

Lease Agreement Number: 166

**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:

Jay P. and Myrna K. Bohannon
18802 Tap Horn Lane
Mitchell, OR 97750
Phone (541) 462-3922

The water right to be leased is located in Wheeler County

Lessee:

State of Oregon

Trustee:

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

~I~

- 1.1 Lessor is the owner, or authorized agent for owner (Exhibit A), of property highlighted in Exhibit B.
- 1.2 Section 1.2 is not applicable.
- 1.3 Exhibit C contains copies of all certificated, decreed or permitted rights attached to the property in Exhibit B. Those rights are listed below as follows:

Certificate No.76535 and 55972
- 1.4 **Subject Water Rights.** Lessor proposes to lease all of the water rights set out in Water Right Certificates 76535 and 55972, listed in 1.3, above.

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

Certificate No.: 76535

Source: John Day River

Priority date: December 30, 1917

Type of use: irrigation

Place of use (map of irrigated lands is in Exhibit D):

Lot 2 (NW $\frac{1}{4}$ NE $\frac{1}{4}$) 5.7 acres (all leased)

Lot 3 (NE $\frac{1}{4}$ NW $\frac{1}{4}$) 19.3 acres (all leased)

Section 1

Township 10 South, Range 21 East, W.M.

Number of acres, 25.0 acres (all leased)

Rate: 0.31 cfs

Duty: A quantity of water not to exceed one acre foot per acre during any calendar month and a total quantity during the irrigation season not to exceed five acre feet per acre.

Season of Use: April 1st to September 30th

Point(s) of Diversion (POD): Lot 3 (NE $\frac{1}{4}$ NW $\frac{1}{4}$), Section 1, T.10 S., R. 21 E., W.M.; 810 feet south and 2620 feet east from the northwest corner of Section 1.

Conditions or other limitations, if any: None

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

Certificate No.: 55972

Source: John Day River

Priority date: August 27, 1979

Type of use: irrigation

Place of use (map of irrigated lands is in Exhibit D):

Lot 2 (NW $\frac{1}{4}$ NE $\frac{1}{4}$) 6.8 acres (all leased)

Section 1

Township 10 South, Range 21 East, W.M.

Number of acres, 6.8 acres (all leased)

Rate: 0.17 cfs

Duty: A quantity of water not to exceed one acre foot per acre during any calendar month and a total quantity during the irrigation season not to exceed five acre feet per acre.

Season of Use: April 1st to September 30th

Point(s) of Diversion (POD): Lot 3 (NE $\frac{1}{4}$ NW $\frac{1}{4}$), Section 1, T.10 S., R. 21 E., W.M.; 810 feet south and 2620 feet east from the northwest corner of Section 1.

Conditions or other limitations, if any: None

1.5 **Validity of Rights.** Lessor attests that the subject water rights are legally valid by having

been beneficially used according to the terms of the right or permit. If the right is for irrigation, beneficial must have occurred in the last five years on all lands indicated in Exhibit D.

- 1.6 **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 690-77-077.
- 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.
- 1.8 **Water use reporting.** The Trustee agrees to fulfill legal obligations related to water use reporting.

~II~

- 2.1 **Public Use.** The public use served by the amount, timing and location of the instream use provided for under this lease is: provided by evidence contained in Exhibit E, such as a signed statement by Oregon Department of Fish and Wildlife, 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:

Water Right Certificate 76535

John Day River, tributary Columbia River in the John Day Basin

Location: Lot 3 (NE $\frac{1}{4}$ NW $\frac{1}{4}$), Section 1, T.10 S., R. 21 E., W.M.; 810 feet south and 2620 feet east from the northwest corner of Section 1 to the mouth

Priority date: December 30, 1917

Use: Described in Section 2.1, above

Total volume: 125 ac-ft

Season of Use: April 1st - September 30th

Rate in cfs: 0.31 cfs

Conditions to prevent or mitigate injury, if any:

John Day River, tributary Columbia River in the John Day Basin

Location: Lot 3 (NE $\frac{1}{4}$ NW $\frac{1}{4}$), Section 1, T.10 S., R. 21 E., W.M.; 810 feet south and 2620 feet east from the northwest corner of Section 1 to the mouth

Priority date: August 27, 1979

Use: Described in Section 2.1, above

Total volume: 34 ac-ft

Season of Use: April 1st - September 30th

Rate in cfs: 0.17 cfs

Conditions to prevent or mitigate injury, if any:

- 2.3 **Term of lease.** This Lease shall commence on April 1, 2001 (not before execution by the parties) and continue through September 30, 2002.
- 2.4 **Compensation.** The Lessor has agreed to lease subject water right for the sum of \$1.00, or other valuable considerations and for the benefit 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.
- 2.6 **Modification or termination provisions.** Lessor shall have an option of terminating lease for the 2002 irrigation season with written notice 30 days prior to April 1, 2002.

~III~

- 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/will be 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:



Vern Church, District: 21

P.O. Box 427

(541) 384-4207

Date: 1-5-2001

~IV~

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.

Lessor: Jay P. Bohannon Date: 12-7-2000

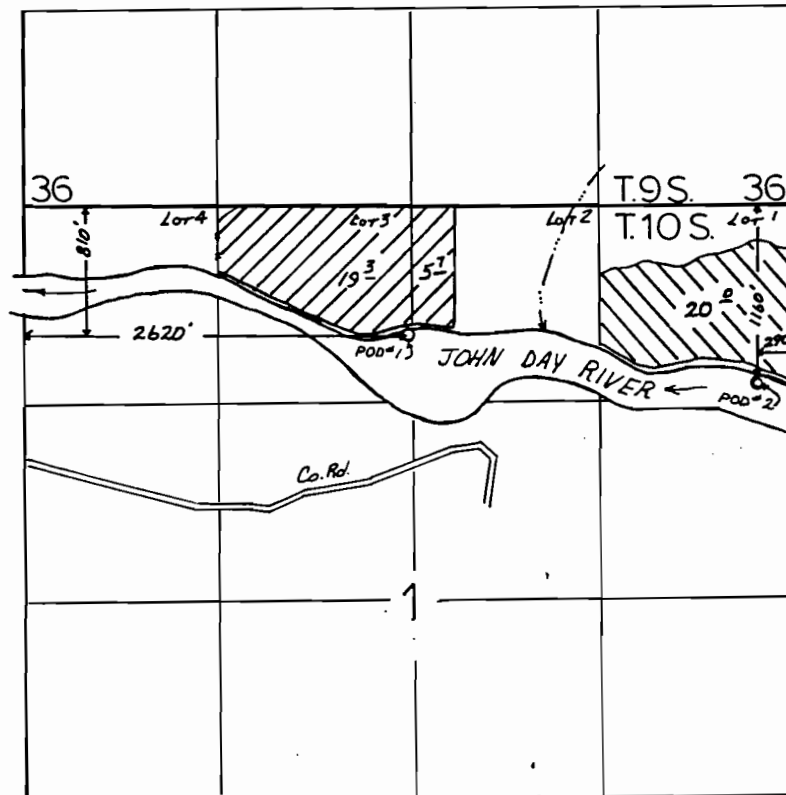
Lessor: Mymark. Bohannon Date: December 7, 2000

So ordered by Trustee: the JRL Date: 3/21/2001

Exhibits:

- Exhibit A: Proof of property ownership/Power of Attorney Documentation (if needed)
- Exhibit B: Tax Lot Map of Lessor's property
- Exhibit C: Copies of certificates, permits and decreed rights to be leased
- Exhibit D: Detailed map illustrating lands under subject rights to be leased
- Exhibit E: Identification of public use to be served by instream use

T. 10 S., R. 21 E., W.M.



1" = 1320'

-  T-5875
POD # 2
Priority 8/27/1979
-  T-5874
POD #1
Priority 12/30/1917

FINAL PROOF SURVEY

UNDER

Transfer No. T-5874 & T-5875
IN NAME OF

JAY P. AND MYRNA K. BOHANNON

Surveyed 7-6, 1992, by J. MILLER

RECEIVED

DEC 1 1986

WATER RESOURCES DEPT.
SALEM, OREGON

T. 9 & 10S., R. 21E., W.M.

T-5874

T-5875

RECEIVED

OCT 17 1986

WATER RESOURCES DEPT.
SALEM, OREGON

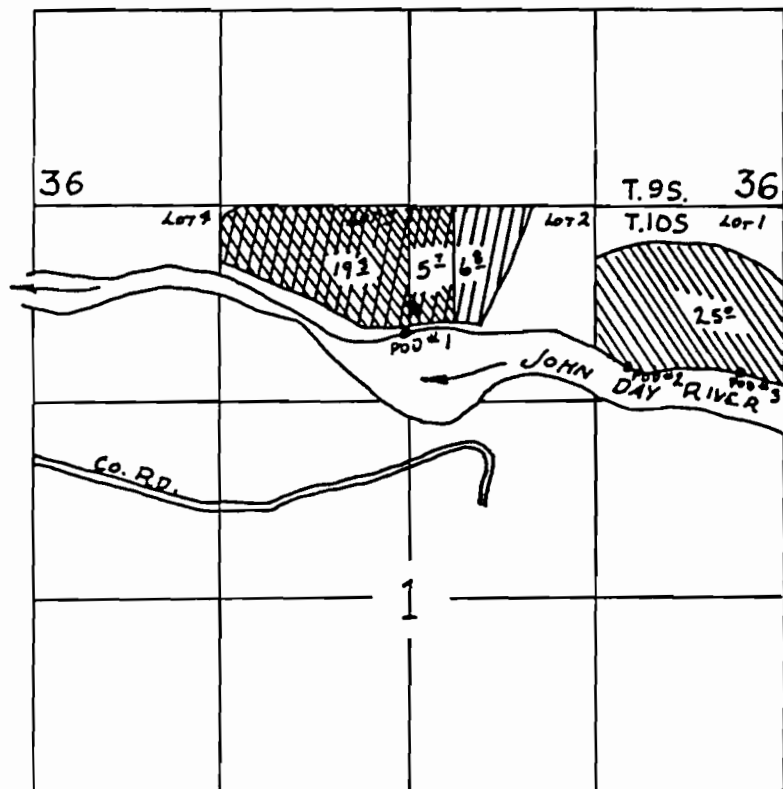
T-5874

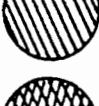
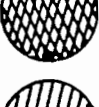
T-5875

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FEB 01 2001

WATER RESOURCES DEPT.
SALEM, OREGON



-  PRESENT CERTIFICATE 3293 - POD #2
-  PROPOSED CERTIFICATE 51488 - POD #3
-  PRESENT CERTIFICATE 51488 - POD #1
-  PROPOSED CERTIFICATE 3293 - POD #1
-  PRESENT CERTIFICATE 51488 - NO CHANGE IN POD
-  DOES NOT CHANGE

- * POD #1 - 810 FEET SOUTH + 2620 FEET EAST FROM NW CORNER, SEC. 1, T. 10S., R. 21E., W.M.
- POD #2 - 1100 FEET SOUTH + 1120 FEET WEST FROM NE CORNER, SEC. 1, T. 10S., R. 21E., W.M.
- POD #3 - 1160 FEET SOUTH + 290 FEET WEST FROM NE CORNER, SEC. 1, T. 10S., R. 21E., W.M.