

FILE#: S 72496

JAMES A BUSSMANN
 PO BOX 211
 SIXES, OR 97476

Application No. 72496

Permit No. 52322

Certificate No. _____

Cross

Stream Index, Page No. 17

17-1570-0090

13 Sixes R & Mrs.

FEES PAID		
Date	Amount	Receipt No.
6-29-92	500.00	88492
10/5/99	100.00	33610
3/28/03	100.00	59025
Cert. Fee		
FEES REFUNDED		
Date	Amount	Check No.

Date filed _____

Priority _____

Action suspended until _____

COPI
"on ext. do"

Return to applicant _____

Date of approval _____

CONSTRUCTION

Date for beginning 5-28-97

Date for completion 10-1-98

Extended to 10-1-01

Date for application of water 10-1-99

Extended to 10-1-01

PROSECUTION OF WORK

Form "A" filed _____

Form "B" filed _____

Form "C" filed _____

FINAL PROOF

Blank mailed _____

Proof received _____

Date Certificate issued _____

ASSIGNMENTS				
Date	To Whom	Address	Volume	Page

REMARKS

See R-72495



Oregon

John A. Kitzhaber, M.D., Governor

Department of Fish and Wildlife

Gold Beach District Office

29907 Airport Way

PO Box 642

Gold Beach, OR 97444

(541) 247-7605

FAX (541) 247-2321

RECEIVED BY OWRD

July 29, 2013

AUG 01 2013

Michele McAleer
Water Resources Dept.
725 Summer Street NE
Suite A
Salem, OR 97301

SALEM, OR



Re: Ernest Bussman Water Right Applications R-73021, S-81718

Dear Michele:

Oregon Department of Fish and Wildlife (ODFW) conducted an onsite inspection of the above referenced reservoir site on July 26, 2013. No native fish are present at or upstream of the reservoir site.

Because no native fish are present ODFW has determined that fish screening, by-pass devices, and/or a fishway are not necessary for applications R-73021 or S-81718.

While onsite ODFW also conducted inspections of reservoir sites for applications R-79634/S-71131 and R72495/S72496. No native fish are present at either site and ODFW has determined that fish screening, by-pass devices, and/or fishways are not necessary for applications R-79634, S-71131, R72495, or S72496.

Please call if you have any questions.

Sincerely,

Todd Confer
District Fish Biologist

C: Clay Jordan
George Bussman
Rich Kilbane, ODFW



1. Did water system construction/well drilling begin within the time specified in the permit [yes/no]?
Yes _____

2. Has construction of diversion/appropriation works, distribution system, and use of water, if any, been accomplished consistent with the limitations and conditions of this permit [yes/no]?
Yes _____

A) Please describe how you have complied with each applicable permit condition (**NOTE: the instruction sheet for permit extension applications provides some direction as to what is an “applicable” condition at time of permit extension review**).
The reservoir has been constructed in compliance with permit time lines.
Bog construction in progressing as cash flow allows.

B) If you have not complied with all applicable conditions, please explain the reasons why and indicate a date certain, in the near future, by which time you will be in compliance with applicable conditions.
All of the conditions for Permit # 52322 will be complied with at the time project completion.

3. I have accomplished the following described works, purchases and installation of equipment necessary to the use of water under said permit:

A) Within the past year or, if a prior extension was authorized, during the last permit extension period:
Approximately 4 acres of bogs have been constructed and plumbed.

B) Prior to the past year or, if a prior extension was authorized, prior to the last extension period:

10 plus acres of bogs have been excavated and plumbed.

4. I have accomplished beneficial use of water under the permit to the extent of (amount of water used and acres irrigated):

A) Quantity of Water Used [*in cubic feet per second (cfs) or gallons per minute (gpm) if using surface water or ground water.....and/or..... in acre-feet (af) if using stored water*]:

None at this time.

B) Number of Acres Irrigated (*if an irrigation permit*):

None at this time.

5. Cost of project to date \$30,000.00 . Estimated remaining cost to complete the project \$20,000.00 .

6. Please list the reasons why the project was not constructed, and/or water not beneficially used within permit time limits under the appropriate categories below. Please provide supporting information for each reason identified:

A) The project is of a size and scope that the original intent was to phase it in over a period longer than the timeframes allowed in the permit.

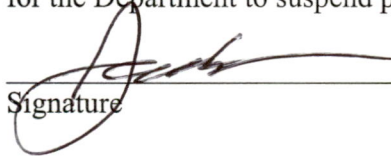
N/A

- B) Financing and/or cash-flow needs to develop the project precluded completion of the project within authorized timeframes.
Due to reduced cash flow caused by the collapse of the cranberry market, the project has been slowed.

- C) Good faith attempts to comply with permit conditions and/or to acquire permits from other agencies, or otherwise comply with government regulations, delayed completion of the project.
No.

- D) Acts of God or other unforeseen events delayed full development of the water system and use of water.

I am the permittee, or have authorization from the permittee, to apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for the Department to suspend processing of the request and/or reason to deny the extension.



 Signature

3/25/03

 Date

MAIL COMPLETED APPLICATION *and* STATUTORY FEE OF \$100 TO:

WATER RIGHT PERMIT EXTENSIONS
 WATER RESOURCES DEPARTMENT
 158 12th STREET NE
 SALEM, OREGON 97301- 4172

revised: September 18, 2002



Application # S-72496 / Permit # S-52322

Route Slip ... Extension of Time

per Division 315 Rules... (Extensions received on July 1, 2001 or after)

◆ **WRIG...**
Money Received: \$100.00 on 3-28-03

◆ **Lisa Juul...**
Extension Completeness: OK
If NOT complete, send certified letter requesting add'l information.)

If Extension Appl complete and \$100 fee submitted, route to...

◆ **Jonnine Fuss...**
Initial 30-day Public Notice: 7/8/03 2
Update Extension Database: 4/8/03 2
Files back to filing cabinets: 4/10/03 2

At the close of the Initial 30-day Comment Period...

◆ **Lisa Juul...**
Pull files for Ext PFO review: _____
Extension PFO completed: _____

Once Extension PFO signed by Dwight French...

◆ **Jonnine Fuss...**
Prepare Ext PFO for mailing to applicant: _____
Mail to those who commented and paid copy fee: _____
Include Ext PFO on weekly Public Notice: _____

Within 60 days after the close of the 45-day PFO Protest Period...
(PFO Protest Period ends 45 days from PFO sign date)...

◆ **Lisa Juul...**
Issue an Extension FO: _____

EXTENSION REVIEW CHECKLIST for PFO... per Div. 315 Rules

Application #: S-72496 / Permit #: S-52322

Permittee's Name: James Bussmann

Permittee's Mailing Address: PO Box 211, Sixes, OR 97466

POD Location: Township 32-S Range 15-W Section 4 $\frac{1}{4}$ $\frac{1}{4}$ NW SW

Stream Basin: _____ County: Curry

✓ 1. Has the applicant completely filled out the updated Extension Application form? Yes / No ✓ \$100.00 - Yes
***If "No"..... has certified request for the new extension form been sent? Yes / No

✓ 2. Shortcomings of Extension Request..... based upon review of updated extension form Yes / No
*** (NOTE: Any missing Extension information that is needed before an Extension PFO can be completed???)

✓ 3. Date Permit was issued: 5-28-96 (priority = 6-29-92)

✓ 4. Source: An Unn Stream & Bussmann #1 Reservoir (constr. under R-72495) (Permit R-11810) tribs of Sixes River

✓ 5. Use: Cranberry Operations on 28.0 AC

✓ 6. "Q": 4.2 cfs from Unn Stream - AND - 2.07 AF of stored water

✓ 7. Original "B" Date: 10-1-98 Original "C" Date: 10-1-99

8. Conditions of Permit: Original "A" Date: 5-28-97
Before water use begins → shall install a meter or other suitable meas. device
shall keep monthly record of water use & submit to WRD annually
shall install, maintain & operate fish screening → Prior to water use.
shall install a fishway at the obstruction → Prior to water use.

✓ 9. Extension request received: 3-28-03 Request Number (...1st 2nd, 3rd): 2nd

✓ 10. Last Authorized "B" Date: 10-1-2001 Last Authorized "C" Date: 10-1-2001

✓ 11. Proposed "B" Date: 10-1-2012 Proposed C Date: 10-1-2012

✓ 12. Amount Invested to date: \$30,000 Estimated Total Cost: \$50,000
(***Estimated Remaining Cost: \$20,000)

___13. The water project development made to date has been accomplished in accordance with the terms and conditions contained in the permit. **Yes / No** ***If "No"..... What permit terms and/or conditions have not been met?

___14. Work on the water development project completed to date includes: _____

___15. The work remaining to be completed consists of: _____

___16. Progress in perfecting the permit is being held up by: _____

___17. Has the applicant pursued perfection of the right in good faith and with reasonable diligence? **Yes / No**

Some Factors that may be considered in determining "Reasonable Diligence" [OAR 690-315-040(3)]

- a. The amount of construction completed within the time allowed in the permit or previous extension;
- b. The amount of beneficial use made of the water during the permit or previous extension time limits;
- c. Water right permit holder conformance with the permit or previous extension conditions; and
- d. Financial investments made toward developing the beneficial water use.

___18. Determination of the market and the present demand for water or power to be supplied: _____

Some factors to consider in determining the Market and the Present Demand for water or power [OAR 690-315-040(4)]:

- a. The amount of water available to satisfy other affected water rights and scenic waterway flows;
- b. Special water use designations established since permit issuance (such as...state scenic waterways, federal wild and scenic rivers, serious water management problem areas, water quality limited sources, etc.);
- c. The habitat needs of sensitive, threatened or endangered species, in consultation with ODFW;
- d. Economic investment in the project to date;
- e. Other economic interests dependent on completion of the project; and
- f. Other factors relevant to the determination of the market and the present demand for water or power.

