

Application for Instream Lease

Part 1 of 4 – Minimum Requirements Checklist



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.oregon.gov/OWRD

Complete Part 1 through 4 and include the required attachments
Fill in or check boxes as indicated. (N/A= Not Applicable)

OWRD # 11-2133
Fee- _____

Pursuant to ORS 537.348(2) and OAR 690-077

Check all items included with this application. (N/A = Not Applicable)

☒ Yes

Part 1 – Completed Minimum Requirements Checklist and Application Fee

| | | |
|-------------|--------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| Fees | <input type="checkbox"/> \$610.00 for a lease involving four or more landowners or four or more water rights | <input checked="" type="checkbox"/> \$410.00 for all other leases |
| | <input type="checkbox"/> Check enclosed <u>or in the mail</u> | |
| | <input type="checkbox"/> Fee Charged to customer account _____ (account name) | |

☒ Yes

Part 2 – Completed Instream Lease Application Map Checklist.

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☒ Yes

Part 3 – Completed Water Right and Instream Use Information
Include a separate **Part 3** for each water right

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☒ Yes

Part 4 – Completed Instream Lease Provisions and Signatures

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☒ Yes

How many water rights are leased? 1 List them here: 45954

Include a separate **Part 3** for each water right.

☒ Yes ☐ N/A

Other Water Rights, if any, appurtenant to the lands involved in the lease application and not proposed to be leased instream?

List those other water rights here: Certificate #95445

☐ Yes ☒ No

Conservation Reserve Enhancement Program (CREP). Are some or all of the lands to be leased part of CREP or another Federal program (list here: _____)?

Attachments:

☒ Yes ☐ N/A **Map:** Instream Lease map requirements (see Part 2 of this application)

☒ Yes ☐ N/A **Tax Lot Map:** If a portion of the water right *not included in the lease* is appurtenant to lands owned by others, a tax lot map must be included with the lease application. The tax lot map should clearly show the property involved in the lease.

☒ Yes ☐ N/A Supporting documentation describing why a right (or portion thereof) is valid and not subject to forfeiture even though the right has not been exercised for five or more consecutive years. This information only needs to be provided if the checkbox has been checked to identify that the water right has not been used in the last five years and is not subject to forfeiture (See Part 4 of 4).

☒ Yes ☐ N/A If the Lessor (water right holder) is not the deeded landowner - provide one of the following.

- A notarized statement from the landowner consenting to the lease and a copy of the recorded deed; or
- A water right conveyance agreement and a copy of the recorded deed for the landowner at the time the water right was conveyed; or
- Other documentation which provides authority to pursue the lease absent consent of the landowner.

Part 2 of 4 – Instream Lease Application Map Checklist

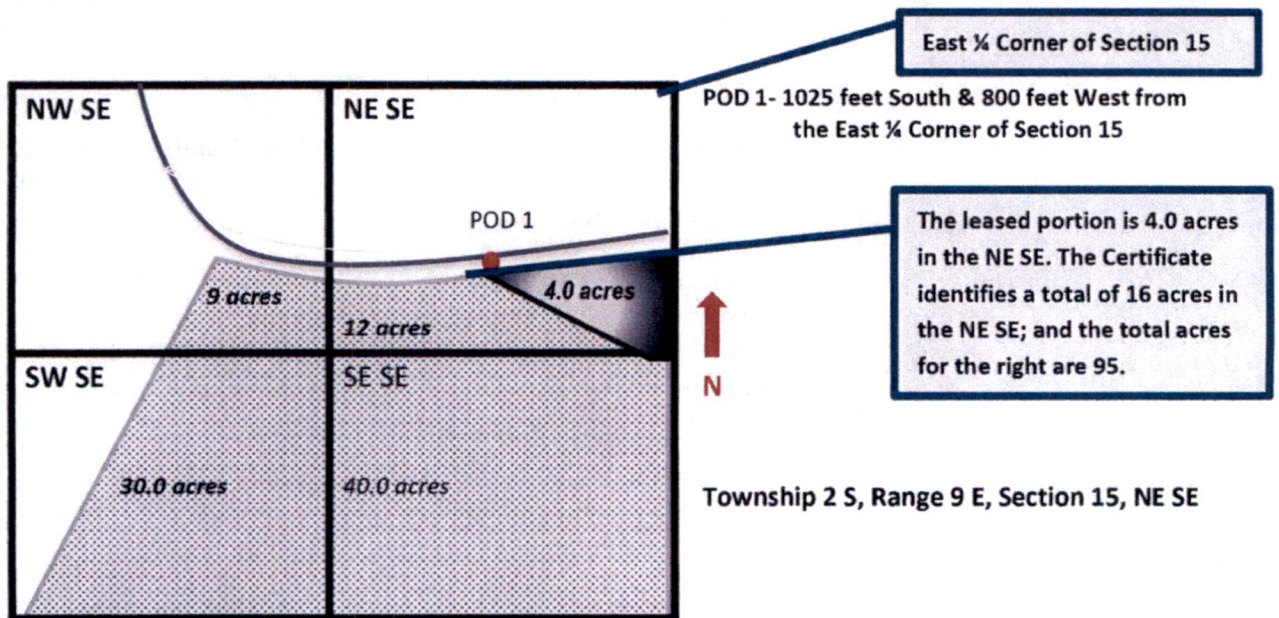
A Map is generally required for each water right not leased in its entirety

The application map (if required) should include all the items listed below and match the existing water right(s) of record. Check all boxes that apply.

This should be a simple map. (See example below). A copy of a final proof survey map with the portion to be leased shaded or hachured in will also suffice.

