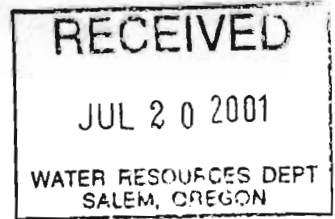


Lease Agreement Number: 186



**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 #1:

Running Y Resort, Inc.
5391 Running Y Road
Klamath Falls, OR 97601

The water right to be leased is located in Klamath County

Lessee:

State of Oregon

Trustee:

Oregon Water Resources Department
158 12th Street NE
Salem OR 97301
(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 Lessor #2 is the (Check one) [If Agreement includes multiple lessors, complete same for each additional party.]: N/A
- 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. 64153
Certificate No. 27808

Permit No. 43460
Permit No. 4861

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

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

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 WATER RESOURCES DEPT
 SALEM, OREGON

Certificate No.: 64153 (Permit 43460)
 Priority date: 7/21/1978 Type of use: Irrigation
 Place of use: SW 1/4 NE 1/4 20.3 ACRES
 SE 1/4 NE 1/4 16.7 ACRES
 NE 1/4 SW 1/4 0.6 ACRES
 NE 1/4 SE 1/4 21.6 ACRES
 NW 1/4 SE 1/4 24.4 ACRES

All being leased LKS

SECTION 9

TOWNSHIP 38 SOUTH, RANGE 8 EAST, W.M.

(If original use is irrigation, include map of irrigated lands in Exhibit D.)

Number of acres, if for irrigation: 83.6

Rate: 1.2 CFS Duty: 250.8 AC-FT/Year

Season of Use: Irrigation Season

Point(s) of Diversion (POD): 640' South & 400' West from N 1/4 Corner Section 32, T37S, R8E

Conditions or other limitations, if any:

Certificate No.: 27808 (Permit 4861)
 Priority date: 1/23/19 - 8/13/20 Type of use: Irrigation
 Place of use: SW 1/4 SW 1/4 0.1 ACRE

SECTION 28

SE 1/4 SE 1/4 4.9 ACRES

SECTION 29

NE 1/4 NE 1/4 5.0 ACRES
 SW 1/4 NE 1/4 14.7 ACRES
 SW 1/4 NE 1/4 2.4 ACRES LOT 1
 SE 1/4 NE 1/4 23.7 ACRES LOT 1
 SE 1/4 NE 1/4 16.2 ACRES
 NE 1/4 SE 1/4 35.5 ACRES
 NW 1/4 SE 1/4 2.5 ACRES
 SE 1/4 SE 1/4 14.4 ACRES

SECTION 31

NE 1/4 NE 1/4 7.5 ACRES
 NE 1/4 NE 1/4 31.0 ACRES LOT 1
 NW 1/4 NE 1/4 12.7 ACRES
 NW 1/4 NE 1/4 13.0 ACRES LOT 2
 SW 1/4 NE 1/4 40.0 ACRES
 SE 1/4 NE 1/4 40.0 ACRES

NE ¼ NW ¼	13.2 ACRES	
NE ¼ NW ¼	5.8 ACRES	LOT 3
NW ¼ NW ¼	13.0 ACRES	
NW ¼ NW ¼	0.6 ACRE	LOT 4
SW ¼ NW ¼	38.4 ACRES	LOT 4
SW ¼ NW ¼	1.6 ACRES	
SE ¼ NW ¼	40.0 ACRES	
SE ¼ NW ¼	40.0 ACRES	
NW ¼ SW ¼	40.0 ACRES	
SW ¼ SW ¼	40.0 ACRES	
SE ¼ SW ¼	40.0 ACRES	
NE ¼ SE ¼	40.0 ACRES	
NW ¼ SE ¼	40.0 ACRES	
SW ¼ SE ¼	40.0 ACRES	
SE ¼ SE ¼	40.0 ACRES	

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WATER RESOURCES DEPT SALEM, OREGON

SECTION 32

NW ¼ NW ¼	7.5 ACRES	LOT 1
NW ¼ NW ¼	12.0 ACRES	LOT 8
SW ¼ NW ¼	33.2 ACRES	LOT 7
NE ¼ SW ¼	5.9 ACRES	LOT 3
NE ¼ SW ¼	9.4 ACRES	LOT 6
NW ¼ SW ¼	40.0 ACRES	
SW ¼ SW ¼	40.0 ACRES	
SE ¼ SW ¼	37.9 ACRES	LOT 5
SW ¼ SE ¼	4.6 ACRES	LOT 5
SW ¼ SE ¼	3.4 ACRES	LOT 4

SECTION 33

TOWNSHIP 37 SOUTH, RANGE 8 EAST, W. M.

