

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 9956.1 acres.

This right was perfected under Permit 37346. The date of priority is May 23, 1974. This right is limited to 248.9 CUBIC FEET PER SECOND 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		ACRES
NENE	27.3	NESW	39.7
NWNE	35.5	NWSW	22.5
SWNE	33.1	SWSW	17.2
SENE	30.6	SESW	30.8
NENW	23.9	NESE	39.7
NWNW	17.0	NWSE	31.0
SWNW	32.4	SWSE	27.9
SENW	31.4	SESE	34.4

Section 24
 Township 3 North, Range 22 East, W.M.

76711

	Acres
NENE	35.3
NWNE	39.5
SWNE	20.3
SENE	6.7
NENW	34.3
NWNW	39.5
SWNW	25.0
SENW	11.7
NESE	7.0
SESE	36.9

Section 25

NENE	9.6
SENE	2.9

Section 26

NENE	31.6
NWNE	15.2
SWNE	31.0
SENE	36.8
NENW	35.3
NWNW	10.2
SWNW	8.0
SENW	29.4
NESE	4.0
NWSE	2.1

Section 36

Township 3 North, Range 22 East, W.M.

NENE	1.2
NWNE	8.6
NENW	10.0
NWNW	9.7

Section 1

NENE	1.0
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Section 2

NENE	12.1
NWNE	20.1
SWNW	5.1
NWSW	1.8

Section 3

NENE	1.0
NWNE	6.2
SWNE	30.6
SENE	38.8
NENW	1.5
SENW	8.0
NESW	24.4
NWSW	15.6
SWSW	34.1
SESW	15.1
NESE	24.7
NWSE	29.9
SWSE	31.2
SESE	28.6

Section 4

NENE	6.3
NWNE	11.1
SWNE	30.9
SENE	39.6
NENW	4.5
SENW	5.5
NESE	32.4
NWSE	8.2
SESE	34.0

Section 7

Township 3 North, Range 23 East, W.M.

	Acres
NENE	8.7
NWNE	33.5
SWNE	24.5
SENE	38.7
NENW	30.7
NWNW	12.4
SWNW	27.9
SENW	27.3
NESW	40.1
NWSW	23.1
SWSW	31.0
SESW	13.4
NESE	28.2
NWSE	31.9
SWSE	32.0
SESE	36.8

Section 8

NENE	34.2
NWNE	32.2
SWNE	0.6
SENE	0.7
NENW	28.1
NWNW	34.8
SWNW	33.9
SENW	28.5
NESW	39.1
NWSW	25.9
SWSW	28.9
SESW	22.2
NESE	2.6
NWSE	16.2
SWSE	34.9
SESE	3.9

Section 9

NWNW	0.1
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Section 10

NWNW	4.4
SWNW	4.8
NWSW	2.3
SWSW	2.9

Section 16

NENE	31.9
NWNE	33.5
SWNE	24.9
SENE	31.9
NENW	35.6
NWNW	20.0
SWNW	35.7
SENW	36.0
NESW	39.0
NWSW	31.9
SWSW	32.2
SESW	33.9
NESE	38.9
NWSE	33.3
SWSE	32.4
SESE	33.5

Section 17

Township 3 North, Range 23 East, W.M.

	Acres
NENE	23.0
NWNE	16.4
SWNE	34.8
SENE	38.1
NENW	18.5
SENW	36.7
NESW	36.5
NWSW	28.9
SWSW	29.3
SESW	36.7
NESE	34.3
NWSE	34.5
SWSE	34.4
SESE	35.2

Section 18

NENE	28.7
NWNE	37.6
SWNE	33.7
SENE	34.8
NENW	35.5
NWNW	37.4
SWNW	39.5
SENW	34.2
NESW	40.7
NWSW	37.7
SWSW	37.6
SESW	34.3
NESE	39.5
NWSE	35.2
SWSE	33.3
SESE	32.1

Section 19

NENE	35.7
NWNE	40.2
SWNE	33.0
SENE	36.0
NENW	35.8
NWNW	40.2
SWNW	27.8
SENW	28.9
NESW	34.8
NWSW	27.3
SWSW	36.5
SESW	30.4
NESE	38.1
NWSE	33.0
SWSE	38.7
SESE	34.6

Section 20

NWNW	4.7
SWNW	2.2
NWSW	1.4
SWSW	2.1

Section 21

SWNE	23.4
SENE	22.6
SWNW	22.4
SENW	19.7
NESW	15.3
NWSW	29.5
SWSW	39.7
SESW	33.9
NESE	19.0
NWSE	28.9
SWSE	39.6
SESE	30.8

Section 26

Township 3 North, Range 23 East, W.M.