- ☒ ☐ N/A A map is required for each water right not leased in its entirety. More than one QQ and property may be included on each map. A map is not required, if leasing the entire right or if the right to be leased is for municipal or quasi-municipal water use.
- ☒ The map should be of sufficient quality to be reproducible. Please do not use highlighters to mark items on the map as highlighters do not always copy.
- ☒ A North arrow and map scale (no smaller than 1" = 1320').
- ☒ Township, Range, Section, quarter quarter (QQ), and a clearly labeled survey corner.
- ☒ For irrigation or other similar use, the number of acres to be leased in each quarter-quarter clearly labeled and hatchured to differentiate between the acres being leased and any remaining. If the place of use is broken down by more than one priority date, or source stream, and/or point of diversion you must identify each with separate hatchuring and clearly label.
- ☒ If available, identify the existing point(s) of diversion.

EXAMPLE MAP (the darker shaded portion representing the portion leased instream)



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Part 3 of 4 – Water Right and Instream Use Information

Use a separate Part 3 for each water right to be leased instream

Water Right Information

Water right # 45954

Table 1

Water Right Information: Provide a description of the originating water right to be leased. Also include your tax lot number(s). Fill in all applicable information. For example, if your water right has multiple points of diversion (POD) but they're not numbered, you do not need to include a number. If not enough room below, you may add additional rows (see instructions) or attach spreadsheet (matching Table 1). Please clearly label any attachments.

| <input checked="" type="checkbox"/> If only leasing a portion of the right - complete Table 1 as indicated | | | | | | <input type="checkbox"/> Entirety - If the entire water right is to be leased, skip to Table 3. | | | | |
|------------------------------------------------------------------------------------------------------------|-------|-----|-----|-----|-------|-------------------------------------------------------------------------------------------------|---------------|-------|-----|---------------------------|
| Priority Date | POD # | Twp | Rng | Sec | Q-Q | Tax Lot | Gov't Lot/DLC | Acres | USE | Previous Lease # (if any) |
| EXAMPLE | | | | | | | | | | |
| 12/2/1901 | 3 | 2-S | 9-E | 15 | NE SE | 100 | 47 | 4.0 | IR | IL-1100 |
| 12/21/1973 | | - | - | | - | | | | | |
| | | - | - | | - | | | | | |
| | | - | - | | - | | | | | |
| | | - | - | | - | | | | | |
| | | - | - | | - | | | | | |

Total Acres: 52 SEE ATTACHMENT

Table 2

To illustrate the totals for the water right proposed to be leased instream

Total rate and volume by priority date, POD, use and acreage as appropriate considering the right to be leased. If not enough room below, you may add additional rows (see instructions) or attach spreadsheet (matching Table 2). Please clearly label any attachments. (cfs = cubic feet per second and af = acre-feet)

| Priority Date | POD # | Use | Total Acres | Other Information (such as conditions/limitations on the right) | Total Rate (cfs) | Total Volume (af) |
|-------------------------------------------------------------------------------------------|-------|-----|-------------|-----------------------------------------------------------------|------------------|-------------------|
| 12/21/1973 | 1 | IR | | Limited to ONE-fortieth | 5.81 | 929.6 |
| Total af from storage, if applicable: _____ AF or <input checked="" type="checkbox"/> N/A | | | | | | |
| Any additional information about the right: | | | | | | |

Table 3

Point of Diversion (POD) description: If the POD is not described on the certificate or if there is more than one POD listed on the certificate, then the specific POD(s) involved in the lease must be described. If not enough room below, you may add additional rows (see instructions) or attach spreadsheet (matching Table 3). Please clearly label any attachments.

| POD # | Twp | Rng | Sec | Q-Q | DLC/ Gov't lot | Measured Distances, latitude/longitude coordinates, or river mile (if unknown you may indicate "unknown") |
|-------|------|------|-----|-------|----------------|-----------------------------------------------------------------------------------------------------------|
| 1 | 19-S | 47-E | 21 | NE-NW | 1 | W.M., 20 feet South & 1460 ft, EAST from the SW corner of SECTION 16 |
| | - | - | | - | | |

☐ Please check this box if you don't know the location of the POD(s) and want the Department to identify the location of the POD(s) for the purpose of the instream lease.

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| Priority Date | PO # | Twp | Rng | Sec | Q-Q | Tax Lot | Govt Lot/DLC | Acres | USE | Previous Lease # (if any) |
|---------------|------|-----|-----|-----|------|---------|--------------|-------|-----|---------------------------|
| 12/21/1973 | 1 | 19 | 47 | 17 | SENE | 101 | | 1.0 | 1R | |
| " | " | " | " | " | NESE | 101 | | 14.5 | " | |
| " | " | " | " | " | NESE | 103 | | 6.5 | " | |
| " | " | " | " | " | NWSE | 101 | | 1.4 | " | |
| " | " | " | " | " | NWSE | 103 | | 1.4 | " | |
| " | " | " | " | " | NWSE | 104 | | 2.7 | " | |
| " | " | " | " | " | SWSE | 104 | | 1.0 | " | |
| " | " | " | " | " | SWSE | 101 | | .7 | " | |
| " | " | " | " | " | SWSE | 103 | | .8 | " | |
| " | " | " | " | " | SESE | 101 | | 1.3 | " | |
| " | " | " | " | " | SESE | 103 | | 20.7 | " | |
| TOTAL | | | | | | | | 52 | | |

