

Application for a Permit to
Store Water in a Reservoir
 Alternate Review (ORS 537.409)



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

You may use this form for any reservoir storing less than 9.2 acre-feet or with a dam less than 10 feet high.

Use a separate form for each reservoir

SECTION 1: APPLICANT INFORMATION AND SIGNATURE

Applicant

NAME Jered Cate		PHONE (HM)	
PHONE (WK)	CELL 541-990-8919	FAX	
ADDRESS 35599 Santiam HW SE			
CITY Albany	STATE OR	ZIP 97322	E-MAIL * jeredcate@gmail.com

Organization

NAME		PHONE	FAX
ADDRESS			CELL
CITY	STATE	ZIP	E-MAIL *

Agent – The agent is authorized to represent the applicant in all matters relating to this application.

AGENT / BUSINESS NAME Catherine M. Pratt/Brewer & Coulombe		PHONE 541-752-5154	FAX 541-752-7532
ADDRESS 456 SW Monroe St, No. 101			CELL
CITY Corvallis	STATE OR	ZIP 97333	E-MAIL * cmpratt@bclawfirm.org

Note: Attach multiple copies as needed

* By providing an e-mail address, consent is given to receive all correspondence from the department electronically. (paper copies of the final order documents will also be mailed.)

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By my signature below I confirm that I understand:

- I am asking to use water specifically as described in this application.
- Evaluation of this application will be based on information provided in the application.
- I cannot legally store water until the Water Resources Department issues a permit.
- Oregon law requires that a permit be issued before beginning construction. Acceptance of this application does not guarantee a permit will be issued.
- If I get a permit, I must not waste water.
- If development of the water use is not according to the terms of the permit, the permit can be cancelled.
- The water use must be compatible with local comprehensive land use plans.
- Even if the Department issues a permit, I may have to stop using water to allow senior water right holders to get water to which they are entitled.



I (we) affirm that the information contained in this application is true and accurate.

<i>Jered Cate</i> Applicant Signature	Jered Cate (applicant) Print Name and Title if applicable	12/09/21 Date
Applicant Signature	Print Name and Title if applicable	Date

SECTION 2: SOURCE OF WATER AND LOCATION OF RESERVOIR

Reservoir name:	Cate Pond				
Source*: South Santiam R.	Tributary:				
County:	Linn				
Quantity: 0.55 AF	Acre-Feet [length x width x depth / 43,560]				
Reservoir Location:	Township (N or S)	Range (E or W)	Section	Quarter-Quarter	Tax Lot #
	11s	02w	16	00-00100	100
Maximum Height of Dam:	4 feet. If excavated write "zero feet."				

* Provide the name of the water body or other source from which water will be diverted, and the name of the stream or lake it flows into. Indicate if source is run-off, seepage, an unnamed stream, or spring.

SECTION 3: WATER USE

Indicate the proposed use(s) of the stored water: Multipurpose Use

NOTE: You may wish to consider filing for "Multipurpose use" for your reservoir. Multipurpose use does not limit the types of future uses for the stored water. Multipurpose covers all uses including: stock water, fish and wildlife, aesthetics, domestic, irrigation, agriculture, fire protection and pollution abatement.

SECTION 4: PROPERTY OWNERSHIP

Do you own all the land where you propose to divert, transport, and use water?

- Yes (please check appropriate box below then skip to section 5)
 - There are no encumbrances
 - This land is encumbered by easements, right of way, roads of way, roads or other encumbrances
- No (Please check the appropriate box below)
 - I have a recorded easement or written authorization permitting access.
 - I do not currently have written authorization or easement permitting access.
 - Written authorization or an easement is not necessary, because the only affected lands I do not own are state-owned submersible lands, and this application is for irrigated and/or domestic use only (ORS 274.040). (Do not check this box if you described your use as "Multipurpose" in #3 above.)

List the names and mailing addresses of all affected landowners:

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SECTION 5: ENVIRONMENTAL IMPACT

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Channel: Is the Reservoir: in-stream or off channel?

Wetland: Is the project in a wetland? YES NO unknown

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Existing: Is this an existing reservoir? YES NO

If YES, how long has it been in place? _____ years.

Fish Habitat: Is there a fish habitat upstream of the proposed structure? YES NO unknown

If YES, how much? _____ miles.

Existing: Have you been working with other agencies? YES NO

Indicate agency, staff and phone numbers of those involved. Also indicate any agencies that are cost sharing in this project.

SECTION 6: WITHIN A DISTRICT

Check here if the point of diversion or place of use are located within or served by an irrigation or other water district.

Irrigation District Name:		Address:	
City:	State:	Zip:	

SECTION 7: DESCRIPTION

Provide a short description of the design and operation of the proposed diversion, including a description of how live flow will be passed outside the authorized storage season. Use this space for narrative. You may also provide narrative and sketches on separate pages.

No diversion to be created as this is a seasonal in-stream reservoir. The goal of the project is to increase the amount of water stored in the seasonal stream in the portion that runs on the applicant's property during the storage season. Stream bed will become a 30' wide by 400 ft long reservoir with an average depth of 2'. A culvert will be placed in the stream bed and then covered with an earthen dam with a flashboard riser at the culvert's entrance at the downstream point of the reservoir. The boards in the riser can be removed for live flow and fish passage (if fish passage deemed necessary).

