

Lease Agreement Number 130

STATE OF OREGON
WATER RESOURCES DEPARTMENT

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

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This Lease Agreement is between:

Lessor:

Kimberly Sargent
29724 Main Street
Shedd, OR 97377
(541) 491-3568

The water right to be leased is located in Grant County

Lessee:

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

Trustee:

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

~I~

- 1.1 Lessor is the 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 / Permit No.: C-48005 / P-34346
Priority date: April 24, 1969 Type of use: Irrigation
Place of use:

0.2 acre in SE $\frac{1}{4}$ NE $\frac{1}{4}$
Section 11

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19.2 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$
7.0 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$
22.4 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$
30.4 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$
Section 12
T9S R26E W.M.

Number of acres, if for irrigation: 79.2
Rate: 1/40 cfs per acre
Duty: Not to exceed 5 acft per acre during irrigation season
Season of Use: April 1 through September 30
Point of Diversion (POD): 860 feet North and 1220 feet West from the S $\frac{1}{4}$ Corner of Section 12 being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 12 T-9S R-26E W.M.

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

The right to be leased are further described as follows:

Certificate / Permit No.: C-48005 / P-34346
Priority date: April 24, 1969 Type of use: Irrigation
Place of use:

0.2 acre in SE $\frac{1}{4}$ NE $\frac{1}{4}$
Section 11
9.6 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$
0.3 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$
27.2 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$
Section 12
T9S R26E W.M.

Number of acres, if for irrigation: 37.3
Rate: 1/40 cfs per acre
Duty: Not to exceed 5 acft per acre during irrigation season
Season of Use: April 1 through September 30
Point of Diversion (POD): 860 feet North and 1220 feet West from the S $\frac{1}{4}$ Corner of Section 12 being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 12 T-9S R-26E W.M.

- 1.5 **Validity of Rights.** Lessor has stated that the subject water right is not subject to nonuse under ORS 540.610 (2) (e) due to enrollment of the property, depicted as Exhibit D, into the Federal Conservation Reserve Program. As identified in ORS 540.610 (2) (e), presumption of forfeiture due to enrollment in this program can be rebutted and the validity of the subject water rights are therefore intact.
- 1.6 **Lease.** Lessor agrees 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,

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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 has been determined to consist of benefits to fish life as described by a statement issued from the Oregon Department of Fish and Wildlife contained in Exhibit E.

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

North Fork John Day River

Tributary to John Day River in the John Day River Basin.

Location From river mile 8± to confluence with the John Day River.

Priority date: April 24, 1969

Use: Described in Section 2.1, above

Total maximum volume: 186.5 acft

Rate in cfs: 0.93

Period of use: April 1 through September 30.

- 2.3 **Term of lease.** This Lease shall commence upon approval of the lease and continue through September 30, 2000.

- 2.4 **Compensation.** The Lessors have 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.** Lessors intend to manage and participate in the protection of the instream use by not irrigating during any irrigation season the lease is in affect.
- 2.7 **Modification or termination provisions.** No provisions are applicable to this lease.

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~III.~

- 3.0 **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 Based on field observations, the capacity of the pump at the point of diversion does not exceed the rate allowed under the existing water rights; no adjustment to the pump appears to be necessary. The Lessor agrees not to apply water to the subject land while the lease is in effect.
- 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 Since the permit map does not identify the existing property boundary, the Place of Use identified in Section 1.4 of this lease agreement has been estimated to the best of field staff's ability and experience. It is the intent of this lease agreement to include all valid Water Rights appurtenant to the subject property.

Watermaster: Kelvin P. Fine District 4

Oregon Water Resources Department
Grant County Courthouse
201 South Humbolt Street, Suite 180
Canyon City, Oregon 97820

Date: 4/10/00

The Undersigned Lessor and Trustee declare that, to the best of their knowledge and belief, the information contained in this lease is true, correct and complete.

Lessor: Kimberly Sargent Date: 3/30/2000

So ordered by Lessee/Trustee: [Signature] Date: 6/22/2000

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