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Instream Use Information

Table 4

| Instream Use Created by the Lease | | | | | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|-----|-------|-------------------------------------------------------------------------------------------------------------|---------------------------------|----------------------------|
| River/ Stream Name: <u>SNAKE</u> , tributary to <u>Columbia</u> | | | | | River Basin: <u>SNAKE RIVER</u> | |
| Instream Portion: Use Table 4 to illustrate the instream rate, volume and instream period by priority date, POD (if more than one), Use (if more than one), and acreage as appropriate considering the right to be leased. If not enough room below, you may add additional rows (see instructions) or attach a spreadsheet (matching the below portion of Table 4). Please clearly label any attachments. | | | | | | |
| Priority date | POD # | Use | Acres | Proposed Instream Period | Total instream rate (cfs) | Total instream volume (af) |
| 12/21/1973 | 1 | IR | 52 | March 1 st Oct 31 st | 1.25 | 208 |
| | | | | | | |
| Note: If not certain of the instream rate, volume and/or instream period, see the instructions and/or contact Department Staff for assistance. The instream rate and volume may be up to the maximum rate and duty/volume allowed by the right, as described in Table 2 or on your Certificate if leasing the entire right. The proposed instream period may be no longer than the irrigation season or the authorized period of allowed use. | | | | | | |
| OR <input type="checkbox"/> Please check this box if you are not sure of the proposed rate, volume and instream period. As part of its review process, the Department will identify the appropriate instream rate, volume and period considering the water right(s) being leased and instream benefits. | | | | | | |
| Instream Reach | | | | | | |
| Proposed Instream Reach: <input type="checkbox"/> A reach typically begins at the point of diversion (POD) and ends at the mouth of the source stream: From the POD to _____ | | | | Or Proposed Instream Point: <input checked="" type="checkbox"/> Instream use protected at the POD | | |
| OR <input type="checkbox"/> Please check this box if you are not sure of the proposed reach and want water to be protected within a reach below the POD, if possible. (If no reach is identified or the above box is not checked, and there is only one POD listed on the certificate, the lease may be processed to be protected at the POD.) | | | | | | |
| Additional Instream Information | | | | | | |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A Conditions to avoid enlargement or injury to other water rights, if any, or other limitations: list here _____ | | | | | | |
| Note: The Department may identify additional conditions to prevent injury and/or enlargement. | | | | | | |
| Any additional information about the proposed instream use: _____ | | | | | | |

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Part 4 of 4 – Lease Provisions and Party Signatures

| | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Term of the Lease (may be from 1 year up to 5 years): The lease is requested to begin in: month <u>3</u> year <u>2025</u> and end: month <u>10</u> year <u>2030</u> Note: The begin month is generally the first month of the irrigation season and the end month is the last month in the irrigation season. If not an irrigation right, this would be the first and last month of your authorized period of allowed use. | |
| Public use: Check the public use(s) this lease will serve (as defined by ORS 537.332): <input checked="" type="checkbox"/> Conservation, maintenance and enhancement of aquatic, fish and wildlife, fish and wildlife habitat and any other ecological values. <input type="checkbox"/> Recreation <input type="checkbox"/> Pollution abatement <input type="checkbox"/> Navigation | Termination provision (for multiyear leases): The parties to the lease request (choose one): <input type="checkbox"/> a. The option of terminating the lease prior to expiration of the full term with written notice to the Department by the Lessor(s) and/or Lessee. <input type="checkbox"/> b. The option of terminating the lease prior to expiration of the full term, with consent by all parties to the lease. <input type="checkbox"/> c. The parties would not like to include a Termination Provision. (See instructions for limitations to this provision) |
| Additive/Replacing Relationship to other instream water rights: Instream leases are generally additive to other existing instream water rights created as a result of instream leases, transfers and/or allocations of conserved water. Since instream leases are also generally senior to other instream rights created through a state agency process or conversion of minimum flows, they generally replace a portion of these junior instream rights. If you would like this lease to relate to other instream water rights differently, please check this box. <input type="checkbox"/> And attach an explanation of your intent. | |
| Validity of the Right(s) to be leased (check the appropriate box): <input checked="" type="checkbox"/> The water right(s) to be leased have been used under the terms and conditions of the right(s) during the last five years or have been leased instream; or <input type="checkbox"/> The water right(s) have not been used for the last five years according to the terms and conditions of the right(s). However, the water right(s) is not subject to forfeiture under ORS 540.610(2). Documentation describing why the water right(s) is not subject to forfeiture is provided. | |

Precedent: If a right which has been leased is later proposed to be leased again or later transferred or become part of an allocation of conserved water project, a new injury review shall be required. An instream lease shall not set a precedent on a future transaction.

The undersigned declare:

1. The Lessor(s) agree during the term of this lease, to suspend use of water allowed under the subject water right(s) and under any appurtenant primary or supplemental water right(s) not involved in the lease application; and
2. The Lessor(s) certify that I/we are the water right holder(s) of the right(s) described in this instream lease application. If not the deeded landowner, I/we have provided documentation with the lease application that I/we have authorization to pursue the lease application and/or have obtained consent from the deeded landowner; and
3. All parties affirm that information provided in this lease application is true and accurate. Received by OWR

Ron Jacobs Date: 6/27/2025 JUL 07 2025
 Signature of Lessor
 Printed name (and title): Ron Jacobs Malheur County Commissioner Business name, if applicable: _____ Salem, OR
 Mailing Address (with state and zip): 251 B. St West Vale OR 97918
 Phone number (include area code): 541-478-5124 **E-mail address: Kim.Boss@malheurco.org

See next page for additional signatures.

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EVIDENCE of use



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Signature of Co-Lessor
Printed name (and title): _____ Business name, if applicable: _____
Mailing Address (with state and zip): _____
Phone number (include area code): _____ **E-mail address: _____

Signature of Lessee
Printed name (and title): _____ Business name, if applicable: _____
Mailing Address (with state and zip): _____
Phone number (include area code): _____ **E-mail address: _____

**** BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED TO THE LESSOR.**

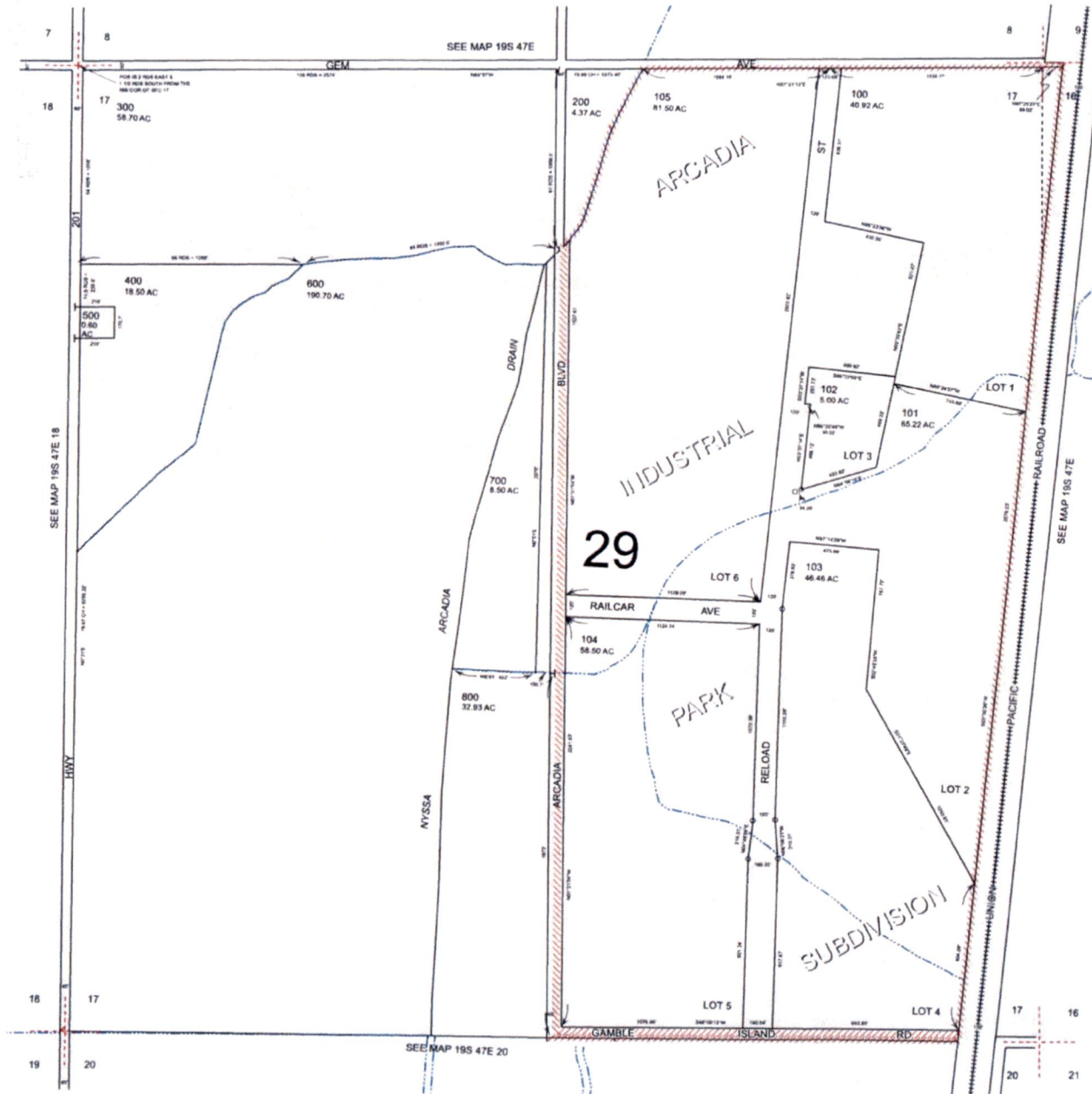
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THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

0 200 400 600 800 Feet

SECTION 17 T.19S. R.47E. W.M.
MALHEUR COUNTY
1" = 400'

19S47E17



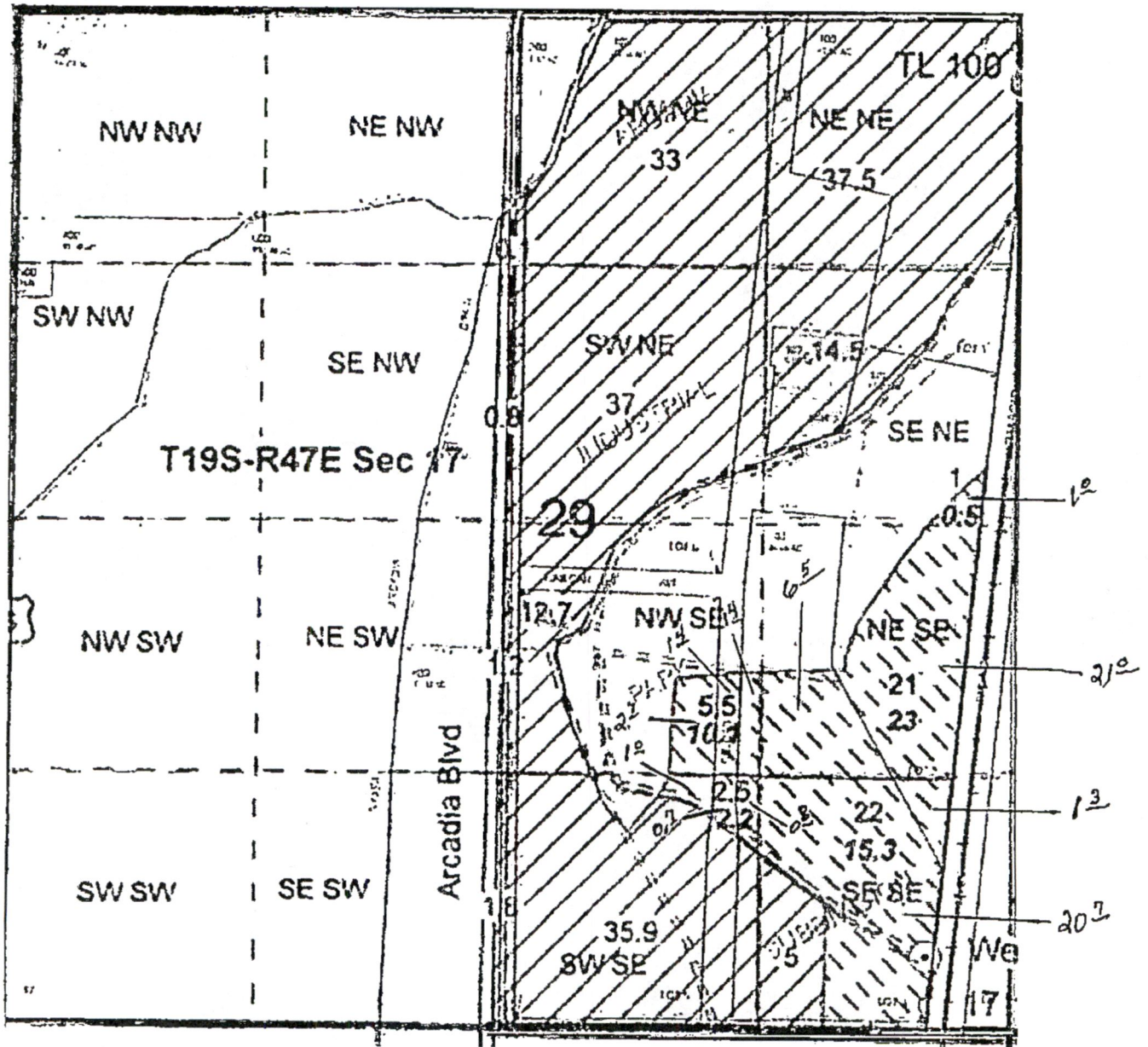
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Revised: MA
07/05/2023

