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State of Oregon
Water Resources Department
725 Summer Street NE, Suite "A"
Salem, Oregon 97301-1271
(503) 986-0900

Application for Short-Term Instream Lease

Pursuant to ORS 537.348(2) and OAR 690-077-0077

Optional Identification by Lessor/Lessee: _____
Lease Agreement Number (assigned by WRD): L-583

This Lease Agreement is between:

Lessor #1:

(Name) Grafton Pauls and La Vonne Pauls
(Mailing address) 47003 Highway 26
(City, State, Zip Code) Dayville, OR 97825
(Telephone number) (541) 987-2190

Lessor #2, 3, etc.

N/A

The water right to be leased is located in Grant County.

Lessee (if different than Oregon Water Resources Department):

(Name) Bureau of Reclamation, Pacific Northwest Region
(Mailing address) 1150 North Curtis Road, Suite 100
(City, State, Zip Code) Boise, ID 83706-1234
(Telephone number) (541) 575-3033

Trustee:

Oregon Water Resources Department
725 Summer Street N.E., Suite "A"
Salem, OR 97301-1271
(503) 986-0900

~I~ Ownership and Water Right Information

- 1.1 Lessor #1 is the owner, or authorized agent for owner of property located at: Township 13 S, Range 27 E, Section 2, 3, 10 and 11 and Tax Lot number 400. If the water right appurtenant to these lands is also appurtenant to lands owned by others, then Attachment 1, (tax lot map of lessor's property) needs to be included.
- 1.2 Lessor #2 is the (Check one):
 - Not applicable
 - Official representative of _____, the irrigation district which conveys water to the subject water rights.
 - Another party with an interest in the subject water rights representing _____.

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1.3 For the lands being leased, list all water rights appurtenant to the lessor's property. Indicate if there are any supplemental or overlying rights.

Certificate No. 61789 & 56475

1.4 Are some or all of the lands being leased part of a Conservation Reserve Enhancement Program. Yes No

1.5 **Subject water rights.** Lessor proposes to lease the water rights listed in 1.3.

The right(s) to be leased are further described as follows:

Certificate No.: 61789

Priority date: August 27, 1973 Type of use: Irrigation

Legal Season of Use: April 1 through September 30

Is the entire water right certificate being leased? Yes No

If no, list the acres of the subject water right by legal description of township, range, section, and 1/4 1/4 which will be dried up as part of this lease, and include a map (Attachment 2) showing the lands which will not receive water.

Place of use: T 13 S, R 27 E, Section 2, SW1/4 SW1/4 - 9.40 acres to be leased

Enter additional places of use here, using format above:

T13S, R27E, Section 3, SE1/4SE1/4 - 1.2 acres

T13S, R27E, Section 11, NW1/4NW1/4 - 4.5 acres

Page _____ (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres being leased, if for irrigation: 15.1

Acre-feet of storage, if applicable: N/A

Maximum rate associated with subject water rights (cfs): 0.38

(Use additional lines if there is more than one rate associated with the water right.)

Maximum duty associated with subject water rights (ac-ft): 75.5

(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any: None

If you need to enter another leased right, please use the additional water rights form.

1.6 **Validity of rights.** Lessor(s) attests (mark one) that:

the water has been used over the past five years according to the terms and conditions of the owner's water right certificate or as an instream water right or

the water has not been used over the past five years according to the terms and conditions of the owner's water right certificate, however the water right is not subject to forfeiture under ORS 540.610(2)(_) (include necessary supporting documentation as Attachment 3).

~II~ Instream Water Right Information

2.1 **Public use.** This lease will increase streamflows which will benefit:

Conservation, maintenance and enhancement of aquatic and fish life, wildlife, and fish and wildlife habitat

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- Pollution abatement
- Recreation and scenic attraction

2.2 Instream use created by lease. The instream use to be created is described as follows:

John Day River
Tributary to Columbia River in the John Day River Basin.

Describe the point of diversion (POD) and any associated reach(es) of the instream use being created. If possible list the reach by river mile. If no reach is identified, and there is only one POD listed on the certificate, the lease may be processed to be protected at the POD. (If more than one POD is listed on the certificate, then the POD and any associated reach(es) must be identified): Reach will begin at the POD and end at the John Day River at Service Creek Gaging Station, approximately 63 river miles.

Maximum volume in acre-feet: 75.5

Rate in cfs: 0.38

(Use the section below to indicate a more restrictive period of use than allowed by the water right.)