___19. Based on the written record, can the Department make a finding of "Good Cause" to approve the extension request?

Yes... "Good Cause" can be found. → Approval of Extension Request

No ... "Good Cause" cannot be found. → Denial of Extension Request

___20. Conditions to be included on Extension PFO: _____

Extension "PFO" Dates

Checklist Last Revised: 9 / 12 / 2001

Drafting / Issuance Date: _____ **Reviewer's Name:** _____

Protest Deadline Date: _____ **Date:** _____

STATE OF OREGON

COUNTY OF CURRY

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

JAMES A BUSSMANN
PO BOX 211
SIXES, OREGON 97476

(541) 332-6611

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: S-72496

SOURCE OF WATER: AN UNNAMED STREAM AND BUSSMANN #1 RESERVOIR, CONSTRUCTED UNDER R-72495, PERMIT R-11810, TRIBUTARIES OF SIXES RIVER

PURPOSE OR USE: CRANBERRY OPERATIONS ON 28.0 ACRES

RATE OF USE: 4.2 CUBIC FEET PER SECOND FROM AN UNNAMED STREAM; 2.07 ACRE-FEET OF STORED WATER

PERIOD OF ALLOWED USE: DECEMBER 1 THROUGH APRIL 30 FROM AN UNNAMED STREAM; YEAR ROUND FROM BUSSMANN #1 RESERVOIR, IF AVAILABLE

DATE OF PRIORITY: JUNE 29, 1992

POINT OF DIVERSION LOCATION: NW 1/4 SW 1/4, SECTION 4, T32S, R15W, W.M.; 700 FEET SOUTH AND 1220 FEET EAST FROM THE W 1/4 CORNER OF SECTION 4

The amount of water diverted for CRANBERRY OPERATIONS, together with amounts secured under any other rights existing for the same lands, is limited as follows: For temperature control, 0.15 cubic foot per second per acre; For flood harvesting or pest control, 0.05 cubic foot per second per acre; For irrigation of cranberries, ONE-FORTIETH of one cubic foot per second and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. For the irrigation of any other crop, ONE-EIGHTIETH of one cubic foot per second and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SW 1/4 NW 1/4 28.0 ACRES
SECTION 4
TOWNSHIP 32 SOUTH, RANGE 15 WEST, W.M.

SEE NEXT PAGE

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The required screens and fishways are to be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

This right is limited to any deficiency in the available supply of any prior right existing for the same land.

STANDARD CONDITIONS

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

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

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


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

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Actual construction work shall begin within one year from permit issuance and shall be completed on or before October 1, 1998. Complete application of the water to the use shall be made on or before October 1, 1999.

Issued May 28, 1996



Martha O. Pagel, Director
Water Resources Department

Mailing List for PFO Extension Copies

Application # 72496

~~272495~~

PFO Date 11/2/99

Original mailed to:

Applicant:

Copies sent

Regional Manager SW

Watermaster 19

ODFW Todd Canfer, Gold Beach

DEQ Tom Rosetta, Portland

Copies sent to Other Interested Persons (CWRE, Agent, Well Driller, Commenter, etc.)

"\$10 LETTER" sent to Interested Persons who have not protested or paid for copies

Mailed
(support staff)
on: _____
(date)

fo 5/9/00
jn
✓
✓
✓ vault
db
copies

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number 72496

Final Order
Extension of Time for Permit Number 52322

Application History

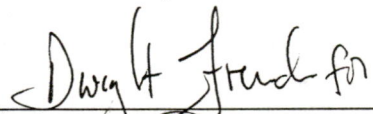
On OCTOBER 5, 1999, JAMES BUSSMANN submitted an application to the Department for an extension of time for permit number 52322. The Department issued Permit number 52322 on MAY 28, 1996. The permit called for completion of construction of the water development project by October 1, 1998 and complete application of water to the full beneficial use by October 1, 1999. In accordance with OAR 690-320-0010(8), on NOVEMBER 2, 1999, the Department issued a Proposed Final Order proposing to extend the time to complete development of the water development project to October 1, 2001, and/or the time to fully apply water to beneficial use to October 1, 2001. The protest period closed DECEMBER 17, 1999. No protest was filed.

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.230, 537.248, 537.630 and 539.010(5) (as appropriate).

Order

The extension of time for Application 72496, Permit Number 52322, therefore, is approved. The deadline for completing construction is extended to October 1, 2001. The deadline for applying water to full beneficial use is extended to October 1, 2001.

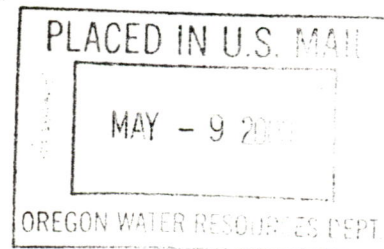
DATED May 8, 2000



Martha O. Pagel, Director

Appeal Rights

This is a final order in other than contested case. Pursuant to ORS 536.075 and OAR 137-004-080 and OAR 690-01-005, you may either petition the Director for reconsideration of this order or petition for judicial review of this order. As provided in ORS 536.075, this order is subject to judicial review under ORS 183.484. Any petition for judicial review of the order must be filed within the 60 day time period specified by ORS 183.484(2).



**Oregon Water Resources Department
Water Rights Division**

Water Right Permit Extension Application
for Permit Number 52322

Water Right Application Number 72496

Proposed Final Order

This Proposed Final Order applies only to permit number 52322.

Summary of Recommendation

The Department proposes to:

grant the extension for complete construction of the water system from October 1, 1998 to October 1, 2001, and

grant the extension for complete application of water from October 1, 1999 to October 1, 2001.

Application History

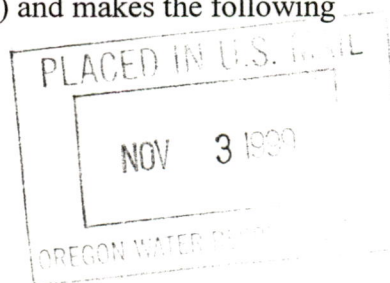
Permit no. 52322 was granted by the Water Resources Department on MAY 28, 1996.

The permit authorizes use of 4.2 CFS AND 2.07 ACRE FEET of water from UNNAMED STREAM AND BUSSMANN RESERVOIR #1 for CRANBERRY OPERATIONS ON 28.0 ACRES in the SIXES RIVER basin. It specified that construction must be completed by October 1, 1998, and water applied to full beneficial use by October 1, 1999. A copy of permit no. 52322 is attached.

On OCTOBER 5, 1999, the Department received an application from JAMES BUSSMANN for an extension of time to complete construction and to apply water to full beneficial use. The applicant has requested until October 1, 2001 to complete construction of the water system and until October 1, 2001 to apply water to full beneficial use. This is the first permit extension request.

Findings of Fact

ORS 537.230(2) and 537.630 (1) allows the Department to grant an extension of time to perfect a water right for good cause. In evaluating good cause, the Department has considered the written record in the permit application file in relation to the requirements of ORS 537.230(2), ORS 537.630 (1) and ORS 539.010(5) and makes the following findings.



1. The applicant is legally entitled to apply for an extension on this permit.
2. The applicant has submitted a completed permit extension form and the required fee.
3. The water project development made to date has been accomplished in accordance with the terms and conditions contained in the permit.
4. Progress in perfecting the permit is being held up by insufficient cash flow. The market price for cranberries has dropped, which has reduced available money.
5. The applicant has pursued perfection of the right in good faith and with reasonable diligence.
 - a) Work on the water development project completed to date includes construction of a reservoir, diversion works and installed a pump. Water has not yet been diverted.
 - b) The applicant has invested approximately \$ 30,000 of an estimated total water system project cost of \$ 50,000.
 - c) The work remaining to be completed consists of the remaining construction of the water delivery system and complete application of water.
6. Based on the written record, the Department finds there is good cause to approve the extension request. The applicant has pursued perfection of the right in good faith and with reasonable diligence.
7. Due to the reasons outlined above in item 4 and the water development progress to date, the Department finds that the length of time requested for completion of construction and the length of time requested for completion of the application of water should be extended to October 1, 2001 as requested by the applicant.

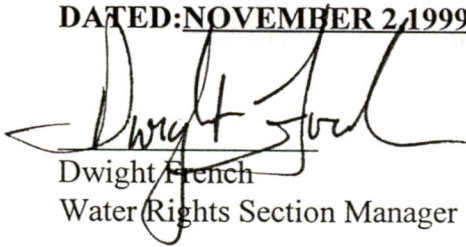
Conclusions of Law

1. The applicant is entitled to apply for an extension of time to complete construction and/or completely apply water to the full beneficial use pursuant to ORS 537.230, and ORS 537.630.
2. The applicant has submitted an extension application form and the fee required by ORS 536.050(1)(L).
3. The applicant has pursued perfection of the right in good faith and prosecuted construction with reasonable diligence.
4. The applicant has shown good cause for the untimely completion of the water development project and complete application of water to full beneficial use pursuant to ORS 537.230(2), and ORS 537.630 (1).
5. The permit extension should be approved until October 1, 2001 to complete construction and until October 1, 2001 to complete the application of water.

Recommendation

The Department proposes to issue an order to:
extend the permit time to complete construction from October 1, 1998 to October 1, 2001
and
extend the permit time to complete application of water from October 1, 1999 to October 1, 2001.

DATED: NOVEMBER 2, 1999



Dwight French
Water Rights Section Manager

*If you have any questions,
please check the information
box on the last page for the
appropriate names and
phone numbers.*

Protest Rights and Comments

1. Under the provisions of OAR 690-320-0010(8) you have the right to protest this proposed final order. Your protest must be in writing and must include the following:
 - a) Your name, address and telephone number;
 - b) Your interest in this proposed final order, and if you claim to represent the public interest, a precise statement of the public interest represented;
 - c) A detailed description of how the action in the proposed final order would impair or be detrimental to your interest;
 - d) A detailed description of how the proposed final order is in error or deficient and how to correct the alleged error or deficiency;
 - e) Any citation of legal authority supporting your protest, if known; and
 - f) The \$25 protest fee required under ORS 536.050 (1)(j).
2. Each person submitting a protest shall raise all reasonably ascertainable issues and all reasonably available arguments supporting the person's position by the close of the comment period.
3. The Water Resources Department must receive written protests or written comments no later than **DECEMBER 17, 1999**.
4. After the close of the comment and protest period, the Director will either issue a final order, or schedule a contested case hearing if the Director finds there are significant disputes related to the use of water.

This document was prepared by Dallas Miller. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me toll free within Oregon at 1-800-624-3199 extension 272.

Outside of Oregon you can dial 1-503-378-8455.

If you have questions about how to file a protest or if you have previously filed a protest and want to know the status, please contact Adam Sussman. His extension number is 262.

If you have other questions about the Department or any of its programs please contact our Water Rights Information Group at extension 499. Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 158 12th ST. NE Salem, OR 97310, Fax: (503)378-2496.

RECEIVED

OCT 05 1999

WATER RESOURCES DEPT.
SALEM, OREGON

APPLICATION FOR EXTENSION OF TIME TO THE WATER RESOURCES DIRECTOR OF OREGON

I, JAMES A. BUSSMANN
NAME

P.O. Box 211 SIXES OR 97476 (541) 332-8006
ADDRESS CITY STATE ZIP PHONE

owner of record, or duly authorized agent, of Application No. 5-72496, Permit No. 52322, do hereby request that the time in which to:

complete the construction of diversion/appropriation works and/or purchase and installation of the equipment necessary to the use of water, which time now expires on October 1, 1999, be extended to October 1, 2000,

and/or the time in which to:

accomplish beneficial use of water to the full extent under the terms of the permit, which time now expires on October 1, _____, be extended to October 1, _____.

NOTE: The extension of time requested should be long enough to finish the project. Should this request be approved, it will be the Department's expectation that you will complete your project within the new time period allowed. Future extensions may not be granted.