If the diversion involves a dam, use this space below for sketches of the diversion (e.g. cross-section of the dam with its dimensions, dimension and placement of outlet pipe, means of passing live flow outside of the authorized storage season, and means for providing fish passage).

Dam measurements: 4' tall x 20' long with a maximum cross section of 22' (see attached drawing)

The project will construct a 4' tall by 20' long dam with 3' tall by 2' wide flashboard riser and a 2' discharge pipe at the downstream end of the pond to create 30' wide by 400' long reservoir that has an average depth of 2'. The reservoir will be filled by a seasonal stream and the risers can be removed from the flashboard to allow for live flow outside the storage season. (see attached drawing).

Dam will not divert water from its natural course.

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Watermaster Alternate Reservoir Application Review Sheet

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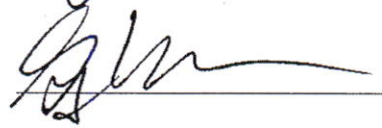
In lieu of the water right application process set forth in ORS 537.140 to 537.211, an owner of a reservoir may submit an alternate reservoir application for a reservoir that has a storage capacity less than 9.2 acre-feet or a dam or impoundment structure less than 10 feet in height. ORS 537.409 describes the criteria used to evaluate alternate reservoir applications.

The review shall be limited to issues pertaining to: a) water availability, b) potential detrimental impact to existing fishery resources; and c) potential injury to existing water rights. (ORS 537.409 (6))

Within 60 days after the Water Resources Department provides public notice, any person may submit detailed, legally obtained information in writing, requesting the Department to deny the application for a permit on the basis that the reservoir: (a) Would result in injury to an existing water right; or (b) Would pose a significant detrimental impact to existing fishery resources. (ORS 537.409 (5))

Applicant's Name Jered Cate		
1. Does the proposed reservoir have the potential to injure existing water rights? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO Explain:		
2. Can conditions be applied to mitigate the potential injury to existing water rights? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO Explain: <i>Outlet structure to pass flow after fill period</i>		
3. Is water available for the proposed reservoir? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
4. If yes, during what period? Beginning: <i>Oct.</i> End: <i>July</i>		
Attach a WARS printout at 50% exceedance. If WARS does not cover the proposed location, make a recommendation for a storage season based upon regulation history and your knowledge of the location. (Water Availability for Reservoir Policy found under OAR 690-410-0070(2)(c))		
5. Did you meet with staff from another agency to discuss this application? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
Who:	Agency:	Date:
Who:	Agency:	Date:

Watermaster Name: Greg Wacker

Watermaster Signature:  Date: 1/13/2022

NOTE: This completed form must be returned to the applicant



Water Availability Analysis

S SANTIAM R > SANTIAM R - AT MOUTH
WILLAMETTE BASIN

Water Availability as of 1/13/2022

Watershed ID #: 30200601 ([Map](#))

Date: 1/13/2022

Exceedance Level: 50% ▾

Time: 8:48 AM

Water Availability

Limiting Watersheds

Complete Water Availability Analysis

Water Availability

Select any Watershed for Details

	Nesting Order	Watershed ID #	Stream Name	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Sto
Select	1	181	WILLAMETTE R> COLUMBIA R- AT MOUTH	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Select	2	182	WILLAMETTE R> COLUMBIA R- AB MOLALLA R	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Select	3	183	WILLAMETTE R> COLUMBIA R- AB MILL CR AT GAGE 14191000	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Select	4	167	SANTIAM R> WILLAMETTE R- AT MOUTH	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
Select	5	168	SANTIAM R> WILLAMETTE R- AB MORGAN CR	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	Yes
Select	6	30200601	S SANTIAM R> SANTIAM R- AT MOUTH	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	Yes

Download Data ([Text - Formatted](#), [Text - Tab Delimited](#), [Excel](#))

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ODFW Alternate Reservoir Application Review Sheet

ODWRD

This portion to be completed by the applicant.

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Address: 35599 Santiam Hwy SE, Albany, OR 97322

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Phone/Email: 541-990-8919/jeredcate@gmail.com

ODWRD

Reservoir Name: Cate Pond

Volume (AF): 55 AF

Source: Unnamed stream, run-off

Basin Name: Mill Creek < South Santiam River

in-channel

Twp Rng Sec QQ: 11S 2W 16

off-channel

Note: It is unlikely that ODFW will be able to complete this form while you wait, nevertheless we recommend making an appointment to submit the form so as to provide any necessary clarifications. See pg. 6 of Instructions for contact information.

This portion to be completed by Oregon Department of Fish and Wildlife (ODFW) staff.

1) Is the proposed project and AO¹ off channel?..... YES* NO (if yes then proceed to #4; if no then proceed to #2)

*Based on available information, the proposed use does not appear to involve instream structures that would create or maintain an artificial obstruction. However, if the applicant creates or maintains an artificial obstruction to fish passage for the proposed use, the applicant will need to address Oregon's fish passage laws.

