

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

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WATER RESOURCES DEPT.
SALEM, OREGON

This Lease Agreement is between:

Lessor:

Joy H. (Lewis) Lacy
5267 S. Fork Little Butte Creek Road
Eagle Point, OR 97524
(541) 826-9326-Phone

The water right to be leased is located in Jackson 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) 378-2496-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 a copy of the certificated right of which a portion is attached to the property in *Exhibit B*. The right is listed below as follows:

Certificate No. 17211
- 1.4 **Subject Water Rights.** Lessor proposes to lease a portion of the water right listed in 1.3, above.

The right, of which a portion is to be leased, is further described as follows:

Water Right Identification No.: 17211
Source: South Fork of Little Butte Creek
Priority date: 1882
Type of use: Irrigation
Place of use: (map of irrigated lands is in *Exhibit D.*)
T 36S, R 2E, S 33, SE¼ SE¼
Number of acres, if for irrigation: 30.5 acres (13 of which are owned by the lessor)
Rate: 0.64 cfs (0.26 of which is held by the lessor and is to be leased)
Duty: None
Season of use: April 1-October 1
Point of Diversion (POD):
T 37S, R 2E, Sec. 3, NW¼ NW¼, W.M.
Conditions or other limitations, if any: None

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- 1.5 **Validity of Rights.** Lessor attests that the subject portion of the water right to be leased is legally valid by having been beneficially used according to the terms of the right within the last five years immediately preceding the 1997 irrigation year and, if the right is for irrigation, on the subject portion of the lands indicated in *Exhibit D.*
- 1.6 **Lease.** Lessor agrees to lease the subject portion of 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 portion of the water right and under any water right that is supplemental to the subject portion of the 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. 17211
South Fork of Little Butte Creek, tributary to Little Butte Creek in the Rogue Basin
Location: ≈RM 3.5 to mouth
Priority date: 1882
Use: Described in Section 2.1, above
Total volume: None
Rate in cfs: 0.26 cfs
Period of use: April 1-October 1
Conditions to prevent or mitigate injury, if any: None

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- 2.3 **Term of lease.** This Lease shall commence on April 1, 1997 (not before execution by the parties) and continue through October 1, 1997.
- 2.4 **Compensation.** Lessor has agreed to lease the subject portion of 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 portion of the water right is located verifies that:
- 3.1 Lessor is currently entitled to appropriate water under subject portion of 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 portion of the right to ensure water is not diverted or applied on lands to which subject portion of the 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: At the pod, the rate of flow of 0.26 cfs will be added to an instream water right of 0.123 cfs that has an 1894 priority date and the same remaining reach of this instream right. The combined instream right will be for a rate of flow of 0.383 cfs to the mouth.

Watermaster:
Bruce Sund
Field Operations, WRD
101 NW "A" Street
Grants Pass, OR 97526
(541) 474-5385-Phone
(541) 474-5389-Fax

District: 14

Date: 4-8-1997

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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: *Jay H. Lewis Lacy*

Date: *April 17/97*

Lessee: *Andrew Pinkney*

Date: *April 14, 1997*

So ordered by Trustee: *Martha D. Pugh*

Date: *5/22/97*

Director, Oregon Water Resources Department

Effective Date of Lease Agreement: *5/22/97*

Exhibits:

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