19S47E17



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STATE OF OREGON

COUNTY OF MALHEUR

CERTIFICATE OF WATER RIGHT

This Is to Certify, That TRAVELERS INS. CO. AND
J. A. ALBERTSON

Real Estate Investment Dept.
of 707 SW Washington, Portland, State of Oregon, 97204, has made
proof to the satisfaction of the Water Resources Director, of a right to the use of the waters of
Snake River

a tributary of Columbia River for the purpose of
irrigation of 232.4 acres

under Permit No. 37440 and that said right to the use of said waters has been perfected in
accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from
December 21, 1973
that the amount of water to which such right is entitled and hereby confirmed, for the purposes
aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed
5.81 cubic feet per second

or its equivalent in case of rotation, measured at the point of diversion from the stream.
The point of diversion is located in the Lot 1 (NE $\frac{1}{4}$ NW $\frac{1}{4}$), Section 21, T. 19 S., R. 47 E.,
W. M., 20 feet South and 1460 feet East from the SW corner of Section 16.

The amount of water used for irrigation, together with the amount secured under any other
right existing for the same lands, shall be limited to one-fortieth of one cubic foot per second
per acre, or its equivalent for each acre irrigated and shall be further limited
to a diversion of not to exceed 4 acre feet per acre for each acre irrigated
during the irrigation season of each year,

and shall
conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right
is appurtenant, is as follows:

| | |
|----------------------------------------------|----------------------------------------------|
| 0.9 acre NW $\frac{1}{4}$ NW $\frac{1}{4}$ | 0.8 acre SE $\frac{1}{4}$ NW $\frac{1}{4}$ |
| Section 16 | 1.2 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$ |
| | 1.8 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$ |
| 37.5 acres NE $\frac{1}{4}$ NE $\frac{1}{4}$ | 21.0 acres NE $\frac{1}{4}$ SE $\frac{1}{4}$ |
| 33.0 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$ | 18.2 acres NW $\frac{1}{4}$ SE $\frac{1}{4}$ |
| 37.0 acres SW $\frac{1}{4}$ NE $\frac{1}{4}$ | 38.4 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$ |
| 15.5 acres SE $\frac{1}{4}$ NE $\frac{1}{4}$ | 27.0 acres SE $\frac{1}{4}$ SE $\frac{1}{4}$ |
| 0.1 acre NE $\frac{1}{4}$ NW $\frac{1}{4}$ | Section 17 |
| | T. 19 S., R. 47 E., W. M. |

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The right to the use of the water for the purposes aforesaid is restricted to the lands or place
of use herein described, and is subject to the existing minimum flow policies
established by the Water Policy Review Board.

WITNESS the signature of the Water Resources Director, affixed

this date. June 22, 1978


Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 38, page 45954

Co. Rd.

01

33°

37°

15°

37°

Not Irrig.

Swampy

18°

21°

38°

27°

02

Lot 3

Lot 4

Lot 5

Lot 6

IDAHO

Snake River

Lot 7

End Pipe Lot 6

Barred Pipe

Div. Pt.

20

21

Co. Rd.

U.S.P.R.

Lot 1

Div. Pt. located 28' S. & 1460' E. from S.W. Cor. Sec. 16

Surveyed May 6, 1976, by L. E. Gould

STATE OF OREGON

COUNTY OF MALHEUR

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

MALHEUR COUNTY OREGON

251 B ST W #5

VALE OR 97918

confirms the right to the use of water perfected under the terms of Permit G-16990. The amount of water used to which this right is entitled is limited to the amount used beneficially, and shall not exceed the amount specified, or its equivalent in the case of rotation, measured at the point of diversion from the source. The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: G-17485

SOURCE OF WATER: WELL 1 (MALH 1860) IN SNAKE RIVER BASIN

PURPOSE or USE: SUPPLEMENTAL IRRIGATION OF 51.1 ACRES

MAXIMUM RATE: 1.25 CUBIC FEET PER SECOND

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31

DATE OF PRIORITY: AUGUST 24, 2011

The well is located as follows:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|----------------------------------------------------------------------------------|
| 19 S | 47 E | WM | 17 | SE SE | WELL 1 (MALH 1860) - 380 FEET NORTH AND 445 FEET WEST FROM SE CORNER, SECTION 17 |

The amount of water used for irrigation under this right, 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 and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

A description of the place of use is as follows:

| Twp | Rng | Mer | Sec | Q-Q | Acres |
|------|------|-----|-----|-------|-------|
| 19 S | 47 E | WM | 17 | SE NE | 0.5 |
| 19 S | 47 E | WM | 17 | NE SE | 23.0 |
| 19 S | 47 E | WM | 17 | NW SE | 10.1 |
| 19 S | 47 E | WM | 17 | SW SE | 2.2 |
| 19 S | 47 E | WM | 17 | SE SE | 15.3 |

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NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484 and ORS 536.075. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 183.484, ORS 536.075 and OAR 137-004-0080, you may petition for judicial review and petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate within three months after issuance of the certificate.