76711

	Acres
SWNE	21.9
SENE	20.4
SWNW	22.0
SENW	20.2
NESW	13.4
NWSW	27.0
SWSW	40.1
SESW	33.8
NESE	15.1
NWSE	28.8
SWSE	40.3
SESE	35.2

Section 27

SWNE	19.9
SENE	20.9
NWNW	1.5
SWNW	19.3
SENW	19.8
NESW	16.9
NWSW	25.6
SWSW	40.2
SESW	34.7
NESE	13.9
NWSE	28.5
SWSE	40.2
SESE	31.0

Section 28

NENE	33.2
NWNE	34.4
SWNE	32.7
SENE	39.5
NENW	20.5
NWNW	20.8
SWNW	7.1
NESW	7.6
NWSW	10.0
SWSW	39.0
SESW	34.6
NESE	19.2
NWSE	21.4
SWSE	39.8
SESE	27.7

Section 29

NENE	28.7
NWNE	36.7
SWNE	25.6
SENE	39.5
NENW	30.5
NWNW	44.2
SWNW	11.6
SENW	0.8
NESW	9.0
NWSW	7.7
SWSW	38.8
SESW	39.2
NESE	28.7
NWSE	16.8
SWSE	37.6
SESE	37.9

Section 30

NENE	15.8
NWNE	16.1
NENW	17.8
NWNW	16.9
SWNW	0.1

Section 31

Township 3 North, Range 23 East, W.M.

76711

	Acres
NENE	33.0
NWNE	31.3
SWNE	30.1
SENE	40.1
NENW	32.7
NWNW	33.1
SWNW	36.3
SENW	39.0
NESW	7.4
NWSW	6.3
NESE	18.4
NWSE	2.5
SESE	13.6

Section 32

NENE	33.3
NWNE	31.2
SWNE	31.3
SENE	39.8
NENW	33.4
NWNW	31.4
SWNW	29.2
SENW	40.6
NESW	32.7
NWSW	37.9
SWSW	38.6
SESW	24.2
NESE	30.3
NWSE	38.2
SWSE	37.8
SESE	22.2

Section 33

NENE	35.6
NWNE	33.0
SWNE	32.3
SENE	40.9
NENW	34.2
NWNW	30.1
SWNW	28.3
SENW	41.1
NESW	29.6
NWSW	40.3
SWSW	38.3
SESW	19.7
NESE	29.5
NWSE	38.3
SWSE	36.6
SESE	22.8

Section 34

NENE	35.9
NWNE	32.1
SWNE	31.5
SENE	38.0
NENW	35.1
NWNW	32.3
SWNW	32.3
SENW	39.7
NESW	31.3
NWSW	38.3
SWSW	34.3
SESW	24.0
NESE	31.4
NWSE	37.4
SWSE	31.7
SESE	23.4

Section 35

Township 3 North, Range 23 East, W.M.

76711

	Acres
NENE	30.6
NWNE	25.5
SWNE	33.9
SENE	36.2
NENW	30.8
NWNW	22.2
SWNW	33.3
SENW	37.9
NESW	33.4
NWSW	38.2
SWSW	30.2
SESW	24.2
NESE	34.8
NWSE	37.1
SWSE	26.2
SESE	24.2

Section 36
Township 3 North, Range 23 East, W.M.

NENE	26.8
NWNE	36.9
SWNE	9.8
SENE	14.3
NENW	9.8

Section 6
Township 3 North, Range 24 East, W.M.

SWSE	2.0
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Section 26

NESW	2.6
NWSE	18.2
SWSE	0.5

Section 33

SWNE	4.7
SENE	19.2
SENW	0.2
NESW	19.9
SESW	13.2
NESE	28.7
NWSE	40.4
SWSE	34.9
SESE	11.0

Section 34

NENE	10.4
NWNE	39.4
SWNE	39.1
SENE	11.4
NENW	21.0
NWNW	2.4
SWNW	39.6
SENW	30.5
NESW	12.0
NWSW	36.5
SWSW	20.7
SESW	36.6
NESE	38.8
NWSE	23.6
SWSE	31.1
SESE	38.7

Section 35
Township 4 North, Range 23 East, W.M.

	Acres
NENE	34.4
NWNE	19.8
SWNE	32.9
SENE	39.4
NENW	0.1
SWNW	21.2
SEW	37.6
NESW	39.1
NWSW	31.7
SWSW	30.8
SESW	30.4
NESE	28.7
NWSE	28.8
SWSE	37.2
SESE	14.8

Section 36
Township 4 North, Range 23 East, W.M.

SWNE	0.6
NWNW	5.2
SWNW	8.1
SEW	0.3
NESW	29.4
NWSW	0.5
SWSW	1.8
SESW	35.3
NESE	1.0
NWSE	34.6
SWSE	33.9
SESE	1.8

Section 31
Township 4 North, Range 24 East, W.M.

9956.1 Acres

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.

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 76711.