Attached is an instruction sheet to assist you in completing the information on the permit extensions application form. Oregon Water Law and Administrative Rules requires this information to be considered by the Water Resources Department when reviewing a permit extension. All items must be completed or the application will be returned. Please feel free to provide the Department with any additional information that would aid us in making our decision. Please use additional sheets of paper as needed to fully respond to the questions.

After reviewing the application form and the instruction sheet, if you have any questions, please contact the Department at 1-800-624-3199, or locally in the Salem vicinity at (503) 378-3739, and request assistance from the Water Rights Division, permit extensions personnel.

1-Did water system construction/well drilling begin within the time specified in the permit [yes/no]?
yes

2-Has construction of diversion/appropriation works, distribution system, and use of water, if any, been accomplished consistent with the limitations and conditions of this permit [yes/no]? yes

A) Please describe how you have complied with each applicable permit condition (NOTE: the instruction sheet for permit extension applications provides some direction as to what is an "applicable" condition at time of permit extension review).

THE POINT OF DIVERSION HAS BEEN CONSTRUCTED AND THE PUMP INSTALLED.

B) If you have not complied with all applicable conditions, please explain the reasons why and indicate a date certain, in the near future, by which time you will be in compliance with applicable conditions.

THE PIPE HAS BEEN PURCHASED BUT NOT COMPLETELY INSTALLED.

3-I have accomplished the following described works, purchases and installation of equipment necessary to the use of water under said permit:

A) Within the past year or, if a prior extension was authorized, during the last permit extension period:

B) Prior to the past year or, if a prior extension was authorized, prior to the last extension period:

C) I have accomplished beneficial use of water under the permit to the extent of (amount of water used or acres irrigated):

4-Cost of project to date \$30,000. Estimated remaining cost to complete the project \$20,000.

5-Please list the reasons why the project was not constructed, and/or water not beneficially used within permit time limits under the appropriate categories below. Please provide supporting information for each reason identified.

A) The project is of a size and scope that the original intent was to phase it in over a period longer than the timeframes allowed in the permit. _____

B) Financing and/or cash-flow needs to develop the project precluded completion of the project within authorized timeframes. DUE TO REDUCED CASH FLOW THE PROJECT WAS SLOWE.

C) Good faith attempts to comply with permit conditions and/or to acquire permits from other agencies, or otherwise comply with government regulations, delayed completion of the project.

D) Acts of God or other unforeseen events delayed full development of the water system and use of water. _____

6-Please identify the economic market or markets to which beneficial use of water under the permit is responding. CRANBERRIES

A) Has there been any change in this market since the permit was issued? THE PRICE PER POUND OF CRANBERRIES HAS DROPPED 50-60¢/LB

B) Have these changes, if any, affected the economic feasibility of your project? THESE CHANGES SLOWED BUT HAVE NOT STOPPED THE PROJECT.

7-Are there other present competing demands for water in your community? NONE OTHER THAN THE ONES EXISTING WHEN THE PERMIT WAS ISSUED.

A) Has there been any change in these demands for water since the permit was issued? NO!

B) Are you aware of alternative sources of water that may be able to satisfy the competing demands? NO!

C) Are you aware of any adverse affects on your source of water that may have been caused by recent changes in use of water in your community? NO!

8-Will the income or use from the water development project authorized by this permit provide reasonable returns against the investment in the project? yes!

9-If the extension request is denied, is the current level of water use economically feasible? NO!

I am the permittee, or have authorization from the permittee, to apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for the Department to suspend processing of the request and/or reason to deny the extension.

Kelli L. Busmann
Signature

October 1, 1997
Date

MAIL COMPLETED APPLICATION AND STATUTORY FEE OF \$ 100 TO:

WATER RIGHT PERMIT EXTENSIONS
WATER RESOURCES
158 12TH ST NE
SALEM, OREGON 97310

RECEIVED

OCT 18 1999

WATER RESOURCES DEPT.
SALEM, OREGON

October 13, 1999

Dallas Miller
Water Rights Specialist
Water Resources Department
158 12th Street NE
Salem, OR 97310-0210

Dear Mr. Miller:

At your request, I am providing you with a written statement saying the extension fee for File 72496, Permit 52322, in the amount of \$100, has already been paid.

This fee was paid with check number 2255 on October 01, 1999. The check was in the amount of \$200; \$100 for each permit.

If you have any questions, please contact me.

Sincerely,



James A. Bussmann
P.O. Box 211
Sixes, OR 97476

RECEIVED

OCT 10 1999

WATER RESOURCES DEPT
SALEM, OREGON

October 13, 1999

Dallas Miller
Water Rights Specialist
Water Resources Department
100 12th Street NE
Salem, OR 97310-0210

Dear Mr. Miller:

At your request, I am providing you with a written statement saying the extension fee for File 72496, Permit 22322, in the amount of \$100, has already been paid. This fee was paid with check number 2255 on October 01, 1999. The check was in the amount of \$200; \$100 for each permit.

If you have any questions, please contact me.

Sincerely,

James A. Bussmann
P.O. Box 211
Salem, OR 97476



Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

Commerce Building
158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

October 5, 1999

JAMES BUSSMANN
PO BOX 211
SIXES, OR 97476

REFERENCE: File 72496

Dear Mr. Bussmann:

Regarding your request for an extension of time under permit 52322, before we can process your request it will be necessary for you to submit a \$100 fee.

If you have questions please contact me at the address below or phone (503)378-3739 ext. 272.

Sincerely,

Dallas Miller
Water Rights Specialist

cc: Watermaster, District 19



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DEC 26 1996

WATER RESOURCES DEPT.
SALEM, OREGON

RONALD S. YOCKIM
Attorney at Law

Orig: Bailey
C: Pagel
Geoff

548 S.E. Jackson
Suite #7
P.O. Box 2456
Roseburg, Oregon 97470

(541) 957-5900
FAX (541) 957-5923

December 23, 1996

Martha Pagel, Director
Water Resources Department
158 12th Street NE
Salem, OR 97310

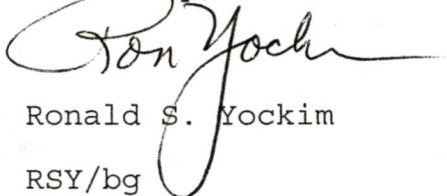
Re: Water Rights, Applications 71884, 74037, 74489, 71992, 72069,
71997, 73096, 71915, 72605, 69980, 72496, 72547, 72420, 69537

Dear Ms. Pagel:

This letter is to document the results of our meeting of December 19, 1996, wherein the Department agreed to review all of the applications and respond to my request that the permits be issued under the same terms and conditions as received by subsequent applicants. The Department agreed to respond by the first week of January.

As I stated at the meeting, I believe it is appropriate that we schedule the contested case hearings on this matter in order to keep all parties focused on resolving this issue as expeditiously as possible. When the original hearings were indefinitely postponed, it was on the premise that we were near settlement. It appears that with the withdrawal by the Department of Justice that we are in fact repeating the same discussions yet are in fact further away from settlement. Since it has been expensive for my clients to have to repeat the discussions we had with the Department of Justice, I suggest that you review the status of the case with your attorneys and in turn expedite the process.

Sincerely,



Ronald S. Yockim

RSY/bg

cc: clients


In the Matter of Water Use Application S72496)
Permit 52322 in the name of James Bussman,)
Applicant/Protestant)

ORDER Dismissing
Contested Case Hearing

By letter of June 15, 1998, applicant James Bussman withdrew his protest against the Department's Final Order and Permit 52322 on application S72496. As there is no protest against the Department's Final Order and Permit, the contested case in this matter is dismissed.

Permit 52322, issued by the Department May 28, 1996, continues to be in effect.

Issued this 6th day of July, 1998.


Weisha Mize, ALJ

I certify that on July 7, 1998, I delivered a copy of this Order to Adam Sussman, WRD Representative, and mailed a true and correct copy by mailing in the U.S. Mail, postage prepaid, addressed to the following persons:

James Bussman
P.O. Box 211
Sixes, Oregon 97476

Dennis Goude
Stuntzner Engineering
PO Box 118
Coos Bay OR 97420


Timmie Brandt

cc: John Drolet, Watermaster, Dist. 19



TELEPHONE (541) 267-2872
FAX (541) 267-0588

705 SO. 4TH, P.O. BOX 118
COOS BAY, OREGON 97420

COOS BAY • BROOKINGS • WILSONVILLE

June 15, 1998

Adam Sussman
Water Resources Department
158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739

RECEIVED

JUN 29 1998

WATER RESOURCES DEPT.
SALEM, OREGON

Re: Bussman protest of S-71131 & S-72496

Dear Mr. Sussman:

Mr. Ron Yockim is no longer a representative for our cranberry interests. Therefore at this time we would like to withdraw our protest of the Final Order for surface water application S-71131 and our protest of Application S-72496, Permit 52322 and proceed with the permitting process. We are anticipating the use of a ground water source to supplement the above applications. If you have any questions, please call Dennis Goude at (541) 267-2872.

Sincerely,

George P. Bussman

6/25/98

Date

James A. Bussman

6/25/98

Date

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number S-72496

Final Order

Application History

On June 28, 1992, JAMES A BUSSMANN submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on December 12, 1995. The protest period closed January 26, 1996, and no protest was filed.

An interagency team reviewed this proposed use for potential adverse impacts on declining fish populations. This team consisted of representatives from the Oregon Departments of Water Resources (WRD), Environmental Quality, Fish and Wildlife (DFW), and Agriculture. WRD and DFW representatives included both technical and field staff. The interagency team recommended that additional limitations or conditions of use be imposed on this application as follows:

The period of use from unnamed stream has been limited to
DECEMBER 1 THROUGH APRIL 30.

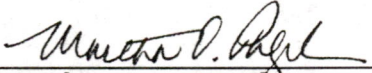
The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The required screens and fishways are to be in place and functional, and the fishway must be approved by Oregon Department of Fish and Wildlife before diversion of any water.

The proposed use would not impair or be detrimental to the public interest, but the Department's continuing evaluation reveals that the Proposed Final Order requires modification to include the condition(s) described above.

Order

Application S-72496 therefore is approved with the above modifications to the Proposed Final Order, and Permit Number 52322 is issued as limited by the conditions set forth in the permit.

DATED May 28, 1996



Martha O. Page
Director

Hearing and Appeal Rights

Under the provisions of ORS 537.170, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 527.153(6) to the Department within 14 days after this order is issued. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the above modifications to the proposed final order may be addressed.

Under the provisions of ORS 183.484, the applicant or any person having standing may appeal this order by filing a petition for review in the Circuit Court for Marion County or the circuit court for the county in which the applicant resides or has a principal business office. The petition for review must be filed within 60 days after the date this order is served.



Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

Commerce Building
158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

February 9, 1998

Ronald S. Yockim
548 S. E. Jackson Suite #7
P.O. Box 2456
Roseburg, Oregon 97470

RE: Bussman S-72496

Dear Ron:

According to my records you still represent James Bussman on this protest. It has been on hold for some time and I am getting pressure to move it along.