Measurement, recording and reporting conditions:

- A. The water user shall maintain, in good working order, a totalizing flow meter or other suitable measuring device as approved by the Director at each point of appropriation.
- B. The water user shall keep a complete record of the amount of water diverted each month, and shall submit a report which includes the recorded water-use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the water user to report general water-use information, including the place and nature of use of water under the right.
- C. The water user shall allow the watermaster access to the meter or measuring device; provided however, where any meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
- D. The Director may provide an opportunity for the water user to submit alternative measuring and reporting procedures for review and approval

To monitor the effect of water use from the well(s) authorized under this right, the Director may require the water user to obtain, from a qualified individual (see below), and report annual static water level measurements. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- A. Identify each well with its associated measurement; and
- B. Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method used to obtain each well measurement; and
- D. Certify the accuracy of all measurements and calculations reported to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if any of the following events occur:

- A. Annual water level measurements reveal an average water level decline of three or more feet per year for five consecutive years; or
- B. Annual water level measurements reveal a water level decline of 15 or more feet in fewer than five consecutive years; or
- C. Annual water level measurements reveal a water level decline of 25 or more feet; or
- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

The reference level against which any future measurements will be compared is 11.83 feet below ground surface. The Director may require the water user to obtain and report additional water levels. The additional measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

The period of non-use or restricted use shall continue until the water level rises above the decline level which triggered the action or until the Department determines, based on the water user's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this right. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

The water user shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID tag), which shall be permanently attached to the well. The Well ID shall be used as a reference in any correspondence regarding the well, including any reports of water use, water level, or pump test data.

Failure to comply with any of the provisions of this right may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the right.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this right, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

The well(s) shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine the water level elevation in the well at all times.

The use may be restricted if the quality of downstream waters decreases to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

The Director may require water level or pump test results every ten years.

This right is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

The right to the use of the water for the above purpose is restricted to beneficial use on the place of use described.

Issued JAN 15 2021



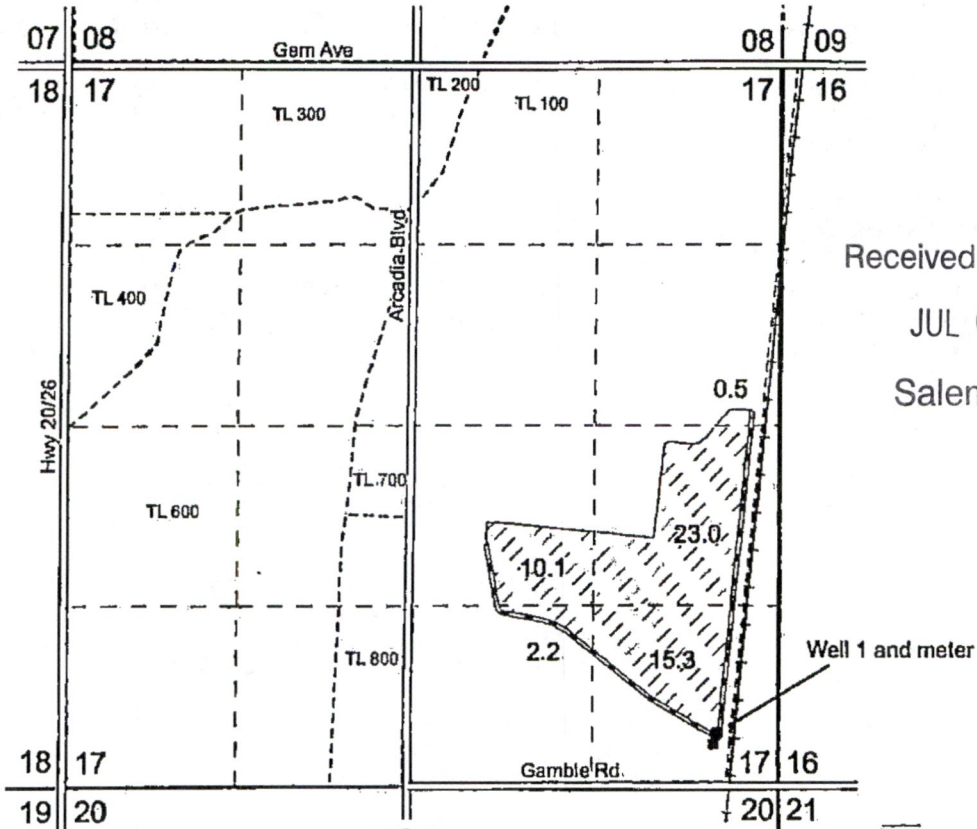
Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

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T19S, R47E, Section 17, W.M.



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Expires 12/28/2016

Well 1 (Malh 1860) is located 445 feet west and 380 feet north of the southeast corner of section 17.

This map is not intended to provide legal dimensions or locations of property ownership lines.

