: 0.67 cfs (April 1-May 31), 0.34 cfs (June 1-Sept. 30)

Duty: A quantity of water limited to 26.9 acre-feet during any calendar month prior to June 1st, and not to exceed, during the irrigation season, 107.6 acre-feet.

Season of Use: April 1-September 30

Point(s) of Diversion (POD): SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 28, T. 11 S., R 35 E., W.M.; 1130' North and 1500' West from the SE Corner of Sec. 28.

Conditions or other limitations, if any: None

Water Right Identification No.: 24845

Source: Middle Fork John Day River, tributary of North Fork John Day River

Priority date: 1898

Type of use: Irrigation

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

T 11S, R 35E, S 21, SE $\frac{1}{4}$ SW $\frac{1}{4}$ -4.2 acres

T 11S, R 35E, S 21, NE $\frac{1}{4}$ SE $\frac{1}{4}$ -14.8 acres

T 11S, R 35E, S 21, NW $\frac{1}{4}$ SE $\frac{1}{4}$ -6.4 acres

T 11S, R 35E, S 21, SW $\frac{1}{4}$ SE $\frac{1}{4}$ -12 acres

T 11S, R 35E, S 21, SE $\frac{1}{4}$ SE $\frac{1}{4}$ -2.8 acres

Number of acres, if for irrigation: 40.2 acres

Rate: 1.01 cfs

Duty: 201 acre feet (5 ac-ft/ac)

Season of Use: April 1-September 30

Point(s) of Diversion (POD): 915' South and 754' East from the Northwest corner of Sec. 25, and being within the NW ¼ NW ¼ of said Sec. 25, T 11S, R 35E, WM.

Conditions or other limitations, if any: Limited to one ac-ft/ac/calendar month

Water Right Identification No.: 24846

Source: Austin Springs, tributary of Middle Fork John Day River

Priority date: 1907

Type of use: Irrigation, Domestic, Stock, and Power – (Domestic will Not be leased = 0.01 cfs)

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

T 11S, R 35E, S 21, NE¼ SE¼-2.3 acres – (0.5 acres of this will not be leased = 0.01 cfs < June 1 and 0.06 cfs > June 1)

T 11S, R 35E, S 21, SW¼ SE¼-8.4 acres

T 11S, R 35E, S 21, SE¼ SE¼-15.2 acres

Number of acres, if for irrigation: 25.9 acres (25.4 acres are part of this lease)

Rate: 0.65 cfs (April 1-May 31), 0.32 cfs (June 1-Sept. 30): (0.63 cfs April 1- May 31 and 0.31 cfs June 1 – September 30 are part of this lease.)

Duty: A quantity of water limited to 25.9 (25.4 acre feet will be part of this lease) acre-feet during any calendar month prior to June 1st, and not to exceed, during the irrigation season, 103.6 acre-feet (101.6 acre-feet will be part of this lease.)

Season of Use: April 1-September 30

Point(s) of Diversion (POD): NW¼ NW¼ Section 27, T 11S., R 35E., W.M. Conditions or other limitations, if any: See attached map showing location of domestic use and one-half acre of irrigation to be allowed around the Austin house and barn. The rights for power is limited to 0.5 cfs

Water Right Identification No.: 25659

Source: Middle Fork John Day River, tributary of North Fork John Day River

Priority date: 1892

Type of use: Irrigation

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

T 11S, R 35E, S 15, SW¼ SW¼-10 acres

T 11S, R 35E, S 15, SE¼ SW¼-2.0 acres

T 11S, R 35E, S 16, SE¼ SE¼-5.0 acres

T 11S, R 35E, S 21, NE¼ NE¼-30 acres

T 11S, R 35E, S 21, NW¼ NE¼-17 acres

T 11S, R 35E, S 21, SE¼ NE¼-1 acres

T 11S, R 35E, S 22, NE¼ NW¼-1 acres (on U.S. land – not part of lease)

T 11S, R 35E, S 22, NW¼ NW¼-25 acres

T 11S, R 35E, S 22, SW¼ NW¼-3 acres

Number of acres, if for irrigation: 94 acres (93 acres are part of this lease)

Rate: 2.35 cfs (2.32 cfs are part of this lease)

Duty: 470 acre feet (465 acre feet are part of this lease)

Season of Use: April 1-September 30

Point(s) of Diversion (POD): Austin Ranch Ditch, NW¼ NE¼ Section 22, T. 11S., R. 35 E., W.M.

Conditions or other limitations, if any: Usage is limited to one acre foot/acre/month.

Water Right Identification No.: 39038

Source: Middle Fork John Day River, tributary of North Fork John Day River

Priority date: December 7, 1962

Type of use: Irrigation

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

T 11S, R 35E, S 22, NW $\frac{1}{4}$ NW $\frac{1}{4}$ -12.4 acres

T 11S, R 35E, S 22, SW $\frac{1}{4}$ NW $\frac{1}{4}$ -19.8 acres

T 11S, R 35E, S 22, NW $\frac{1}{4}$ SW $\frac{1}{4}$ -0.9 acres

T 11S, R 35E, S 22, SW $\frac{1}{4}$ SW $\frac{1}{4}$ -0.5 acres

T 11S, R 35E, S 28, NE $\frac{1}{4}$ NE $\frac{1}{4}$ -6.8 acres

Number of acres, if for irrigation: 40.4 acre

Rate: 1.01 cfs

Duty: 202 acre feet (5ac-ft/ac)

Season of Use: April 1-September 30

Point(s) of Diversion (POD): 1850' N. & 2040' W.; 410' S. & 830' E., both from the $\frac{1}{4}$ corner between Sections 22 & 23, being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22; NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 23, T. 11S., R. 35 E., W.M.

Conditions or other limitations, if any: The right to the use of this water is limited to the period when the flow of the John Day River is more than 10 cfs at USGS No. 14-0440, more than 55 cfs at USFS No. 14-0460, more than 30 cfs at USGS No. 14-0465, and more than 20 cfs at USGS No. 14-0480, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Water Right Identification No.: 21919

Source: Middle Fork John Day River, tributary of North Fork John Day River

Priority date: October 4, 1948

Type of use: Irrigation

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

T 11S, R 35E, S 15, SW $\frac{1}{4}$ SW $\frac{1}{4}$ -16 acres

T 11S, R 35E, S 15, SE $\frac{1}{4}$ SW $\frac{1}{4}$ -21 acres

T 11S, R 35E, S 16, SE $\frac{1}{4}$ SE $\frac{1}{4}$ -25 acres

T 11S, R 35E, S 21, NE $\frac{1}{4}$ NE $\frac{1}{4}$ -1 acres

T 11S, R 35E, S 21, NW $\frac{1}{4}$ NE $\frac{1}{4}$ -10.4 acres

T 11S, R 35E, S 21, SE $\frac{1}{4}$ SE $\frac{1}{4}$ -16.2 acres

T 11S, R 35E, S 22, SW $\frac{1}{4}$ NE $\frac{1}{4}$ -1 acres

T 11S, R 35E, S 22, SE $\frac{1}{4}$ NE $\frac{1}{4}$ -20.8 acres

T 11S, R 35E, S 22, SW $\frac{1}{4}$ NW $\frac{1}{4}$ -17.2 acres

T 11S, R 35E, S 22, SE $\frac{1}{4}$ NW $\frac{1}{4}$ -12 acres

T 11S, R 35E, S 22, NW $\frac{1}{4}$ SW $\frac{1}{4}$ -11 acres

T 11S, R 35E, S 22, SW $\frac{1}{4}$ SW $\frac{1}{4}$ -3.4 acres

Number of acres, if for irrigation: 155 acres

Rate: 3.6 cfs

Duty: 775 acre feet

Season of Use: April 1-September 30

Point(s) of Diversion (POD): #1-1250' N & 1050' E from the W $\frac{1}{4}$ corner of Sec. 25, being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 25; and #2-300' S & 475' E from the W $\frac{1}{4}$ corner of Sec. 23 being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 23; all in T 11 S, R 35 E, WM, Grant County.

