

Lease Agreement No.: 9905.01 # 74

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WATER RESOURCES DEPT.
SALEM, OREGON

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

This Lease Agreement is between:

Lessor:

Charles Drobkiewicz
71 Yale Creek Road
P.O. Box 1319
Jacksonville, OR 97530
(541) 899-7606 Phone

The water rights to be leased are located in Jackson County.

Lessee:

Oregon Water Trust
147 Central Avenue
Ashland, Oregon 97520
(541) 488-6906 Phone
(541) 488-4903 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 No. 43583

- 1.4 **Subject Water Rights.** Lessor proposes to lease a portion (those associated with taxlot 701 and 301) of the water rights listed in 1.3, above.

The rights to be leased are further described as follows:

Water Right Identification No.: 43583

Source: Yale Creek

Priority date: 1865

Type of use: Irrigation

Place of use:

T39S, R 2W, Sec.29, NE¼, SE¼, Tax Lot 701

T39S, R2W, Sec.28, NW¼, SW¼, Tax Lot 301

Number of acres, if for irrigation:

3.64 acres in TL 701 *owns 12.64*

4 acres in TL 301 *owns 33.56 ac*

Rate: 0.025 (1/40) cfs per acre

Duty: None

Season of use: April 1-October 31

Point of Diversion (POD):

NE¼ SE¼, Section 29, T39S, R2W, WM;

Conditions or other limitations, if any: None

- 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 rights within the last five years and, if the rights are for irrigation, on all lands indicated in *Exhibit D*.
- 1.6 **Lease.** Lessor agrees 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 rights that are 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.** 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. 43583

Yale Creek, tributary to the Little Applegate River, tributary to the Applegate River, in the Rogue Basin

Location: Approximately RM 1 to the confluence of Yale Creek and the Little Applegate River

Priority date: 1865

Use: Described in Section 2.1, above

Total volume: None

Rate: 0.191 cfs

Period of use: April 1-October 31

Conditions to prevent or mitigate injury, if any: None

Total: 0.191 cfs (1/40 / .025 cfs per acre water right on 7.64 acres)

2.3 **Term of lease.** This Lease shall commence on March 1, 1999 (not before the date of final execution by the parties) and continue through February 28, 2000.

2.4 **Compensation.** Lessor has agreed to lease 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

III.

- 3 **Watermaster review.** By signature below, the watermaster for the district where the subject water rights are 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 is in place so that WRD staff may regulate use of water under the subject rights to ensure water is not diverted or applied on lands to which subject 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:

Watermaster:
Larry Mentee *Larry Mentee*
Field Operations Division
10 South Oakdale
Medford, Oregon 97501
(541) 760-7056 Phone
(541) 776-7189 Fax

District: *13*

Date: *3-22-99*

IV.

The Undersigned Lessors, 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: Charles F. Dethling Date: March 15, 1999

Lessee: Ken Kurl Date: MARCH 11, 1999

So ordered by Trustee: Ralph A. Bailey Date: 6/1-99
Director, Oregon Water Resources Department

Effective Date of Lease Agreement:

Exhibits:

- Exhibit A: Proof of property ownership
- Exhibit B: Map of Lessor's property
- Exhibit C: Copy of certificate attached to property shown in Exhibit B
- Exhibit D: Detailed map illustrating lands irrigated by subject right
- Exhibit E: Identification of public benefit to be served by instream use