

Lease Agreement Number 93

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

This Lease Agreement is between:

Lessor #1:

Chester Jahn
19775 Fir Grove Rd.
Monmouth, Or. 97361
(503) 391-1538

RECORDED

AUG 05 1999

WATER RESOURCES DEPT.
SALEM OREGON

The water right to be leased is located in *Polk County*

Lessee/Trustee:

Oregon Water Resources Department
158 12th Street. NE
Salem OR 97310
(503)378-8455

~I~

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

1.2 Not Applicable. There are no other lessors

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

Certificate No. 37245 Permit No. 27967

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:
Certificate No./Permit No.:37245 / 27967

Sources: Pedee Creek Tributary of Luckiamute River
Priority date:April 9,1962
Type of use: Irrigation
Place of use: T. 9 S., R.6W, S17

6.4 acres NE1/4 NW1/4
11.4 acres NW1/4 NW1/4
3.6 acres SW1/4 NW1/4
8.8 acres SE1/4 NW1/4

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Number of acres: 30.2

Rate: 0.38 cubic feet per second

Duty: 75.5 acre feet

Season of Use: April 1 through September 30

Point of Diversion (POD): SW1/4 NW1/4, Section 17, T. 9S., R. 6W., 1580 feet South and 1230 feet East from NW Corner, Section 17.

Conditions or other limitations, if any: None

- 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 right or permit.
- 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 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 ODFW 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:
 All of Certificate No. 37245
 Pedee Creek
 Tributary to Luckaimute River in the Willamette Basin, (Certificate states Little Luckaimute River when in fact it should be Luckaimute River)
 Location : The Point of diversion (near river mile 3.38) described in section 1.4 above to South Fork Pedee Creek near river mile 2.25.
 Priority date of April 9, 1962
 Use: Described in Section 2.1 above
 Number of acres: 30.2 which all is being leased.
 Total volume: 75.5
 Rate in cfs: 0.38
 Period of use: April 1, 1999 Through September 30, 1999
 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 April 1 until October 31, or until such time that the total duty for the irrigation season is met. The exact acres to be shown in Exhibit D.
- 2.3 **Term of lease.** This Lease shall commence on June 1, 1999 and continue through September 30, 2000
- 2.4 **Compensation.** The Lessor has agreed to lease a subject water right for the sum of \$1.00, other valuable considerations and for the benefit 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.** None.
- 2.7 **Modification or termination provisions.** None.

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~III~

- 3 **Watermaster review.** By signature below, the watermaster for the district where the subject water right is located verifies that: To the best of the watermaster knowledge.
- 3.1 Lessor #1 is currently entitled to appropriate water under the water rights described in Section 1.4.
- 3.2 A suitable control 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: Lessor must ensure that none of the acres (owned or Leased) shown in Exhibit D will receive water during the term of the lease and that the rate for the irrigated acres are not exceeded during the term of the lease.

Watermaster: District 16

William Ferber
Oregon Water Resources Department
158 12th Street NE
Salem, Oregon 97310
(503) 378-8455 Phone; (503)378-6203 Fax

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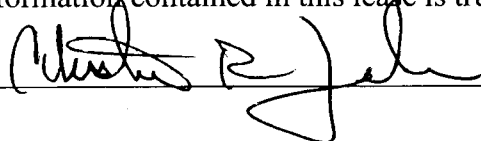
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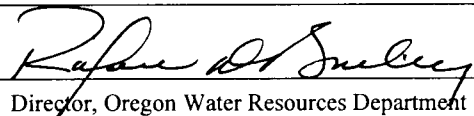
Date: William E Ferber 9.7.1999

~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:  Date: 8-5-99

Lessee: _____ Date: _____

So ordered by Trustee:  Date: 9-24-99
Director, Oregon Water Resources Department

Exhibits:

- Exhibit A: Copy of Property Deed/Power of Attorney Documentation (if needed)
- Exhibit B: Tax Lot Map of Lessor's property
- Exhibit C: Copies of all certificates, permits and decreed rights to be leased

Other Exhibits As Needed:

- Exhibit D: Detailed map illustrating lands under subject rights to be leased
- Exhibit E: Identification of public use to be served by instream use
- Exhibits F, etc:
Information related to Optional Provisions, such as Additional Monitoring or Modifications or Termination of lease