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WATER RESOURCES DEPT.
SALEM, OREGON

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Lease Agreement Number: 83

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:

Dawn and Thomas Hodgkins
40 Lindbergh Lane
Sparks, NV 89436
(775) 425-2434- Phone

The water rights to be leased are located in Jackson 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.

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- 1.3 *Exhibit C* contains copies of all of the certificated, decreed or permitted rights attached to the property in *Exhibit B*. The rights are listed below as follows:

Certificate Nos.: 17190 and 76175

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

The portions of the rights to be leased are further described as follows:

Water Right Identification No.: 17190

Source: South Fork Little Butte Creek

Priority date: 1869

Type of use: Irrigation

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

T 36S, R 2E, S 33, NE $\frac{1}{4}$ SW $\frac{1}{4}$ - 15 acres (not to be leased)

T 36S, R 2E, S 33, NW $\frac{1}{4}$ SW $\frac{1}{4}$ - 8 acres (not to be leased)

T 36S, R 2E, S 33, SW $\frac{1}{4}$ SE $\frac{1}{4}$ - 28 acres

Number of acres, if for irrigation: 51 acres (28 of which is to be leased)

Rate: 0.86 cfs (0.47 cfs of which is to be leased)

Duty: None

Season of use: April 1-October 1

Point of Diversion (POD): T 37S, R 2E, Sec. 4, NE $\frac{1}{4}$ NE $\frac{1}{4}$, W.M.

Conditions or other limitations, if any: None

Water Right Identification No.: 76175

Source: South Fork Little Butte Creek

Priority date: 1882 and 1895

Type of use: Irrigation

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

T 36S, R 2E, S 33, SE $\frac{1}{4}$ SE $\frac{1}{4}$ - 8 acres-1882 (not to be leased)

T 36S, R 2E, S 33, NW $\frac{1}{4}$ SE $\frac{1}{4}$ - 12.5 acres-12 acres/1882 & 0.5 acre/1895

T 36S, R 2E, S 33, SE $\frac{1}{4}$ NW $\frac{1}{4}$ - 5 acres/1895 (not to be leased)

Number of acres, if for irrigation: 25.5 acres (12.5 of which are to be leased)

Rate: 0.54 cfs (0.25 cfs of which is to be leased)

Duty: None

Season of use: April 1-October 1

Point of Diversion (POD): T 37S, R 2E, Sec. 3, NW $\frac{1}{4}$ NW $\frac{1}{4}$, W.M.

Conditions or other limitations, if any: None

- 1.5 **Validity of Rights.** Lessor attests that the subject portions of the water rights are legally valid by having been beneficially used according to the terms of the rights. If

the rights are for irrigation, beneficial use must have occurred in the past five years on all lands indicated in *Exhibit D*.

- 1.6 **Lease.** All lessors agree to lease the subject portions 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 690-77-0077.
- 1.7 **Suspension of original use.** During the period of the lease, the owner agrees to suspend use of water allowed under the subject portions of the water rights and under any water right that is 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:

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:

No.: 17190

South Fork Little Butte Creek, tributary to Little Butte Creek in the Rogue Basin

Location: RM 3.5 to mouth of South Fork Little Butte Creek

Priority date: 1869

Use: Described in Section 2.1, above

Total volume: None

Rate in cfs: 0.47 cfs

Period of use: April 1-October 1

Conditions to prevent or mitigate injury, if any: None

No.: 76175

South Fork Little Butte Creek, tributary to Little Butte Creek in the Rogue Basin

Location: RM 3.5 to mouth of South Fork Little Butte Creek

Priority date: 1882 and 1895

Use: Described in Section 2.1, above

Total volume: None
Rate in cfs: 0.25 cfs (0.24 cfs/1882 and 0.01 cfs/1895)
Period of use: April 1-October 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 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 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 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 water rights to ensure water is not diverted or applied on lands to which subject portions of 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: Larry Menteer

District: 13

Larry Menteer
Larry Menteer

Larry Menteer
Field Operations Division
10 South Oakdale, Rm 106
Medford, Oregon 97501
(541) 776-7056-Phone
(541) 776-7189-Fax

Date: 5-28-99

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: *Thomas J. [Signature]*

Date: 6-21-99

Lessor: *[Signature]*

Date: 6-21-99

Lessee: *Richard [Signature]*

Date: 6-25-99

So ordered by Trustee: *Rufus [Signature]*

Date: 7-26-99

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 certificates attached to property shown in Exhibit B
- Exhibit D: Detailed map illustrating lands irrigated by subject portions of rights
- Exhibit E: Identification of public use to be served by instream use