

Lease Agreement Number: 207

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

**Short-Term Water Right Lease Agreement
for
Leases of Existing Water Rights for Instream Use**

This Lease Agreement is between:

Lessor:

John W. Creer, Authorized Agent
Treasure Valley Farms dba
Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints
139 E. South Temple, Suite 110
Salt Lake City, UT 84111-1103
(801)-359-1600

The water right to be leased is located in Malheur County

Lessee:

Bonneville Power Administration
c/o Dan Daley KEWR-4
P.O. Box 3621
Portland, OR 97208-3621
(503)230-3066

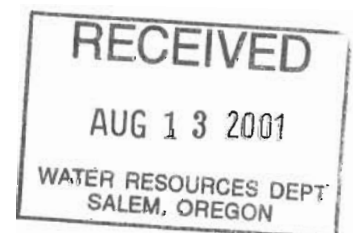
Trustee:

Oregon Water Resources Department
158 12th Street NE
Salem OR 97301
(503)378-8455

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- 1.1 Lessor is the authorized agent for owner of property (Exhibit A) highlighted in Exhibit B. Exhibit F shows the authority of the authorized agent to act on behalf of owner.
- 1.2 Not applicable.
- 1.3 Exhibit C contains copies of all certificated, decreed or permitted rights attached to the property in Exhibit B. Exhibit G is an Order Approving a Temporary Change in Place of Use (No. 7937) and Exhibit H is a request by owner to suspend that transfer. Those rights under Exhibit C are listed below as follows:

Certificate No. 40436



- 1.4 Subject Water Rights.** Lessor proposes to lease a portion of the water rights listed in 1.3, above. The rights to be leased are further described as follows:

Certificate No.: 40436

Priority date: September 27, 1965

Type of use: irrigation

Place of use: Township 16 South, Range 46 East, W.M., in portions of Sections 25, 36; Township 16 South, Range 47 East, W.M., in portions of Section 30, 31; Township 17 South, Range 46 East, W.M., in portions of Sections 1, 6. A map of irrigated lands is attached as Exhibit D.

Number of acres: 2207.1 (1,324.1 to be leased) ✓

Section 25 T16S, R46E, W.M.

SE	¼	NE	¼	4.8 acres	(0.00 acres to be leased)
NE	¼	SE	¼	40.0 acres	(0.00 acres to be leased)
SE	¼	SE	¼	38.8 acres	(0.00 acres to be leased)

Section 30 T16S, R47E, W.M.

NE	¼	NE	¼	40.0 acres	(40.00 acres to be leased)
NW	¼	NE	¼	40.0 acres	(40.00 acres to be leased)
SW	¼	NE	¼	40.0 acres	(40.00 acres to be leased)
SE	¼	NE	¼	40.0 acres	(40.00 acres to be leased)
NE	¼	NW	¼	34.0 acres	(34.00 acres to be leased)
NW	¼	NW	¼	34.0 acres	(34.00 acres to be leased)
SW	¼	NW	¼	40.0 acres	(0.00 acres to be leased)
SE	¼	NW	¼	18.5 acres	(18.50 acres to be leased)
NE	¼	SW	¼	18.5 acres	(18.50 acres to be leased)
NW	¼	SW	¼	40.0 acres	(40.00 acres to be leased)
SW	¼	SW	¼	38.8 acres	(40.00 acres to be leased)
SE	¼	SW	¼	17.5 acres	(17.50 acres to be leased)
NE	¼	SE	¼	40.0 acres	(0.00 acres to be leased)
NW	¼	SE	¼	40.0 acres	(0.00 acres to be leased)
SW	¼	SE	¼	38.8 acres	(0.00 acres to be leased)
SE	¼	SE	¼	38.8 acres	(0.00 acres to be leased)

Section 36 T16S, R46E, W.M.

NE	¼	NE	¼	23.0 acres	(23.00 acres to be leased)
NW	¼	NE	¼	37.0 acres	(37.00 acres to be leased)
SW	¼	NE	¼	40.0 acres	(40.00 acres to be leased)
SE	¼	NE	¼	40.0 acres	(40.00 acres to be leased)
SW	¼	NW	¼	4.0 acres	(4.00 acres to be leased)
SE	¼	NW	¼	2.8 acres	(2.80 acres to be leased)
NE	¼	SW	¼	40.0 acres	(40.00 acres to be leased)
NW	¼	SW	¼	40.0 acres	(40.00 acres to be leased)
SW	¼	SW	¼	40.0 acres	(40.00 acres to be leased)
SE	¼	SW	¼	40.0 acres	(40.00 acres to be leased)
NE	¼	SE	¼	40.0 acres	(40.00 acres to be leased)
NW	¼	SE	¼	40.0 acres	(40.00 acres to be leased)
SW	¼	SE	¼	40.0 acres	(40.00 acres to be leased)

SE ¼ SE ¼ 40.0 acres (40.00 acres to be leased)

Section 31 T16S, R47E, W.R.

