

Lease Agreement Number 163

**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:**

Jim & Irene Childears  
28668 Lakeside Dr.  
Corvallis, Or. 97333

The water right to be leased is located in Benton County

**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. 49438 and 45023
- 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:

Certificate No.: 49438  
Source: Winkle Lake, tributary Willamette River in the Middle Willamette River Basin  
Priority date: April 22<sup>nd</sup>, 1966  
Type of use: irrigation  
Place of use (map of irrigated lands is in Exhibit D):

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**WATER RESOURCES DEPT.  
SALEM, OREGON**

1.0 acre NW1/4, Nw1/4  
Section 26

14.0 acres NE1/4, NE1/4  
4.1 acres SE1/4, NE1/4  
Section 27

All as Projected Within Winkle DLC 48  
Township 13 South, Range 5 West, W.M.

Number of acres: 19.1 Acres

Rate: 0.24 cfs

Duty: 47.75 Acre Feet

Season of Use: March 1<sup>st</sup> through October 31<sup>st</sup>.

Point(s) of Diversion (POD):NW1/4 NW1/4, as projected within Winkle DLC 48,  
Section 26, T. 13 S., R. 5 W., W.M.; 1260 feet North and 1760 feet East from SW  
Corner, Winkle DLC

Conditions or other limitations, if any: None

Certificate No.: 45023

Source: Winkle Lake, tributary Willamette River in the Middle Willamette River Basin

Priority date: April 22<sup>nd</sup>, 1966

Type of use: irrigation

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

10.8 acre NW1/4, Nw1/4  
3.0 acres SW1/4, NW1/4  
Both projected within Winkle DLC 48  
Section 26

8.5 acres NE1/4, NE1/4  
4.4 acres SE1/4, NE1/4  
Both projected within Winkle DLC 48  
Section 27

Township 13 South, Range 5 West, W.M.

Number of acres: 26.7 Acres

Rate: 0.33 cfs

Duty: 66.75 Acre Feet

Season of Use: March 1<sup>st</sup> through October 31<sup>st</sup>.

Point(s) of Diversion (POD):NW1/4 NW1/4, SW1/4 NW1/4, both as projected within  
Winkle DLC 48, Section 26, T. 13 S., R. 5 W., W.M.; 1260 feet North and 1760 feet  
East; 820 feet North and 1760 feet East; 130 feet North and 1530 feet East, all from SW  
Corner, Winkle DLC 48

Conditions or other limitations, if any: None

- 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: 49438

Winkle Lake, tributary Willamette River in the Middle Willamette River Basin

Location: NW1/4 NW1/4, as projected within Winkle DLC 48, Section 26, T. 13 S., R. 5 W., W.M.; 1260 feet North and 1760 feet East from SW Corner, Winkle DLC

Priority date: April 22<sup>nd</sup>, 1966

Use: Described in Section 2.1, above

Total volume: 10.1 Acre feet

Rate in cfs: 0.24 cfs

Period of use: March 1<sup>st</sup> through October 31<sup>st</sup>.

Conditions to prevent or mitigate injury, if any: From October 1st, 2000 to October 31st, 2000 the duty of 14.73 acre feet can not be exceed. The reach in which this lease will be protected is from POD in the lake, when lake reaches certain level, regulation of junior users may occur.

All of Certificate: 45023

Winkle Lake, tributary Willamette River in the Middle Willamette River Basin

Location: NW1/4 NW1/4, SW1/4 NW1/4, both as projected within Winkle DLC 48, Section 26, T. 13 S., R. 5 W., W.M.; 1260 feet North and 1760 feet East; 820 feet North and 1760 feet East; 130 feet North and 1530 feet East, all from SW Corner, Winkle

DLC 48

Priority date: April 22<sup>nd</sup>, 1966

Use: Described in Section 2.1, above

Total volume: 26.7 Acre feet

Rate in cfs: 0.33 cfs

Period of use: March 1<sup>st</sup> through October 31<sup>st</sup>.

Conditions to prevent or mitigate injury, if any: From October 1st, 2000 to October 31st, 2000 the duty of 20.26 acre feet can not be exceed. The reach in which this lease will be protected is from POD in the lake, when lake reaches certain level, regulation of junior users may occur.

- 2.3 **Term of lease.** This Lease shall commence on March 1<sup>st</sup>, 2000 (not before execution by the parties) and continue through October 31<sup>st</sup>, 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.**

#### ~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:

Watermaster: William E Ferber Date: 9.26.2000

District: # 16 Watermaster  
William Ferber  
158 12<sup>th</sup> Street NE  
Salem, Or. 97301

~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: Rose Marie (McDaniel) Childers Date: 09/15/00

So ordered by Trustee: [Signature] Date: 9/26/2000

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