Conditions to prevent injury, if any:

- None
- The instream flow will be allocated on a daily average basis up to the described rate from June 22 through September 30.
- Other (describe): The initial flowrate of 0.38 cfs will be protected at the POD. Below the POD the rate will be reduced by 48% to mitigate for projected return flows; a 1% per mile flow reduction factor was applied to the rate over the 63 miles distance from the POD to the John Day River at Service Creek Gaging Station resulting in a maximum rate of 0.1 cfs being protected at the gage.

If you need to enter more instream uses, please use the additional water rights form.

2.3 Term of lease. This lease shall terminate on September 30, 2008.

2.4 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). As part of regulation activities the watermaster or a designee has access to the point of diversion and place of use for the water rights involved in this lease. No party is required to continuously measure the flow of the waterway described in Section 2.2.

~III~ Other Information

3.1 Accuracy. The Undersigned Lessor/s, Lessee and Trustee declare that, to the best of their knowledge and belief, the information contained in this lease is true, correct and complete. If after the lease is signed, any information is determined to be false, the lease may be modified or terminated. This lease only exercises the water rights being leased; for the term of the lease; it shall not be construed to overcome any claim that the water right may otherwise be subject to forfeiture for nonuse pursuant to ORS 540.610 during the period of time prior to the execution of the lease.

3.2 **Lease.** All 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 690-077-0077.

3.3 **Precedent.** If a right which has been leased is later proposed to be leased again or transferred to an instream use under ORS 537.348 and OAR 690-077-0070 or OAR 690-077-0075 a new injury review shall be required, and a prior short term lease shall not set a precedent for the amount of water to be leased or transferred instream.

3.4 **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. In the event that a supplemental water right is not part of this lease, it may be subject to forfeiture.

3.5 **Termination provision.**

For multiyear leases, lessor shall have the option of terminating the lease each year, prior to the lease being exercised (____), with 30 day written notice to the Department.

For multiyear leases, lessor shall not have the option of terminating the lease each year, prior to the lease being exercised, with written notice to the Department.

3.6 **Modification to prevent injury.** Allocation of water to the 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. If injury is found after this lease is signed, the lease may be modified or terminated to prevent injury.

3.7 **Fees.** Effective October 1, 2003, pursuant to ORS 536.050 (1)(v) (2003 SB 820), the following fee is included:

\$200 for an application with four or more landowners or four or more water rights.

\$100 for all other applications.

Lessor #1: [Signature] Date: 15th May 2004
[Signature] Date: 25 June 2004

For additional Lessors, type in space for signature and date

Lessee: [Signature] Date: June 16, 2004

Other Attachments as Needed:

Attachment 1: Tax Lot Map of Lessor's Property (required if landowner is not the sole landowner to lands for which the subject water rights are appurtenant)

Attachment 2: Detailed map illustrating lands under subject rights to be leased (required if only part of a right is being leased instream).

Attachment 3: Supporting documentation indicating why a right is valid and not subject to forfeiture even though the right has not been exercised for five or more consecutive years (required if the second box in Section 1.5 is checked)

Attachment 4: Split Season Instream Use Form

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State of Oregon
Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1271
(503) 986-0900

Additional Water Right Form
Standard Application for Short-Term
Instream Lease

~I~ Ownership and Water Right Information

Section 1.5 continued from Standard Application for Short-Term Instream Lease.

Subject Water Rights. Lessor proposes to lease the water rights listed in 1.3.

The right(s) to be leased are further described as follows:

Certificate No.: 56475 Tract No. 1

Priority date: 1902 Type of use: Irrigation

Legal Season of Use (if not listed on the certificate): April 1 through September 30

Is the entire water right certificate being leased? [] Yes [X] No

If no, list the acres to be leased by legal description of township, range, section, and 1/4 1/4, which will be dried up as part of this lease. Include a map (Attachment 3) showing the lands that will not receive water.

Place of use: T 13 S, R 27 E, Section 2, SW 1/4 SW 1/4 - 2.80 acres to be leased

Enter additional places of use here, using format above:

T13S, R27E, Section 3, SE1/4SE1/4 - 4.4 acres

T13S, R27E, Section 10, NE1/4NE1/4 - 4.4 acres

T13S, R27E, Section 11, NW1/4NW1/4 - 8.9

Page (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres, if for irrigation: 20.5

Acre-feet of storage, if applicable: N/A

Rate associated with leased rights (cfs): 0.51

(Use additional lines if there is more than one rate associated with the water right.)