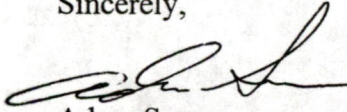
The protest is largely focused on the inter-agency review process and recommendations, however, a close look at the record shows it is really a question of water availability. Mr. Bussman's application is junior to Instream Water Right Application IS-70877. The original (and only) analysis of water availability for S-72496 (Attachment 1), used the instream flows being kicked around in the Technical Review for Instream Water Right Application IS-70877 (Attachment 2). The flows in the Technical Review were quite a bit lower than that requested by ODFW.

In May, 1996, a Proposed Final Order was issued for IS-70877 (Attachment 3). The flows proposed are closer to what ODFW actually requested and quite a bit higher than the Technical Review. The amount of water available for Mr. Bussman's junior application was never re-calculated. I have re-calculated water availability for the day before Mr. Bussman's tentative priority date (Attachment 4.) As you can see, no water is available from live flow after April 30 until November 1..

I know for George Bussman's application S-71131, George is working with Stuntzer Engineering to explore the possible use of ground water. That, in combination with increased storage, may also be a possibility here.

Please let me know how you would like to proceed.

Sincerely,



Adam Sussman
Protest Program Coordinator

enclosures

cc: Dennis Goude
Stuntzner Engineering
P.O. Box 118
Coos Bay, Oregon 97420

Watermaster District 19

James Bussman
P.O. Box 211
Sixes, Oregon 97476

Basin:

①

Water Availability By Month for Exceedance Level 50
For Water Availability Subbasin 2200000000000000
And Its Associated Nested Subbasins

11:47

01/11/1994

Item #	W.A. Subbasin	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Sto
1	2200000000000000	YES	YES	YES	YES	YES	YES	YES	YES	YES	NO	YES	YES	YES

Issue 421 - sited 4-1-80
affects fl.s application

Basin:

Detailed Report for Water Availability Subbasin 2200000000000000
 Water Availability By Month for Exceedance Level 50
 11:48 01/11/1994

MO	Gross Water Avail	Consumptive Use		Storage Rights		Net Min Flow	Instream Water Rights		Net Water Avail
		Applic	Permit	Applic	Permit		Applic	Permit	
1	1230	0	0	0	0	1240	0	215	1020
2	1350	0	0	0	0	1360	0	215	1140
3	1180	0	0	0	0	1180	0	190	990
4	666	0	0	0	0	666	0	190	476
5	321	0	0	0	0	321	0	190	131
6	252	0	0	0	0	252	0	120	132
7	158	0	0	0	0	158	0	40	118
8	101	0	0	0	0	101	40	0	61
9	74	0	0	0	0	74	40	0	34
10	102	0	0	0	0	102	0	215	-113
11	628	0	0	0	0	628	0	215	413
12	1420	0	0	0	0	1430	0	215	1210
Stor	348000	0	0	0	0	348000	0	62900	285000

← ISWA filed
 4-1-80
 ASSEC-S
 THIS APPLICATION

Date: December 23, 1993

OREGON WATER RESOURCES DEPARTMENT
SATISFACTORY REPORT OF TECHNICAL REVIEW
FOR AN INSTREAM WATER RIGHT APPLICATION

OBJECTIONS TO THE PROPOSED INSTREAM WATER RIGHT TECHNICAL REVIEW REPORT, AS DESCRIBED BELOW, MUST BE RECEIVED IN WRITING BY THE OREGON WATER RESOURCES DEPARTMENT, 3850 PORTLAND ROAD NE, SALEM, OREGON 97310, ON OR BEFORE 5 PM: March 4, 1994.

- 1. APPLICATION FILE NUMBER -IS 70877
- 2. APPLICATION INFORMATION

Application name/address/phone:

Oregon Department of Fish and Wildlife
P.O. Box 59
Portland, Oregon 97207 503/229-5400

Date application received for filing and/or tentative date of priority: 11/ 8/1990

Source: SIXES R tributary to PACIFIC OCEAN

County: CURRY

Proposed use: Providing optimum stream flows for coho and fall chinook salmon, cutthroat trout, and winter steelhead for migration, spawning, egg incubation, fry emergence, and juvenile rearing.

The amount of water (in cubic feet per second) requested by month:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
325.0	325.0	325.0	325.0	325.0	190.0	125.0	125.0	125.0	125.0	325.0	325.0

To be maintained in:

SIXES RIVER FROM EDSON CREEK AT RIVER MILE 10.1 (SWSW, SECTION 6, TOWNSHIP 32S, RANGE 14W WM); TO THE MOUTH AT RIVER MILE 0.0 (SW1/4, SECTION 35, TOWNSHIP 31S, RANGE 16W WM)



3. TECHNICAL REVIEW

The application is complete and free of defects.

The proposed use is not restricted or prohibited by statute.

The following supporting data has been submitted by the applicant:

- (a) Fish and Wildlife Resources of the South Coast Basin, Oregon, and Their Water Requirements (Revised); April 1972.
- (b) Determining Minimum Flow Requirements for Fish, ODFW Report January 20, 1984.
- (c) Developing and Application of Spawning Velocity and Depth Criteria for Oregon Salmonids, Alan K. Smith, Transactions of the American Fisheries Society, April 1973.
- (d) Determining Stream Flows for Fish Life, Oregon State Game Commission Report, March 1972.

The source of water is not withdrawn from appropriation by order of the State Engineer or legislatively withdrawn by ORS 538.

An assessment with respect to conditions previously imposed on other instream water rights granted for the same source has been completed.

An assessment with respect to other Commission administrative rules, including but not limited to the applicable basin program has been completed.

An evaluation of the information received from the local government(s) regarding the compatibility of the proposed instream water use with land use plans and regulations has been completed.

The level of instream flow requested is based on the methods of determining instream flow needs that have been approved administrative rule of the agency submitting this application.

The evaluation of the estimated average natural flow available from the proposed source during the time(s) and in the amounts requested in the application is described below. The recommended flows take into consideration planned uses and reasonably anticipated future demands for water from the source for agricultural and other uses as required by the standards for public interest review:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	
325.0	325.0	325.0	325.0	325.0	190.0	125.0	125.0	125.0	125.0	325.0	325.0	
1230	1350	1180	666.0	322.0	254.0	161.0	104.0	74.9	102.0	628.0	1420	AVE FLOW
215	215/190	190	190	190	120	40	40	40	40/215	215	215	ODFW MIN

4. REPORT CONCLUSIONS

The proposed water use, as conditioned, passed this technical review. The information contained in the application along with the supporting data submitted by the applicant indicate that the flow levels set out in this report are necessary to protect the public use.

The supporting data states that the recommended flows are necessary to meet the biological requirements for the passage, spawning, egg incubation and larval development and rearing of salmonids. Consideration of habitat type, stream depth and water velocity were considered by the applicant in development of the flow levels. (See *Determining Minimum Flow Requirements for Fish, ODFW Report January 20, 1984.*) The recommended flow volumes are necessary to ensure appropriate levels of dissolved oxygen, turbidity, pH and temperature.

The minimum flow requirements for adult fish only ensure that fish have physical freedom to move in the stream. Several times greater flow requirements are necessary to stimulate and maintain upstream migration of anadromous fish, including migratory freshwater trout. (See *1984 Report.*) Although flows listed by the applicant in early reports indicated that the minimum flows for some streams seemed adequate for present fish populations, subsequent review of these flow recommendations caused the applicant to modify the original listing. (See *Fish and Wildlife Resources of the South Coast Basin, Oregon, and Their Water Requirements (Revised); April 1972.*)

Minimum stream flow recommendations developed from the 1969 survey are intended to provide enough suitable environment during appropriate seasons to perpetuate minimum desirable fish populations. Optimum flows set out in the 1972 report would more nearly maximize production. The applicant has stated that enhancement of production would require further evaluation. (See *1972 Report.*)

5. PROPOSED CERTIFICATE CONDITIONS

[The following proposed conditions will apply to water use and will appear on the face of the certificate.]

1. The right is limited to not more than the amounts, in cubic feet per second, during the time periods listed below:

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
1st½	215	215	190	190	190	120	40	40	40	40	215	215
2nd½	215	190	190	190	190	120	40	40	40	215	215	215

2. The water right holder shall measure and report the in-stream flow along the reach of the stream or river described in the certificate as may be required by the standards for in-stream water right reporting of the Water Resources Commission.
3. This instream right shall not have priority over human or livestock consumption.
4. The instream flow allocated pursuant to this water right is not in addition to other instream flows created by a prior water right or designated minimum perennial stream flow.

3

**Oregon Water Resources Department
Water Rights/Adjudication Section**

Water Right Application Number: IS 70877

Proposed Final Order

Summary of Recommendation: The Department recommends that the attached draft certificate be issued with conditions.

Application History

On 11/ 8/1990 , the Oregon Department of Fish and Wildlife submitted an application to the Department for the following instream water right certificate.

Source: SIXES R tributary to PACIFIC OCEAN

County: CURRY

Proposed use: Providing optimum stream flows for coho and fall chinook salmon, cutthroat trout, and winter steelhead for migration, spawning, egg incubation, fry emergence, and juvenile rearing.

The amount of water (in cubic feet per second) requested by month:

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
1st%	325.0	325.0	325.0	325.0	325.0	190.0	125.0	125.0	125.0	125.0	325.0	325.0
2nd%	325.0	325.0	325.0	325.0	325.0	190.0	125.0	125.0	125.0	325.0	325.0	325.0

To be maintained in:

SIXES RIVER FROM EDSON CREEK AT RIVER MILE 10.1 (SWSW, SECTION 6, TOWNSHIP 32S, RANGE 14W WM); TO THE MOUTH AT RIVER MILE 0.0 (SW1/4, SECTION 35, TOWNSHIP 31S, RANGE 16W WM)

The Department mailed the applicant notice of its Technical Review on December 23, 1993, determining that the requested flows exceeded the estimated average natural flow during some months but that flows at a reduced amount, with exceptions for human and livestock consumption, are appropriate. The objection period closed March 4, 1994. Objections and comments were received (from CURRY COUNTY BOARD OF REALTORS, OREGON DEPT OF FISH AND WILDLIFE, RONALD YOCKIM, WATER FOR LIFE, WATERWATCH OF OREGON).



The following supporting data was submitted by the applicant:

- (a) Fish and Wildlife Resources of the South Coast Basin, Oregon, and Their Water Requirements (Revised); April 1972.
- (b) Determining Minimum Flow Requirements for Fish, ODFW Report January 20, 1984.
- (c) Developing and Application of Spawning Velocity and Depth Criteria for Oregon Salmonids, Alan K. Smith, Transactions of the American Fisheries Society, April 1973.
- (d) Determining Stream Flows for Fish Life, Oregon State Game Commission Report, March 1972.
- (e) A letter dated April 5, 1996, stating that the flows requested in this application are the minimum amount necessary to restore, protect and enhance populations and habitats of native wildlife species at self-sustaining levels

In reviewing applications, the Department may consider any relevant sources of information, including the following:

- comments by or consultation with another state agency
- any applicable basin program
- any applicable comprehensive plan or zoning ordinance
- the amount of water available
- the proposed rate of use
- pending senior applications and existing water rights of record
- the Scenic Waterway requirements of ORS 390.835
- applicable statutes, administrative rules, and case law
- any comments received

An assessment with respect to conditions previously imposed on other instream water rights granted for the same source has been completed.

