

STATE OF OREGON
 COUNTY OF MORROW
 CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

BAIC, INC.
 75906 THREEMILE ROAD
 BOARDMAN, OREGON 97818

confirms the right to use the waters of the COLUMBIA RIVER a tributary of the PACIFIC OCEAN, for IRRIGATION OF 2487.6 acres.

This right was perfected under Permit 35425. The date of priority is JULY 23, 1971, for 56.1 CUBIC FEET PER SECOND; and SEPTEMBER 14, 1971, for 6.1 CFS; or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

RDO River Pump Station - NW ¼ SE ¼, SECTION 36, T 4 N, R 22 E, W.M.; 1657 FEET NORTH AND 2166 FEET WEST FROM THE SE CORNER OF SECTION 36.

Boeing River Pump Station - NW ¼ SE ¼, SECTION 36, T 4 N, R 22 E, W.M.; 1668 FEET NORTH AND 1997 FEET WEST FROM THE SE CORNER OF SECTION 36.

The amount of water used for irrigation together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second (or its equivalent), PROVIDED that the combined use of water under permits 35425, 35426, 37346, 40920, 41314, and 41645 and the certificates issued in respect thereto shall not exceed 582 cubic feet per second at any one point in time, and PROVIDED FURTHER that before completion of consultation between the National Marine Fisheries Service (NMFS) and the Corps of Engineers (Corps) under section 7(a)(2) of the Endangered Species Act, final agency action by the Corps and conclusion of challenges, if any, arising out of this process, water users shall not use the Willow Creek Pump Station to pump or divert water from the Columbia River at a rate greater than 480 cfs.

The amount of water used for irrigation together with the amount secured under any other right existing for the same lands is further limited to 4.0 acre-feet for each acre irrigated during the irrigation season of each year, PROVIDED that the maximum volume of water diverted during a season under permits 35425, 35426, 37346, 40920, 41314, and 41645 and the certificates issued in respect thereto shall not exceed an average of 3 acre feet per acre times the total number of acres irrigated that season. The maximum number of acres to be irrigated under these permits and certificates is 41,000 acres.

A description of the place of use to which this right is appurtenant is as follows:

	Acres
NWNE	18.0
NENW	34.8
NWNW	10.4
SWNW	39.8
SENW	23.0
NESW	16.0
NWSW	14.7

SECTION 4
 TOWNSHIP 3 NORTH, RANGE 23 EAST, W.M.

76709

	Acres
NENE	23.0
NWNE	27.3
SWNE	23.3
SENE	30.6
NENW	39.6
NWNW	30.3
SWNW	34.0
SENW	10.9
NESW	31.1
NWSW	24.0
SWSW	33.4
SESW	32.8
NESE	32.0
NWSE	40.1
SWSE	34.6
SESE	34.9

SECTION 5

NENE	26.5
NWNE	37.6
SWNE	35.3
SENE	33.3
NENW	34.4
NWNW	36.8
SWNW	30.2
SENW	27.1
NESW	33.4
NWSW	40.3
SWSW	17.8
SESW	18.1
NESE	6.4
NWSE	30.0
SWSE	18.6
SESE	38.5

SECTION 6

NENE	26.6
NWNE	23.1
NENW	36.1
NWNW	4.8
SWNW	0.2
SENW	11.1

SECTION 7

NENE	5.4
NWNE	4.6
NENW	0.9
NWNW	24.1

SECTION 8

TOWNSHIP 3 NORTH, RANGE 23 EAST, W.M.

NWSW	5.1
SWSW	40.1
SESW	14.4
SWSE	1.2

SECTION 29

SWSE	12.0
SESE	18.9

SECTION 30

TOWNSHIP 4 NORTH, RANGE 23 EAST, W.M.

	Acres
NENE	34.9
NWNE	39.5
SWNE	33.4
SENE	30.6
NENW	21.3
NWNW	13.5
SWNW	26.4
SENW	39.9
NESW	31.5
NWSW	24.4
SWSW	27.5
SESW	33.9
NESE	31.0
NWSE	39.1
SWSE	33.6
SESE	34.1

SECTION 31

NWNE	30.4
SWNE	27.8
SENE	18.1
NENW	37.1
NWNW	32.3
SWNW	40.0
SENW	33.9
NESW	39.8
NWSW	32.2
SWSW	36.4
SESW	29.7
NESE	22.2
NWSE	34.1
SWSE	33.7
SESE	40.1

SECTION 32

SWNE	0.5
NENW	12.7
NWNW	2.7
SWNW	11.5
SENW	36.8
NESW	28.2
NWSW	30.8
SWSW	28.4
SESW	21.6
SWSE	0.5

2487.6 Acres

SECTION 33

TOWNSHIP 4 NORTH, RANGE 23 EAST, W.M.

Water user shall install, operate and maintain a continuous telemetric measurement and recording device for rate and volume of water use, and shall report monthly volumes of water use to the Water Resources Department on an annual basis. The information shall be available to the State as a public record at any time. Further, the Director may require water user to report general water use information, including the place and nature of use of water under the permit.

Certificate holders shall contribute \$1,250,000 to the Oregon Water Trust to be used for acquisition of instream water rights in tributaries of the Columbia River on the terms and conditions described in the Water Resources Department Final Order dated February 28, 2001 authorizing issuance of this Certificate.

Certificate holders shall request that the consultation between NMFS (and the USFWS if applicable) and the Corps under section 7(a)(2) of the ESA address issues related to attraction flows from existing and future pumping, screening, ongoing and future dredge operations and effects of Certificate Holders' water withdrawals on Columbia River System target flows.

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During the NMFS consultation, Certificate holders shall seek the views of ODFW, provide ODFW with copies of the Biological Assessment that the Corps submits to NMFS, and provide ODFW with copies of any draft Biological Opinion Certificate Holders receive from the Corps or NMFS.


Water use under this certificate shall be exercised consistent with and subject to the final conditions on water use, including screening, in the Corps permits for construction and maintenance of pump stations resulting from any NMFS consultation, following exhaustion of appeals, if any. Certificate holder shall, within 30 days following exhaustion of appeals, if any, submit to the Salem office of the Water Resources Department and to the office of the applicable Watermaster District, a copy of such Corps permits.

A condition of the final order extending the permit and approving issuance of this certificate is that the water user shall not farm, develop, or perform any activity in the Conservation Area described in Exhibits B and H of said order, except for activities that are in furtherance of the purpose of the Conservation Area and for activities that are consistent with implementation of any Multi-Species Candidate Conservation Agreement developed by BAIC, Inc. and approved by the U.S. Fish and Wildlife Service covering various federally unlisted upland species, including the Washington ground squirrel. In addition, the water user will not undertake any activity that is inconsistent with survival guidelines adopted pursuant to the state ESA listing process.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights.

WITNESS the signature of the Water Resources Director,

affixed this 28th day of February 2001.


Paul R. Cleary

Recorded in State Record of Water Right Certificates numbered 76709.