Duty associated with leased rights (AF): 102.5

(Use additional lines if there is more than one duty associated with the water right.)

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Conditions or other limitations, if any: The amount of water diverted shall not exceed 1 acft/acre per calendar month prior to July 1 and 3/4 acft/acre per calendar month thereafter.

~II~ Instream Water Right Information

Section 2.2 continued from Standard Application for Short-Term Instream Lease.

Instream use created by lease. The instream use to be created is described as follows:

John Day River

Tributary to Columbia River in the John Day River Basin.

Describe the point of diversion and any associated reach(es) of the instream use being created. If possible list the reach by river mile, if no reach is identified, the lease may be processed to be protected at the point of diversion): The instream use will be protected from the POD to the John Day River at Service Creek Gaging Station; a distance of approximately 63 miles

Total volume in acre-feet: 102.5

Rate in cfs: 0.33 cfs will be protected from April 6 through June 30 and 0.25 cfs will be protected from July 1 through September 30 in order to comply with the duty limitations; these rates will be protected at the POD. Below the POD, the rates will be reduced by 48% to mitigate for projected return flows; additionally, a 1% per mile loss factor was applied to the water right over the 63 mile distance from the POD to the John Day River at Service Creek Gaging Station resulting

in maximum flowrates of 0.09cfs from April 6 though June 30 and 0.07 cfs from July 1 through September 30 to be protected at the gage. _____

Conditions to prevent injury, if any:

- None
- The instream flow will be allocated on a daily average basis up to the described rate from See above through _____.
- Other (describe): _____

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Water Resources Department
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(503) 986-0900

Additional Water Right Form
Standard Application for Short-Term
Instream Lease

~I~ Ownership and Water Right Information

Section 1.5 continued from Standard Application for Short-Term Instream Lease.

Subject Water Rights. Lessor proposes to lease the water rights listed in 1.3.

The right(s) to be leased are further described as follows:

Certificate No.: 56475 Tract No. 2

Priority date: 1906 Type of use: Irrigation

Legal Season of Use (if not listed on the certificate): April 1 through September 30

Is the entire water right certificate being leased? [] Yes [X] No

If no, list the acres to be leased by legal description of township, range, section, and 1/4 1/4, which will be dried up as part of this lease. Include a map (Attachment 3) showing the lands that will not receive water.

Place of use: T 13 S, R 27 E, Section 11, NE 1/4 NW 1/4 - 0.10 acres to be leased

Enter additional places of use here, using format above:

T13S, R27E, Section 11, NW1/4NE1/4 - 15.0

T13S, R27E, Section 11, NE1/4NE1/4 - 4.0

Page (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres, if for irrigation: 19.1

Acre-feet of storage, if applicable: N/A

Rate associated with leased rights (cfs): 0.48

(Use additional lines if there is more than one rate associated with the water right.)

Duty associated with leased rights (AF): 95.5

(Use additional lines if there is more than one duty associated with the water right.)

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Conditions or other limitations, if any: The amount of water diverted shall not exceed 1 acft/acre per calendar month prior to July 1 and 3/4 acft/acre per calendar month thereafter.

~II~ Instream Water Right Information

Section 2.2 continued from Standard Application for Short-Term Instream Lease.

Instream use created by lease. The instream use to be created is described as follows:

John Day River

Tributary to Columbia River in the John Day River Basin.

Describe the point of diversion and any associated reach(es) of the instream use being created. If possible list the reach by river mile, if no reach is identified, the lease may be processed to be protected at the point of diversion): The instream use will be protected from the POD to the John Day River at Service Creek Gaging Station; a distance of approximately 63 miles.