2) Is the proposed project or AO located where NMF² are or were historically present?..... YES NO (if yes then proceed to #3; if no then proceed to #4)

3) If NMF are or were historically present:

a. Is there an ODFW-approved fish-passage plan?..... YES NO

b. Is there an ODFW-approved fish-passage waiver or exemption?..... YES NO

If fish passage is required under ORS 509.580 through .910, then either 3(a) or 3(b) must be "Yes" to move forward with the application. If responses to 3(a) and 3(b) are "No", then the proposed reservoir does not meet the requirements of Oregon Fish Passage Law and shall not be constructed as proposed.

4) Would the proposed project pose any other significant detrimental impact to an existing fishery resource locally or downstream?..... YES NO

Explain below (for example, list STE species or other existing fishery resources that would be impacted negatively.)

Any diversion or appropriation of water for storage during the period July 1-October 31 poses a significant detrimental impact to existing fishery resources. (For example, if diversion of water for storage during a certain time period would cause a significant detrimental impact to an existing fishery resource, then ODFW should recommend conditions or limitations.)

¹ AO = Artificial Obstruction means any dam, diversion, culvert or other human-made device placed in waters of this state that precludes or prevents the migration of native migratory fish. ORS 509.580 (1)

² NMF = Native Migratory Fish Species in Oregon as defined by OAR 635 - 412 - 0005 (32)

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ODFW Review

If NMF fish are present at the project site or point of water diversion then the applicant should be advised that a fish screen consistent with screening criteria will be required.

- This proposed pond or reservoir contemplates impounding water in the Columbia Basin above Bonneville Dam. ODFW has determined that additional diversions of water in this area pose a significant detrimental impact to existing fishery resources during the period April 15 through September 30.

ESA-listed fish (winter steelhead, spring Chinook Salmon), sensitive species (Coastal Cutthroat Trout, Pacific Lamprey, Oregon Chub), and other game fish (fall Chinook Salmon, Coho Salmon, summer steelhead) may be present in Mill Creek and/or the South Santiam River during the period of impact. ODFW has identified biologically necessary flows not captured in an instream water right (e.g., flows in a Basin Investigation Report, Persistence Flow Determination, Seasonally Varying Flow prescription, or other flow analysis) that would benefit fishery resources at the Point of Diversion or downstream.

In addition to existing instream water rights and pending instream water right applications, ODFW recommends the following biologically necessary flows be available at the South Santiam River mouth to protect public uses:

JAN	863 cfs	APR	863 cfs	JUL	503 cfs	OCT	863 cfs
FEB	863 cfs	MAY	863 cfs	AUG	333 cfs	NOV	863 cfs
MAR	863 cfs	JUN	683 cfs	SEP	478 cfs	DEC	863 cfs

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Santiam River at the mouth:

JAN	1500 cfs	APR	1500 cfs	JUL	1000 cfs	OCT	1500 cfs
FEB	1500 cfs	MAY	1500 cfs	AUG	1000 cfs	NOV	1500 cfs
MAR	1500 cfs	JUN	1000 cfs	SEP	1161 cfs	DEC	1500 cfs

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Based on parameters assessed by ODFW, instream flows are currently below those essential to support the biological needs of an existing fishery resource during July 1-October 31. In addition, ODFW reviewed available information (South Santiam River TMDL; DEQ) regarding water quality impairment and determined that the proposed use would impair water quality that supports existing fishery resources (e.g., habitat) at or downstream of the Point of Diversion. Diminished flows to Mill Creek could exacerbate current water quality impairments for biocriteria and temperature in the South Santiam River. Temperature impairments are related to flow modifications and water withdrawals, and when combined with reduced streamflows, can increase stress on aquatic life. A biocriteria impairment is an indicator of the overall biological condition of the waterbody. A primary concern is any temperature loading that may occur from any reservoir releases or runoff during low-flow summer months. Reservoir releases can affect stream temperature through the delivery of heat stored within the system. The critical period associated with temperature criteria is the summer period from July 1-September 30 when stream temperatures are expected to be near annual maximums.

Because of these reasons, the proposed use will diminish water quality, physical habitat, and/or alter the flow regime to which fish are naturally adapted. These changes will negatively affect their distribution, productivity, and abundance. Therefore, a further reduction in flow or alteration of habitat from the proposed water use would result in a significant detrimental impact to an existing fishery resource without appropriate conditions and/or mitigation.

Impairment to Fishery Resource	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Water Quantity												
Water Quality												

If YES, can conditions be applied to mitigate the significant detrimental impact to an existing fishery resource?

- NO (explain) YES

See applicable conditions selected from "Menu of Conditions" on next page

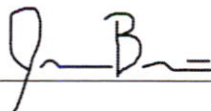
Water is only available to support the quality and quantity of biologically necessary flows at the POD and/or downstream during November 1-June 30. ODFW recommends the storage season be restricted to coincide with this period or the

Applicant Name: Jered Cate

ODFW Review

proposed use be mitigated prior to issuance of a Final Order for any storage outside of this period. Without appropriate conditions (see below) and/or mitigation, a further reduction in flow or alteration of habitat from the proposed water use outside of this period will result in a significant detrimental impact to an existing fishery resource. In addition, releases of detained water must meet water quality standards year-round, particularly during the critical peak temperature and low flow periods.

