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WATER DIVISION  
SALEM, OREGON

LA #0007.01

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

This Lease Agreement is between:

LESSOR #1: Jeff and Carol Rank, 6705 SW 46th Street, Redmond, Oregon 97756 (503)548-3147

LESSOR #2: William L. Smith, President, of the Bend Company, An Oregon Corporation, General Partner of River Bend Limited Partnership, 15 S.W. Colorado Avenue, Bend, Oregon 97701 (503)382-6691 Fax# (503)388-5414

LESSEE #1: The Central Oregon Irrigation District, Post Office Box 548, Redmond, Oregon 97756. (503)548-6047 Fax# (503)548-0243

TRUSTEE  
Oregon Water Resources Department  
158 12th Street, N.E.  
Salem, Oregon 97310  
378-3739  
(fax 378-2496)

I.

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

1.2 Lessor #2 is the (Check one) (If Agreement includes multiple co-lessors, complete same for each additional party.):

\_\_\_ Official representative of, the irrigation district which conveys water to the subject water rights.

\_\_\_ Owner, or authorized agent for owner, of the storage facility which is the source of the subject water rights.

X Another party with an interest in the subject water rights representing. Prospective water right owner under transfer application in Exhibit C. Owns lands to receive water.

1.3 Exhibit C contains copies of all certificated, decreed or permitted rights attached to the property in Exhibit "D". Those rights are listed below as follows (Use additional sheet, if necessary):

Certificate No. 29052                      Permit No. N/A  
Page No.                      Decree: Adjudication of Deschutes River.

1.4 SUBJECT WATER RIGHTS. Lessor proposes to lease a portion of the water rights listed in 1.3, above.

The rights to be leased are further described as follows:

Water Right Identification No.: (1) 1900 (2) 1907  
Priority date: Type of use: 10-31-1900/12-2-1907  
Place of use: legal description, see Exhibit "C" On Lands From Transfer.

(If original use is irrigation, include map of irrigated lands in Exhibit C.)

? X Number of acres, if for irrigation: 18.8 acres

Acre-feet of storage: N/A

Rate: April 1-30/1cfs per 145 acres = 58gpm (.13cfs)

May 1-15/1cfs per 109 acres = 77gpm (.17cfs)

May 15-Sept 15/1cfs per 60 acres = 141gpm (.31cfs)

Sept 16-30/1cfs per 109 acres = 77gpm

Oct 1-31/1cfs per 145 acres = 58gpm (.13cfs)

(or as available supplies allow)

? X Duty: Approximately 75 acre feet depending on available supplies or 101 acre feet at maximum allowable.

Season of Use: April 1 thru October, 1995

Point(s) of Diversion (POD): Lot 4 (NW1/4 NW1/4), Section 5, Township 18S, Range 12, East of the Willamette Meridian; 440 feet south and 973 feet east from north west corner of Section 5.

Conditions or other limitations, if any: Lease application is subject to both lease and attached transfer being accepted by Oregon Water Resources Department.

1.5 VALIDITY OF RIGHTS. Lessor #1 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 and, if the rights are for irrigation, on all lands indicated in Exhibit "C".

1.6 LEASE. All Lessors agree 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 and the prospective 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 (Select one):

Mitigation of a deficiency in the water supply for an existing instream water right or minimum streamflow located.

Mitigation of a deficiency in water supply identified in an application for an instream water right or Diack flow located

A specific use or need identified by DEQ, Parks or ODF&W and further described in Exhibit E.

Provided by evidence contained in Exhibit E, such as a signed statement by Lessee, or other party, 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.

2.2 INSTREAM USE CREATED BY LEASE. The instream use to be created is described as follows:

River/Creek Deschutes River

Tributary to Columbia River in the Deschutes Basin

7 X Location: @ Bend, Oregon - *River Mile 165 to RM 120 (per phone conv. w/ Ron Nelson)*

X Priority date of: 1900/1907

Use: Described in Section 2.1, above

Total Volume:

X Rate in cfs: See 1.4

Period of use: irrigation season 1995

Conditions to prevent or mitigate injury, if any: None

2.3 TERM OF LEASE. This Lease shall commence upon approval, (not before execution by the parties) and continue through October, 1995.

2.4 COMPENSATION. The general nature of the lease compensation is money.

2.5 FLOW PORTECTION. 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. Lessor/Lessee intends to manage and participate in the protection of the instream use by: N/A
- 2.7 MODIFICATION OR TERMINATION PROVISIONS. This lease may be terminated before the expiration by the lessor, holding the right, during the non-irrigation season, consistent with OAR 690.77

#### III.

- 3 WATERMASTER REVIEW. By signature below, the watermaster for the district where the subject water right is located verifies that:
- 3.1 Lessor #1 is currently entitled to appropriate water under the water rights described in Section 1.4.
- 3.2 A suitable control is/will be 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:  
(Describe, if any)

Watermaster: Kyle Gorman                      District: District 11  
                    Water Resources Dept.  
                    1340 NW Wall Street  
                    Suite 100  
                    Bend, Oregon 97701  
                    (503)388-6669 Fax #388-5101

Date:

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 #1: Jeff Rank Date: 7/9/95  
JEFF RANK

Carol Rank Date: 7/10/95  
CAROL RANK

Lessor #2: William L. Smith Date: 7/13/95  
WILLIAM L. SMITH

Lessee: Jay A. Hoberly Date: 7/13/95  
CENTRAL OREGON IRRIGATION DISTRICT

So ordered by Trustee: Rebecca A. Kneag Admin Date: 8/23/95  
Director, Oregon Water Resources Department

Effective Date of Lease Agreement: 8/23/95