

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

This Lease Agreement is between:

Lessor:

Sovereign Partners, LLC
Attn: Rich McIntyre
P.O. Box 469
Fort Klamath, OR 97626
(541) 381-2322-Phone

The water right to be leased is located in Klamath County.

Lessee:

Oregon Water Trust
111 SW Front Avenue
Suite 404
Portland, OR 97204
(503) 226-9055-Phone
(503) 226-3480-Fax

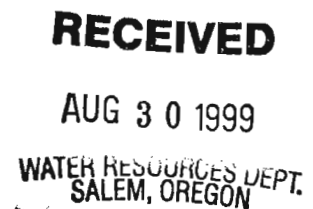
Trustee

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

Certificate Nos. 10927 and 10928
- 1.4 **Subject Water Rights.** Lessor proposes to lease a portion of 10927 and a portion of 10928, listed in 1.3, above.



The rights are further described as follows:

Water Right Identification No.: 10927

Source: Seven Mile Creek

Priority date: 1900

Type of use: Irrigation

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

T 33S, R 6E, S 36, NW $\frac{1}{4}$ NW $\frac{1}{4}$ -40 acres

T 33S, R 6E, S 36, SW $\frac{1}{4}$ NW $\frac{1}{4}$ -40 acres (of which 30 are to be leased)

Rate: 1.6 cfs/April 1-July 20 (of which 1.4 cfs is to be leased)

1 cfs/July 21-October 1 (of which 0.875 cfs is to be leased)

Duty: 400 acre-feet (of which 350 af are to be leased)

Season of use: April 1 to October 1

Point of Diversion (POD): NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 25, T.33S, R.6E, WM

Conditions or other limitations, if any: None

Water Right Identification No.: 10928

Source: Springs, Crane Creek and Seven Mile Creek

Priority date: 1888, 1890 and 1900

Type of use: Irrigation

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

T 33S, R 6E, S 35, NE $\frac{1}{4}$ NE $\frac{1}{4}$ -40 acres (Seven Mile Creek/1900)

T 33S, R 6E, S 35, NW $\frac{1}{4}$ NE $\frac{1}{4}$ -25 acres (Springs and Crane Creek/1888)

T 33S, R 6E, S 35, SW $\frac{1}{4}$ NE $\frac{1}{4}$ -35 acres (Springs and Crane Creek/1888) (not leased)

T 33S, R 6E, S 35, SE $\frac{1}{4}$ NE $\frac{1}{4}$ -40 acres (Seven Mile Creek/20-1890 & 20-1900)
(not leased)

T 33S, R 6E, S 36, NE $\frac{1}{4}$ SE $\frac{1}{4}$ -40 acres (not held by Lessor)

T 33S, R 6E, S 36, NW $\frac{1}{4}$ SE $\frac{1}{4}$ -39.3 acres (not held by Lessor)

T 33S, R 6E, S 36, SW $\frac{1}{4}$ SE $\frac{1}{4}$ -40 acres (not held by Lessor)

T 33S, R 6E, S 36, SE $\frac{1}{4}$ SE $\frac{1}{4}$ -40 acres (not held by Lessor)

Rate: 5.99 cfs/April 1-July 20 (2.8 held by lessor, of which 1.3 is to be leased)

3.74 cfs/July 21-October 1 (1.75 held by lessor, of which 0.81 is to be leased)

Duty: 1,496.5 acre-feet (700 acre-feet held by lessor, of which 325 af are to be leased)

Season of use: April 1 to October 1

Point of Diversion (POD): NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 35, T. 33S, R6E, WM

Conditions or other limitations, if any: None

- 1.5 **Validity of Rights.** Lessor attests that the portions of the water rights to be leased 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 the subject lands indicated in *Exhibit D.*

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- 1.6 **Lease.** Lessor agrees to lease the subject 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 portions of the water rights and under any water rights that are supplemental to the subject portions of the 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. 10927

Seven Mile Creek, Tributary to Agency Lake in the Klamath Basin

Location: POD to mouth at Agency Lake

Priority date: 1900

Use: Described in Section 2.1, above

Total volume: 350 acre-feet

Rate in cfs: 1.4 cfs/April 1-July 20 and 0.875 cfs/July 21-October 1

Period of use: April 1-October 1

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 1.015 cfs from April 1-July 20 and 0.875 cfs from July 21 to October 1. The instream flow will be allocated on a daily average basis up to these rates from April 1 until October 1, or until such time that the total duty for the irrigation season is met.

No. 10928

Springs and Crane Creek, Tributary to Seven Mile Creek in the Klamath Basin

Location: PODs to mouth of Seven Mile Creek at Agency Lake

Priority date: 1888

Use: Described in Section 2.1, above

Total volume: 125 acre-feet

Rate in cfs: 0.5 cfs/April 1-July 20 and 0.312 cfs/July 21-October 1

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Period of use: April 1-October 1

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 0.36 cfs from April 1-July 20 and 0.312 cfs from July 21 to October 1. The instream flow will be allocated on a daily average basis up to these rates from April 1 until October 1, or until such time that the total duty for the irrigation season is met.

Seven Mile Creek, Tributary to Agency Lake in the Klamath Basin

Location: POD to mouth of Seven Mile Creek at Agency Lake

Priority date: 1900

Use: Described in Section 2.1, above

Total volume: 200 acre-feet

Rate in cfs: 0.8 cfs/April 1-July 20 and 0.5 cfs/July 21-October 1

Period of use: April 1-October 1

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 0.58 cfs from April 1-July 20 and 0.5 cfs from July 21 to October 1. The instream flows will be allocated on a daily average basis up to these rates from April 1 until October 1, 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 October 1, 1999.
- 2.4 **Compensation.** Lessor has agreed to lease the subject portions of 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

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III.

- 3 Watermaster review. By signature below, the watermaster for the district where the subject portions of the water rights are located verifies that:
 - 3.1 Lessor is currently entitled to appropriate water under the subject portions of 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 portions of the rights to ensure water is not diverted or applied on lands to which the subject portions of 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:
 Del Sparks
 5170 Summers Lane
 Klamath Falls, OR 97603
 (541) 883-4182-Phone
 (541) 885-3324-Fax

District: 17

Bob Main (for Del Sparks)

Date: *8-26-99*

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: *[Signature]*

Date: *Aug 27, 1999*

Lessee: *[Signature]*

Date: *Aug 26, 1999*

So ordered by Trustee:
 Director, Oregon Water Resources Department

Date:

Effective Date of Lease Agreement:

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Exhibits:

- Exhibit A: Proof of property ownership
- Exhibit B: Map of Lessor's property
- Exhibit C: Copy of the certificates attached to property shown in Exhibit B
- Exhibit D: Detailed map illustrating lands irrigated by subject rights and portions to be leased
- Exhibit E: Identification of public use to be served by instream use

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