An evaluation of the information received from the local government(s) regarding the compatibility of the proposed instream water use with land use plans and regulations has been completed.

The level of instream flow requested is based on the methods of determining instream flow needs that have been approved by administrative rule of the agency submitting this application.

Findings of Fact

The South Coast Basin Program allows the proposed use.

Senior water rights exist on this source or on downstream waters.

The source of water is not above a State Scenic Waterway.

The source of water is not withdrawn from appropriation by order of the State Engineer or legislatively withdrawn by ORS 538.

The estimated average natural flow for the lower end of the requested reach is as follows (in cubic feet per second):

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
1230	1350	1180	666.0	322.0	254.0	161.0	104.0	74.9	102.0	628.0	1420

Water is NOT available for further appropriation (at a 50 percent exceedance probability) for the period May, June, July, August, September, and October.

The flows available for further appropriation are shown below:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
740.7	867.7	778.8	441.9	151.0	112.8	55.0	33.8	21.1	33.8	341.7	783.7

Conclusions of Law

Under the provisions of ORS 537.153, the Department must

presume that a proposed use will not impair or be detrimental to the public interest if the proposed use is allowed in the applicable basin program established pursuant to ORS 536.300 and 536.340 or given a preference under ORS 536.310(12), if water is available, if the proposed use will not injure other water rights and if the proposed use complied with rules of the Water Resources Commission.

The proposed use requested in this application is allowed in the South Coast Basin Plan.

No preference for this use is granted under the provisions of ORS 536.310(12).

The proposed use will not injure other water rights.

The proposed use complies with rules of the Water Resources Commission.

The proposed use complies with the State Agency Agreement for land use.

The proposed instream flows do not fully appropriate this source of water year round. Water is available for additional storage.

While the proposed use meets the other tests, the full amount of water requested is not available during some months of the year.

Water is not available for the proposed use at the amount requested during May, June, July, August, September, and October because the unappropriated water available is less than the amounts requested during these months.

For these reasons, the presumption set forth in ORS 537.153, as discussed above, has not been established. The application therefore has been processed without the statutory presumption.

"When instream water rights are set at levels which exceed current unappropriated water available the water right not only protects remaining supplies from future appropriation but establishes a management objective for achieving the amounts of instream flows necessary to support the identified public uses." OAR 690-77-015(2).

"The amount of appropriation for out-of-stream purposes shall not be a factor in determining the amount of an instream water right." "The amount allowed during any time period for the water right shall not exceed the estimated average natural flow ..." (excerpted from OAR 690-77-015 (3) and (4)).

Because the proposed use exceeds the available water, it can not be presumed to be in the public interest. However, under the direction of OAR 690-77-015 (2) (3) and (4), the proposed use is in the public interest up to the limits of the estimated average natural flow.

Oregon law allows certain uses of water to take precedence over other uses in certain circumstances. When proposed uses of water are insufficient for all who desire to use them, preference shall be given to human consumption purposes over all other uses and for livestock consumption over any other use (excerpted from ORS 536.310 (12)).

The Department therefore concludes that

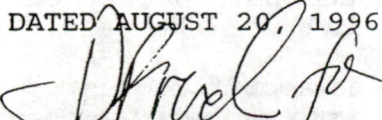
- the proposed use, as limited in the draft certificate, will not result in injury to other water rights,
- the proposed use, as limited in the draft certificate, will not impair or be detrimental to the public interest as provided in ORS 537.170.
- the proposed use, as limited in the draft certificate, for purposes of water distribution, this instream right shall not have priority over human or livestock consumption.
- the flows are to be measured at the lower end of the stream reach to protect necessary flows throughout the reach.
- the stream flows listed below represent the minimum flows necessary to support the public use.

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
325	325	325	325	322	190	125	104	74.9	102	325	325

Recommendation

The Department recommends that the attached draft certificate be issued with conditions.

DATED AUGUST 20, 1996


Steven P. Applegate
Administrator
Water Rights and Adjudications Division

Protest Rights

Under the provisions of ORS 537.153(6) or 537.621(7), you have the right to submit a protest against this proposed final order. Your protest *must* be in writing, and must include the following:

- Your name, address, and telephone number;
- A description of your interest in the proposed final order,

- and, if you claim to represent the public interest, a precise statement of the public interest represented;
- A detailed description of how the action proposed in this proposed final order would impair or be detrimental to your interest;
 - A detailed description of how the proposed final order is in error or deficient, and how to correct the alleged error or deficiency;
 - Any citation of legal authority to support your protest, if known; and
 - If you are not the applicant, the \$200 protest fee required by ORS 536.050.
 - Proof of service of the protest upon the applicant.

Your protest must be received in the Water Resources Department no later than October 4, 1996.

After the protest period has ended, the Director will either issue a final order or schedule a contested case hearing. The contested case hearing will be scheduled only if a protest has been submitted and if

- upon review of the issues the director finds that there are significant disputes related to the proposed use of water,
or
- the applicant requests a contested case hearing within 30 days after the close of the protest period.

DRAFT
STATE OF OREGON

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

Oregon Water Resources Department
158 12th Street NE
Salem, Oregon 97310

The specific limits for the use are listed below along with conditions of use.

Source: SIXES R tributary to PACIFIC OCEAN

County: CURRY

Proposed use: Providing optimum stream flows for coho and fall chinook salmon, cutthroat trout, and winter steelhead for migration, spawning, egg incubation, fry emergence, and juvenile rearing.

To be maintained in:

SIXES RIVER FROM EDSON CREEK AT RIVER MILE 10.1 (SWSW, SECTION 6, TOWNSHIP 32S, RANGE 14W WM); TO THE MOUTH AT RIVER MILE 0.0 (SW1/4, SECTION 35, TOWNSHIP 31S, RANGE 16W WM)

The right is established under Oregon Revised Statutes 537.341.

The date of priority is 11/ 8/1990 .

The following conditions apply to the use of water under this certificate:

1. The right is limited to not more than the amounts, in cubic feet per second, during the time periods listed below:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
325	325	325	325	322	190	125	104	74.9	102	325	325

2. The water right holder shall measure and report the in-stream flow along the reach of the stream or river described in the certificate as may be required by the standards for in-stream water right reporting of the Water Resources Commission.
3. For purposes of water distribution, this instream right shall not have priority over human or livestock consumption.
4. The instream flow allocated pursuant to this water right is not in addition to other instream flows created by a prior water right or designated minimum perennial stream flow.

5. The flows are to be measured at the lower end of the stream reach to protect necessary flows throughout the reach.

Witness the signature of the Water Resources Director affixed this 1st day of _____, 19__.

Water Resources Director

Recorded in State Record of Water Right Certificate number _____.

IS70877

WATER AVAILABILITY TABLE

Basin: SOUTH COAST Exceedance Level: 50
 Water Availability Subbasin: 2200000000000000 (and Nested Subbasins)
 Time: 11:09 Date: 02/09/1998

Item #	W.A. Subbasin	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Sto
1	2200000000000000	YES	YES	YES	YES	NO	NO	NO	NO	NO	NO	YES	YES	YES

STREAM NAMES

Basin: SOUTH COAST
 Water Availability Subbasin: 2200000000000000 (and Nested Subbasins)
 Time: 11:09 Date: 02/09/1998

WAB #	Stream Name	Tributary to
2200000000000000	SIXES R @ mouth	PACIFIC OCEAN

LIMITING WATER AVAILABILITY SUBBASINS

Water Availability Subbasin: 2200000000000000
 Basin: SOUTH COAST Exceedance Level: 50
 Time: 11:09 Date: 02/09/1998

Month	Limiting Subbasin	Stream Name	Water Available?	Net Water Available
1	2200000000000000	SIXES R @ mouth	YES	417.0
2	2200000000000000	SIXES R @ mouth	YES	544.0
3	2200000000000000	SIXES R @ mouth	YES	455.0
4	2200000000000000	SIXES R @ mouth	YES	118.0
5	2200000000000000	SIXES R @ mouth	NO	-171.0
6	2200000000000000	SIXES R @ mouth	NO	-77.0
7	2200000000000000	SIXES R @ mouth	NO	-67.7
8	2200000000000000	SIXES R @ mouth	NO	-70.2
9	2200000000000000	SIXES R @ mouth	NO	-53.9
10	2200000000000000	SIXES R @ mouth	NO	-181.0
11	2200000000000000	SIXES R @ mouth	YES	19.0
12	2200000000000000	SIXES R @ mouth	YES	460.0
Stor	2200000000000000	SIXES R @ mouth	YES	121000.0

Redone for
 6/28/92

DETAILED REPORT ON WATER AVAILABILITY

Basin: SOUTH COAST
 Stream: SIXES R @ mouth
 Water Availability Subbasin: 2200000000000000
 ID Number: 70877
 Date: 02/09/1998

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Net Min. Flow 1/1/93	CU + Stor After 1/1/93	Net Min. Flow Now	Instream Water Rights	Net Water Available
1	744.00	0.31	744.00	2.10	742.00	325.00	417.00
2	871.00	0.36	871.00	2.10	869.00	325.00	544.00
3	782.00	0.13	782.00	2.10	780.00	325.00	455.00
4	445.00	0.24	445.00	2.13	443.00	325.00	118.00
5	152.00	0.83	151.00	0.00	151.00	322.00	-171.00
6	115.00	2.18	113.00	0.00	113.00	190.00	-77.00
7	61.60	3.41	58.20	0.91	57.30	125.00	-67.70
8	36.60	2.81	33.80	0.00	33.80	104.00	-70.20
9	22.30	1.26	21.00	0.00	21.00	74.90	-53.90
10	34.00	0.23	33.80	0.00	34.00	215.00	-181.00
11	344.00	0.22	344.00	0.00	344.00	325.00	19.00
12	787.00	0.32	787.00	2.10	785.00	325.00	460.00
Stor	263000	737	263000	685	262000	179000	121000

DETAILED REPORT OF ISWRS

Basin: SOUTH COAST
 Stream: SIXES R @ mouth
 Water Availability Subbasin: 2200000000000000
 Time: 11:09
 Date: 02/09/1998

APP #	421A	70877A	ISWRS	0	0	0	RESULTANT
1	215.00	325.00	0.00	0.00	0.00	0.00	325.000
2	215.00	325.00	0.00	0.00	0.00	0.00	325.000
3	190.00	325.00	0.00	0.00	0.00	0.00	325.000
4	190.00	325.00	0.00	0.00	0.00	0.00	325.000
5	190.00	322.00	0.00	0.00	0.00	0.00	322.000
6	120.00	190.00	0.00	0.00	0.00	0.00	190.000
7	40.00	125.00	0.00	0.00	0.00	0.00	125.000
8	25.00	104.00	0.00	0.00	0.00	0.00	104.000
9	25.00	74.90	0.00	0.00	0.00	0.00	74.900
10	215.00	102.00	0.00	0.00	0.00	0.00	215.000
11	215.00	325.00	0.00	0.00	0.00	0.00	325.000
12	215.00	325.00	0.00	0.00	0.00	0.00	325.000

April 9, 1997

Ronald S. Yockim
548 S.E. Jackson Suite #7
P.O. Box 2456
Roseburg, Oregon 97470

RE: Follow-up on Protested Water Right Applications Previously
Scheduled for Hearing November 18, 1996.