Mitigation is often complicated, time consuming, and expensive, and may include, but is not limited to, actions such as replacing the proposed amount of water through purchasing or transferring an existing water right. **If the applicant chooses to pursue mitigation after application submittal to WRD, ODFW will provide a Mitigation Obligation consistent with the goals and standards of OAR 635-415-0025 (ODFW Habitat Mitigation Recommendations) to compensate for any potential impact from the proposed use.** Upon request, the WRD caseworker can schedule a consultation with ODFW for more information.

ODFW Signature: 

Print Name: Jason Brandt

ODFW Title: SW Hydro Coordinator

Date: 3/29/22

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MENU OF CONDITIONS FOR WRD, ODFW, DEQ AND ODA

Revised May 12, 2020, March 25, 2021

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Use this menu to identify appropriate conditions to be included in the permit:

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- Agricultural Water Quality Management Area Rules:** The permittee shall comply with basin-specific Agricultural Water Quality Management Area Rules described in Oregon Administrative Rule Chapter 603-095. The permittee shall protect riparian areas, including through irrigation practices and the management of any livestock, allowing site capable vegetation to establish and grow along streams, while providing the following functions: shade (on perennial and some intermittent streams), bank stability, and infiltration or filtration of overland runoff.
- b52** Water may be diverted only when Department of Environmental Quality sediment standards are being met.
- b5** The water user shall install and maintain adequate treatment facilities meeting current DEQ requirements to remove sediment before returning the water to the stream.
- b51a** The period of use has been limited to November 1- June 30.
- b57** Before water use may begin under this permit, a totalizing flow meter must be installed at each diversion point.
- b58** Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level and dead-pool storage must be installed in the reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.
- blv:** Water must be diverted to a trough or tank through an enclosed water delivery system. The delivery system must be equipped with an automatic shutoff or limiting flow control mechanism or include a means for returning water to the stream source through an enclosed delivery system. The use of water shall not exceed 0.10 cubic feet per second per 1000 head of livestock.
- Bypass Flows:** Per 690-410-0070 (2)(c), the following flows shall be bypassed or passed through the reservoir during the filling season:
- 1) When the biologically necessary flows identified below are not available immediately upstream of the impacted area, the permittee shall pass all live flow downstream at a rate equal to the inflow, minus the amount of mitigation water provided upstream, if applicable, and
 - 2) When the biologically necessary flows identified below are available immediately upstream of the impacted area, the permittee shall pass flow downstream at a rate equal to or greater than the biologically necessary flows.
- Once the reservoir has reached the permitted volume, all live flow shall be passed downstream at a rate equal to the inflow.
- The permittee shall quantify and document inflow and outflow and maintain the bypass flows for the life of the permit and subsequent certificate per the approved Bypass Plan. The bypass flow data shall be available upon request by the Oregon Water Resources Department, Oregon Department of Fish and Wildlife, Oregon Department of Environmental Quality, or Oregon Department of Agriculture.
- Construction Activities:** For construction activities (clearing, grading, excavation, staging, and stockpiling) that will disturb one or more acres and may discharge to state waters, the permittee is required to obtain from DEQ a 1200-C NPDES Stormwater Construction Permit prior to project construction.
- fence:** The stream and its adjacent riparian area shall be fenced to exclude livestock.
- fishapprove:** The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.
- fishdiv33:** If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

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

The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.

- fishmay:** Notwithstanding that ODFW has made a determination that fish screens and/or by-pass devices are not necessary at the time of permit issuance, the permittee may be required in the future to install, maintain, and operate fish screening and by-pass devices to prevent fish from entering the proposed diversion and to provide adequate upstream and downstream passage for fish.