NE ¼	NE ¼	39.4 acres	-	(0.00 acres to be leased)
NW ¼	NE ¼	40.0 acres	-	(0.00 acres to be leased)
SW ¼	NE ¼	40.0 acres	-	(0.00 acres to be leased)
SE ¼	NE ¼	39.4 acres	-	(0.00 acres to be leased)
NE ¼	NW ¼	18.5 acres		(18.50 acres to be leased)
NW ¼	NW ¼	40.0 acres		(40.00 acres to be leased)
SW ¼	NW ¼	40.0 acres		(40.00 acres to be leased)
SE ¼	NW ¼	15.0 acres		(15.00 acres to be leased)
NE ¼	SW ¼	37.3 acres		(37.30 acres to be leased)
NW ¼	SW ¼	40.0 acres		(40.00 acres to be leased)
SW ¼	SW ¼	40.0 acres		(40.00 acres to be leased)
SE ¼	SW ¼	40.0 acres		(40.00 acres to be leased)
NE ¼	SE ¼	39.4 acres		(39.40 acres to be leased)
NW ¼	SE ¼	40.0 acres		(40.00 acres to be leased)
SW ¼	SE ¼	40.0 acres		(40.00 acres to be leased)
SE ¼	SE ¼	39.4 acres		(39.40 acres to be leased)

Section 1 T17S, R46E, W.M.

NE ¼	NE ¼	40.0 acres	I	(0.00 acres to be leased)
NW ¼	NE ¼	40.0 acres		(0.00 acres to be leased)
SW ¼	NE ¼	40.0 acres		(0.00 acres to be leased)
SE ¼	NE ¼	40.0 acres		(0.00 acres to be leased)
NE ¼	NW ¼	2.4 acres		(0.00 acres to be leased)
SE ¼	NW ¼	2.3 acres		(0.00 acres to be leased)
NE ¼	SE ¼	40.0 acres		(40.00 acres to be leased)
NW ¼	SE ¼	26.4 acres		(26.40 acres to be leased)

Section 6 T17S, R47E, W.M.

NE ¼	NW ¼	40.0 acres	I	(0.00 acres to be leased)
NW ¼	NW ¼	40.0 acres		(0.00 acres to be leased)
SW ¼	NW ¼	40.0 acres		(0.00 acres to be leased)
SE ¼	NW ¼	40.0 acres		(0.00 acres to be leased)

Acre feet of storage: None

Rate: 39.3 cfs total (23.58 cfs to be leased)

Duty: 8828 acre feet total (4 acre feet per acre) (5296.4 acre feet to be leased)

Season of Use: irrigation season (March 1 to October 31)

Point of Diversion (POD): Lot 1 (NW ¼ NE ¼), Section 9, T. 16 S., R. 47 E., WM;

Diversion point located 450 feet South and 3170 feet East from NW Corner, Section 9.

Conditions or other limitations, if any: None

1.5 Validity of Rights. Lessor 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
- ☐ that the water right is not subject to forfeiture under ORS 540.610.

- 1.6 **Lease.** Lessor agrees 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.
- 1.7 **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.
- 1.8 **Water use reporting.** The trustee agrees to fulfill legal obligations related to water use reporting.

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- 2.1 **Public Use.** The public use served by the amount, timing and location of the instream use provided for under this lease is:
 - x Provided by evidence contained in Exhibit E, such as a signed statement by Lessee, or other party, explaining how the lease would benefit recreation, scenic attraction, aquatic and fish life, wildlife habitat and ecological values, pollution abatement, navigation or other public uses.

2.2 Instream use created by lease.

The instream use to be created is described as follows:

Certificate No.: 40436

Location: POD to the Oregon/Washington state line on the Snake River, a tributary to the Columbia River, in the Columbia River Basin.

Priority date: September 27, 1965

Type of use: Water quality and other public benefits as described in Section 2.1 above.

Total volume: 5296.4 acre feet

Rate: 23.58 cfs

Period of Use: March 1 to October 31

Conditions to prevent injury, if any: The instream flow will be allocated on a daily basis, up to the rate, from July 1 to October 21, 2001, or until such time that the total duty for the irrigation season is met. (113 days expected at maximum rate.)

- 2.3 **Term of lease.** This Lease shall commence on March 1, 2001 (not before execution by the parties) and continue through October 31, 2001.
- 2.4 **Compensation.** The Lessor has agreed to lease subject water right herein to BPA for cash and other consideration for the benefit of the people of the state of Oregon.
- 2.5 **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). No party is required to continuously measure the flow of the waterway described in Section 2.2.

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- 3 Watermaster review.** By signature below, the watermaster for the district where the subject water right is located verifies that:
- 3.1** Lessor is currently entitled to appropriate water under the water rights described in Section 1.4.
- 3.2** A suitable control is in place so that WRD staff may regulate use of water under the subject right to ensure water is not diverted or applied on lands to which subject right is attached.
- 3.3** Allocation of water to the new 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.
- 3.4** Necessary conditions to the proposed instream use:

Watermaster: Ron Jacobs
Ron Jacobs, Malheur County, District # 9

Courthouse, #4
251 "B" Street West
Vale, Oregon 97918
Phone: (541) 473-5130
Fax: (541) 473-5522

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Date: ~~July~~ Aug 24, 2001

~IV~

The Undersigned Lessor, Lessee and Trustee declare that, to the best of their knowledge and belief, the information contained in this lease is true, correct and complete.

Lessor: John W. Cree authorized agent Date: Aug. 24, 01

Lessee: Rick Itami Date: 9/27/01

So ordered by Trustee: [Signature] Date: October 2, 2001

Exhibits:

Exhibit A: Copy of Property Deed