Dear Ron:

I wanted to touch base with you on the protests scheduled for hearing November 18, 1996, and still unresolved. Your clients with unresolved protests are:

S-69980 and R-69989 (Gardner), S-69537 (Stolz), S-72496 (Bussman), and S-72420 (Watson Escola).

- 1) Gardner - My understanding is, and I think you agree, that these applications need to be set for hearing. Although these two files went through the inter-agency review process, fishery concerns have been expressed throughout the history of these application.

My intention with these two files is to request the Hearings Officer set them up for hearing for July or August. Please let me know if you disagree.

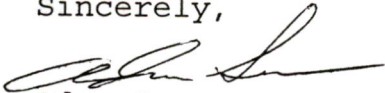
- 2) Stolz - I plan to take another run at settlement on this application this month. Similar to Gardner, fishery concerns on the Stoltz application are not new. I'm hopeful we can reach a reasonable agreement without a hearing.
- 3) Bussman - In our last conversation on this application you indicated that a well might be drilled to resolve this protest. Please provide me with some specifics such as a well log (if already drilled) or proposed location, depth etc. Once I get this type of material I can explore settlement options.



- 4) Watson Escola - It is my understanding that you have contacted WaterWatch about their protest on this application. Is there possibility of settlement? Please let me know the status of the negotiations if any and if this matter should be set for hearing.

Please feel to contact me at (503) 378-8455 ex. 262 to discuss any of these cases further.

Sincerely,



Adam Sussman
Program Analyst and
Department Representative

cc: Dick Bailey, OWRD
Gary Ball, Watermaster District 15
Al Cook, OWRD
Weisha Mize, ALJ

STATE OF OREGON

COUNTY OF CURRY

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

JAMES A BUSSMANN
PO BOX 211
SIXES, OREGON 97476

(541) 332-6611

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: S-72496

SOURCE OF WATER: AN UNNAMED STREAM AND BUSSMANN #1 RESERVOIR, CONSTRUCTED UNDER R-72495, PERMIT R-11810, TRIBUTARIES OF SIXES RIVER

PURPOSE OR USE: CRANBERRY OPERATIONS ON 28.0 ACRES

RATE OF USE: 4.2 CUBIC FEET PER SECOND FROM AN UNNAMED STREAM; 2.07 ACRE-FEET OF STORED WATER

PERIOD OF ALLOWED USE: DECEMBER 1 THROUGH APRIL 30 FROM AN UNNAMED STREAM; YEAR ROUND FROM BUSSMANN #1 RESERVOIR, IF AVAILABLE

DATE OF PRIORITY: JUNE 29, 1992

POINT OF DIVERSION LOCATION: NW 1/4 SW 1/4, SECTION 4, T32S, R15W, W.M.; 700 FEET SOUTH AND 1220 FEET EAST FROM THE W 1/4 CORNER OF SECTION 4

The amount of water diverted for CRANBERRY OPERATIONS, together with amounts secured under any other rights existing for the same lands, is limited as follows: For temperature control, 0.15 cubic foot per second per acre; For flood harvesting or pest control, 0.05 cubic foot per second per acre; For irrigation of cranberries, ONE-FORTIETH of one cubic foot per second and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. For the irrigation of any other crop, ONE-EIGHTIETH of one cubic foot per second and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SW 1/4 NW 1/4 28.0 ACRES
SECTION 4
TOWNSHIP 32 SOUTH, RANGE 15 WEST, W.M.

SEE NEXT PAGE

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The required screens and fishways are to be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

This right is limited to any deficiency in the available supply of any prior right existing for the same land.

STANDARD CONDITIONS

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

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

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

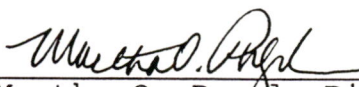
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Actual construction work shall begin within one year from permit issuance and shall be completed on or before October 1, 1998. Complete application of the water to the use shall be made on or before October 1, 1999.

Issued May 28, 1996



Martha O. Pagel, Director
Water Resources Department

THEODORE R. KULONGOSKI
ATTORNEY GENERAL



1162 Court Street NE
Salem, Oregon 97310

THOMAS A. BALMER
DEPUTY ATTORNEY GENERAL

FAX: (503) 378-3802
TDD: (503) 378-5938
Telephone: (503) 378-4409

DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

December 18, 1996

Ron Yockim
Attorney at Law
P.O. Box 2456
Roseburg, OR 97470

Re: Application Nos. 71884, 72605, 73096, 74037, 74489, 69980, R69989
71915, 71997, 69537, 72496, 72547

Dear Mr. Yockim:

This letter is to advise you that the Department of Justice no longer represents the Water Resources Department with respect to your client's application or the pending administrative hearing. Consequently, you should deal directly with Adam Sussman at the Water Resources Department (Telephone (503) 378-8455, ext 262) regarding matters of scheduling, settlement, discovery and any other matters relating to the application. Mr. Sussman is the lay representative for the Water Resources Department and is already familiar with your client's case.

Sincerely,

Melinda L. Bruce
Assistant Attorney General
Natural Resources Section

MLB:SEAS:prv/SEA0273.LET
c: Adam Sussman

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OCT 23 1996

WATER RESOURCES DEPT
SALEM, OREGON

(541) 957-5900
FAX (541) 957-5923

RONALD S. YOCKIM
Attorney at Law

548 S.E. Jackson
Suite #7
P.O. Box 2456
Roseburg, Oregon 97470

October 22, 1996

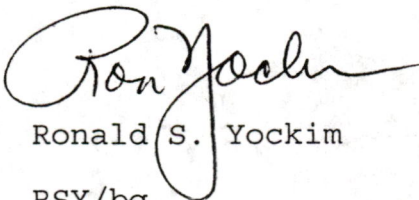
Water Rights Section
Water Resources Department
158 12th Street NE
Salem, OR 97310

Re: Substitute Filing
Application Nos. S-71884, S-74037, S-74489, S-71997, S-73096,
S-71915, S-72605, S-72496, S-72495, S-72547, S-69537, S-72420,
S-69980, R-69989

Dear Sirs:

Enclosed is a SUBSTITUTE FILING in the above matter. Please file-
stamp the copy and return to us in the envelope provided.

Sincerely,



Ronald S. Yockim

RSY/bg

cc: clients
Weisha Mize
Melinda Bruce
Adam Sussman

RECEIVED

OCT 23 1996

WATER RESOURCES DEPT.
SALEM, OREGON

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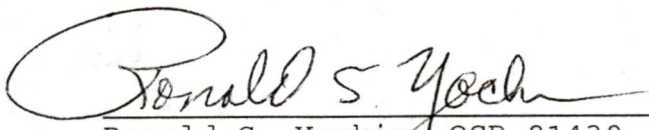
BEFORE THE WATER RESOURCES DEPARTMENT

IN RE WATER RIGHT APPLICATION NOS.)
S-71884 (Lindbloom); S-74037 (Semas);)
S-74489 (Russell); S-71997 (Scharf);) SUBSTITUTE FILING
S-73096 (Albro); S-71915 (Rubin);)
S-72605 (Cariaga); S-72496, S-72495)
(Bussman); S-72547 (Brown); S-69537)
(Stolz); S-72420 (Watson Escola); and)
S-69980, R-69989 (Gardner).)

On October 15, 1996 the Department filed a motion for a continuance of the hearing scheduled in the above-referenced cases. The above referenced contestants do not object to the motion for a continuance.

The Department and above referenced contestants in anticipation that the motion will be granted have elected not to file the witness lists and the voluminous exhibits on the original schedule set by the Hearing Officer, the contestants hereby submit this Substitute Filing and will file the actual documents when the Hearing Officer has ruled on the motion and a new schedule has been set.

DATED this 22nd day of October, 1996.



Ronald S. Yockim, OSB 81430
Attorney for Protestants

RONALD S. YOCKIM
ATTORNEY AT LAW
548 S.E. JACKSON ST. SUITE #7
ROSEBURG, OR 97470
(541)957-5900 FAX(541)957-5923

RECEIVED

OCT 23 1996


WATER RESOURCES DEPT
SALEM, OREGON

CERTIFICATE OF SERVICE

I hereby certify that on October 22, 1996 I served a copy of the SUBSTITUTE FILING, by depositing in the U.S. Mail in Roseburg, Oregon to the following:

Weisha Mize
Administrative Law Judge
Water Resources Department
158 12th Street NE
Salem OR 97310

Melinda L. Bruce
Assistant Attorney General
Natural Resources Section
Department of Justice
1162 Court Street NE
Salem OR 97310



Barbara Griffin
Secretary to Ronald S. Yockim

**State of Oregon
Water Resources Department**

In the Matter of the Water Right Applications

S71884, S72605, S73096, S74037, S74489, S69980 & R69989, S71915,
S71997, S73073, S80636, S73853, S73313, S72636, S71987, S70715,
S71817, S71908, S72152, S72868, S72922, S73007, S73747, S72478,
S72919, S73334, S69537, S73065, R73469 & S71883, S72496, S73251,
S71837 & R71840, S72420, S74530 & S74531 & S74532, S72547, and
S72262

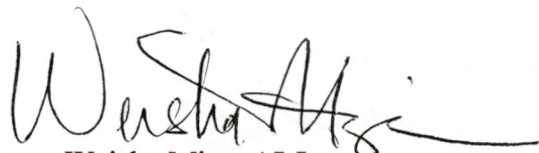
**Order Postponing
Contested Case Hearing**

TO: The parties addressed as shown on the attached Certificate of October 25, 1996:

The Oregon Water Resources Department moved on October 14 for an indefinite continuance of the contested case proceeding in this matter. Grant of the request means that the October 18th motion and memorandum filing deadline, the October 25th response deadline, the October 29th prehearing telephone conference set for 1:30 p.m. and the hearing set to commence on November 18th would not occur as presently scheduled.

The reasons given in support of the Department's second request for continuance are appropriate. The request does not appear to be made solely for the purpose of unreasonable delay. The Motion for Continuance is GRANTED. The dates and times for document and response filings, prehearing conference and hearing will be reset after January 1, 1997. The parties will be notified of the new dates and times after January 1, 1997.