- fishpass:** As required by ORS 509.585, a person owning or operating an artificial obstruction (AO) may not construct or maintain any AO across any waters of this state that are inhabited, or historically inhabited, by native migratory fish (NMF) without providing passage for NMF. A person owning or operating an AO shall, prior to construction, fundamental change in permit status or abandonment of the AO in any waters of this state, obtain a determination from ODFW as to whether NMF are or historically have been present in the waters. If ODFW determines that NMF are or historically have been present in the waters, the person owning or operating the AO shall either submit a proposal for fish passage to ODFW or apply for a waiver or exemption. Approval of the proposed fish-passage facility, waiver, or exemption must be obtained from the department prior to construction, permit modification or abandonment of the AO. Approved fish-passage plans, waivers, and exemptions shall maintain adequate passage of NMF at all times (ORS 509.601) as per the approved plan, waiver or exemption.
- fishself:** The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional prior to diversion of any water. Permittee shall obtain written approval from ODFW that the installation of the required screen and by-pass devices meets the state's criteria or the permittee shall submit documentation that ODFW has determined screens and/or by-pass devices are not necessary.
- Fish Stocking:** Per ORS 498.222 and OAR 635-007-0600, all persons transporting fish in Oregon need to have a fish transport permit issued by the Oregon Department of Fish and Wildlife (ODFW). The permittee shall not stock fish in the reservoir without a fish transport permit approved by ODFW. As part of the permitting process, the permittee must also screen the inlet and outlet of their pond to insure that fish cannot escape into public waters and/or to keep wild fish from entering the pond.
- futile call:** The use of water allowed herein may be made only at times when waters from the (NAME OF SURFACE WATER) would not otherwise flow into a tributary of the type here River or sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.
- In-Water or Riparian Construction:** For in-water or riparian construction, permittee may be required to obtain additional permits from the Oregon Department of State Lands, the U.S. Army Corps of Engineers, and the DEQ Section 401 certification program prior to construction. The applicant must contact these agencies to confirm requirements.
- In-Water Work:** Any in-water work related to construction, development, or maintenance of the proposed use shall be conducted during the preferred work period of June 1-Oct 31 unless an alternate time period is approved by the Oregon Department of Fish and Wildlife.
- Live Flow:** Once the allocated volume has been stored, permittee shall pass all live flow downstream at a rate equal to inflow, using methods that protect instream water quality.
- Off-Channel Stored Water Releases:** The permittee shall not release polluted water from this off-channel reservoir into waters of the state except when the release is directed by the State Engineer to prevent dam failure.
- On-Channel Reservoir:** The permittee shall design and operate the water storage facility such that all waters within and below the reservoir meet water quality criteria. The permittee shall develop a reservoir operations plan that details how water quality criteria and standards will be met. A Certified Water Rights Examiner shall verify that the reservoir operations are consistent with the plan before a certificate is issued. The reservoir operator shall maintain a copy of the plan and make it available for review upon request.
- riparian:** If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.
- Water Quality:** All water use under this permit shall comply with state and federal water quality laws. The permittee shall not violate any state and federal water quality standards, shall not cause pollution of any waters of the state, and shall not place or cause to be placed any wastes in a location where such wastes are likely to escape or be carried into the waters of the state by any means. The use may be restricted if the quality of source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards.
- wetland:** The permittee must submit an offsite determination request to the Oregon Department of State Lands (DSL) to determine the need for a wetland delineation prior to disturbance or development of the point of diversion and/or diversion of water.
- wq:** The use may be restricted if the quality of the source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

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Kate Brown, Governor

Department of Fish and Wildlife

Fish Division
4034 Fairview Industrial Drive SE
Salem, OR 97302
(503) 947-6201
FAX (503) 947-6202
www.dfw.state.or.us/

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October 13, 2022

Jared Cate
Owner
35599 Santiam Hwy SE
Albany, OR 97322

Re: Fish Passage Exemption Authorization # E-02-0040 – Unnamed Tributary to Mill Creek – Linn County

Dear Mr. Cate,

The application (# E-02-0040) for your fish passage exemption request to construct a new culvert with flash-board risers and an on an unnamed tributary/seasonal slough to Mill Creek, a tributary to the South Santiam River located in Linn County has been approved by the Oregon Department of Fish and Wildlife (ODFW) pursuant to ORS 509.585(9)(a)(C) and OAR 635-412-0025(4)(c) and (10)(a)(A). Therefore, you do not have to provide fish passage at this culvert location associated with your Alternate Reservoir Application to the Oregon Water Resources Department. A benefit analysis performed by ODFW staff showed that providing fish passage at this site would not result in an appreciable benefit to native migratory fish.

Please note that this exemption is valid until the next fish passage trigger event (construction, abandonment, fundamental change in permit status) at this location. Also, if conditions change in the future from which this exemption decision was determined and to the extent that providing passage at this site results in an appreciable benefit to native migratory fish, this exemption can be revoked (ORS 509.585(9)(b) and (OAR 635-412-0025(6)), and fish passage shall be addressed.

Please keep a copy of this correspondence as a record of the state's fish passage exemption authorization. Please continue to coordinate with Alex Farrand, the ODFW Mid-Willamette Watershed Assistant District Fish Biologist or you may contact me at 503-947-6228 or by email at greg.d.apke@odfw.oregon.gov if you have any questions regarding this fish passage exemption authorization.

Sincerely,

Greg Apke
ODFW Statewide Fish Passage Program Coordinator

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Cc:

Elise Kelly, ODFW Mid-Willamette Watershed District Fish Biologist
Alex Farrand, ODFW Mid-Willamette Watershed Assistant District Fish Biologist
Jennifer Ringo, ODFW Mid-Willamette Watershed Manager
Alan Ritchey, ODFW Screens and Passage Program Manager
Katherine Nordholm, ODFW Fish Passage & Screening Program Coordinator
Ken Bierly, Oregon Fish Passage Task Force (Chair)
Catherine Pratt, Brewer & Coulombe (Attorney)
Oregon Water Resources Department
Oregon Department of State Lands
Project Files (E-02-0040)

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OCT 31 2022

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Land Use Information Form



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

NOTE TO APPLICANTS

In order for your application to be processed by the Water Resources Department (WRD), this Land Use Information Form must be completed by a local government planning official in the jurisdiction(s) where your water right will be used and developed. The planning official may choose to complete the form while you wait, or return the receipt stub to you. Applications received by WRD without the Land Use Form or the receipt stub will be returned to you. Please be aware that your application will not be approved without land use approval.

This form is NOT required if:

- 1) Water is to be diverted, conveyed, and/or used only on federal lands; **OR**
- 2) The application is for a water right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and **all** of the following apply:
 - a) The existing and proposed water use is located entirely within lands zoned for exclusive farm-use or within an irrigation district;
 - b) The application involves a change in place of use only;
 - c) The change does not involve the placement or modification of structures, including but not limited to water diversion, impoundment, distribution facilities, water wells and well houses; **and**
 - d) The application involves irrigation water uses only.

NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for or modifying a water right. The Water Resources Department (WRD) requires its applicants to obtain land-use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan. Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to the WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land-use form and return it to the WRD. If no land-use information is received from you within that 30-day period, the WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan. Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact the WRD's Customer Service Group at 503-986-0900.

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NAME Jered Cate		PHONE (HM)	
PHONE (WK)	CELL 541-990-8919	FAX	
ADDRESS 35599 Santiam HWY SE			
CITY Albany	STATE OR	ZIP 97322	E-MAIL* jeredcate@gmail.com

A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), and/or used or developed. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:			Proposed Land Use:
<u>11s</u>	<u>02w</u>	<u>16</u>	<u>00-00100</u>	<u>100</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	<u>EFU</u>
_____	_____	_____	_____	_____	_____	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
_____	_____	_____	_____	_____	_____	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
_____	_____	_____	_____	_____	_____	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____

List all counties and cities where water is proposed to be diverted, conveyed, and/or used or developed:

<u>Linn County</u>

B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- Permit to Use or Store Water
- Water Right Transfer
- Permit Amendment or Ground Water Registration Modification
- Limited Water Use License
- Allocation of Conserved Water
- Exchange of Water

Source of water: Reservoir/Pond Ground Water Surface Water (name) Unnamed stream and run off

Estimated quantity of water needed: .55 cubic feet per second gallons per minute acre-feet

Intended use of water: Irrigation Commercial Industrial Domestic for _____ household(s)
 Municipal Quasi-Municipal Instream Other Multipurpose

Briefly describe:

<u>Creation of a dam to increase amount of water stored seasonally in-stream in the seasonal stream on the property. Intended for multipurpose use.</u>



Note to applicant: If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt at the bottom of the next page and include it with the application filed with the Water Resources Department.

For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

Please check the appropriate box below and provide the requested information

Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): LCC 928.310(B)(1)

Land uses to be served by the proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.) **If approvals have been obtained but all appeal periods have not ended, check "Being pursued."**

Type of Land-Use Approval Needed (e.g., plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

PLN-2021-00641

Name: Alyssa Bales Title: Planning Manager

Signature: Alyssa Bales Phone: 511-967-3816 Date: 12/21/21

Government Entity: Unn County

Note to local government representative: Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.



Receipt for Request for Land Use Information

Applicant name: _____

City or County: _____ Staff contact: _____

Signature: _____ Phone: _____ Date: _____

LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Phone 541-967-3816

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Receipt #: 493791
TRANSACTION DATE: 12/20/2021

OCT 31 2022

ACTIVITY #: PLN-2021-00641 TYPE: Planning Miscellaneous
DESCRIPTION: WRD LUCS for storage pond
STATUS: Accepted

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SITE ADDRESS: 35599 HWY 20, ALBANY 97322

PARCEL: 11S02W16 00100

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TRANSACTION AMOUNT: 75.00

NOTATION:

RECEIVED BY: CEPELLOJ

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PAYOR & PHONE NUMBER: BREWER & COULOMBE, PC; 541-752-5154

TRANSACTION LIST

<u>Type</u>	<u>Method</u>	<u>Description</u>	<u>Amount</u>
Payment	Check	3973	75.00

RECEIPT ACCOUNT ITEM LIST


<u>Item #</u>	<u>Description</u>	<u>Account</u>	<u>Total Fee</u>	<u>Total Paid</u>	<u>Current Pymt</u>
PLN_050	Land Use Compatibility Statement Fee	2410-3170	75.00	75.00	75.00

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LINN COUNTY, OREGON 2017-15290
 D-WD
 Cnt=1 Stn=44 COUNTER 08/23/2017 09:57:58 AM
 \$15.00 \$11.00 \$20.00 \$19.00 \$10.00 \$75.00



00304549201700152900030039

I, Steve Druckenmiller, County Clerk for Linn County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.
 Steve Druckenmiller - County Clerk



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WARRANTY DEED -- STATUTORY FORM

Grantors: JIM R. CATE, Trustee and GINGER A. CATE, Trustee

Grantees: JERED A. CATE and CHELSEA M. CATE, husband and wife

After recording return to:

JERED A. CATE
CHELSEA M. CATE

35599 Santiam Hwy
Albany, OR 97322

Address for tax statements:

JERED A. CATE
CHELSEA M. CATE

35599 Santiam Hwy
Albany, OR 97322

Consideration: The true consideration for this conveyance is \$NONE. The actual consideration consists of other value given.

JIM R. CATE and GINGER A. CATE, Trustees of the JIM R. CATE and GINGER A. CATE Revocable Living Trust dated April 24, 2012, Grantors, convey and warrant to JERED A. CATE and CHELSEA M. CATE, husband and wife, Grantees, the following described real property free of encumbrances except as specifically set forth herein situated in Linn County, Oregon:

Linn County Assessor's Acct. No. 65017, Map No. T11S-R2W-S16, Tax Lot 100 (35725 Santiam Hwy. SE, Albany - 200.11 acres) described as follows:

SEE EXHIBIT "A" ATTACHED HERETO WHICH BY THIS REFERENCE IS MADE A PART HEREOF.

