

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 8996.4 acres.

This right was perfected under Permit 41314. The date of priority is November 18, 1976. This right is limited to 224.9 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, TOWNSHIP 4 NORTH, RANGE 22 EAST, 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, TOWNSHIP 4 NORTH, RANGE 22 EAST, 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	0.7	NENE	28.7
SENE	7.3	NWNE	19.3
NESE	5.2	SWNE	27.5
SESE	0.3	SENE	15.9
SECTION 13		SECTION 1	
TOWNSHIP 3 NORTH, RANGE 23		TOWNSHIP 3 NORTH, RANGE 24	
EAST, W.M.		EAST, W.M.	

	ACRES
NENW	33.5
NWNW	22.7
SWNW	35.4
SENW	40.0
NESW	27.3
NWSW	36.5
SWSW	40.3
SESW	24.4
NESE	16.7
NWSE	26.5
SWSE	40.3
SESE	38.2

SECTION 1

NENE	34.4
NWNE	22.6
SWNE	32.9
SENE	39.7
NENW	28.1
NWNW	5.8
SWNW	14.6
SENW	40.2
NESW	32.9
NWSW	39.7
SWSW	36.7
SESW	24.0
NESE	32.5
NWSE	38.2
SWSE	39.2
SESE	27.8

SECTION 2

NENE	2.5
NWNE	4.4
SWNE	38.6
SENE	31.5
NENW	4.4
NWNW	11.9
SWNW	35.8
SENW	30.0
NESW	14.9
NWSW	30.1
SWSW	38.8
SESW	27.2
NESE	32.6
NWSE	32.1
SWSE	40.1
SESE	35.0

SECTION 3

NENE	40.0
NWNE	36.3
SWNE	17.4
SENE	17.8
NENW	40.1
NWNW	35.5
SWNW	33.2
SENW	36.0
NESW	17.7
NWSW	29.6
SWSW	14.7
SESW	39.3
NESE	37.1
NWSE	26.7
SWSE	31.1
SESE	33.5

SECTION 4

TOWNSHIP 3 NORTH, RANGE 24 EAST, W.M.

	ACRES
NENE	40.6
NWNE	33.9
SWNE	32.9
SENE	29.5
NENW	17.3
SENW	8.5
NESW	16.5
SESW	2.0
NESE	39.5
NWSE	35.1
SWSE	19.4
SESE	35.7
SECTION 5	
SESE	0.4
SECTION 7	
NENE	32.5
NWNE	7.0
SENE	4.4
SWSW	2.3
SECTION 8	
NENE	39.7
NWNE	30.9
SWNE	32.9
SENE	33.3
NENW	33.3
NWNW	23.8
SWNW	32.1
SENW	38.7
NESW	6.0
NWSW	1.4
NESE	35.3
NWSE	38.6
SWSE	3.1
SESE	13.7
SECTION 9	
NENE	13.7
NWNE	29.2
NENW	5.5
NWNW	19.2
SWNW	40.1
SENW	11.8
NESW	2.2
NWSW	31.9
SWSW	37.0
SESW	4.5
SECTION 10	
NWNE	0.3
SECTION 11	
NENE	27.3
NWNE	21.1
SWNE	8.9
SENE	30.2
NENW	0.2
NWNW	3.8
SECTION 12	
NENW	5.0
NWNW	20.1
SWNW	40.2
SENW	20.6
NESW	3.2
NWSW	16.1
SECTION 15	
NENE	2.9
SENE	15.8
NESE	1.7
SECTION 16	

TOWNSHIP 3 NORTH, RANGE 24 EAST, W.M.

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	ACRES
NWNE	0.2
SWNE	23.3
SENE	1.8
NENW	3.1
NWNW	10.2
SWNW	7.3
SENW	39.1
NESW	31.8
NWSW	18.0
SWSW	39.8
SESW	29.6
NESE	13.1
NWSE	40.3
SWSE	25.0
SESE	2.1

SECTION 17

NENE	33.0
NWNE	15.2
SWNE	33.3
SENE	30.9
NENW	4.8
NWNW	3.8
SWNW	43.1
SENW	35.3
NESW	21.5
NWSW	50.0
SWSW	23.9
SESW	16.1
NESE	34.3
NWSE	31.5
SWSE	1.0
SESE	4.7

SECTION 18

SENE	8.0
NESE	34.5
NWSE	0.1
SWSE	7.3
SESE	34.1

SECTION 19

NENE	18.2
NWNE	39.5
SWNE	36.9
SENE	7.9
NENW	22.1
NWNW	17.2
SWNW	39.2
SENW	35.3
NESW	32.9
NWSW	32.3
SWSW	39.8
SESW	36.1
NESE	18.7
NWSE	40.6
SWSE	36.5
SESE	8.9

SECTION 20

NENW	28.1
NWNW	28.0
SWNW	30.2
SENW	30.0
NESW	26.5
NWSW	32.4
SWSW	32.6
SESW	32.1
SWSE	0.1

SECTION 21

TOWNSHIP 3 NORTH, RANGE 24 EAST, W.M.