Conditions or other limitations, if any: None.

1.5 **Validity of Rights.** Lessor #1 attests 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
- ☐ that the water right is not subject to forfeiture under ORS 540.610

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.** 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:

Water Right Identification No.: 39037

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

In the John Day Basin

Priority date: April 28, 1960

Type of use: Instream (described in Section 2.1, above)

Location: POD to mouth of Vinegar Creek

Total volume: 91.6 acre-feet (primary)/492.4 acre feet (supplemental).

Rate: 0.57 cfs (primary)/3.08 cfs (supplemental)

Period of Use: April 1-September 30

Conditions to prevent or mitigate injury, if any: The instream flow will be allocated on a daily average basis up to this rate from July 11 through September 30, or until such time that the total duty for the irrigation season is met. During the time period the primary right underlying the supplemental portion of C-39037 is met, the prorated rates and duties for only the primary portion of C-39037 can be utilized. During the time period the primary right underlying the supplemental portion of C-39037 is not met, the prorated rates and duties for both the primary and supplemental portions of C39037 can be utilized.

Water Right Identification No.: 39039

Source: Clear Creek, tributary of M.F. John Day River

In the John Day Basin

Priority date: December 24, 1962

Type of use: Instream (described in Section 2.1 above)

Location: POD to mouth of Clear Creek

Rate: 1.17 cfs

Duty: 187.6 acre feet

Period of Use: April 1-September 30

Conditions to prevent or mitigate injury, if any: The instream flow will be allocated on a daily average basis up to this rate from July 11 through September 30, or until such time that the total duty for the irrigation season is met. Moreover, the right to the use of this water is limited to the period when the flow of the John Day River is more than 10 cfs at USGS No. 14-0440, more than 55 cfs at USFS No. 14-0460, more than 30 cfs at USGS No. 14-0465, and more than 20 cfs at USGS No. 14-0480, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Water Right Identification No.: 75142

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

In the John Day Basin

Priority date: 1895

Type of use: Instream (described in Section 2.1, above)

Location: POD to mouth of Clear Creek

Rate: 0.29 cfs (April 1-May 31), 0.145 cfs (June 1-Sept. 30)

Duty: A quantity of water limited to 11.6 acre-feet during any calendar month prior to June 1st, and not to exceed, during the irrigation season, 46.4 acre-feet.

Period of Use: April 1-September 30

Conditions to prevent or mitigate injury, if any: The instream flow will be allocated on a daily average basis up to this rate from May 12 through September 30, or until such time that the total duty for the irrigation season is met.

Water Right Identification No.: 65139

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

In the John Day Basin

Priority date: 1895

Type of use: Instream (described in Section 2.1, above)

Location: POD to mouth of Clear Creek

Rate: 0.67 cfs (April 1-May 31), 0.34 cfs (June 1-Sept. 30)

Duty: A quantity of water limited to 26.9 acre-feet during any calendar month prior to June 1st, and not to exceed, during the irrigation season, 107.6 acre-feet.

Period of Use: April 1-September 30

Conditions to prevent or mitigate injury, if any: The instream flow will be allocated on a daily average basis up to this rate from May 12 through September 30, or until such time that the total duty for the irrigation season is met.

Water Right Identification No.: 24845

Source: Middle Fork John Day River, tributary of North Fork John Day River

In the John Day Basin

Priority date: 1898

Type of use: Instream (described in Section 2.1, above)

Location: POD to Lessor's western property boundary near the west line of the SE1/4 SE1/4 of Section 20, T. 11S., R. 35 E., W.M.

