

Lease Agreement # 11

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

RECEIVED  
JUN 10 1999  
WATER RESOURCES DEPT.  
SALEM, OREGON

This Lease Agreement is between:

**Lessor:**

Jackson County  
Dept. of Public Works and Parks  
400 Antelope Road  
White City, OR 97503  
(541) 826-3122-Phone  
(541) 826-1655-Fax

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SALEM, OREGON

The water rights to be leased are located in Jackson 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 (*Exhibit A*) of property highlighted in *Exhibit B*.
- 1.2 Section 1.2 is not applicable.
- 1.3 *Exhibit C* contains copies of the certificated rights attached to the property in *Exhibit B*.  
The rights are listed below as follows:

Certificate Nos. 36708 and 9693

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1.4 **Subject Water Rights.** Lessor proposes to lease all of the water rights listed in 1.3, above.

The rights to be leased are further described as follows:

Water Right Identification No.: 36708  
Source: Rogue River  
Priority date: 1898  
Type of use: Irrigation  
Place of use: (map of irrigated lands is in *Exhibit D.*)  
T 36S, R 1W, S 6, SE 1/4, NW 1/4, 13.8 acres  
T 36S, R 1W, S 6, NE 1/4, SW 1/4, 25 acres  
T 36S, R 1W, S 6, SE 1/4, SW 1/4, 33 acres  
Number of acres, if for irrigation: 71.8  
Rate: 1.79 cfs  
Duty: None  
Season of use: April 1 to October 31  
Point of diversion (POD):  
T 35S, R 1W, S 16, SW 1/4, NW 1/4  
Conditions or other limitations, if any: None

Water Right Identification No.: 9693  
Source: Rogue River  
Priority date: April 16, 1921  
Type of use: Irrigation  
Place of use: (map of irrigated lands is in *Exhibit D.*)  
T 35S, R 1W, S 31, SE 1/4, NE 1/4, 3 acres  
T 35S, R 1W, S 31, NE 1/4, SE 1/4, 25 acres  
T 35S, R 1W, S 31, NW 1/4, SE 1/4, 3 acres  
T 35S, R 1W, S 31, SW 1/4, SE 1/4, 20 acres  
Number of acres, if for irrigation: 51  
Rate: 0.64  
Duty: None  
Season of use: April 1 to October 31  
Point of diversion (POD):  
T 35S, R 1W, S 20, NE 1/4, SW 1/4-at the center of Section 20  
Conditions or other limitations, if any: None

1.5 **Validity of Rights.** Lessor attests that the subject water rights are 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 last five years on all lands indicated in *Exhibit D.*

- 1.6 **Lease.** Lessor agrees 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 690-77-0077.
- 1.7 **Suspension of original use.** During the period of the lease, the owner agrees to suspend use of water allowed under the subject 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:

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. 36708  
Rogue River, tributary to Pacific Ocean  
Location: RM 138 to 126  
Priority date: 1898  
Use: Described in Section 2.1, above  
Total volume: None  
Rate: 1.79 cfs  
Period of Use: April 1 to October 31  
Conditions to prevent or mitigate injury, if any: None

No. 9693  
Rogue River, tributary to Pacific Ocean  
Location: RM 138 to 126  
Priority date: April 16, 1921  
Use: Described in Section 2.1, above  
Total volume: None  
Rate: 0.64 cfs  
Period of Use: April 1 to October 31  
Conditions to prevent or mitigate injury, if any: None

- 2.3 **Term of lease.** This Lease shall commence on April 1, 1999 (not before execution by the parties) and continue through October 31, 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.** 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 rights are 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 rights to ensure water is not diverted or applied on lands to which subject rights are 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:  
Larry Menteer  
10 S.Oakdale, Rm.106  
Medford, Oregon 97501  
Phone: (541) 776-7056  
Fax: (541) 776-7189

District: 13

Date: 6-9-99  
*Larry Menteer*

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: \_\_\_\_\_ Date: \_\_\_\_\_

Lessee: *Andrew Purkey* Date: June 14 1999

So ordered by Trustee: *Rafael D. Buckley* Date: 7-15-99  
Director, Oregon Water Resources Department

Exhibits: A through D are on record with OWRD. E is attached.

- Exhibit A: Proof of property ownership (copy of property deed)
- Exhibit B: Map of Lessor's property
- Exhibit C: Copies of all certificates attached to property shown in Exhibit B
- Exhibit D: Detailed map illustrating lands irrigated by subject rights
- Exhibit E: Identification of public use to be served by instream use

JACKSON COUNTY  
By: *Burke M. Raymond*  
Burke M. Raymond  
County Administrator 6-8-99

APPROVED AS TO FORM:  
*Douglas M. McGear*  
Douglas M. McGear  
Assistant County Counsel

WATER RIGHT LEASE AGREEMENT