

9725.01

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

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JUN 23 1997
WATER RESOURCES DEPT.
SALEM, OREGON

This Lease Agreement is between:

Lessor:

Voe M. Denis, a California Limited Partnership, and
Lewis Anderson
P.O. Box 1498
Sisters, OR 97759
(541) 549-0332-Phone

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 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*. Those rights are listed below as follows:

Certificate Nos.: 275 and 28760
- 1.4 **Subject Water Rights.** Lessor proposes to lease all of the water rights listed in 1.3, above.

The rights to be leased are further described as follows:

Water Right Identification No.: 275

Source: Squaw Creek, tributary to the Deschutes River

Priority dates: 1884 and 1904

Type of use: Irrigation

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

T 14S, R 10E, S 26, NE $\frac{1}{4}$ SW $\frac{1}{4}$ -5.5 acres

T 14S, R 10E, S 26, SE $\frac{1}{4}$ SW $\frac{1}{4}$ -20.5 acres

T 14S, R 10E, S 26, NW $\frac{1}{4}$ SE $\frac{1}{4}$ -2 acres

Number of acres, if for irrigation: 28 acres; 15 acres (1884) and 13 acres (1904)

Rate: 0.56 cfs; 0.3 cfs-1884 and 0.26 cfs-1904

Duty: None

Season of use: Restricted to period of beneficial use

Point(s) of Diversion (POD): 1,370 feet North and 190 feet West from South $\frac{1}{4}$ Corner of Section 26, being within T 14S, R 10E, S 26.

Conditions or other limitations, if any: None

Water Right Identification No.: 28760

Source: Squaw Creek, tributary to the Deschutes River

Priority dates: May 31, 1961

Type of use: Irrigation

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

T 14S, R 10E, S 26, NE $\frac{1}{4}$ SW $\frac{1}{4}$ -6.57 acres

T 14S, R 10E, S 26, SE $\frac{1}{4}$ SW $\frac{1}{4}$ -5.67 acres

T 14S, R 10E, S 26, NW $\frac{1}{4}$ SE $\frac{1}{4}$ -9.26 acres

T 14S, R 10E, S 26, SW $\frac{1}{4}$ SE $\frac{1}{4}$ -0.05 acres

Number of acres, if for irrigation: 21.55 acres

Rate: 0.43 cfs

Duty: 97 acre feet

Season of use: Restricted to period of beneficial use

Point(s) of Diversion (POD): 1,370 feet North and 190 feet West from South $\frac{1}{4}$ Corner of Section 26, being within T 14S, R 10E, S 26.

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 immediately preceding the 1997 irrigation year 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 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.

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. 275
Squaw Creek
Tributary to Deschutes River
Location: P.O.D. (RM 16) to Mouth of Squaw Creek
Priority date: 1884 and 1904
Use: Instream (described in Section 2.1, above)
Total volume: None
Rate: 0.3 cfs-1884 and 0.26 cfs-1904
Period of use: July 1 to October 31
Conditions to prevent or mitigate injury, if any: None

No. 28760
Squaw Creek
Tributary to Deschutes River
Location: P.O.D. (RM 16) to Mouth of Squaw Creek
Priority date: May 31, 1961
Use: Instream (described in Section 2.1, above)
Total volume: 97 acre-feet
Rate: 0.43 cfs
Period of use: July 1 to October 22
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 July 1 until October 22, or until such time that the total duty for the irrigation season is met.

- 2.3 **Term of lease.** This Lease shall commence on July 1, 1997 (not before execution by the parties) and continue through October 31, 1997.

- 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 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 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
Field Services and Enforcement
1340 NW Wall, Suite 100
Bend, Oregon 97701
(541) 388-6669
(541) 388-5101-Fax

District: 11

Date: 6-6-97

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: *Maury Vanderson*

Date: *6/13/97*

Lessee: *Ordnur Purkey*

Date: *June 4 1997*

So ordered by Trustee: *Wendell D. Pugh*

Date: *8/4/97*

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