

Lease Agreement Number: 144

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:

Mary Francis Gerber
2805 NW Westover Rd.,
Portland, Or. 97210-2825

The water right to be leased is located in Yamhill County

Lessee:

Thomas J. Schmidt
13940 SW Hwy 18
McMinnville, Or. 97128
503-472-2725

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. 16701, 19870 and 19936
- 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:

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WATER RESOURCES DEPT.
SALEM, OREGON

Certificate No.: 16701

Source: South Fork Yamhill River Tributary of Willamette River

Priority date: July 23rd, 1943

Type of use: Irrigation

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

2.6 acres in the SW1/4 SW1/4, as projected on John Boyd D.L.C. No.58

21.0 acres in the SE 1/4 SW1/4, as projected on John Boyd D.L.C. No.58

18.0 acres in the SW1/4 SE1/4, as projected on John Boyd D.L.C. No.58

2.6 acres in the SE1/4 SE1/4, as projected on John Boyd D.L.C. No.58

1.2 acres in Lot 6 (SE1/4 SE1/4)

Section 11

12.0 acres in the NW1/4 NE1/4, as projected on John Boyd D.L.C. No.58

14.0 acres in the NE1/4 NW1/4, as projected on John Boyd D.L.C. No.58

3.6 acres in the NW1/4 NW1/4, as projected on John Boyd D.L.C. No.58

Section 14

T. 5S., R. 5W., W.M.

Number of acres, if for irrigation: 75.0 acres

Rate: 0.94 cfs

Duty: 187.5 acre feet

Season of Use: April 1st through September 30th.

Point(s) of Diversion (POD): NE1/4 NE1/4, as projected on John Boyd D.L.C. No. 58,
Section 14, Township 5 South, Range 5 West, W.M.

Conditions or other limitations, if any: None

Certificate No.: 19870

Source: South Fork Yamhill River Tributary of Yamhill River

Priority date: February 6th, 1948

Type of use: Irrigation

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

12.6 acres in the NW1/4 NW1/4, as projected in R. Miller D.L.C. #65

10.2 acres in Lot 6 (SE1/4 SE1/4)

Section 11

0.8 acres in Lot 1 (NE1/4 NE1/4)

Section 14

T. 5S., R. 5W., W.M.

Number of acres, if for irrigation: 33.6 acres

Rate: 0.295 cfs

Duty: 84.0 acre feet

Season of Use: April 1st through September 30th.

Point(s) of Diversion (POD): Lot 6 (SE1/4 SE1/4), Section 11 and NW1/4 Nw1/4 as
projected in A. N. Miller D.L.C. No. 64, Section 12, Township 5 South, Range 5 West,
W.M.

Certificate No.: 19936

Source: South Fork Yamhill River Tributary of Yamhill River

Priority date: October 29th, 1938

Type of use: Irrigation

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

1.2 acres in the NE1/4 SW1/4, as projected in A.N. Miller DLC #64

6.8 acres in the NW1/4 SW1/4, as projected in A.N. Miller DLC #64

27.2 acres in the SW1/4 SW1/4, as projected in A.N. Miller DLC #64

1.0 acres in the SE1/4 SW1/4, as projected in A.N. Miller DLC #64

Section 1, T. 5S., R. 5W., W.M.

3.8 acres in the SW1/4 SE1/4, as projected in R. Miller DLC #65

2.5 acres in the SE1/4 SE1/4, as projected R. Miller DLC #65

Section 2, T. 5S., R. 5W., W.M.

2.0 acres in the NE1/4 NE1/4, as projected R. Miller DLC #65

0.9 acres in the NW1/4 NE1/4, as projected R. Miller DLC #65

Section 11, T. 5S., R. 5W., W.M.

0.5 acres in the NE1/4 NW1/4, as projected in A.N. Miller DLC #64

10.7 acres in the NW1/4 NW1/4, as projected in A.N. Miller DLC #64

3.4 acres in the SW1/4 NW1/4, as projected in A.N. Miller DLC #64

Section 12, T. 5S., R. 5W., W.M.

Number of acres, if for irrigation: 60.0 acres

Rate: 0.75 cfs

Duty: 150.0 acre feet

Season of Use: April 1st through September 30th.

Point(s) of Diversion (POD): NW1/4 NW1/4, as projected in A.N. Miller DLC #64

Section 12, T. 5S., R. 5W., W.M.

- 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:

All Of Certificate: 16701

South Fork Yamhill River Tributary of Willamette River

Location: NE1/4 NE1/4, as projected on John Boyd D.L.C. No. 58,

Section 14, Township 5 South, Range 5 West, W.M.

Priority date: July 23rd, 1943

Use: Described in Section 2.1, above

Total volume: 187.5 acre feet

Rate in cfs: 0.94 cfs

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 21.0 To RM 18.0 (Confluence of Salt Creek).

All Of Certificate: 19870

South Fork Yamhill River Tributary of Yamhill River

Location: Lot 6 (SE1/4 SE1/4), Section 11 and NW1/4 Nw1/4 as projected in A. N.

Miller D.L.C. No. 64, Section 12, Township 5 South, Range 5 West, W.M.

Section 14, Township 5 South, Range 5 West, W.M.

Priority date: February 6th, 1948

Use: Described in Section 2.1, above

Total volume: 84.0 acre feet

Rate in cfs: 0.295 cfs

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 21.0 To RM 18.0 (Confluence of Salt Creek).

A Portion Of Certificate: 19936

South Fork Yamhill River Tributary of Yamhill River

Location: NW1/4 NW1/4, as projected in A.N. Miller DLC #64 Section 12, T. 5S., R.

5W., W.M.

Priority date:, October 29th, 1938

Use: 3.8 acres in the SW1/4 SE1/4, as projected in R. Miller DLC #65

2.5 acres in the SE1/4 SE1/4, as projected R. Miller DLC #65

Section 2, T. 5S., R. 5W., W.M.

2.0 acres in the NE1/4 NE1/4, as projected R. Miller DLC #65

0.9 acres in the NW1/4 NE1/4, as projected R. Miller DLC #65

Section 11, T. 5S., R. 5W., W.M.

Number of acres: 60.0 acres being 50.8 acres irrigated and 9.2 acres leased

Total volume: 84.0 acre feet being 61.0 acre feet irrigated and 23.0 acre feet leased

Rate in cfs: 0.295 cfs being 0.18 cfs irrigated and .115 cfs leased

Period of use: April 1st, through September 30th.

- 2.3 **Term of lease.** This Lease shall commence on July 24th, 2000 (not before execution by the parties) and continue through September 30th, 2000.
- 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.**

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- 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 E Ferber
William Ferber

District: # 16

William Ferber
158 12th Street
Salem, Or. 97301-4172

Date: 8.22.2000

~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: Mary Frances Gerber Date: July 28, 2000

Lessee Thomas J. Schindt Date: 7-26-2000

So ordered by Trustee: [Signature] Date: 8-25-2000

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