

Lease Agreement Number 169

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WATER RESOURCES DEPT.
SALEM, OREGON

**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:

Hans Koennecke
9095 Harmony Rd.
Sheridan, Or. 97378-9002
503-843-3436

The water right to be leased is located in Polk County

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. 31626
- 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.: 31626
Source: Mill Creek Tributary of South Yamhill River in the Mid Willamette Basin.
Priority date: January 11, 1960
Type of use: irrigation

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

NE1/4 SW1/4 18.4 Acres

SE1/4 NW1/4 11.2 Acres

NW 1/4 SE 1/4 0.4 Acres

All as projected within DLC 39,
Section 9

Township 6 South, Range 6 West, W.M.

Number of acres, if for irrigation: 30.0 Acres

Rate: 0.38 cfs

Duty: 75.0 Acre Feet

Season of Use: April 1st through September 30th

Point(s) of Diversion (POD): SE1/4 NW1/4, All as projected within DLC 39, Section 9,
T6S, R6W, 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 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:

A specific use or need identified by DEQ, Parks or ODFW and further described in
Exhibit E.

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

Portion of Certificate:31626

Mill Creek Tributary of S. Yamhill River

Location: SE1/4 NW1/4, Section 9, All as projected within DLC 39, T6S, R6W, W.M.;

Priority date: January 11, 1960
Use: Described in Section 2.1, above

Number of acres: 30.0 Acres, being 6.3 acres leased and 23.7 acres irrigated.
Total volume: 75.0 Acre feet, being 15.75 acre feet leased and 59.25 acre feet irrigated.
Rate in cfs: 0.38 cfs, being 0.079 cfs leased and 0.296 cfs irrigated.
Period of use: April 1st through September 30th
Conditions to prevent or mitigate injury, if any: The reach in which this lease will be protected is from POD (RM 2.5, SE1/4 NW1/4, Section 9, T6S, R6W, W.M.;) To RM 1.25 (Hwy 18 Bridge).

- 2.3 **Term of lease.** This Lease shall commence on April 1st, 2001 (not before execution by the parties) and continue through September 30th, 2002, then renewable every 2 years there after until the completion of the CREP program. The portion of this water right involved in the CREP program has to be excluded from any irrigation from the beginning of the irrigation season until the completion of the CREP program.
- 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.

Optional Provisions

- 2.6 **Additional monitoring.** Lessor/Lessee intends to manage and participate in the protection of the instream use by:
- 2.7 **Modification or termination provisions.**

~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:

Watermaster: William S. Ferber District: # 16 Date: 5.4.2001

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

~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: Hans J. Koimacke Date: 3-23-01

So ordered by Trustee: [Signature] Date: 5/4/01

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 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