The said property is free from encumbrances except easements, conditions, restrictions and roadways of record.

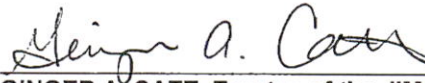
BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 and 195.305 to 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS

2010. THIS INSTRUMENT DOES NOT ALLOW THE USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated this 23rd day of August, 2017.



JIM R. CATE, Trustee of the JIM R. CATE and GINGER A. CATE Revocable Living Trust dated April 24, 2012



GINGER A. CATE, Trustee of the JIM R. CATE and GINGER A. CATE Revocable Living Trust dated April 24, 2012

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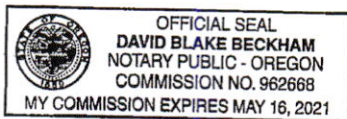
STATE OF OREGON)
County of Linn) ss. August 23, 2017.


Personally appeared the above-named JIM R. CATE, Trustee of the JIM R. CATE and GINGER A. CATE Revocable Living Trust dated April 24, 2012, and GINGER A. CATE, Trustee of the JIM R. CATE and GINGER A. CATE Revocable Living Trust dated April 24, 2012, and acknowledged the foregoing instrument to be their voluntary act and deed.

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Notary Public for Oregon
My Commission expires: 5-16-21

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Exhibit A

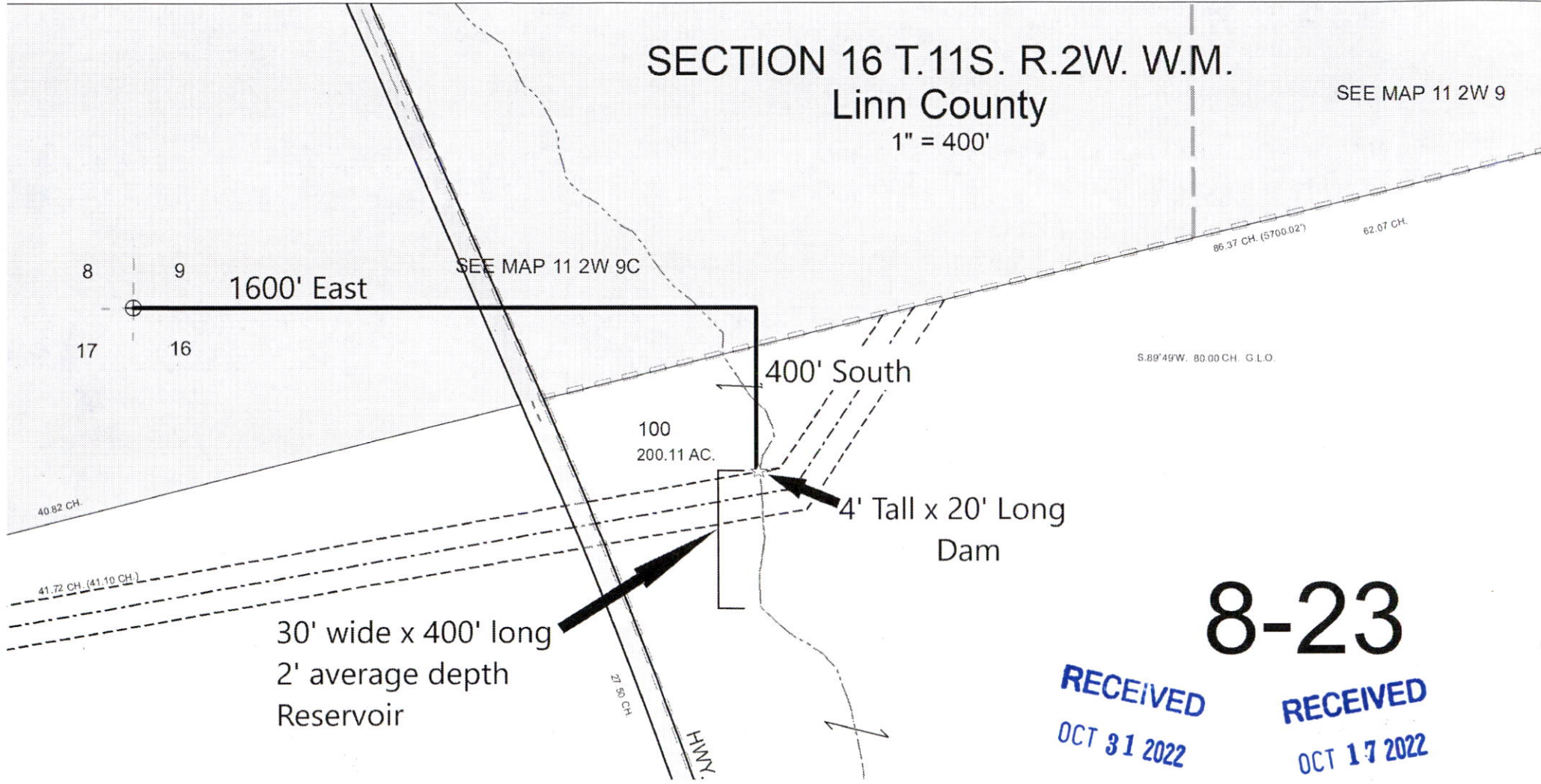
Beginning at a stone in the center of a county road now the Santiam Highway said stone being North 89° 30' East 58.17 chains distant from the Southwest corner of the Donation Land Claim of Jeremiah Driggs Claim No. 48, in Township 11 South Range 2 West of the Willamette Meridian, Oregon; thence running North 89° 30' East 41.02 chains to an iron wagon thimble 3" x 14"; thence East 3.82 chains to the East bank of a creek; thence North 4° 30' West along the East bank of said creek 43 feet; thence South 89° 30' West 3.82 chains, more or less, to a point which bears North 0° 30' West from said iron wagon thimble; thence North 0° 30' West 16.348 chains to a wagon boxing 3" x 12" on the North bank of a creek; thence North 46° West along said creek 1.60 chains, thence North 10° East 1.42 chains along said bank and crossing Mill Creek; thence following along the East bank of said Mill Creek as follows; North 22° 30' West 2.20 chains North 8° 15' West 5.30 chains North 20° 30' East 1.00 chains North 4.30 chains North 70° East 1.75 chains North 21° 30' East 3.80 chains, to a stone 6 x 6 x 16 inches, marked CS; thence West 68 links thence North 31.19 chains to a stone 4 x 4 x 14 inches on the North line of the Donation Land Claim of Joel Ketchum being Claim No. 47 in said Township and Range; thence South 74° 23' West along the North line of said Claim 62.07 chains to an iron bar and wagon boxing; thence Southeasterly 54 chains, more or less, along said county road now the Santiam Highway to the point of beginning and all lying and being situated in Linn County, Oregon, excepting therefrom that portion thereof conveyed to the State of Oregon by and through its State Highway Commission.

