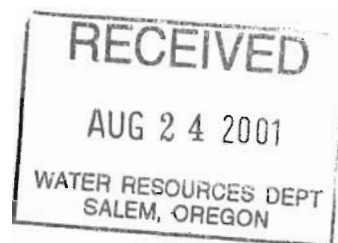


Lease Agreement Number: 241



**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:

J Diamond L-5 Trust
Lawrence and Sharon Martin, Trustees
P.O. Box 870
Rogue River, OR 97537
(541) 582-3620

The water right to be leased is located in Jackson County

Lessee:

Oregon Water Trust
111 SW Naito Parkway
Suite 404
Portland, OR 97204
(503) 226-9055 – Phone
(503) 226-3480 – Fax

Trustee:

Oregon Water Resources Department
158 12th Street NE
Salem OR 97301
(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 Nos. 57576, 57709, 57577, 56490, 56489

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:

Certificate No.: 57576

Priority date: 1902

Type of use: Stock and irrigation

Place of use:

T 35 S, R 4 W, Section 15, SE ¼ NE ¼ (14.3 acres)

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

Number of acres, if for irrigation: 14.3

Rate: 0.24 cfs

Duty: None

Season of Use: April 1 to October 31

Point(s) of Diversion (POD): SE ¼ NW ¼, Section 15, T 35 S, R 4 W, WM; 1650 feet South and 500 feet West from the North ¼ corner, Section 15.

Conditions or other limitations, if any: The right is limited to not more than 0.24 cfs, if available at the original point of diversion, Vroman Ditch, T 35 S, R 4 W, Section 11, SE ¼ NE ¼.

Certificate No.: 57709

Priority date: 1902

Type of use: Stock and irrigation

Place of use:

T 35 S, R 4 W, Section 15, SW ¼ NE ¼ (1.8 acres)

T 35 S, R 4 W, Section 15, SE ¼ NE ¼ (0.6 acres)

T 35 S, R 4 W, Section 15, NW ¼ SE ¼ (1.0 acres)

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

Number of acres, if for irrigation: 3.4 acres

Rate: 0.058 cfs

Duty: None

Season of Use: April 1 to ~~November 1~~ ^{October 31 BR}

Point(s) of Diversion (POD): SE ¼ NW ¼, Section 15, T 35 S, R 4 W, WM; 1650 feet South and 500 feet West from the North ¼ corner, Section 15.

Conditions or other limitations, if any: The right is limited to not more than 0.058 cfs, if available at the original point of diversion, Vroman Ditch, T 35 S, R 4 W, Section 11, SE ¼ ~~NE ¼.~~

Certificate No.: 57577

Priority date: 1902

Type of use: Stock and irrigation

Place of use:

T 35 S, R 4 W, Section 15, SE ¼ NE ¼ (1.9 acres)

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

Number of acres, if for irrigation: 1.9 acres

Rate: 0.032 cfs

Duty: None

Season of Use: April 1 to ~~November 1~~ ^{October 31 BR}

Point(s) of Diversion (POD): SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 15, T 35 S, R 4 W, WM; 1650 feet South and 500 feet West from the North $\frac{1}{4}$ corner, Section 15.

Conditions or other limitations, if any: The right is limited to not more than 0.032 cfs, if available at the original point of diversion, Vroman Ditch, T 35 S, R 4 W, Section 11, SE $\frac{1}{4}$ NE $\frac{1}{4}$.
~~BR~~

Certificate No.: 56490

Priority date: 1902

Type of use: Domestic, stock and irrigation

Place of use:

T 35 S, R 4 W, Section 15, NE $\frac{1}{4}$ NE $\frac{1}{4}$ (4.4 acres)

T 35 S, R 4 W, Section 15, NW $\frac{1}{4}$ NE $\frac{1}{4}$ (15.9 acres)

(Both the above described parcels are further described as lying East of Evans Creek, South of the following described line: Beginning at a point 1237.9 feet South of the NE corner of Section 15; thence North 75 degrees 45 minutes West 2,332 feet to the center of Evans Creek)

T 35 S, R 4 W, Section 15, SW $\frac{1}{4}$ NE $\frac{1}{4}$ (28.2 acres)

T 35 S, R 4 W, Section 15, SE $\frac{1}{4}$ NE $\frac{1}{4}$ (3.5 acres)

T 35 S, R 4 W, Section 15, NE $\frac{1}{4}$ NW $\frac{1}{4}$ (2.0 acres, further described as lying East of Evans Creek)

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

Number of acres, if for irrigation: 54.0 acres

Rate: 0.90 cfs

Duty: None

Season of Use: April 1 to ~~November 1~~ ^{October 31 BR}

Point(s) of Diversion (POD): SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 15, T 35 S, R 4 W, WM; 1650 feet South and 500 feet West from the North $\frac{1}{4}$ corner, Section 15.