Total volume in acre-feet: 95.5

Rate in cfs: 0.31cfs will be protected from April 6 through June 30 and 0.23cfs will be protected from July 1 through September 30 in order to comply with the duty limitations; these rates will be protected at the POD. Below the POD, the rates will be reduced by 48% to mitigate for projected return flows; additionally, a 1% per mile loss factor was applied to the water right over the 63 mile distance from the POD to the John Day River at Service Creek Gaging Station resulting

in maximum flowrates of 0.08cfs from April 6 through June 30 and 0.06 cfs from July 1 through September 30 to be protected at the gage. _____

Conditions to prevent injury, if any:

- None
- The instream flow will be allocated on a daily average basis up to the described rate from See above through _____.
- Other (describe): _____

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STATE OF OREGON
COUNTY OF GRANT
CERTIFICATE OF WATER RIGHT

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WATER RESOURCES DEPT
SALEM, OREGON

THIS CERTIFICATE ISSUED TO

PAUL LEVATIN
1198 ESTATES DRIVE
LAFAYETTE, CALIFORNIA 94549

confirms the right to use the waters of THE JOHN DAY RIVER, a tributary of THE COLUMBIA RIVER, for the purpose of IRRIGATING 16.9 ACRES.

The right has been perfected under Permit 37162. The date of priority is AUGUST 27, 1973. The right is limited to not more than 0.42 CUBIC FOOT 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:

NW 1/4 NW 1/4, SECTION 11, T 13 S, R 27 E, W.M.; 950 FEET SOUTH AND 180 FEET EAST FROM NW CORNER SECTION 11.

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 5.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

The right 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, and to which such right is appurtenant, is as follows:

SW 1/4 SW 1/4 11.0 ACRES → 9.4 acres to be leased
SECTION 2
SE 1/4 SE 1/4 1.4 ACRES → 1.2 acres to be leased
SECTION 3
NW 1/4 NW 1/4 4.5 ACRES → all to be leased
SECTION 11
TOWNSHIP 13 SOUTH, RANGE 27 EAST, W.M.

15.1 acres to be leased

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 right is subject to minimum flows established by the Water Resources Commission with an effective date prior to this right.

WITNESS the signature of the Water Resources Director, affixed this date JULY 7, 1989.

