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# CENTRAL OREGON IRRIGATION DISTRICT

MUNICIPAL CORPORATION OF THE STATE OF OREGON

2598 N. HWY. 97 • P.O. BOX 548  
REDMOND, OREGON 97756

PHONE: 548-6047  
FAX: 548-0243

RECEIVED

AUG - 4 1994

WATER RESOURCES DEPT.  
SALEM, OREGON

August 1, 1994

Martha Pagel  
Director Water Resources Department  
555 13th St. N.E.  
Salem, OR 97310

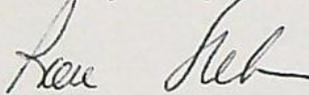
Dear Ms. Pagel:

Enclosed please find a "Water Right Lease Agreement" between the COID and the OWRD. I have also included the support documents.

Please advise us if we have any deficiencies so that we can make changes to subsequent transactions.

Thank you for your assistance in this matter.

Yours Very Truly,



Ron Nelson  
Secretary-Manager

RN:dd  
cc:Bob Maine

## WATER RIGHT LEASE AGREEMENT

This LEASE AGREEMENT is made this 29 day of July, 94 between Central Oregon Irrigation District [Lessor(s)] and the Oregon Water Resources Department (Lessee).

### I.

- 1.1. Lessor is the holder by lease of water rights appurtenant to T. 18 S., R. 13 E, W.M., Deschutes, County, described in Exhibit A.
- 1.2. The following water right(s) is/are appurtenant to said property:  
Certificate No. 29052, Exhibit B.  
Consolidated Deschutes, Decree, Exhibit D.  
Transfers: 2397, 2526, and 3796.
- 1.3. Pursuant to the provisions of ORS 537.348(2), Lessee desires to lease water to increase the instream flow of the Deschutes River below Bend from mile 165 to mile 120.
- 1.4. The following public uses will be served by the increased instream flow made available under this Lease: enhanced habitat for aquatic life.
- 1.5. Lessor confirms that control of these rights has been acquired by Lessor through a valid lease with Kim and Sally Ward, Exhibit C.

### II.

IN CONSIDERATION OF THE MUTUAL COVENANTS CONTAINED HEREIN, THE

PARTIES AGREE AS FOLLOWS:

- 2.1. Lease. Lessor leases to Lessee the following water right for use as an instream water right:  
Certificate No. 29052, Exhibit B.  
Consolidated Deschutes, Decree, Exhibit D.  
Priority Date: October 31, 1900.  
Rate (cfs) : See exhibit E  
Duty (acre-feet/season) : See exhibit E  
Period of Use: 1994 irrigation season.  
Point of Diversion: Central Oregon Canal.  
Place of Use: See exhibit A.

- 2.2. Term. This Lease shall commence upon its execution by the parties and shall continue thereafter for the 1994 irrigation season unless terminated as provided herein.
- 2.3. Termination. Either party may terminate this Lease upon 30-days written notice; provided, however, this Lease may not be terminated during any irrigation season in which the lease is effective during a portion of such season.
- 2.4. Flow Protection. Lessor will not divert or use the water described in Paragraph 2.1 during the Term of this Lease. Neither party is required to measure the flow of the river described in Paragraph 1.3. During the term of this Lease, Lessee will regulate all water rights for use of water from the river described in Paragraph 1.3 according to the relative priority dates of such rights. The water right described in Paragraph 2.1, which is subject to this Lease, will be regulated along with all other rights for use of water from the river described in Paragraph 1.3 in accordance with its relative priority date.
- 2.5. Watermaster Review. The Watermaster for the District where the reach of the river described in Paragraph 1.3 is located shall review this Lease to verify the following:
- 2.5.1 The Lessor is currently entitled to appropriate water under the water right described in Paragraph 2.1.
- 2.5.2. A suitable control device is in place so that use of water under the right described in Paragraph 2.1 may be regulated to insure that said water will not be diverted or otherwise withdrawn from the river described in Paragraph 1.3.
- 2.5.3. Allocation of the water described in paragraph 2.1 during the term of this lease will not cause injury to other rights for use of water form the same source.

Watermaster Kyle Soom (District 11)

THE UNDERSIGNED LESSOR DECLARES THAT TO THE BEST OF HIS/HER KNOWLEDGE AND BELIEF, THE INFORMATION CONTAINED IN THIS LEASE IS TRUE, CORRECT, AND COMPLETE.

Lessor: Rae Lieb  
Manager, Central Oregon Irrigation District

Lessee: Michael D. Pugh  
Director, Water Resources Department

# INTEROFFICE MEMO SOUTH CENTRAL REGION

1340 NW WALL STREET, SUITE 100, BEND, OREGON 97701-1939 (503) 388-6669 FAX: (503) 388-5101

DATE: August 8, 1994  
TO: REED MARBUT  
FROM: BOB MAIN  
SUBJ: COID (KIM WARD) LEASE TO OWRD FOR INSTREAM FLOWS,  
DESCHUTES RIVER

I inspected the lands to which this 44.8 acres of COID right is appurtenant in July, 1994. The right appears to have been used during the last five years in accordance with the terms of the right. The pump, delivery pond and mainline were in place, but no irrigation appears to have been done this year.

Use of this right for instream flow purposes from river mile 165 to river mile 120 will not create any distribution problems.

BEFORE THE STATE ENGINEER OF OREGON

Deschutes County

IN THE MATTER OF THE APPLICATION )  
OF P. W. AND JUNE H. FORD AND )  
EDGAR G. AND EDITH M. TIMM (CEN- )  
TRAL OREGON IRRIGATION DISTRICT) )  
FOR THE APPROVAL OF A CHANGE IN )  
PLACE OF USE OF WATER FROM DES- )  
CHUTES RIVER )  
-----

ORDER APPROVING  
TRANSFER NO. 2397

On June 8, 1970, P. W. and June H. Ford and Edgar G. and Edith M. Timm filed an application in the office of the State Engineer for the approval of a change in place of use of water from Deschutes River, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Deschutes County, Oregon, entered September 30, 1958, In the Matter of the Determination of the Relative Rights to the Use of the Waters of the Deschutes River and its Tributaries, a water right was established in the name of Central Oregon Irrigation District for the use of the waters of Deschutes River for the irrigation of, among other lands, 4.3 acres in NE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 23, Township 17 South, Range 12 East, W.M., with dates of priority of October 31, 1900, and December 2, 1907, being tabulated in the name of Ha-Vi Incorporated Farms as evidenced by certificate of water right recorded at page 29052, Volume 21, State Record of Water Right Certificates. These lands also have a supplemental right under permit No. 23256 to the use of the water stored in Crane Prairie Reservoir with a date of priority of February 28, 1913.

The applicants herein, owners of the lands above described, propose to transfer the water right therefrom, without loss of priority, to 4.3 acres in SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 4, Township 18 South, Range 13 East, W.M.

Notice by publication as provided by ORS 540.520 was not given in connection with this application for the reason that said

section provides notice is not required on an application for a change in place of use of water.

The lands involved herein are within the boundaries of the Central Oregon Irrigation District and the Board of Directors of said District approved the proposed change in place of use of water at a regular meeting held May 6, 1970.

No objections having been filed and it appearing that the proposed change in place of use of water may be made without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the proposed change in place of use of water is approved and the water right hereinbefore described as appurtenant to 4.3 acres in NE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 23, Township 17 South, Range 12 East, W.M., with dates of priority of October 31, 1900, and December 2, 1907, be severed therefrom and simultaneously and without loss of priority transferred to 4.3 acres in SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 4, Township 18 South, Range 13 East, W.M.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use on or before October 1, 1971.

It is FURTHER ORDERED that upon receipt of proof satisfactory to the State Engineer of complete application of water to beneficial use on the lands to which the water is transferred hereby, certificate of water right shall be issued to Central Oregon Irrigation District at the time certificate is issued to the District confirming other transfers within the District.