Dated this 21st day of October, 1996.


Weisha Mize, ALJ

Certificate of Service

I certify that on October 25, 1996, I hand-delivered a copy of this Order Postponing Contested Case Hearing in a sealed envelope to the office of Melinda Bruce, Assistant Attorney General; Oregon Dept. of Justice; 100 Justice Building, Salem, OR 97310; and mailed, first-class postage prepaid, a copy of this Notice and the agency's file to:

<u>Applicant</u>	<u>Appl. #</u>
Sonja Lindbloom/Carol Hamil	71884
Diana Cariaga	72605
WC Albro	73096
Donna Semas & Albert Smith	74037
Greg Russell	74489
Raymond Gardner	69980, R69989
Gilbert and Rosalind Rubin	71915
Robert and Norma Scharf	71997
Robert Stolz	69537
George Bussman	72496
Donald J. Brown	72547
Watson Escola Partners, James L. Watson c/o Ron Yockim, Attorney at Law PO Box 2456 Roseburg OR 97470	72420
J. Gerald & Doris L. Bacon	73073, 80636
Dale Woodruff	73853
Dave & Diana Harland c/o Stephen Mountainspring, Attorney at Law DOLE, COALWELL & CLARK, P.C. 810 SE Douglas Ave. Roseburg, OR 97470	73313
Hazel Gladwill Trust c/o Gary Hill, Attorney at Law PO 1146 Roseburg OR 97470	72636
Steven and Marion Scheel 895 Riverwood Lane Oakland OR 97462	71987

Frank Nielson, Manager Douglas Co. Nat'l Resources Rm 103, Justice Building Roseburg OR 97470	70715
Donald Kilcrease 601 Lone Rock Rd.. Glide OR 97443	71817
Art Adams 6600 Camino De Luna Rancho Murieta CA 95683	71908
Randy Albertson 849 Darrell St. Costa Mesa CA 92627	72152
Lori Depew & Paul Czemerys 6038 South Umpqua Rd.. Tiller OR 97484	72868
Juliane Schnieder 149 Lone Pine Lane Roseburg OR 97470	72922
John Irvine 1304 SE 58th Portland OR 97215	73007
Wm. Bonaiuto 1420 Echo Drive Roseburg OR 97470	73747
DeAnna Moore PO Box 75 Umpqua OR 97486	72478
Donald Stearns Stearns Family Trust 18057 Tyee Rd. Umpqua OR 97486	72919

Walter & Kathleen Loomis 73334
PO Box 195
Winchester OR 97495

K. V. Miller 73065
PO Box 7366
Brookings OR 97415

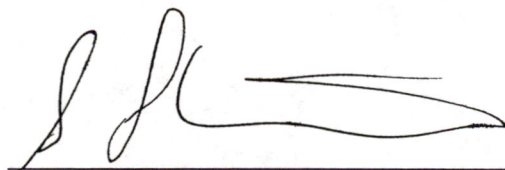
James Deatherage 71883, R73469
PO Box 248
Allegany OR 97407

Darlene & Kenneth Fulk 73251
HC 83 Box 2010
Coquille OR 97423

Robert & Norma Spring 71837, R71840
606 Lone Rock Rd.
Glide OR 97443

Paul F. Pilger 74530, 74531, 74532
704 Douglas Avenue, Apt. G
Bakersfield, CA 93308

Aaron Kenton, Janice Tetreault, and
Royal and Debbie Kenton 72262
13560 Loon Lake Rd.
Reedsport, OR 97467



Sara Carter, Administrative Hearings Coordinator

September 17, 1996

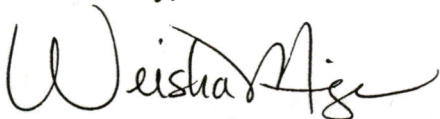
To: The parties addressed

RE: Pre-hearing filings

All parties to the contested case hearing set for the week of November 18 must have any pre-hearing memoranda, motions, objections, and other pleadings filed with me and received by the other parties in the case no later than October 18. Any responses are to be filed with me and received no later than October 25.

Where appropriate, I will rule on any pre-hearing motions and objections at the October 29, 1996, pre-hearing telephone conference.

Sincerely,



Weisha Mize, ALJ



Certificate of Service

I certify that on September 17, 1996, I hand-delivered a copy of this Letter of Pre-hearing Filings in a sealed envelope to the office of Melinda Bruce, Assistant Attorney General; Oregon Dept. of Justice; 100 Justice Building, Salem, OR 97310; and mailed, first-class postage prepaid, a copy of this Notice and the agency's file to:

<u>Applicant</u>	<u>Appl. #</u>
Sonja Lindbloom/Carol Hamil	71884
Diana Cariaga	72605
WC Albro	73096
Donna Semas & Albert Smith	74037
Greg Russell	74489
Raymond Gardner	69980, R69989
Gilbert and Rosalind Rubin	71915
Robert and Norma Scharf	71997
c/o Ron Yockim, Attorney at Law PO Box 2456 Roseburg OR 97470	
J. Gerald & Doris L. Bacon	73073, 80636
Dale Woodruff	73853
Dave & Diana Harland	73313
c/o Stephen Mountainspring, Attorney at Law DOLE, COALWELL & CLARK, P.C. 810 SE Douglas Ave. Roseburg, OR 97470	
Hazel Gladwill Trust	72636
c/o Gary Hill, Attorney at Law PO 1146 Roseburg OR 97470	
Steven Scheel	71987
895 Riverwood Lane Oakland OR 97462	
Frank Nielson, Manager	70715
Douglas Co. Nat'l Resources Rm 103, Justice Building Roseburg OR 97470	
Donald Kilcrease	71817
601 Lone Rock Rd.. Glide OR 97443	

Art Adams 6600 Camino De Luna Rancho Murieta CA 95683	71908
Randy Albertson 849 Darrell St. Costa Mesa CA 92627	72152
Lori Depew & Paul Czemerys 6038 South Umpqua Rd.. Tiller OR 97484	72868
Juliane Schnieder 149 Lone Pine Lane Roseburg OR 97470	72922
John Irvine 1304 SE 58th Portland OR 97215	73007
Wm. Bonaiuto 1420 Echo Drive Roseburg OR 97470	73747
Donald & Norma Jean Wright 1187 Little River Rd. Glide OR 97443	72248
DeAnna Moore PO Box 75 Umpqua OR 97486	72478
Donald Stearns Stearns Family Trust 18057 Tyee Rd. Umpqua OR 97486	72919
Walter & Kathleen Loomis PO Box 195 Winchester OR 97495	73334
Robert Stolz Route 1 Box 2030 Bandon OR 97411	69537
K. V. Miller PO Box 7366 Brookings OR 97415	73065

James Deatherage 71883, R73469
PO Box 248
Allegany OR 97407

George Bussman 72496
2090 North Bank Rd.
Bandon OR 97411

Darlene & Kenneth Fulk 73251
HC 83 Box 2010
Coquille OR 97423

Robert & Norma Spring 71837, R71840
606 Lone Rock Rd.
Glide OR 97443

Watson Escola Partners, 72420
James L. Watson
1240 Mokulua Dr.
Kailua, HI 96734

Paul F. Pilger 74530, 74531, 74532
704 Douglas Avenue, Apt. G
Bakersfield, CA 93308

Donald J. Brown 72547
PO Box 536
Sitka, AK 99835

Aaron Kenton, Janice Tetreault, and 72262
Royal and Debbie Kenton
13560 Loon Lake Rd.
Reedsport, OR 97467



Sara Carter, Administrative Hearings Coordinator

Fish District: Lower Rogue/South Coast

WAB #

Application # 5-72496

Applicant Name J. Bussman

Date: March 26, 1996

AREA

Source Watershed

Senior instream water right application to junior out-of-stream application

No water availability information

INFORMATION/CONDITIONS

1. Are there water quality concerns related to salmon/steelhead/trout? Y N
Should the application be denied? Y N
Should the application be restricted? Y N

Jan	Feb	Mar	Apr	May	Jun 1-15	June 16-30	Jul	Aug	Sep 1-15	Sep 16-30	Oct	Nov	Dec

2. Are there adequate flows to protect salmon/steelhead/trout? Y N
Should the application be denied? Y N
Should the application be restricted? Y N Based on water availability

Jan	Feb	Mar	Apr	May	Jun 1-15	June 16-30	Jul	Aug	Sep 1-15	Sep 16-30	Oct	Nov	Dec
				X								X	

3. Domestic
Should domestic use be conditioned to human consumption? Y N Based on water availability

4. Fish Screening and Passage
 A. Requires fish screening and passage, with ODFW certification (applications > 0.5 cfs).
 B. Requires fish screening and passage, without ODFW certification (applications < 0.5 cfs).
 C. No dam or obstruction without a fishway.

5. Miscellaneous
 A. Reservoir Filling _____
 B. Water Quality Permits _____
 C. Return Flow _____
 D. Time Limited Water Right _____
 E. Other _____

6. Measurement and Reporting
 A. Small diversions (<0.1 cfs or <9.2 ac/ft. may/may)
 B. Medium diversions (0.1 cfs or >9.2 and <1.5 cfs or <100 ac/ft. shall/may)
 C. Large diversions (1.5 cfs or >100 ac/ft. shall/shall)

FINDINGS

- Permit is proposed for denial prior to interagency team review for fishery concerns.
- Deny permit due to fishery concerns, except for
 - A. Domestic (which may be limited to human consumption, see above)
 - B. Livestock
 - C. Unless water is from storage
- Do not condition further due to fishery concerns.
- Condition permit due to fishery concerns listed above.



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SEP 03 1996

WATER RESOURCES DEPT.
SALEM, OREGON

RONALD S. YOCKIM
Attorney at Law

548 S.E. Jackson
Suite #7
P.O. Box 2456
Roseburg, Oregon 97470

(541) 957-5900
FAX (541) 957-5923

August 30, 1996

Certified Mail, Return Receipt Requested
Z 007 380 687

Melinda Bruce
Assistant Attorney General
Oregon Department of Justice
100 Justice Building
Salem, Oregon 97310

Re: Water Right Application S-72496

Dear Ms. Bruce:

Pursuant to ORCP 43, OAR 690-02-120, and OAR 137-03-025, we hereby submit this discovery request for all documents relied upon by Martha Pagel in issuing the "final order" relative to water right S-72496. In addition we request any documents between Ms. Pagel or her employees and the Governor or his representatives discussing or offering direction relative to processing this application or applications generally on the Sixes River and its tributaries.