LESS AND EXCEPT Beginning at a stone in the center of a county road, now the Santiam Highway, said stone being North 89° 30' East 58.17 chains distant from the Southwest corner of the Jeremiah Driggs Donation Land Claim No. 48 in Township 11 South, Range 2 West of the Willamette Meridian in Linn County, Oregon; thence North 89° 30' East 41.02 chains to an iron wagon thimble 3" x 14"; thence East 3.82 chains to the east bank of a creek; thence North 4° 30' West along the East bank of said creek 43 feet; thence South 89° 30' West 3.82 chains to a point which bears North 30' West from said wagon thimble; thence North 30' West 16.348 chains to a wagon boxing 3" x 12" on the north bank of a creek; thence North 46° West along said creek 1.60 chains; thence North 10° East 1.42 chains along said bank and crossing Mill Creek as follows; North 22° 30' West 2.20 chains, thence North 8° 15' West 0.843 chains; thence South 89° 30' West 46.938 chains to the centerline of the State Highway; thence South 19° 35' East along said centerline 23.658 chains to the place of beginning.

SECTION 16 T.11S. R.2W. W.M.
Linn County

1" = 400'

SEE MAP 11 2W 9



8-23

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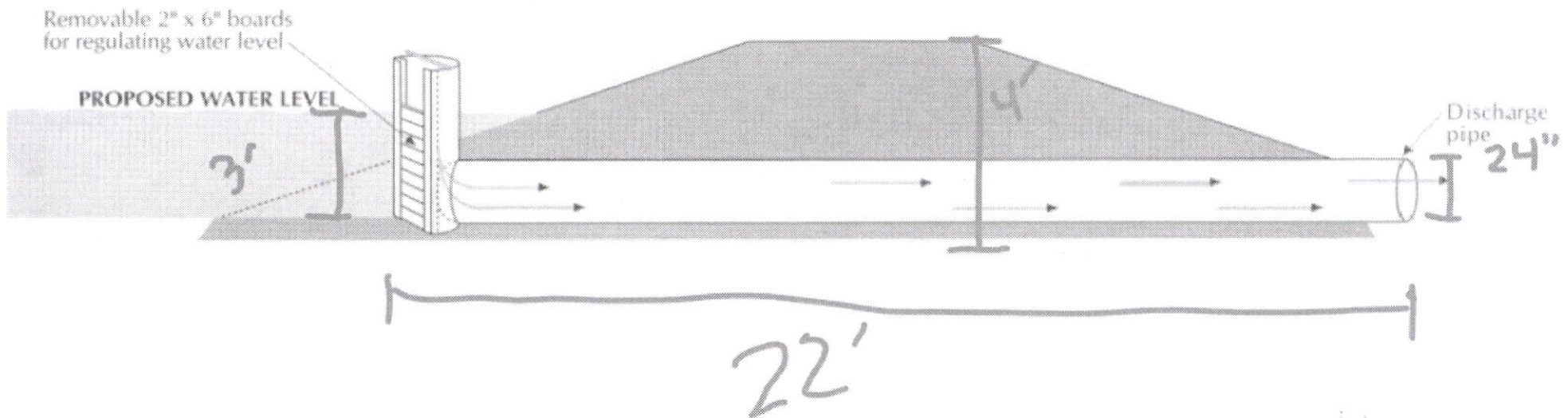
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Cate Pond

35599 Santiam HWY SE, Albany, OR 97322

Legend

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Proposed Dam site
Proposed Flashboard Riser site

Current stream bed

Google Earth

20



300 ft