

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

This Lease Agreement is between:

Lessor:

Chuck Schonneker
North Unit Irrigation District
2024 NW Beach Street
Madras, OR 97741-9484

RECEIVED

NOV 28 1997

WATER RESOURCES DEPT.
SALEM, OREGON

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 Section 1.1 is not applicable.
- 1.2 Lessor is the official representative of North Unit Irrigation District, the irrigation district which conveys water to the subject water right.
- 1.3 *Exhibit A* contains copies of all certificated, decreed or permitted rights held by the North Unit Irrigation District. Those rights are listed below as follows:

Permit No.: R-1677
Certificate No.: 51229
- 1.4 **Subject Water Rights.** Lessor proposes to lease a portion of the water right listed in 1.3, above.

RECEIVED

NOV 28 1997

WATER RESOURCES DEPT.
SALEM, OREGON

The right to be leased is further described as follows:

Water Right Identification No.: 51229

Source: Deschutes River, tributary to the Columbia River

Priority date: February 28, 1913

Type of use: Stored water for irrigation

Place of use: Within the legal boundaries of the North Unit Irrigation District

Storage Volume: 200,000 acre-feet (217 acre-feet to be leased)

Season of Secondary use: April 1 through October 31

Point(s) of Diversion (POD): SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 7, T22S, R9E, WM; 1,830 feet South and 1,950 feet West from NE Corner, Section 7.

Conditions or other limitations, if any: Subject to storage as described in the 1938 inter-district agreement. Minimum flow below the point of diversion of 20 cubic feet per second.

- 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 December 17, 1997.
- 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 B* as signed off by ODFW.

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

The proposed lease will be used to make up the deficiency of water for instream water right Certificates: 1) 59776, 2) 59777, and 3) 59778 all with priority dates of November 3, 1983.

No. 51229

Location: Deschutes River RM 226.5 to RM 120, tributary to Columbia River
(*Exhibit C*)

Priority date: February 28, 1913

Use: Instream (described in Section 2.1, above)

Total volume: 217 acre-feet

Rate: 1 cfs, unless otherwise described in the Memorandum of Understanding (MOU) referenced in section 2.7, below.

Period of use: December 17 to April 4, unless otherwise described in the MOU referenced in section 2.7, below.

Conditions to prevent or mitigate injury, if any: None

- 2.3 **Term of lease.** This Lease shall commence on December 17, 1997 (not before execution by the parties) and continue through April 30, 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.** 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 developing and implementing an MOU with the Trustee.
- 2.7 **Modification or termination provisions.** The Lessee and Trustee may choose to develop and implement a MOU that regulates 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). The MOU will be attached as *Exhibit D* if it is developed.

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

1340 NW Wall, Suite 100

Bend, Oregon 97701

(541) 388-6669

(541) 388-5101-Fax

District: 11

Date:

11-24-97

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:

HW Schumaker

Date: NOV 24 - 1997

Lessee:

Andrew Purkey

Date: NOV 17 1997

So ordered by Trustee:

Maureen D. Page

Date: 12/29/97

Director, Oregon Water Resources Department

Effective Date of Lease Agreement:

Exhibits:

- Exhibit A: Copies of all certificates, permits and decreed rights
- Exhibit B: Identification of public use to be served by instream right
- Exhibit C: Map of instream water right reach
- Exhibit D: Memorandum of Understanding referenced in section 2.7.