Conditions or other limitations, if any: None

Certificate No.: 56489

Priority date: 1902

Type of use: Stock and irrigation

Place of use:

T 35 S, R 4 W, Section 15, SW $\frac{1}{4}$ NE $\frac{1}{4}$ (3.7 acres)

T 35 S, R 4 W, Section 15, SE $\frac{1}{4}$ NE $\frac{1}{4}$ (1.8 acres)

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

Number of acres, if for irrigation: 5.5 acres

Rate: 0.09 cfs

Duty: None

Season of Use: April 1 to ~~November 1~~ ^{October 31 BR}

Point(s) of Diversion (POD): SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 15, T 35 S, R 4 W, WM; 1650 feet South and 500 feet West from the North $\frac{1}{4}$ corner, Section 15.

Conditions or other limitations, if any: The right is limited to not more than 0.09 cfs, if available at the original point of diversion, Vroman Ditch, T 35 S, R 4 W, Section 11, SE ²/₄ ^{BR} ~~1.4~~ NE ¹/₄.

- 1.5 **Validity of Rights.** Lessor 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.** Lessor 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 (Select one):

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. 57576

Evans Creek

Tributary to Rogue River in the Rogue River Basin.

Priority date: 1902

Use: Instream (Described in Section 2.1, above)

Total volume: N/A

Rate in cfs: 0.24

Location: At the POD *October 31 BR*

Period of use: April 1 to ~~November 1~~

Conditions to prevent injury, if any: The instream right shall be limited to not more than 0.24 cfs, if available at the original point of diversion, Vroman Ditch, T 35 S, R 4 W, Section 11, SE ¹/₄ NE ¹/₄.

Certificate No. 57709

Evans Creek

Tributary to Rogue River in the Rogue River Basin.

Priority date: 1902

Use: Instream (Described in Section 2.1, above)

Total volume: N/A

Rate in cfs: 0.058

Location: At the POD

Period of use: April 1 to ~~November 1~~ ^{October 31} *MR*

Conditions to prevent injury, if any: The instream right shall be limited to not more than 0.058 cfs, if available at the original point of diversion, Vroman Ditch, T 35 S, R 4 W, Section 11, SE ~~1/4~~ ^{1/4} NE 1/4. *MR*

Certificate No. 57577

Evans Creek

Tributary to Rogue River in the Rogue River Basin.

Priority date: 1902

Use: Instream (Described in Section 2.1, above)

Total volume: N/A

Rate in cfs: 0.032

Location: At the POD

Period of use: April 1 to ~~November 1~~ ^{October 31} *MR*

Conditions to prevent injury, if any: The instream right shall be limited to not more than 0.032 cfs, if available at the original point of diversion, Vroman Ditch, T 35 S, R 4 W, Section 11, SE ~~1/4~~ ^{1/4} NE 1/4. *MR*

Certificate No. 56490

Evans Creek

Tributary to Rogue River in the Rogue River Basin.

Priority date: 1902

Use: Instream (Described in Section 2.1, above)

Total volume: N/A

Rate in cfs: 0.90

Location: At the POD

Period of use: April 1 to ~~November 1~~ ^{October 31} *MR*

Conditions to prevent injury, if any: None.

Certificate No. 56489

Evans Creek

Tributary to Rogue River in the Rogue River Basin.

Priority date: 1902

Use: Instream (Described in Section 2.1, above)

Total volume: N/A

Rate in cfs: 0.09

Location: At the POD

Period of use: April 1 to ~~November 1~~ ^{October 31} *MR*

Conditions to prevent injury, if any: The instream right shall be limited to not more than 0.058 cfs, if available at the original point of diversion, Vroman Ditch, T 35 S, R 4 W, Section 11, SE ~~1.4~~^{SE} NE ¼.

- 2.3 Term of lease.** This Lease shall commence on April 1, 2001 (not before execution by the parties) and continue through October 31, 2001.
- 2.4 Compensation.** The Lessor has agreed to lease subject water right for cash, 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, 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

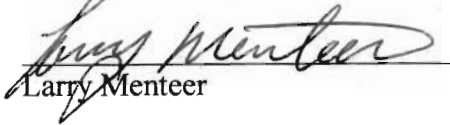
- 2.6 Additional monitoring.** Lessee intends to manage and participate in the protection of the instream use by: possibly collecting information for calculating stream discharge.
- 2.7 Modification or termination provisions.** None

~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: The right will be protected at the POD only.

Watermaster: Larry Menteer

District: 13


Larry Menteer

08-21-01
Date

Larry Menteer
Oregon Water Resources Department
10 S.Oakdale, Rm.106
Medford, Oregon 97501
Phone: (541) 774-6880
Fax: (541) 774-6187

~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: 8-19-01

Lessor #2: Sharon L. Martin Date: 8-19-01

Lessee: Edna Ay Helen (FOR OREGON WATER TRUST) Date: AUGUST 13, 2001

So ordered by Trustee:  Date: SEPTEMBER 4, 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