Rate: 0.65 cfs

Duty: 201 acre feet

Period of Use: April 1-September 30

Conditions to prevent or mitigate injury, if any: The instream flow will be allocated on a daily average basis up to this rate (0.65 cfs) from April 28 through September 30, or until such time that the total duty for the irrigation season is met.

Water Right Identification No.: 24846

Source: Austin Springs, tributary of Middle Fork John Day River

In the John Day Basin

Priority date: 1907

Type of use: Instream (described in Section 2.1, above)

Location: POD to confluence of Middle Fork John Day River

Rate: 0.63 cfs (April 1-May 31), 0.31 cfs (June 1-Sept. 30)

Duty: A quantity of water limited to 25.4 acre-feet during any calendar month prior to June 1st, and not to exceed, during the irrigation season, 101.6 acre-feet.

Period of Use: April 1-September 30

Conditions to prevent or mitigate injury, if any: The instream flow will be allocated on a daily average basis up to this rate from May 11 through September 30, or until such time that the total duty for the irrigation season is met.

Water Right Identification No.: 25659

Source: Middle Fork John Day River, tributary of North Fork John Day River

In the John Day Basin

Priority date: 1892

Type of use: Instream (described in Section 2.1, above)

Location: POD to Lessor's western property boundary near the west line of the SE1/4 SE1/4 of Section 20, T. 11S., R. 35 E., W.M.

Rate: 1.51 cfs

Duty: 465 acre feet

Period of Use: April 1-September 30

Conditions to prevent or mitigate injury, if any: The instream flow will be allocated on a daily average basis up to this rate (1.51 cfs) from April 28 through September 30, or until such time that the total duty for the irrigation season is met.

Water Right Identification No.: 39038

Source: Middle Fork John Day River, tributary of North Fork John Day River

In the John Day Basin

Priority date: December 7, 1962

Type of use: Instream (described in Section 2.1, above)

Location: POD to Lessor's western property boundary near the west line of the SE1/4 SE1/4 of Section 20, T. 11S., R. 35 E., W.M.

Rate: 1.01 cfs

Duty: 202 acre feet

Period of Use: April 1-September 30

Point(s) of Diversion (POD): 1850' N. & 2040' W.; 410' S. & 830' E., both from the 1/4 corner between Sections 22 & 23, being within the NW1/4 NE1/4, Section 22; NW1/4 SW1/4, Section 23, T. 11S., R. 35 E., W.M.

Conditions to prevent or mitigate injury, if any: The instream flow will be allocated on a daily average basis up to this rate from June 22 until September 30, or until such time that the total duty for the irrigation season is met. Moreover, the right to the use of this water is limited to the period when the flow of the John Day River is more than 10 cfs at USGS No. 14-0440, more than 55 cfs at USFS No. 14-0460, more than 30 cfs at USGS No. 14-0465, and more than 20 cfs at USGS

No. 14-0480, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Water Right Identification No.: 21919

Source: Middle Fork John Day River, tributary of North Fork John Day River
In the John Day Basin

Priority date: October 4, 1948

Type of use: Instream (described in Section 2.1, above)

Location: POD to Lessor's western property boundary near the west line of the SE1/4 SE1/4 of Section 20, T. 11S., R. 35 E., W.M.

Rate: 3.6 cfs

Duty: 775 acre feet

Period of Use: April 1-September 30

Conditions to prevent or mitigate injury, if any: The instream flow will be allocated on a daily average basis up to this rate from June 14 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, 2003 (not before execution by the parties) and continue through September 30, 2004.
- 2.4 **Compensation.** Lessor has agreed to lease the water right herein to the Oregon Water Trust for cash or 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.

~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: *Joan H. Dondo* Date: *4-28-03*
Lessee: *[Signature]* for Oregon Water Trust Date: *4/28/03*

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.

Other Attachments As Needed:

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
- Exhibit F: Map showing area of allowed domestic use in and irrigation around the Austin House.