/s/ WILLIAM H. YOUNG

Water Resources Director

Recorded in State Record of Water Right Certificates numbered 61789

51155.TES

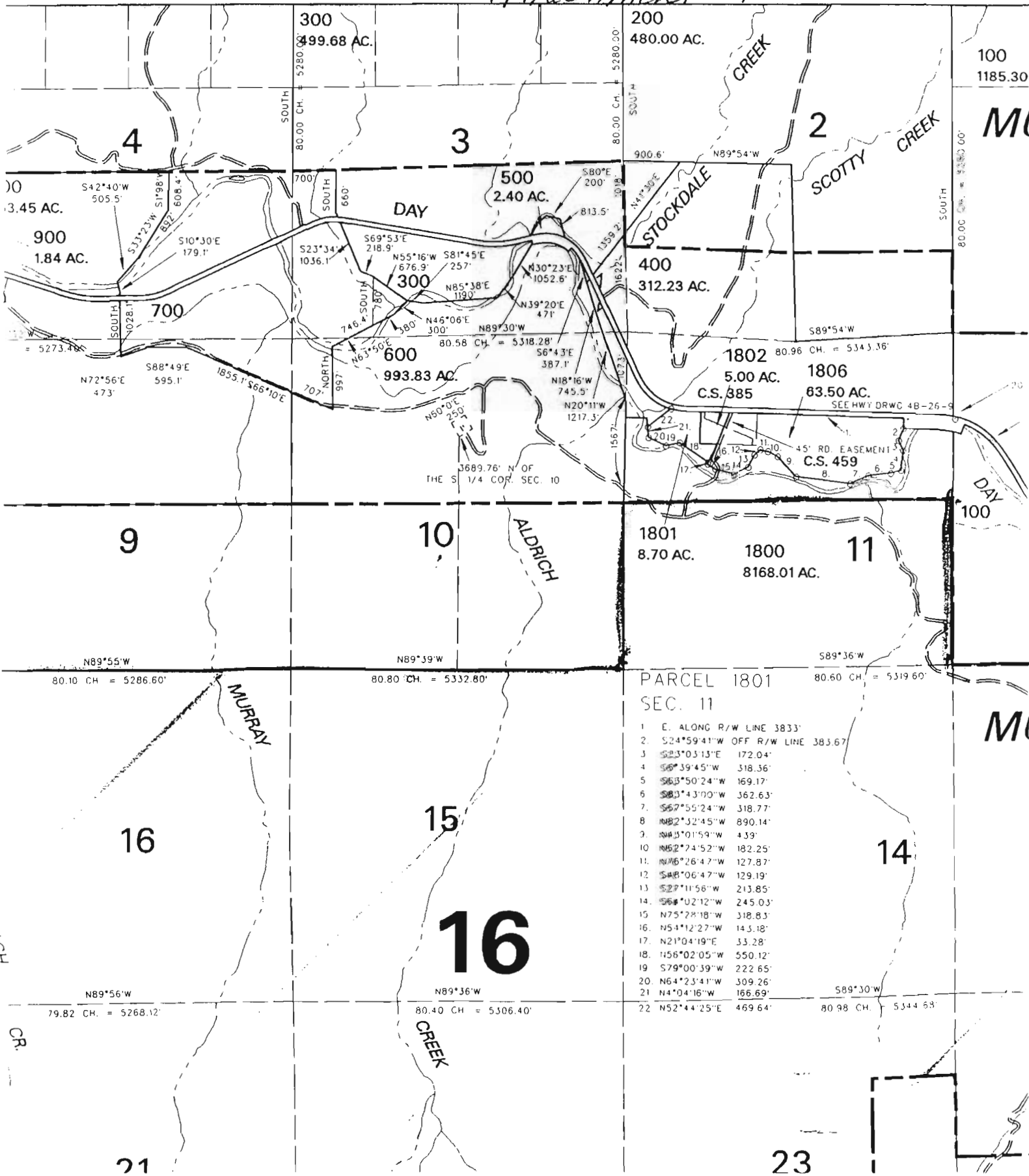
T.13S. R.27E. W.M.
GRANT COUNTY

1" = 2000'

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SEE MAP 12S 27E

Attachment 1



PARCEL 1801
SEC. 11

- 1 E. ALONG R/W LINE 383.3'
- 2 S24°59'41"W OFF R/W LINE 383.67'
- 3 S23°03'13"E 172.04'
- 4 S6°39'45"W 318.36'
- 5 S63°50'24"W 169.17'
- 6 S83°43'00"W 362.63'
- 7 S67°55'24"W 318.77'
- 8 N82°32'45"W 890.14'
- 9 N48°01'59"W 4.39'
- 10 N62°24'52"W 182.25'
- 11 N76°26'47"W 127.87'
- 12 S48°06'47"W 129.19'
- 13 S27°11'56"W 213.85'
- 14 S64°02'12"W 245.03'
- 15 N75°28'18"W 318.83'
- 16 N54°12'27"W 143.18'
- 17 N21°04'19"E 33.28'
- 18 N56°02'05"W 550.12'
- 19 S79°00'39"W 222.65'
- 20 N64°23'41"W 309.26'
- 21 N4°04'16"W 166.69'
- 22 N52°44'25"E 469.64'

STATE OF OREGON

COUNTY OF GRANT

CERTIFICATE OF WATER RIGHT

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This Is to Certify, That PAUL AND EVELYN LEVATIN

of 65 Seafirth Road, Tiburon, State of CA 94920, has
a right to the use of the waters of John Day River and Spring in SW 1/4 SW 1/4,
Section 2, T13S, R27E, WM

a tributary of for the purpose of
irrigation of 70.0 acres

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for
Grant County, and the said decree entered of record at Salem, in the Order Record of
the WATER RESOURCES DIRECTOR, in Volume 15, at page 461; that the priority of the
right thereby confirmed dates from 1902 - Tract #1 & 1906 - Tract #2

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an
amount actually beneficially used for said purposes, and shall not exceed John Day River -
1/40 cubic foot per second per acre irrigated from April 1 to September 30;
further limited to one acre-foot per acre per calendar month to July 1 and 3/4
acre-foot per acre thereafter; total five acre-feet per acre for season, if *

The point of diversion is located in the NW 1/4 NW 1/4, Section 11, SW 1/4 NW 1/4,
Section 12, T13S, R27E, WM; No. 1 - 1000 feet South and 175 feet East from NW
corner Section 11; No. 2 - 2530 feet South and 1030 feet East from NW corner
Section 12.

