

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

This Lease Agreement is between:

Lessor:

Gerald Swaggart
46601 Mission Rd.
Pendleton, OR 97801
Phone - 541/276-2548

The water rights to be leased are located in Umatilla 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) 378-8130-Fax

I.

- 1.1 Lessor is the owner of property (*Exhibit A*) 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 attached to the property in *Exhibit B*. Those rights are listed below as follows:

Certificate No.: 2650

- 1.4 **Subject Water Rights.** Lessor proposes to lease all of the water right listed in 1.3, above.

The right to be leased is further described as follows:

Water Right Identification No.: 2650

Source: Little Butter Creek tributary of Butter Creek

Priority dates: December 31, 1885

Type of use: Irrigation and Stock

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

T 2S, R28E, S 2, SW3 NW3 - 4 acres

T 2S, R28E, S 2, NW3 SW3 - 8.5 acres

T 2S, R28E, S 2, NE3 SW3 - 1.5 acres

T 2S, R28E, S 3, NE3 NW3 - 13 acres

T 2S, R28E, S 3, NW3 NE3 - 2.5 acres

T 2S, R28E, S 3, SE3 NE3 - 17 acres

T 2S, R28E, S 3, SW3 NE3 - 13 acres

T 2S, R 28E, S 3, NE3 SE3 - 1 acre

Number of acres, if for irrigation: 60.5 acres

Rate: 1.21 cfs

Duty: 242 acre-feet (4 acre feet per acre)

Season of use: January 1 - September 1

Point(s) of Diversion (POD):

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 immediately preceding the 1999 irrigation year and, if the right is for irrigation, on all lands indicated in *Exhibit D.*
- 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 690-77-0077.
- 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 right that is 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. 2650

Little Butter Creek

Tributary to Butter Creek

Location: RM 17 to Mouth of Little Butter Creek

Priority date: December 31, 1885

Use: Instream (described in Section 2.1, above)

Total volume: 242 acre feet (4 acre feet per acre)

Rate: 1.21 cfs

Period of use: January 1 - September 1

Conditions to prevent or mitigate injury, if any: The instream flow will be allocated on a daily average basis up to the described rate from May 24 until September 1, or until such time that the total duty for the irrigation season is met. Instream use period has been diminished to 101 days to insure the duty limitation is not exceeded during the period of use described above.

2.3 **Term of lease.** This Lease shall commence on January 1, 1999 (not before execution by the parties) and continue through September 1, 1999.

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.** 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 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:
Tony Justus
Field Services and Enforcement Division
116 SE Dorian Ave
Pendleton, OR 97801
Phone - (541) 278-5456
Fax - (541) 278-0287

District: 5

Date:

IV.

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.

Lessor: *Gerald Snuggart Trustee*

Date: *May 26, 1999*

Lessee: *Arthur Purkey*

Date: *May 20, 1999*

So ordered by Trustee:

Date:

Director, Oregon Water Resources Department

Effective Date of Lease Agreement:

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