

980802

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

This Lease Agreement is between:

**Lessor:**

Aspen Lakes Development, L.L.C.  
P.O. Box 1600  
Sisters, OR 97759  
(541) 548-0835-Phone  
(541) 548-0481-Fax

The water right to be leased is located in Deschutes 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) 378-8130-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 all certificated, decreed or permitted rights attached to the property in *Exhibit B*. The right is listed below as follows:

Certificate No.: 57567

- 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.: 57567

Source: Squaw Creek, tributary to the Deschutes River

Priority date: March 5, 1948

Type of use: Irrigation

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

T 14S, R 10E, S 35, NW¼ NW¼-0.6 acre

T 14S, R 10E, S 35, SW¼ NW¼-14 acres

T 14S, R 10E, S 35, NE¼ SW¼-2 acres

T 14S, R 10E, S 35, NW¼ SW¼-15 acres

T 14S, R 10E, S 35, SW¼ SW¼-13.4 acres

T 14S, R 10E, S 35, SE¼ SW¼-5 acres

Number of acres, if for irrigation: 50 acres

Rate: 0.45 cfs

Duty: 200 acre-feet (4 acre-feet per acre)

Season of use: During the accepted Deschutes Basin Irrigation Season

Point(s) of Diversion (POD): SW¼ NW¼, SW¼ SW¼, SECTION 35, T 14 S, R 10 E, WM; #1 - 490 FEET NORTH & 620 FEET EAST FROM W¼ CORNER SECTION 35; #2 - 1120 FEET NORTH & 850 FEET EAST FROM SW CORNER SECTION 35.

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 1998 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 690-77-077.
- 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 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. 57567

Squaw Creek

Tributary to Deschutes River

Location: PODs (RM 17) to Mouth of Squaw Creek

Priority date: 1948

Use: Instream (described in Section 2.1, above)

Total volume: 200 acre feet

Rate: 0.45 cfs

Period of use: April 1 to October 31

Conditions to prevent or mitigate injury, if any: None

2.3 **Term of lease.** This Lease shall commence on April 1, 1998 (not before execution by the parties) and continue through October 31, 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: *Kyle Gorman*  
 Kyle Gorman  
 Field Services and Enforcement  
 1340 NW Wall, Suite 100  
 Bend, Oregon 97701  
 (541) 388-6669  
 (541) 388-5101-Fax

District: 11

Date: *3-19-98*

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: *Aspenhales Development, LLC* Date: *3-9-98*  
*by Matthew J., managing member*

Lessee: *Andrew Perkey OWT* Date: *3-12-98*

So ordered by Trustee: *Monica Page* Date: *4-24-98*

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