

9801-03

SHORT TERM WATER RIGHT LEASE AGREEMENT

(Leases of Existing Water Rights For In-stream Use)

This LEASE AGREEMENT is made between:

Lessor #1,

U.S. Bureau of Land Management

P.O. Box 550

Prineville, Oregon 97754

(541) 416-6700

Lessee,

Oregon Water Resources Department

158 12th Street NE

Salem, Oregon 97310-0210

and the **(Trustee)**

Oregon Water Resources Department

158 12th Street NE

Salem, Oregon 97310-0210

1.1 Lessor #1 is the owner or authorized agent for the owner (*Exhibit A*), of property shown in *Exhibit B*, having

water rights that are to be leased.

1.2 The following water right is appurtenant to the property in *Exhibit B*: [Attach applicable document(s).]

Certificate No. C-13570, Exhibit C.

Permit No. N/A, Exhibit C.

Page 38,39, Bridge Creek Decree, *Exhibit C.*

1.2.1 Lessor propose to lease part of the water right listed in 1.2. The right to be leased is further described for each right as follows:

Water Right Identification No.: C-13570-Gable Creek portion

Priority date of: 1876

Use: Irrigation, Domestic, and Stock

Place of use: (*Exhibit D*)

4.5 acres in SE1/4 SW1/4
0.1 acres in NE1/4 SE1/4
10.2 acres in NW1/4 SE1/4
5.7 acres in SW1/4 SE1/4
Section 28
T11S R21E W.M.

1.5 acres in NE1/4 NW1/4
Section 33
T11S R21E W.M.

No. acres: 22.0

Rate: 1/80 cfs per acre March 1-June 15, and 1/100 cfs per acre June 16 - October 1

Duty: 4.0 acft per acre to be the limit to match other permitted rights in the area

Season: March 1 - October 1

Point of diversion (POD): NE1/4 NW1/4 Section 33 T11S R21E W.M.

1.2.1 Lessor propose to lease part of the water right listed in 1.2. The right to be leased is further described for each right as follows:

Water Right Identification No.: C-13570-Bridge Creek portion

Priority date of: 1889, 1897

Use: Irrigation, domestic, and stock

Place of use: (*Exhibit D*, if applicable)

3.0 acres in SW1/4 NE1/4
Section 35
T11S R21E W.M.

1.0 acres in NW1/4 NE1/4
3.0 acres in SW1/4 NE1/4
7.0 acres in SE1/4 NE1/4
8.0 acres in NE1/4 NW1/4
6.0 acres in NW1/4 NW1/4
2.0 acres in NE1/4 SE1/4
Section 27

1.0 acres in NE1/4 NE1/4
Section 28
T11S R21E W.M.

7.8 acres in SW1/4 NE1/4
3.3 acres in NE1/4 NW1/4
11.1 acres in NW1/4 NW1/4
Section 27

0.5 acres in NE1/4 NE1/4
Section 28
T11S R21E W.M.

3.9 acres in SW1/4 NE1/4
3.5 acres in NE1/4 NW1/4
2.0 acres in SE1/4 NW1/4
Section 35

1.3 acres in NE1/4 SW1/4
5.0 acres in NW1/4 SW1/4
5.0 acres in SE1/4 SW1/4
Section 26
T11S R21 E W.M.

3.0 acres in NW1/4 SW1/4

2.0 acres in SW1/4 SW1/4
3.0 acres in SE1/4 SW1/4
Section 26

3.5 acres in NE1/4 NW1/4
Section 35
T11S R21E W.M.

5.0 acres in SW1/4 NE1/4
1.0 acres in SE1/4 NE1/4
17.0 acres in NE1/4 SE1/4
4.8 acres in NW1/4 SE1/4
0.4 acres in SE1/4 SE1/4
Section 27

1.3 acres in NW1/4 SW1/4
0.4 acres in SW1/4 SW1/4
Section 26

2.0 acres in SW1/4 NE1/4
5.0 acres in NE1/4 NW1/4
0.2 acres in SE1/4 NW1/4
Section 35
T11S R21E W.M.

No. acres: 123.0

Rate: 1/40 cfs from March 1-June 15, and 1/80 cfs from
June 16 - October 1

Duty: 4.0 acft will be the limit to match other
permitted rights in the same area

Season: March 1 - October 1

Point(s) of diversion (POD):

Jones Ditch #1 NE1/4 SE1/4 Section 35 T11S R21E

Jones Ditch #2 SW1/4 NE1/4 Section 35 T11S R21E

Jones Ditch #3 SE1/4 NW1/4 Section 35 T11S R21E

Jones Ditch #4 NW1/4 SW1/4 Section 26 T11S R21E

Jones Ditch #5 SE1/4 NE1/4 Section 27 T11S R21E

Conditions or other limitations, if any:

4.0 acft per acre to be the limit to match other permitted rights in the area.