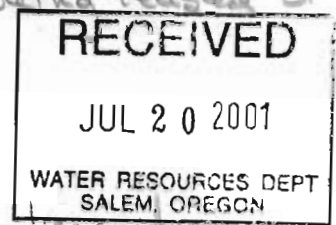
NW ¼ NE ¼	9.3 ACRES	LOT 1
NW ¼ NE ¼	24.9 ACRES	LOT 14
SW ¼ NE ¼	33.8 ACRES	LOT 13
NE ¼ NW ¼	40.0 ACRES	
NW ¼ NW ¼	40.0 ACRES	
SW ¼ NW ¼	34.4 ACRES	
SE ¼ NW ¼	40.0 ACRES	
NE ¼ SW ¼	10.8 ACRES	LOT 11
NW ¼ SW ¼	0.8 ACRE	LOT 10
SW ¼ SW ¼	1.7 ACRES	LOT 7
SW ¼ SW ¼	22.3 ACRES	LOT 15
SE ¼ SW ¼	0.2 ACRE	LOT 6
NE ¼ SE ¼	9.6 ACRES	LOT 12
NW ¼ SE ¼	24.0 ACRES	LOT 12

SECTION 4

NE ¼ NE ¼	40.0 ACRES	
NW ¼ NE ¼	40.0 ACRES	
SW ¼ NE ¼	40.0 ACRES	

SE ¼ NE ¼	31.8 ACRES	
NE ¼ NW ¼	40.0 ACRES	
NW ¼ NW ¼	28.6 ACRES	
SW ¼ NW ¼	5.4 ACRES	
SE ¼ NW ¼	38.3 ACRES	
NE ¼ SW ¼	15.8 ACRES	
NE ¼ SE ¼	25.4 ACRES	
NW ¼ SE ¼	38.5 ACRES	
SW ¼ SE ¼	10.2 ACRES	LOT 3
SE ¼ SE ¼	37.8 ACRES	LOT 3

23.07 ac being leased LKS



5.13 ac being leased LKS

SECTION 5

NE ¼ NE ¼	2.0 ACRES	LOT 12
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SECTION 8

NE ¼ NW ¼	6.1 ACRES	LOT 1
NE ¼ NW ¼	19.2 ACRES	LOT 9
NW ¼ NW ¼	35.6 ACRES	LOT 8
SW ¼ NW ¼	4.7 ACRES	LOT 8
SE ¼ NW ¼	5.0 ACRES	LOT 2
SE ¼ NW ¼	5.0 ACRES	LOT 10

SECTION 9

TOWNSHIP 38 SOUTH, RANGE 8 EAST, W.M.

(If original use is irrigation, include map of irrigated lands in Exhibit D.)

Number of acres, if for irrigation: 1651.5 acres

Rate: 7.78 CFS (1/23/1919), 1.76 CFS (4/23/1920) & 11.1 CFS (8/13/1920)

Duty: 84.6 AC-FT/Year

Season of Use: Irrigation Season

Point(s) of Diversion (POD): SE 1/4 SE 1/4 Sec. 29; NE 1/4 NE 1/4 Sec. 32, T37S, R8E

Conditions or other limitations, if any:

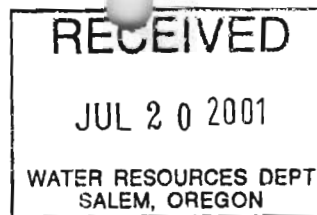
1.5 Validity of Rights. Lessor #1 attests (mark one) that:

- the water has been used over the past five years according to the terms and conditions of the owner's water right certificate or
- that the water right is not subject to forfeiture under ORS 540.610.

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 690-077-0077.

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:

- 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:

Certificate No.: 64153 (Permit 43460)

Klamath River

Tributary to Pacific Ocean in the Klamath Basin.

Location Upper Klamath Lake downstream to the California/Oregon Border

[Identify applicable points or reaches of instream use by river mile, description or map.]

Priority date: 7/21/1978

Use: Described in Section 2.1, above

Total volume: 250.8 Acre-Feet per year

Rate in cfs: 1.2 CFS at the POD and 0.84 CFS below the POD to the CA/OR border

Period of use: Irrigation Season

Conditions to prevent injury, if any: The rate below the POD has been reduced to account for return flows. The instream flow will be allocated on a daily average basis up to the described rate from June 15 to September 27, or until such time that the total duty for the irrigation season is met.

Certificate No.: 27808 (Permit 4861)

Klamath River

Tributary to Pacific Ocean in the Klamath Basin.

Location Upper Klamath Lake downstream to the California/Oregon Border

[Identify applicable points or reaches of instream use by river mile, description or map.]

Priority date: 1/23/1919, 4/23/1920, & 8/13/1920

Use: Described in Section 2.1, above

Total volume: 84.6 Acre-Feet per year

Rate in cfs: 0.353 CFS at the POD and 0.247 CFS below the POD to the CA/OR border

Period of use: Irrigation Season

Conditions to prevent injury, if any: The rate below the POD has been reduced to account for return flows. The instream flow will be allocated on a daily average basis up to the described rate from June 3 to September 30, or until such time that the total duty for the irrigation season is met.

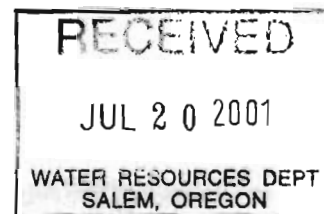
2.3 Term of lease. This Lease shall commence on April 1, 2001 (not before execution by the parties) and continue through October 31, 2002.

- 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.

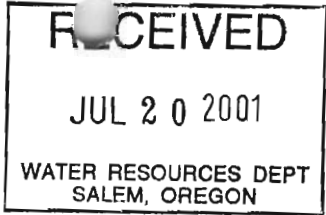
~III~

3 **Watermaster review.** By signature below, the watermaster for the district where the subject water right is located verifies that:

- 3.1 Lessor #1 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: (Describe. if any)



Watermaster: Del Spahr District 12
 (Address & telephone) 5120 Summers Ln
Klamath Falls OR 97603
 Date: 6/29/01



~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: Joel E. Andrus Date: 7-18-01

Lessee: _____ Date: _____

So ordered by Trustee: [Signature] Date: August 17, 2001

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