

Lease Agreement No.:

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

RECEIVED

AUG 26 1996

WATER RESOURCES DEPT.
SALEM, OREGON

This Lease Agreement is between:

Lessor:

Lee and Corry Belknap
38912 S. Twickenham Road
Mitchell, OR 97750
(541) 462-3924-Phone

The water right to be leased is located in Wheeler 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 that is attached to the property in *Exhibit B* and is to be leased. The right is listed below as follows:

Certificate No. 42686

- 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.: C-42686

Source: John Day River

Priority date: September 16, 1970

Type of use: Irrigation

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

T 10S, R 21E, S 2, Lot 2 (NW $\frac{1}{4}$ NE $\frac{1}{4}$)-26 acres

T 10S, R 21E, S 2, SW $\frac{1}{4}$ NE $\frac{1}{4}$ -5.5 acres

T 10S, R 21E, S 2, Lot 3 (NE $\frac{1}{4}$ NW $\frac{1}{4}$)-26.4 acres

T 10S, R 21E, S 2, SE $\frac{1}{4}$ NW $\frac{1}{4}$ -0.1 acres

Number of acres, if for irrigation: 58 acres

Rate: 1 cfs

Duty: A quantity of water limited to 290 acre feet during the irrigation season.

Season of use: April 1-September 30

Point of Diversion (POD):

Lot 1 (NE $\frac{1}{4}$ NE $\frac{1}{4}$), Section 2, T. 10S, R. 21E., W.M., 200 feet South and 1020 feet West from the NE Corner, Section 2.

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 preceeding the 1996 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. C-42686

John Day River

Location: RM 144 to 20.9

Priority date: September 16, 1970

Use: Described in Section 2.1, above

Total volume: A quantity of water not to exceed 290 acre feet during the irrigation season.

Rate in cfs: 1 cfs

Period of use: April 1-September 30

Conditions to prevent or mitigate injury, if any:

The instream flow of 1 cfs will be allocated on a daily basis from May 8 until September 30 in order that the seasonal duty limitation is not exceeded. There are no other conditions on the instream right.

- 2.3 **Term of lease.** This Lease shall commence on April 1, 1996 (not before execution by the parties) and continue through September 30, 1996.
- 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: *Kelly Rise* District: *4*
Kelly Rise
Field Operations, WRD
P.O. Box 261, Grant County Courthouse
Canyon City, OR 97820
(541) 575-0641-Phone
(541) 575-2248-Fax

Date: *8/7/96*

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: *Don M. Galtman Trust* Date: *8/19/96*

Lessee: *Adrian R. King* Date: *August 5, 1996*

So ordered by Trustee: *Martha Pfeiffer* Date: *9/25/96*
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 the certificate attached to property shown in Exhibit B
Exhibit D: Detailed map illustrating lands irrigated by subject right
Exhibit E: Identification of public use to be served by instream use