

OWT.1 1/3/00

Lease Agreement Number: _____

State of Oregon
Water Resources Department
158 12th Street NE
Salem, OR 97310

**Short-Term Water Right
Lease Agreement
For Leasing Existing Water Rights for Instream Use**

This Lease Agreement is between:

Lessor:

Kopetjko, Frank
1075 Starveout Creek Road
Azalea, OR 97410
(541) 837-3473 - Phone

The water right to be leased is located in Douglas County.

Lessee:

Oregon Water Trust
111 SW Naito Parkway, 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, or authorized agent for owner (*Exhibit A*) of the property highlighted in *Exhibit B*.
- 1.2 Section 1.2 is not applicable.

- 1.3 **Exhibit C** contains a copy of the certificated, decreed, or permitted rights attached to the property in **Exhibit B**. The right is listed below as follows:

Certificate No. 36169

- 1.4 **Subject Water Rights.** Lessor proposes to lease a portion of the water right listed in 1.3, above.

The portion of the right to be leased is further described as follows:

Water Right Identification No.: 36169

Source: Starveout Creek

Priority date: August 20, 1963

Type of use: Irrigation

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

T 32S, R 4W, S 18, NE ¼ NW ¼: 3.2 acres (0.2 acres of which are not part of this lease, comprising lawn and garden around dwelling) ^{3.0}

Number of acres, if for irrigation: 3.2 acres (0.2 of which are part of this lease)

Rate: 0.05 cfs (0.047 of which are part of this lease)

Duty: 11.2 acre-feet-3.5 ac-ft/acre (10.5 acre-feet of which are part of this lease)

Season of use: March 1 - October 31, and when the flow of Low Creek is more than 11 cfs @ intake

Point of Diversion (POD): T 32S, R 4W, S 18, NE ¼ NW ¼, 1220 feet South and 1620 feet East from the NW Corner, Section 18

Conditions or other limitations, if any: None

- 1.5 **Validity of Rights.** Lessor attests that the subject portion of the water right is legally valid by having been beneficially used according to the terms of the right or permit. If the right is for irrigation, beneficial use must have occurred in the past five years on all 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 690-77-0077.
- 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:

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 use.

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

Starveout Creek, tributary of Cow Creek
Location: RM 1 to mouth of Starveout Creek
Priority date: July 9, 1968
Use: Described in Section 2.1, above
Total volume: 10.5 acre-feet
Rate in cfs: ~~0.047~~ cfs ~~0.043~~ 0.0428
Period of use: March 1-October 31

Conditions to prevent or mitigate injury, if any: The instream flow will be allocated on a daily average basis up to the described rate from July ~~11~~ until October 31, or until such time that the total duty for the irrigation season is met. Instream use period has been diminished to ~~112~~ days to insure the duty limitation is not exceeded during the period of use described above.

123

$$\frac{10.5}{1.983271} = 5.30$$

$$\frac{10.5 \text{ ac-ft}}{1.983271} = 5.30$$

112 days
31-11+1 = 21
83
11 3

2.3 **Term of lease.** This Lease shall commence on March 1, 2000 (not before execution by the parties) and terminate on October 31, 2001.

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.

3.0 **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 the 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 water right to ensure water is not diverted or applied on lands to which subject portion of 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: Dave Williams

District: 15

Dave Williams

Dave Williams
Field Operations, WRD
Rm 306 Courthouse
Roseburg, OR 97470-1719
(541) 440-4255-Phone
(541) 440-6264-Fax

Date: _____

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: _____ Date: _____

Lessor: _____ Date: _____

Lessee: _____ Date: _____

So ordered by Trustee: _____ Date: _____

Director, Oregon Water Resources Department

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