- Well
- Distribution Box
- ▨ Place of Use
- Ditch
- - Quarter Quarter Lines
- Section Lines
- - - Tax Lot Lines
- + Railroad
- == Roads

0 660 1,320
Feet

1 in = 1,320 ft



Final Proof Map for Permit G16990 / Application G17485
Tax Lot 100

James Farmer, Charles Warren Farmer
& Margaret M. Farmer

map prepared by
Nancy Rorick Consulting

MALHEUR COUNTY, OR 2018-2681
MRCOUNTY COURT
DOCUMENT 07/18/2018 09:58 AM
Cnt=1 Pgs=70 Total:\$0.00



I, Gayle V. Trotter, County Clerk for Malheur County,
Oregon certify that the instrument identified herein was
recorded in the Clerk records.
Gayle V. Trotter - County Clerk

PURCHASE AND SALE AGREEMENT Malheur County, Oregon

THIS PURCHASE AND SALE AGREEMENT ("Agreement"), is made and entered into this 18 day of July 2018 (the "Effective Date"), by and between Charles Warren Farmer, a single person, James G. Farmer and Margaret D. Farmer, husband and wife, having an address of PO Box 1585, Nyssa, Oregon 97913 (herein collectively "Seller"), and Malheur County, Oregon, by and through its governing body the Malheur County Court, a political subdivision of the State of Oregon, having an address of Malheur County Courthouse, 251 B. Street #5, Vale, Oregon 97918 ("Purchaser"). The Effective Date shall be the date in which this Agreement is fully executed.

RECITALS:

- A. Seller owns certain real, personal and intangible property commonly identified with the Malheur County Assessor as Tax Lot 100, Map 19S4717, Reference No. 9641 within the boundaries of Malheur County, Oregon as more particularly described in section 1 below (collectively, the "Property").
- B. Purchaser desires to acquire all of the Property from Seller, and Seller is willing to sell and convey all of the Property to Purchaser, on and subject to the terms of this Agreement.

AGREEMENTS:

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Seller and Purchaser (herein collectively the "Parties" and severally a "Party") agree as follows:

1. Sale and Purchase of Real Property.

Seller agrees to sell the Property to Purchaser, and Purchaser agrees to purchase the Property from Seller, on the terms and conditions set forth in this Agreement.

1.1 Definition of Property. The Property consists of:

- (a) All of the real property consisting of approximately 290.35 acres of land located in Malheur County, State of Oregon, as depicted on Exhibit "A" and legally described in Exhibit "B," which are attached hereto and made a part hereof, together with Seller's interest in and to any and all tenements, hereditaments, appurtenances, and all other rights, privileges, easements, appurtenant thereto, except as specifically set forth in this Agreement (collectively the "Land");
- (b) All of the improvements currently situated on the Land, including, but not limited to, all roadways, wells, pipelines, and pumps (the "Improvements");

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EXHIBIT B - 1:

MAP DEPICTING 52 ACRES OF WATER RIGHTS BEING SOLD TO PURCHASER

(attached separate sheet – 1 page)

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T19S, R47E, Sections 16, 17 and 21, Willamette Meridian


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- ⊙ Well
- △ Point of Diversion
- Tax lot line
- - - Quarter Quarter Line
- Section Line
- ==== Dirt road
- · - · - Drain
- == Paved road
- + - - Railroad
- - - River

Permit G16990 (acres in *italics*)

Sold to Malheur County (Purchaser)

Certificate 45954 *Snake River*

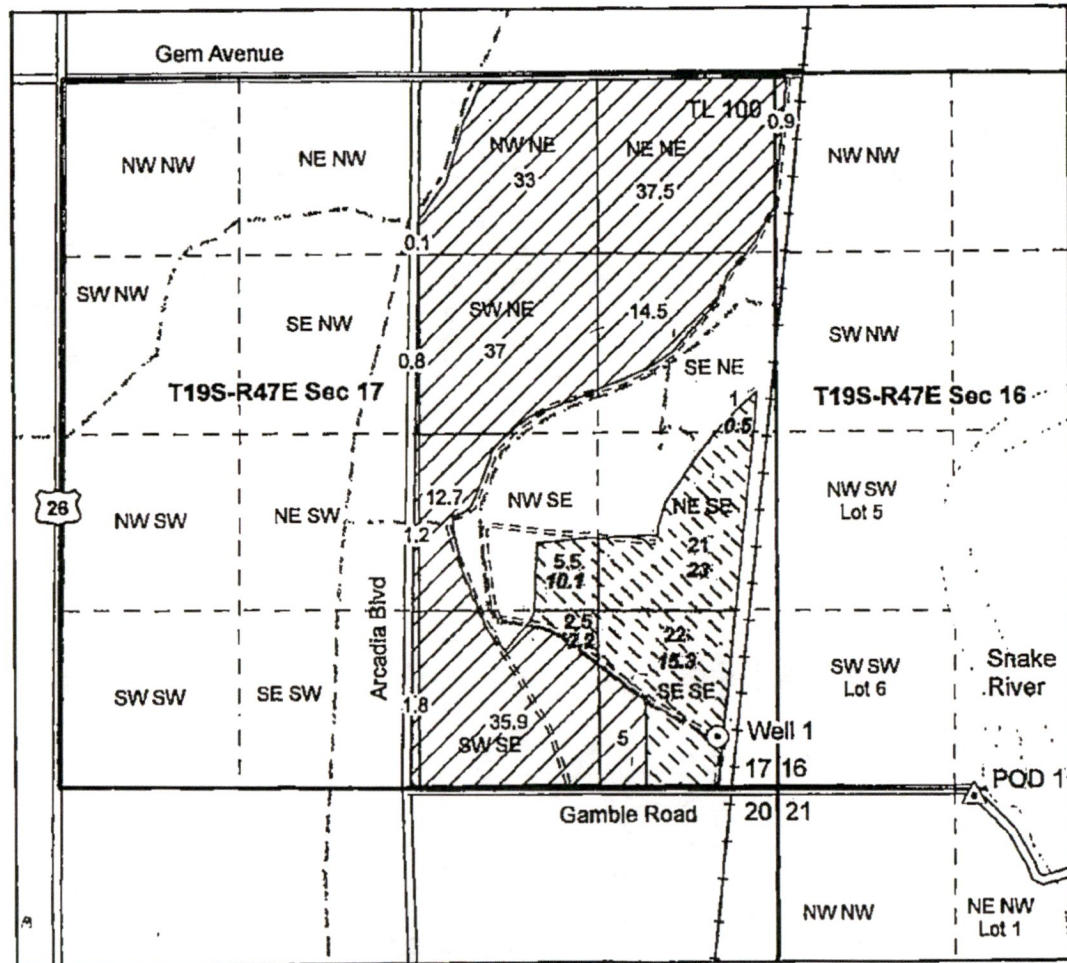
 Sold to Malheur County (Purchaser)

 Reserved by Farmer (Seller)

POD 1 is located 20 feet south and 1460 east from the SW corner of Section 16 in Lot 1 (NE NW), Section 21, T19S, R47E.