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

* available at the original points of diversion, Lower & Upper Ditches -
SW 1/4 NE 1/4, Section 12, T13S, R27E, WM, NE 1/4 NW 1/4, Section 18, T13S,
R28E, WM; Spring - 1/40 cubic foot per second per acre irrigated to June 1 and
1/80 cubic foot per second per acre thereafter; further limited to one
acre-foot per calendar month to June 1 and four acre-feet per acre during
season April 1 to September 30,

SEE NEXT PAGE

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page two

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TRACT #1
Diversion No. 1

2.8 acres SW 1/4 SW 1/4 all to be leased
Section 2

4.4 acres to be leased
5.6 acres SE 1/4 SE 1/4
Section 3

4.4 acres NE 1/4 NE 1/4 all to be leased
Section 10

8.9 acres NW 1/4 NW 1/4 all to be leased
Section 11

Township 13 South, Range 27 East, WM

TRACT #2
Diversion No. 2

16.0 acres NE 1/4 NE 1/4 4.0 acres to be leased
7.4 acres NW 1/4 NE 1/4 None to be leased
9.9 acres NE 1/4 NW 1/4 0.1 acres to be leased
15.0 acres NW 1/4 NE 1/4 all to be leased
Section 11

This certificate describes that portion of the water right confirmed by the prior certificate recorded at page 25542, Volume 18, State Record of Water Right Certificates, NOT modified by the provisions of orders of the Water Resources Director entered April 15, 1974 and November 25, 1980 and is issued to confirm changes in points of diversion approved by the same orders and supersedes certificate 25542.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

And said right shall be subject to all other conditions and limitations contained in said decree. The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the Water Resources Director, affixed

this date October 26, 1987.

William H. Young
Water Resources Director

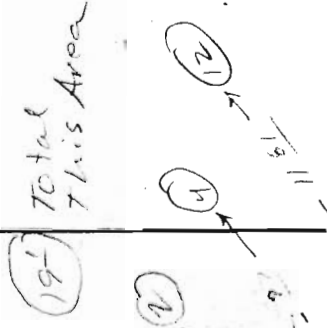
Recorded in State Record of Water Right Certificates, Volume 52, page 56475
1739E/TS
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P13S, RANGE 27 E.

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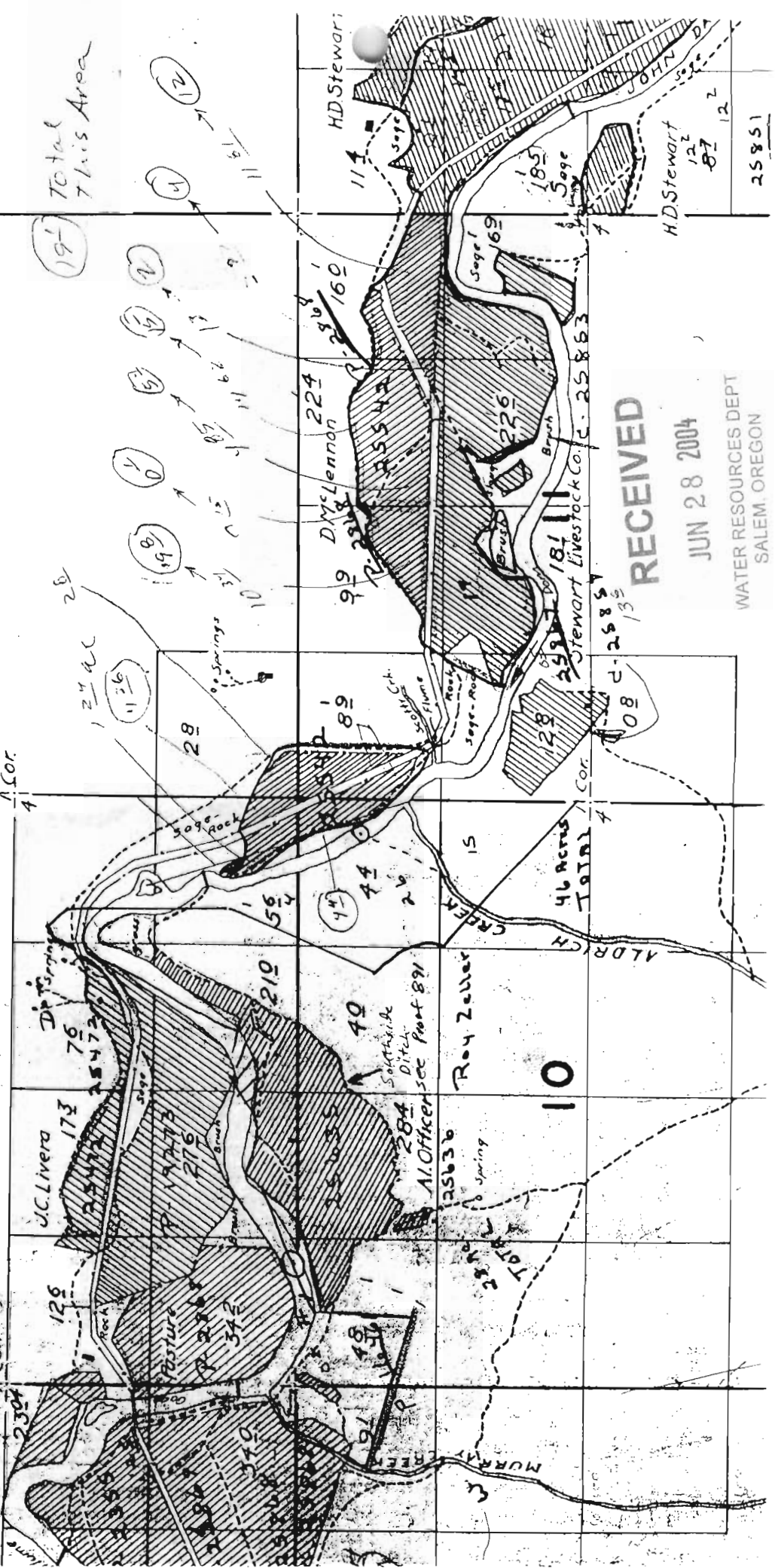
Crane Not owned by Grafton Pools = 124
Mudrow is to be lease lands =
Flooded lands. ~~RET~~
NOT LEASED