Dated at Salem, Oregon, this 13<sup>th</sup> day of November, 1970.

/s/ CHRIS L. WHEELER  
State Engineer



9. Do you hold a water right certificate? no If so, give number of certificate 29052  
(Yes or No)

10. Was your water right determined by State Engineer's order of Determination or Decree of Court?

yes If so, give title of proceedings adjudication Deschutes River  
(Yes or No)

11. Is the water right recorded in your name? Ha-Vic Inc., Farms, page 48 of Decree  
(If not, give name)

12. I propose to transfer the water right to the following described lands: (Do not answer if your application is for change in point of diversion only.)

| Twp. | Range | Sec. | NE 1-4           |                  |                  |                  | NW 1-4           |                  |                  |                  | SW 1-4           |                  |                  |                  | SE 1-4           |                  |                  |                  |
|------|-------|------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|
|      |       |      | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ |
| 18   | 13    | 4    |                  |                  |                  | 4.3<br>X         |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |
|      |       |      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |
|      |       |      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |
|      |       |      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |

(Attach separate sheet if necessary)

NOTE: Do not answer questions 13, 14, 15 and 16, if the application is not for change in point of diversion.

13. The proposed point of diversion is located ..... ft. .... and ..... ft. .... from the .....  
(N. or S.) (E. or W.)  
 corner of ..... being within the ..... of Section ..... Tp. .... R. .... W. M.,  
(Smallest legal subdivision) (No. N. or S.) (No. E. or W.)  
 in the county of ..... The name of the ditch to be used is .....

14. Are you the owner of the land on which the proposed point of diversion is to be located? .....

15. If not the owner of the land on which the proposed point of diversion is to be located, give the name and address of owner and submit evidence of your right-of-way for your proposed ditch, canal, or pipe line.

.....  
 .....  
 .....

16. Are there any diversions between your present point of diversion and the proposed point of diversion? .....

NOTE: Do not answer questions 17 and 18 if application is for change in point of diversion only.

17. Are the lands from which you propose to transfer your water right free of all encumbrances, including taxes, mortgages, liens, etc.? Yes  
(Answer Yes or No)

18. If not, give below a description of existing encumbrances:

| NATURE OF ENCUMBRANCE | HELD BY | AMOUNT |
|-----------------------|---------|--------|
|                       |         |        |
|                       |         |        |
|                       |         |        |

19. Reasons for the proposed changes are Transfer of water rights retained by grantees when applicants took title. Applicants took title from Richard Wayne Hamby and Della May Ione Hamby, as grantees by Deed recorded in Vol. 147 Deeds for Deschutes County, page 586. By that conveyance, Hamby's transferred to applicants real property together with 32 acres of COI water rights, retaining the balance of the water rights that were appurtenant to the real property. The purpose of this application is to transfer the water rights retained by Hamby's. No transfer is to be made of the water rights received by applicants under that deed appearing at Vol. 147 Deeds for Deschutes County, page 586, or any water rights belonging to applicants.

AFFIDAVIT OF APPLICANT

STATE OF OREGON,

County of Deschutes } ss.

June H. Ford

I, Edgar S. Timm, Edith M. Timm, the applicant herein, being first duly sworn, depose and say that I have read the above and foregoing application for transfer of water right; that I know the contents thereof and that the statements therein made are true and correct to the best of my knowledge and belief.

In Witness Whereof, we have hereunto set my hand this 31st day of March, 1970

Edgar S. Timm (Name of applicant)

Subscribed and sworn to before me this 31st day of March, 1970

[Notarial Seal]

Kathleen Sadevic NOTARY PUBLIC FOR OREGON

My commission expires 9-18-73

Remarks No transfer of water rights by applicants is intended by this application. The application is only intended to transfer water rights retained by applicants' grantees at the time that applicants took title.

Approved by Board of Directors of Central Oregon Irrigation District at regular meeting held May 6, 1970.

This application must be accompanied by a map showing the location of the point of diversion, place of use and works utilized under the present water right. The map should also show the new point of diversion or place of use, as the case may be.