Well 1 (MALH 1860) is located 445 feet west and 380 feet north of the southeast corner of Section 17 in the SE SE, Section 17, T19S and R47E.

This map is not intended to provide legal dimensions or locations of property ownership lines.



N
0 660 1,320
Feet
1 inch = 1,320 feet

Water Right Map
Tax Lot 100, Malheur County
Prepared by Nancy Rorick Consulting

(c) All of Seller's rights (if any) in all tangible personal property located on the Land or in the Improvements and described in **Exhibit "C,"** which is attached hereto and made a part hereof (the "**Personal Property**"); and

(d) All of Seller's rights in all of the following intangible property now or hereafter existing with respect to the Property (the "**Intangible Property**"):

All leases, licenses, permits, approvals, plans, specification, and other agreements or documents to occupy, maintain or use all or any part of the Land or Improvements, including but not limited to Oil and Gas Lease with Trendwell West, Inc.

1.2 Water Rights.

(a) Legal title to 51.1 acres of water rights from the supplemental irrigation groundwater well (permit no. G-16990 with Oregon Water Resources Department) on the Property are specifically included in the definition of Property in this Agreement and are being sold from Seller to Purchaser as part of this Agreement. Seller will complete and file the appropriate administrative forms with the Oregon Water Resources Department to confirm the change in ownership of the water rights from Seller to Purchaser at Closing.

(b) Legal title to 52 acres of water rights from the Snake River, being a portion of the water rights evidenced by State Record of Water Right Certificate 45954, are specifically included in the definition of Property in this Agreement and are being sold from Seller to Purchaser as part of this Agreement. The location of the 52 acres of water rights is depicted on **Exhibit "B-1"**. Seller shall retain ownership of all remaining Snake River water rights on the Property consisting of approximately 180.4 acres - State Record of Water Right Certificate 45954 ("**Snake River water rights**"). Seller will complete the appropriate ownership update forms with the Oregon Water Resources Department to confirm the change in ownership of the 52 acres of water rights from Seller to Purchaser at Closing.

(c) Right of First Refusal. Purchaser shall have a right of first refusal to purchase the 180.4 acres of Snake River water rights from Seller as detailed in a Right of First Refusal, signed by the Parties at Closing and recorded in the Malheur County deed records. The Right of First Refusal shall be in substantially the form and on terms described in **Exhibit "F"**, which is attached and incorporated hereto and made a part hereof. Purchaser shall also have an option to purchase from Seller the 180.4 acres of Snake River water rights as detailed in a Farmland Lease and Option Agreement for Purchase of Water Rights, signed by the Parties at Closing and recorded in the Malheur County deed records. The Farmland Lease and Option Agreement for Purchase of Water Rights shall be in substantially the form and on the terms described in **Exhibit "G"**, which is attached and incorporated hereto and made a part hereof.

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JUL 07 2025

Salem, OR

Stephanie Williams

From: Langford, Shonee D. <SLangford@SCHWABE.com>
Sent: Wednesday, June 13, 2018 12:50 PM
To: Stephanie Williams
Cc: 'Michael Horton'
Subject: RE: Documents for Purchase of Farmer Property - Treasure Valley Reload Center [IWOV-pdx.FID3997910]
Attachments: 6_13_2018 Langford Proposed Changes.docx

Hi Stephanie,
Mike just called me with a couple of comments on the version I sent to both of you on June 7. I'm passing those along to you by sending an updated version with the new edits highlighted in **green**. You will find the edits in the farmland lease, Sections 6.D and 6.F.

Please let me know if you have questions or have any trouble finding the new edits. This document is getting colorful!

Also, what are your thoughts on adding a water right map to the PSA as proposed Ex. A-1, to show the location of the 52 acres of Snake River rights the county is purchasing? I feel pretty strongly about adding that to avoid confusion and potential disputes down the road, and we should probably get the Farmers' consultant working on it.

I'm in the office today and tomorrow, then will be out on vacation from June 15 through 24.

Shonee

Shonee D. Langford
530 Center St. NE, Suite 730
Salem, OR 97301
Direct: 503-540-4261

From: Langford, Shonee D.
Sent: Thursday, June 07, 2018 12:59 PM
To: 'Michael Horton' <mikehorton@fmtc.com>; 'Stephanie Williams' <Stephanie.Williams@malheurco.org>
Subject: RE: Documents for Purchase of Farmer Property - Treasure Valley Reload Center [IWOV-pdx.FID3997910]

Mike and Stephanie,
Please see the attached changes. I highlighted all updates in yellow to distinguish them from previous track changes in the document. Please also read the comments in the margin. In addition to changes we discussed regarding developed lands, I made what seemed to be necessary corrections/ edits here and there. I am also recommending that we attach a water right map (to be prepared by the Farmers' water right consultant Nancy Rorick) to clearly identify the location of the 52 acres. I should have made that recommendation some time ago. As it stands, there is no way to know exactly which 52 acres are being sold, although it's implied that they would correspond to the 51.1 acres of groundwater rights.

I'll be out of office from 1pm today until next Monday morning. If you need my input, please try my cell phone at 503-807-2082.

Thanks,

Received by OWRD

JUL 07 2025

Salem, OR