

Lease Agreement Number

9832.02

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

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

This Lease Agreement is between:

Lessor:

*Deschutes Basin Land Trust
1183 NW Wall ST,
Suite F
Bend, OR 97701
(541) 330-0017*

The water right to be leased is located in Deschutes County

Trustee:

Oregon Water Resources Department
158.12th Street. NE
Salem, OR 97310
(503) 378-8455

Lessee:

Oregon Water Trust
111 SW Front Ave #404
Portland, OR 97204
(503) 226-9055

~I~

- 1.1 Lessor is the owner (Exhibit A), of property highlighted in Exhibit B.
- 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. 292: Vol 1, page 75; November 16, 1910, Squaw Creek Decree

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

The right to be leased is further described as follows:

Certificate No.: 292 and as modified by Transfer #T-6615
Priority date: 1905 Type of use: Irrigation

Place of use: T14S, R10E
Section 27 1.2 acres in NW1/4 SW1/4

Section 28 0.3 acres in NE1/4, NE1/4
Section 28 10.2 acres in SE1/4, NE1/4
Section 28 4.0 acres in NE1/4, SE1/4

Map of irrigated lands (Exhibit D.).
Number of acres: 15.9

Rate: 1/50 cfs per acre Duty: Sufficient water for beneficial use

Season of Use: Usual and customary season allowed in the Deschutes Basin

Point of Diversion (POD):

Oliver Ditch: SW1/4, SW1/4 section 16, T14S, R10E; 25 feet north, 790 feet east from the SW corner of section 16, T14S, R10E

Conditions or other limitations, if any: **subject to water available at the original point of diversion.**

- 1.5 **Validity of Rights.** Lessor attests that the subject water rights are legally valid by having been beneficially used according to the terms of the right or permit. If the right is for irrigation, beneficial must have occurred in the last five years on all lands indicated in Exhibit D.
- 1.6 **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 690-77-077.
- 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.

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- 2.1 **Public Use.** The public use served by the amount, timing and location of the instream use provided for under this lease is (Select one):
- Mitigation of a deficiency in the water supply for an existing instream water right or minimum stream flow located _____
- Mitigation of a deficiency in water supply identified in an application for an instream water right or *Diack* flow located _____
- A specific use or need identified by DEQ, Parks or ODFW and further described in _____

Exhibit E.

- 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 uses.

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

Indian Ford Creek, aka Big Slough Creek or Swamp Creek
Tributary to Squaw Creek in the Deschutes Basin.
Location: From original point of diversion to the Mouth.

Priority date: 1905

Use: Described in Section 2.1, above

Total volume: 47.1 acre-feet

Rate in cfs: 0.314

Period of use: during the 1998 and 1999 irrigation seasons

Conditions to prevent or mitigate injury, if any: **If returns flows are determined to be a significant factor in flow downstream, then the lease will be reduced by the determined return flow.**

2.3 **Term of lease.** This Lease shall commence on August 31, 1998, (not before execution by the parties) and continue through 1999.

2.4 **Compensation.** The Lessor has agreed to lease subject water right 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.** Lessor/Lessee intends to manage and participate in the protection of the instream use by: none.

2.7 **Modification or termination provisions.** At such time parties agree through written correspondence given timely notice.

~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 rights described in Section 1.4.
- 3.2 A suitable control may be placed 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: Fyle Bon District 11
1340 NW Wall ST, Suite 100
Bend, OR 97701
(541) 388-6669

Date: 8-20-98

~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: [Signature] Date: 8-6-98

Lessee: [Signature] Date: 8-17-98

So ordered by Trustee: [Signature] Date: 9-25-98

Exhibits:

- Exhibit A: Copy of Property Deed/Power of Attorney Documentation (if needed)
- Exhibit B: Tax Lot Map of Lessor's property
- Exhibit C: Copies of certificates, permits and decreed rights to be leased
- Other Exhibits As Needed:
- Exhibit D: Detailed map illustrating lands under subject rights to be leased
- Exhibit E: Identification of public use to be served by instream use