	ACRES
NWNE	0.3
NENW	35.2
NWNW	35.8
SWNW	2.4
SENW	2.1
SWSW	28.9
SESW	25.7

SECTION 28

NENE	20.8
NWNE	39.8
SWNE	35.5
SENE	7.9
NENW	33.1
NWNW	30.2
SWNW	39.5
SENW	35.4
NESW	33.1
NWSW	29.4
SWSW	39.5
SESW	36.2
NESE	20.1
NWSE	39.9
SWSE	35.7
SESE	8.7

SECTION 29

NENE	37.7
NWNE	13.1
SWNE	29.7
SENE	30.3
NESW	1.3
SWSW	12.7
SESW	37.0
NESE	29.5
NWSE	33.6
SWSE	30.5
SESE	30.4

SECTION 30

NENE	28.7
NWNE	33.6
SWNE	20.3
SENE	23.4
NENW	20.6
NWNW	30.9
SWNW	36.4
SENW	39.1
NESW	33.1
NWSW	41.3
SWSW	44.7
SESW	25.4
NESE	36.0
NWSE	38.3
SWSE	38.0
SESE	19.8

SECTION 31

NENE	21.3
NWNE	40.0
SWNE	19.9
SENE	5.2
NENW	33.7
NWNW	29.5
SWNW	27.3
SENW	31.1

SECTION 32

TOWNSHIP 3 NORTH, RANGE 24 EAST, W.M.

	ACRES
NESW	10.8
NWSW	40.1
SWSW	16.4
SESW	1.9
NESE	0.2
NWSE	0.3
SWSE	33.7
SESE	9.6
SECTION 32	
NENW	29.1
NWNW	32.3
SECTION 33	
TOWNSHIP 3 NORTH, RANGE 24 EAST, W.M.	
NWNE	13.3
SWNE	13.4
NENW	37.3
NWNW	11.0
SWNW	35.0
SESW	38.8
NESW	37.0
NWSW	33.9
SWSW	34.1
SESW	38.3
NWSE	6.9
SWSE	7.0
SECTION 27	
NENE	2.4
NWNE	27.6
SWNE	36.1
SENE	39.8
NENW	31.6
NWNW	0.3
SWNW	31.7
SESW	35.6
NESW	36.3
NWSW	38.4
SWSW	21.5
SESW	38.5
NESE	36.4
NWSE	25.1
SWSE	34.6
SESE	40.4
SECTION 28	
SWNE	0.1
SENE	28.0
SESW	0.3
NESW	35.8
NWSW	4.3
SWSW	18.6
SESW	34.0
NESE	32.3
NWSE	24.4
SWSE	33.5
SESE	37.4
SECTION 29	
SWSE	0.2
SESE	22.2
SECTION 30	
NENE	39.6
NWNE	2.5
SENE	8.5
NESE	0.6
SECTION 31	
TOWNSHIP 4 NORTH, RANGE 24 EAST, W.M.	

	ACRES
NENE	38.4
NWNE	34.5
SWNE	31.6
SENE	35.4
NENW	35.9
NWNW	36.8
SWNW	27.7
SENW	37.5
NESW	28.8
NWSW	26.3
SWSW	7.0
SESW	40.0
NESE	39.5
NWSE	23.8
SWSE	35.4
SESE	36.8

## SECTION 32

NENE	36.7
NWNE	16.6
SWNE	32.0
SENE	39.4
NENW	38.5
NWNW	34.7
SWNW	34.2
SENW	37.9
NESW	39.0
NWSW	28.4
SWSW	25.1
SESW	37.9
NESE	33.4
NWSE	33.5
SWSE	30.8
SESE	31.8

## SECTION 33

NWNE	2.1
SWNE	2.2
NENW	35.1
NWNW	35.2
SWNW	32.0
SENW	36.1
NESW	26.5
NWSW	37.5
SWSW	37.9
SESW	26.6

## SECTION 34

NESE	15.1
NWSE	14.7
SWSE	38.1
SESE	38.2

## SECTION 35

NESW	11.5
NWSW	11.1
SWSW	37.7
SESW	38.4
NESE	23.9
NWSE	24.0
SWSE	35.9
SESE	35.8

## SECTION 36

TOWNSHIP 4 NORTH, RANGE 24 EAST, W.M.

8996.4

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.

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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.

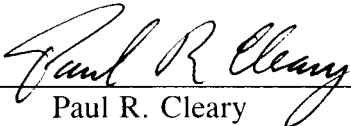
Water use under this certificate shall be exercised consistent with and subject to the final conditions on water use, including screening, in the Corps permits for construction and maintenance of pump stations resulting from any NMFS consultation, following exhaustion of appeals, if any. Certificate 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 28<sup>th</sup> day of February 2001.

  
Paul R. Cleary

Recorded in State Record of Water Right Certificates numbered 76713.