1.2.2 Lessor #1 attests that the water right that is to be leased, identified in 1.2.1. has been beneficially used on all of the lands subject to the lease, or for any other use specified on the water right, within the last five years.

1.2.3 Lessor #2 is the official representative of N/A, the irrigation district, reservoir owner, or other party to the water rights listed above.

1.3 Pursuant to the provisions of ORS 537.348(2) and OAR 690-77-077, Lessee desires to lease the water right(s) listed in 1.2.1 for in-stream use.

1.4 The amount, timing and location of the in-stream use provided for under this lease will serve public uses (s) as indicated by: (check one or more)

deficiencies in the water supply for an instream water right #_____.

unsatisfied needs identified in an application for an instream water right or Diack flow,

specific uses and needs identified in *Exhibit E* as signed off by ODFW, PARKS, or DEQ.

another specified piece of evidence in *Exhibit E*, such as, a statement signed by the lessee, or some other person, explaining how the lease would benefit recreation, scenic attraction, aquatic and fish life, wildlife habitat and ecological values, pollution abatement, navigation, or other public uses.

II.

THE PARTIES AGREE AS FOLLOWS:

2.1 **Lease.** Lessor agree to lease through lessee to holder, the water right listed in 1.2.1 for use as an in-stream water right during the term of this agreement. The general nature

of the compensation is \$1.00.

2.2 **The In-stream Right Created by the Lease.** Described as follows:

Gable Creek, Tributary to Bridge Creek in John Day Basin

Location at the point of diversion as listed in 1.2.1

Use: as described in section 1.4

Total Volume an amount not to exceed 4.0 acft per acre

Rate(s) (cfs) 0.275 cfs March 1-June 15, 0.22 cfs June 16- October 1

Period of Use From March 1, 1998 until such time that total acft limitation has been reached.

Date of priority 1876

2.2 **The In-stream Right Created by the Lease.** Described as follows:

Bridge Creek, Tributary to John Day River in Columbia Basin

Location from the Jones Ditch #1 POD in NE1/4 SE1/4 Section 35 to Jones Ditch #5 POD in the SE1/4 NE1/4 Section 27, T11S R21E, W.M.

Use: as described in Exhibit E

Total Volume an amount not to exceed 4.0 acft per acre

Rate(s) (cfs) 3.07 cfs March 1-June 15, 1.54 cfs June 16-October 1

Period of Use From March 1, 1998 until such time that total acft limitation has been reached.

Date of priority 1889, 1897

Conditions to prevnt or mitigate injury (if any):

The duty has been limited to 4.0 acft per acre to match other permitted rights in the same area.

2.3 **Suspending the original use.** During the period of the lease the owner agrees to suspend the use of water under the original right, or the portion of the right that is leased, and any supplemental right for the same use on the same property.

2.4 **Term.** This Lease shall commence on or not before execution

by the parties and shall continue through October 1, 1998 .

- 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 that the water is delivered to the point of diversion, and through the reach past downstream users, so long as flow is sufficient to meet the demands under this date of priority. No party is required to continuously measure the flow of the river/stream described in Paragraph 2.2.
- 2.6 **Additional Monitoring.** None
- 2.7 **Water Use Reporting.** [as required]
- 2.8 **Termination Provisions.** [optional]
- 2.9 **Watermaster Review.** By signature below, the Watermaster for the District where the reach of the river/stream described in Paragraph 1.2 is located, verifies the following:
- 2.9.1 The Lessor #1 is currently entitled to appropriate water under the water right described in Paragraph 1.2.1
- 2.9.2 A suitable control device is/will be in place so that use of water under the right described in Paragraph 1.2.1 may be regulated to insure water will not be diverted or applied to the lands described in 1.2.1. or used for any other use described in 1.2.1..
- 2.9.3 Allocation of the water described in Paragraph 2.2 during the term of this lease is not reasonably expected to cause injury to other rights for use of water from the same source.
- 2.9.4 Any necessary conditions:

Watermaster: Kevin B. Rice (District 4)

Date: Feb 18 1998

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 #1: Harry R. Casper Date: 12/8 1997
[Owner(s) of the land described in Paragraph 1.1]

Lessor #2: _____ Date: _____ 19____
[Holder of the water right/owner of reservoir if different than landowner]

Lessee: _____ Date: _____ 19____

So ordered by trustee: Martha Whelan Date: 3/25 1998
[Oregon Water Resources Department]

Effective Date: upon execution by the parties

List of Exhibits:

Exhibit A - Power of Attorney Documentation

Exhibit B - Map of Property with Associated Water Rights and Proof of Property Ownership