

Lease Agreement Number 162

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

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

This Lease Agreement is between:

Lessor:

YoungLife
One Muddy Road
P.O. Box 220
Antelope, OR 97001
Phone (541) 489-4900
Fax (541)489-3215

The water right to be leased is located in Jefferson County

Lessee:

State of Oregon

Trustee:

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

~I~

- 1.1 Lessor is the owner, or authorized agent for owner (Exhibit A), of property highlighted in Exhibit B.
- 1.2 Section 1.2 is not applicable.
- 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:

Certificate No. 39869
- 1.4 **Subject Water Rights.** Lessor proposes to lease all of the water rights listed in 1.3, above.

The right(s) to be leased are further described as follows:

Certificate No.: 39869

Source: May reservoir constructed under appl. no. R 33562, permit no. R 2331

Priority date: January 20, 1960

Type of use: supplemental irrigation

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

0.2 acre in the NE $\frac{1}{4}$ SE $\frac{1}{4}$

12.8 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 25

Township 9 South, Range 18 East, W.M.

0.1 acre in the SW $\frac{1}{4}$ NE $\frac{1}{4}$

0.3 acre in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ (Lot 2)

12.0 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$

1.6 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$

11.5 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ (Lot 3)

2.0 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ (Lot 4)

Section 30

Township 9 South, Range 19 East, W.M.

Number of acres, 40.5 acres

Rate: none (stored water)

Duty: 456.5 ac-ft

Season of Use: April 1st - September 30th

Point(s) of Diversion (POD): 60' south and 590' west from NE corner, Section 36, being within NE $\frac{1}{4}$ NE $\frac{1}{4}$, section 36, Township 9 South, Range 18 East, W.M.

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 must have occurred in the last five years on all lands indicated in Exhibit D.
- 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.
- 1.8 **Water use reporting.** The Trustee agrees to fulfill legal obligations related to water use reporting.

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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 Oregon Department of Fish and Wildlife, 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:

May reservoir, tributary John Day River in the John Day Basin

Location: 60' south and 590' west from NE corner, Section 36, being within NE¼ NE¼, section 36, Township 9 South, Range 18 East, W.M. to the mouth

Priority date: January 20, 1960

Use: Described in Section 2.1, above

Total volume: up limit of 456.5 ac-ft

Season of Use: April 1st - September 30th

Rate in cfs: **see conditions to prevent or mitigate injury section**

Conditions to prevent or mitigate injury,

2000 irrigation season: Up to 456.5 acre feet of stored water will be released beginning on September 20th (not before this lease is executed by the parties) to September 30th. Water will be released at a target rate of 3 cfs. However, if this rate causes excessive erosion of the banks according the parties or ODFW, then the flow rate will be reduced until erosion is not a problem. rate will be reduced until erosion is not a problem. If the river banks and riparian vegetation can withstand a higher flow rate without causing excessive erosion, then the flow may be increased. The highest flow rate shall not exceed 10 cfs.

2001 irrigation season: Stored water will be released beginning on August 1st (not before this lease is executed by the parties) to September 30th. If stream conditions warrant a different flow release period, ODFW may contact both lease parties in writing to request a change in the release dates. Such a request will be honored to the best of the parties capabilities. The rate at which water will be released will be based upon the flow rate which did not cause excessive erosion in the 2000 irrigation season and the instream needs. The water will be released at a rate agreed to between the Watermaster and lessor.

2.3 **Term of lease.** This Lease shall commence on April 1, 2000 (not before execution by the parties) and continue through September 30, 2001.

2.4 **Compensation.** The Lessor has agreed to lease subject water right for the sum of \$1.00, or 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.
- 2.6 **Modification or termination provisions.** Lessor shall have an option of terminating lease for the 2001 irrigation season with written notice 30 days prior to April 1, 2001.

~III~

- 3 **Watermaster review.** By signature below, the watermaster for the district where the subject water right is 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/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: Certificate 39869 provides 456.5 acre-feet of stored water for supplemental irrigation 40.5 acres listed in certificate 25708.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to a diversion of 4 acre feet for each acre irrigated during the irrigation season of each year; provided further that the amount of water allowed herein together with the amount secured under any other right existing for the same lands shall not exceed the limitation allowed herein.

Watermaster: Vern Church District: 21



Vernon L. Church
P.O. Box 427

(541) 384-4207

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: B. A. Fu Date: 8/28/00

So ordered by Trustee: Th. J. R. O. Date: SEP 21 2000

Exhibits:

- Exhibit A: Proof of property ownership/Power of Attorney Documentation (if needed)
- Exhibit B: Tax Lot Map of Lessor's property
- Exhibit C: Copies of certificates, permits and decreed rights to be leased
- Exhibit D: Detailed map illustrating lands under subject rights to be leased
- Exhibit E: Identification of public use to be served by instream use