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Rich Murray, 1911 Creek
Roy Zeller
Murray
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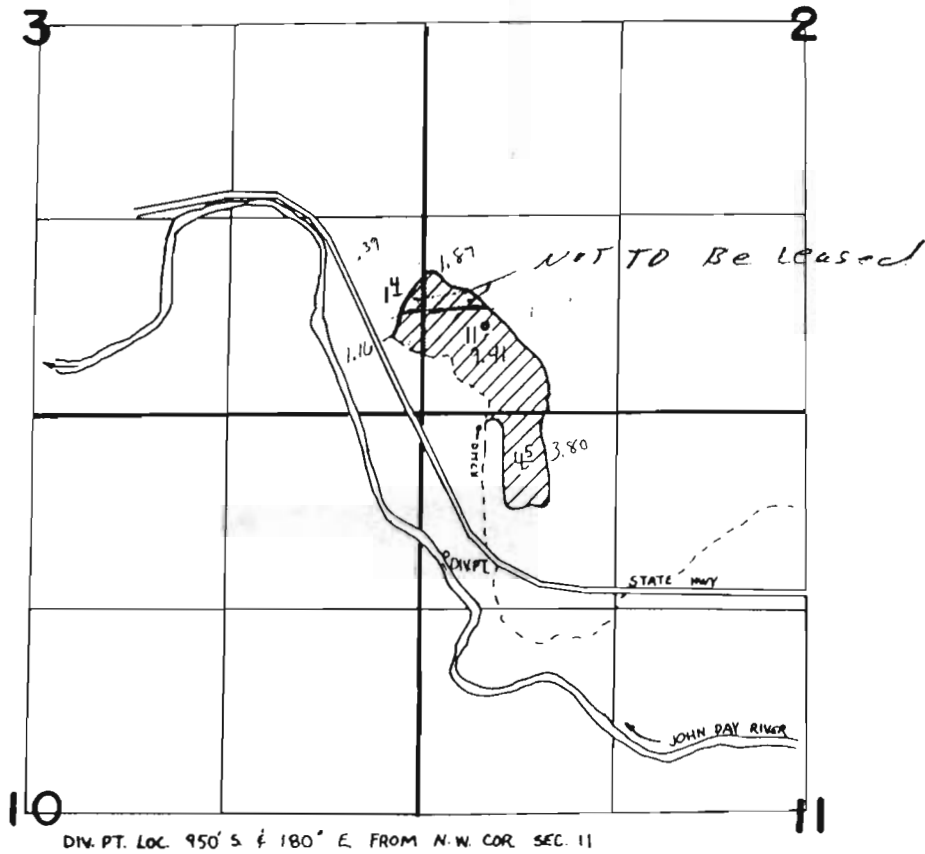
P-37162
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T. 13 S. R. 27 E. W.M.

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FINAL PROOF SURVEY UNDER

Application No. 51155... Permit No. 37162.....
IN NAME OF

.....**PAUL LEVATIN**.....

Surveyed April 8... 1986, by V. Church.....