

Lease Agreement Number: 246

**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:**

Michael G. Boe  
7840 Rickreall Rd  
Rickreall, OR. 97371

The water right to be leased is located in POLK County

**Lessee:**

**Elmer Stoller Farms, Inc.**  
505 Morrow Road  
Independence, OR 97351  
503-838-5864

**Trustee:**

Oregon Water Resources Department  
158 12<sup>th</sup> 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.]:
  - Official representative of \_\_\_\_\_, the irrigation district which conveys water to the subject water rights.
  - Owner, or authorized agent for owner, of the storage facility which is the source of the subject water rights.
  - Another party with an interest in the subject water rights representing \_\_\_\_\_.

- 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. 8199

- 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.:8199

Priority date: March 27, 1925

Type of use: Irrigation

Place of use:

12.5 acres in the SW 1/4, SW 1/4  
Section 28

12.5 acres in the SE 1/4, SW 1/4  
Section 29

5.0 acres in the NE 1/4, NE 1/4  
Section 32

Township 7 South, Range 4 West of the Willamette Meridian in Polk County, Oregon.

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

Number of acres, if for irrigation: 30.0 acres

Acre feet of storage: 75.0 acre feet

Rate: 0.38 cfs \_\_\_\_\_

Season of Use: March 1<sup>st</sup> through September 30<sup>th</sup>

Point(s) of Diversion (POD): NE 1/4, NE 1/4 of Section 32; and SE 1/4, SE 1/4 Section 29, Township 7 South, Range 4 West, W.M.

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.

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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 (Select one):

Mitigation of a deficiency in the water supply for existing instream water right or minimum streamflow located \_\_\_\_\_.

Mitigation of a deficiency in water supply identified in an application for an instream water right or needed in the State Scenic Waterway flow located \_\_\_\_\_.

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

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.

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

All of Certificate # 8199

La Creola Creek

Tributary to Willamette River in the Middle Willamette River Basin.

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

This right will be protected from the POD ( Rm 7 3/4 ) to Rm 5.0

Priority date: March 27, 1925

Use: Described in Section 2.1, above

Total volume: 75.0 acre feet

Rate in cfs: 0.38 cfs

Period of use: March 1<sup>st</sup> through September 30<sup>th</sup>.

Conditions to prevent injury, if any:

**2.3 Term of lease.** This Lease shall commence on March 1<sup>st</sup>, 2001 (not before execution by the parties) and continue through September 30<sup>th</sup> 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.

**Optional Provisions**

2.6 **Additional monitoring.** Lessor/Lessee intends to manage and participate in the protection of the instream use by: (Describe plans)

2.7 **Modification or termination provisions.** (Describe any such 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 #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: William E Ferber District #16  
William Ferber  
158 NE 12 St.  
Salem, OR. 97301

Date: 9.12.2001

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: Michael J. Case Date: 9-5-01

Lessee: Erin Stiles Date 9-5-01

So ordered by Trustee: Phyllis R. [Signature] Date: 9/21/2001

- 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

Other Exhibits As Needed: