

Lease Agreement Number 84

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

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

This Lease Agreement is between:

Lessor #1:
Christensen Farms
Don and Laura Christensen, authorized agents
17215 SW Christensen Road
McMinnville, Oregon 97128
(503) 835-2582

RECEIVED
JUL 8 - 1998
WATER RESOURCES DEPT.
SALEM, OREGON

The water right to be leased is located in Yamhill County

Lessee/Trustee:
Oregon Water Resources Department
158 12th Street. NE
Salem OR 97310
(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 Not Applicable. There are no other lessors.
- 1.3 Exhibit C contains copies of all certificated rights attached to the property in Exhibit B. Those rights are listed below as follows:

Certificate Nos. 49960, 50648, 64516 and 64561.
- 1.4 **Subject Water Rights.** Lessor proposes to lease a portion of the water rights listed in 1.3, above.

The rights to be leased are further described as follows:
A portion of Certificate No. 49960

Source: South Yamhill River, tributary Yamhill River
Priority date: July 6, 1976
Type of use: Irrigation
Place of use: T 5S, R 5W, S26, 3.1 acres Lot 5 (NE1/4 SW11/4)
T 5S, R 5W, S26, 1.1 acres NE1/4 SW1/4
T 5S, R 5W, S26, 25.3 acres NW1/4 SW1/4
Both as Projected Within Payne DLC 73
Number of acres 29.5 acres
Rate: 0.37 cfs.
Duty: 73.75 acre feet.
Season of Use: April 1 through September 30
Point of Diversion (POD): Lot 5(NE1/4 SW1/4), Section 26, T5S, R5W, W.M.; 1340 feet North and 1540 feet East from SW Corner, Section 26.
Conditions or other limitations, if any: None.

A portion of Certificate No. 50648
Source: South Yamhill River, tributary Yamhill River
Priority Date: May 4, 1977
Type of Use: Irrigation
Place of Use: T 5S, R 5W, S26, 25.4 acres SW1/4 NW1/4
T 5S, R 5W, S26, 10.6 acres SE1/4 NW1/4
T 5S, R 5W, S26, 1.1 acres NE1/4 SW1/4
T 5S, R 5W, S26, 4.8 acres NW1/4 SW1/4
All as projected within Payne DLC 73
T 5S, R 5W, S26, 1.3 acres Lot 5 (NE1/4 SW1/4)
T 5S, R 5W, S26, 2.3 acres SW1/4 SW1/4
As projected within Hampton DLC 71
T 5S, R 5W, S27, 4.4 acres SE1/4 SE1/4
As projected within Hampton DLC 71
T 5S, R 5W, S34 22.0 acres NE1/4 NE1/4
As projected within Hampton DLC 71
T 5S, R 5W, S35 23.1 acres NW1/4 NW1/4
As projected within Hampton DLC 71

Number of acres: 95.0
Rate: 1.19 cfs.
Duty: 237.5 acre feet
Season of Use: April 1 through September 30
Points of Diversion (POD): Lot 5 (NE1/4 SW1/4), Section 26, NW1/4 NW1/4, as projected within Hampton DLC 71, Section 35, T5S, R5W, WM, POD #1 - 1340 feet North and 1540 feet East; POD #2 - 330 feet South and 1160 feet East, both from SW Corner, Section 26
Conditions or other limitations, if any: None.

Certificate No. 64516
Source: South Yamhill River, tributary Willamette River

Priority Date: February 28, 1979

Type of Use: Irrigation

Place of Use: T 5S, R 5W, S34, NW1/4 NE1/4 5.8 acres
T 5S, R 5W, S34, NE1/4 NW1/4 34.0 acres
Both as projected within DLC 72
T 5S, R 5W, S34, NW1/4 NW1/4 38.6 acres
T 5S, R 5W, S34, SW1/4 NW1/4 40.0 acres
T 5S, R 5W, S34, SE1/4 NW1/4 20.1 acres
T 5S, R 5W, S34, NE1/4 SW1/4 2.0 acres
Both as projected within DLC 72
T 5S, R 5W, S34, NW1/4 SW1/4 38.6 acres

Number of acres: 179.1

Rate: 2.24 cfs.

Duty: 447.75 acre feet

Season of Use: April 1 through September 30

Point of Diversion (POD): SE1/4 SW1/4, Section 34, T 5S, R 5W, W.M., 20 feet south and 200 feet east from the SW Corner of DLC 71.

Conditions or limitations, if any: None

A portion of Certificate No. 64561

Source: South Yamhill River, tributary Willamette River

Priority Date: July 8, 1983

Type of Use: Irrigation

Place of Use: T 5S, R 5W, S26, NW1/4 SW1/4 4.8 acres
T 5S, R 5W, S26, NW1/4 SW1/4 0.7 acre
T 5S, R 5W, S26, SW1/4 SW1/4 19.8 acres
Both as projected within DLC 71
T 5S, R 5W, S27, SW1/4 NE1/4 1.3 acres
T 5S, R 5W, S27, SE1/4 NE1/4 23.5 acres
T 5S, R 5W, S27, NE1/4 SE1/4 36.9 acres
All as projected within DLC 73
T 5S, R 5W, S27, NE1/4 SE1/4 1.0 acre
As projected within DLC 71
T 5S, R 5W, S27, NW1/4 SE1/4 2.8 acres
T 5S, R 5W, S27, NW1/4 SE1/4 0.1 acre
T 5S, R 5W, S27, SW1/4 SE1/4 2.9 acres
T 5S, R 5W, S27, SE1/4 SE1/4 27.1 acres
All as projected within DLC 71
T 5S, R 5W, S34, NE1/4 NE1/4 15.4 acres
T 5S, R 5W, S34, NW1/4 NE1/4 3.6 acres
T 5S, R 5W, S34, SW1/4 NE1/4 0.2 acre
T 5S, R 5W, S34, SE1/4 NE1/4 5.8 acres
All as projected within DLC 71
T 5S, R 5W, S34, SE1/4 SW1/4 5.1 acres

T 5S, R 5W, S34, SW1/4 SE1/4 7.8 acres

Number of acre: 158.8 acres

Rate: 1.97 cfs.

Duty: 397.0 acre feet

Season of Use: April 1 through September 30

Point of Diversion (POD): SW1/4 SW1/4, as projected within DLC 71, Section 26; NW1/4 NW1/4, as projected within DLC 71, Section 35, T 5S, R 5W, W.M.; 860 feet North and 1090 feet East, 240 feet South and 1080 feet East, Both from the SW Corner of Section 26.

Conditions or 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 identified in Exhibit D.
- 1.6 **Lease.** 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 (Select one):
- Mitigation of a deficiency in the water supply for an 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 *Diack* 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.
- 2.2 **Instream use created by lease.** The instream use to be created is described as follows:

A portion of Certificate No. 49960
South Yamhill River
Tributary to Yamhill River in the Willamette Basin.
Location: The point of diversion (near river mile 28.0) described in Section 1.4 above to Deer Creek near river mile 25.5.
Priority date: July 6, 1976
Use: Described in 2.1 above
Number of acres: 29.5 acres, being 21.9 (leased) and 7.6 acres (irrigation)
Total volume: 73.75 acre feet, being 54.65 acre feet (leased) and 19.10 acre feet (irrigation)
Rate in cfs: 0.37 cfs, being 0.27 cfs (leased) and 0.10 cfs (irrigation)
Period of use: July 1 through September 30
Conditions to prevent or mitigate injury, if any: The instream flow will be allocated on a daily average basis is up to the described rate from July 1 until September 30, or until such time that the total duty for the irrigation season is met. The exact acres to be leased are shown in Exhibit D.

A portion of Certificate No. 50648
South Yamhill River
Tributary to Yamhill River in the Willamette Basin.
Location: The point of diversion (near river mile 28.0) described in Section 1.4 above to Deer Creek near river mile 25.5; and the point of diversion (near river mile 28.3) described in Section 1.4 above to Deer Creek near river mile 25.5.
Priority date: May 4, 1977
Use: Described in 2.1 above
Number of acres: 95.0 acres, being 20.6 acres (leased) and 74.4 acres (irrigation)
Total volume: 237.50 acre feet, being 51.5 acre feet (leased) and 186.0 acre feet (irrigation)
Rate in cfs: 1.19 cfs, being 0.26 cfs (leased) and 0.93 cfs (irrigation)
Period of use: July 1 through September 30
Conditions to prevent or mitigate injury, if any: The instream flow will be allocated on a daily average basis is up to the described rate from July 1 until September 30, or until such time that the total duty for the irrigation season is met. The exact acres to be leased are shown in Exhibit D.

No. 64516
South Yamhill River
Tributary to Yamhill River in the Willamette Basin
Location: The point of diversion (near river mile 31.5) described in Section 1.4 above to Deer Creek near river mile 25.5.
Priority Date: February 28, 1979.
Use: Described in 2.1 above
Number of acres: 179.1 acres
Total Volume: 447.75 acre feet
Rate in cfs: 2.24 cfs

Period of use: July 1 through September 30

Conditions to prevent or mitigate injury, if any: The instream flow will be allocated on a daily average basis is up to the described rate from July 1 until September 30, or until such time that the total duty for the irrigation season is met.

A portion of Certificate No. 64561

South Yamhill River

Tributary to Yamhill River in the Willamette River Basin

Location: The point of diversion (near river mile 28.0) described in Section 1.4 above to Deer Creek near river mile 25.5 and the point of diversion (near river mile 28.3) described in Section 1.4 above to Deer Creek near river mile 25.5.

Priority Date: July 8, 1983

Use: Described in 2.1 above

Number of acres: 158.8 acres, being 120.9 acres (leased) and 37.9 acres (irrigation)

Total Volume: 397.0 acre feet, being 302.25 acre feet (leased) and 94.75 acre feet (irrigation)

Rate in cfs: 1.97 cfs, being 1.50 cfs (leased) and 0.47 cfs (irrigation)

Period of use: July 1 through September 30

Conditions to prevent or mitigate injury, if any: The instream flow will be allocated on a daily average basis is up to the described rate from July 1 until September 30, or until such time that the total duty for the irrigation season is met. The exact acres to be leased are shown in Exhibit D.

- 2.3 **Term of lease.** This Lease shall commence on July 1, 1998 (not before execution by the parties) and continue through September 30, 1999.
- 2.4 **Compensation.** The Lessor has agreed to lease subject water right for the sum of \$1.00, 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.** None.
- 2.7 **Modification or termination provisions.** None.

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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 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 rights 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: Lessor must insure that none of the acres (owned or leased) shown in Exhibit D will receive water during the term of the lease and that the rate for the irrigated acres are not exceeded during the terms of the lease.

Watermaster: *Jane Lunge for* District 16

William Ferber
Oregon Water Resources Department
158 12th Street NE
Salem, Oregon 97310
(503) 378-3739 Phone; (503) 378-6203 Fax

Date: 7-6-98

~IV~

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

Lessor #1: *Jan Christensen* Date: 7-6-98

#2: *Laura Christensen* Date: 7-6-98

So ordered by Lessee/Trustee: *Rufus DeBruin* Date: 8/10-98

Director, Water Resources Department