We request that you permit counsel for applicant/protestant to inspect and copy the documents as described herein on September 13, 1996 at 10:00 A.M. at the offices of:

Ronald S. Yockim
Attorney at Law
P.O. Box 2456
548 SE Jackson
Roseburg, Oregon 97470

As used in this request for production, the term documents means all tangible things subject to discovery under ORCP 43, including without limitation all printed, graphic, or recorded matter (including audio and videotape recordings), any letters, notes, work papers, memoranda, messages, maps, calendars, diaries, desk books, contracts or written agreements, logs, lists, copies of

Water Rights Section
August 30, 1996
Page 2

any printed, typewritten, or handwritten matter or workbooks, in whatever form maintained which are subject to the possession, custody, or control of Martha Pagel.

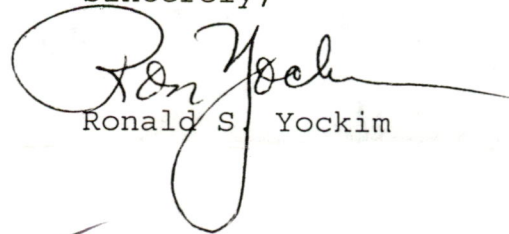
As used in this request for production, the reference to Martha Pagel means Martha Pagel, and her attorneys, agents, employees and representatives, and others who are in possession or who may have obtained the requested documents for or on behalf of Martha Pagel.

If a particular category of requested documents does not exist, Martha Pagel must serve a written response on applicant/protestant's attorney stating that the specified documents do not exist.

THIS REQUEST IS A CONTINUING ONE. IF YOU SHOULD DISCOVER ADDITIONAL DOCUMENTS FALLING WITHIN THE TERMS OF THIS REQUEST, THE ADDITIONAL DOCUMENTS MUST BE PRODUCED.

This is an informal request for exchange of information pursuant to OAR 137-03-025(3). If you are unable to or unwilling to comply this request on a voluntary basis, please advise within ten days of the date of this letter and we will seek a formal discovery order.

Sincerely,



Ronald S. Yockim

cc. client
Weisha R. Mize, hearings officer

RONALD S. YOCKIM

Attorney at Law

548 S.E. Jackson
Suite #7
P.O. Box 2456
Roseburg, Oregon 97470

(541) 957-5900
FAX (541) 957-5923

August 28, 1996

Weisha Mize
Administrative Law Judge
Water Resources Department
158 12th Street NE
Salem, OR 97310

RECEIVED

AUG 30 1996

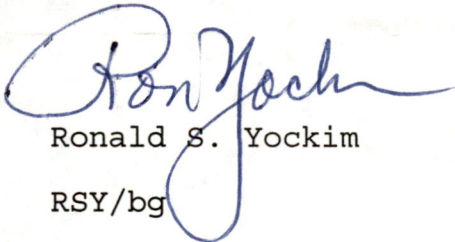
**WATER RESOURCES DEPT.
SALEM, OREGON**

Re: George Bussman, Application #S-72496
Our File No. 96047-A

Dear Ms. Mize:

Please be informed that this office has been retained to represent George Bussman, application #S-72496, in the contested case hearing now scheduled for November 18, 1996.

Sincerely,



Ronald S. Yockim

RSY/bg

cc: client
Melinda Bruce
Adam Sussman

August 26, 1996

WATER
RESOURCES
DEPARTMENT

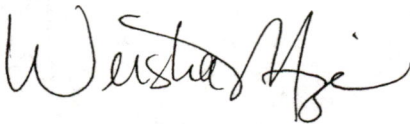
To the parties addressed:

The following applications were inadvertently omitted from the Order and Notice of Rescheduled Contested Case Hearings mailed to you on Friday, August 23, 1996. Enclosed please find a corrected Order and Notice of Hearing adding these applications:

S74037, Donna Semas & Albert Smith, represented by Ronald Yockim
S74489, Greg Russell, represented by Ronald Yockim
S69980 & R69989, Raymond Gardner, represented by Ronald Yockim
S71987, Steven Scheel
S71837 & R71840, Robert & Norma Spring

My apologies for any confusion this omission may have caused.

Sincerely,



Weisha Mize, ALJ

encl.



Commerce Building
158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

**State of Oregon
Water Resources Department**

In the Matter of the Water Right Applications		CORRECTED Order and
S71884, S72605, S73096, S47037, S74489, S69980 & R69989,		Notice of Rescheduled
S73073, S73853, S73313, S72636, S71987, S70715, S71817,		Contested Case Hearings
S71908, S72152, S72868, S72922, S73007, S73747, S72248,		
S72478, S72919, S73334, S69537, S73065, R73469 & S71883,		
S72496, S73251, S71837 & R71840		

TO: The parties addressed as shown on the attached Certificate of Service

Hearings Rescheduled to New Date and Time

Pursuant to the request made by the Water Resources Department, the contested case hearings on the above-listed applications are hereby POSTPONED.

All hearings on all the applications listed above are consolidated and are RESCHEDULED for the week of November 18, 1996. The hearing will be held in Room 216 of the Douglas County Courthouse in Roseburg, Oregon, before Weisha Mize, Administrative Law Judge. The hearing will commence at 1 p.m. on Monday, November 18, recess at 5:00 p.m. and reconvene at 9:00 a.m. the following day.

The hearings on the applications listed above are being consolidated as they share the common issues of the review by the interagency team and restrictions placed on the proposed use as a result of that review.

The Water Resources Department will present its case first. Ron Yockim, Attorney at law, representing the applicants for applications S71884, S72605, S73096, S74037, S74489, S69980 & R69989, will present the case on behalf of these applicants, followed by Steven Mountainspring, legal counsel presenting the applicants on applications S73073, S73853 and S73313, and Gary Hill, legal counsel for the applicant on application S72636. The individual unrepresented applicants will then present their cases in the order set out in the above case caption and attached certificate of service.

Prehearing telephone conference call

A prehearing conference will be conducted by telephone on October 29th, using Oregon's Meet Me Teleconferencing system. The prehearing conference will begin at 1:30 p.m. and must conclude no later than 3:30 p.m. To participate, parties must call 1-503-378-3333 no earlier than 1:30 p.m. As there are a maximum of 20 ports (in-coming lines) available through this system, applicants on applications S69537, S73065, S71883 & R73469, S72496, and S73251 in the south coast area will be connected through an ATT conference operator.

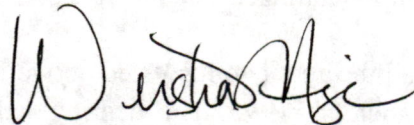
The purpose of the prehearing conference call will be to discuss and establish clear procedures and guidelines for the consolidated hearing, including order of presentation and time requirements; to identify, simplify and clarify issues; to specify matters on which judicial notice may be taken; to obtain stipulations of fact; and to discuss settlement or other resolution or partial resolution of the cases.

Department Representative

The Department has provided notice that it will be represented in this matter by Melinda Bruce, Assistant Attorney General, Department of Justice. Assisting Ms. Bruce will be Paul Conable, law clerk, and Adam Sussman, lay representative for the Department.

Any witness lists, copies of proposed exhibits, motions, pleadings or other filings to be served on the Department should be directed to Melinda Bruce at the address set out in the attached certificate of service.

DATED this 26th day of August, 1996.

A handwritten signature in black ink, appearing to read 'Weisha Mize', written in a cursive style.

Weisha Mize
Administrative Law Judge

Certificate of Service

I certify that on August 26, 1996, I hand-delivered a copy of this Notice of Hearing in a sealed envelope to the office of Melinda Bruce, Assistant Attorney General; Oregon Dept. of Justice; 100 Justice Building, Salem, OR 97310; and mailed, first-class postage prepaid, a copy of this Notice and the agency's file to:

<u>Applicant</u>	<u>Appl. #</u>
Sonja Lindbloom/Carol Hamil	71884
Diana Cariaga	72605
WC Albro	73096
Donna Semas & Albert Smith	74037
Greg Russell	74489
Raymond Gardner	69980, R69989
c/o Ron Yockim, Attorney at Law PO Box 2456 Roseburg OR 97470	
Gerald & Doris Bacon	73073
Dale Woodruff	73853
Dave & Diana Harland	73313
c/o Stephen Mountainspring, Attorney at Law DOLE, COALWELL & CLARK, P.C. 810 SE Douglas Ave. Roseburg, OR 97470	
Hazel Gladwill Trust	72636
c/o Gary Hill, Attorney at Law PO 1146 Roseburg OR 97470	
Steven Scheel	71987
895 Riverwood Lane Oakland OR 97462	
Frank Nielson, Manager	70715
Douglas Co. Nat'l Resources Rm 103, Justice Building Roseburg OR 97470	
Donald Kilcrease	71817
601 Lone Rock Rd.. Glide OR 97443	
Art Adams	71908
6600 Camino De Luna Rancho Murieta CA 95683	

Randy Albertson 849 Darrell St. Costa Mesa CA 92627	72152
Lori Depew & Paul Czemerys 6038 South Umpqua Rd.. Tiller OR 97484	72868
Juliane Schnieder 149 Lone Pine Lane Roseburg OR 97470	72922
John Irvine 1304 SE 58th Portland OR 97215	73007
Wm. Bonaiuto 1420 Echo Drive Roseburg OR 97470	73747
Donald & Norma Jean Wright 1187 Little River Rd. Glide OR 97443	72248
DeAnna Moore PO Box 75 Umpqua OR 97486	72478
Donald Stearns Stearns Family Trust 18057 Tyee Rd. Umpqua OR 97486	72919
Walter & Kathleen Loomis PO Box 195 Winchester OR 97495	73334
Robert Stolz Route 1 Box 2030 Bandon OR 97411	69537
K. V. Miller PO Box 7366 Brookings OR 97415	73065
James Deatherage PO Box 248 Allegany OR 97407	71883, R73469

George Bussman
2090 North Bank Rd.
Bandon OR 97411

72496

Darlene & Kenneth Fulk
HC 83 Box 2010
Coquille OR 97423

73251

Robert & Norma Spring
606 Lone Roack Rd.
Glide OR 97443

71837, R71840

A handwritten signature in black ink, appearing to read 'S. Carter', with a long horizontal flourish extending to the right.

Sara Carter, Administrative Hearings Coordinator

**State of Oregon
Water Resources Department**

In the Matter of the Water Right Applications

S71884, S72605, S73096, S73073, S73853, S72636, S73313,
S70715, S71817, S71908, S72152, S72868, S72922, S73007,
S73747, S72248, S72478, S72919, S73313, S73334, S69537,
S73065, R73469 & S71883, S72496, and S73251

Order and
Notice of Rescheduled
Contested Case Hearings

TO: The parties addressed as shown on the attached Certificate of Service

Hearings Rescheduled to New Date and Time

Pursuant to the request made by the Water Resources Department, the contested case hearings on the above-listed applications are hereby POSTPONED.

All hearings on all the applications listed above are consolidated and are RESCHEDULED for the week of November 18, 1996. The hearing will be held in Room 216 of the Douglas County Courthouse in Roseburg, Oregon, before Weisha Mize, Administrative Law Judge. The hearing will commence at 1 p.m. on Monday, November 18, recess at 5:00 p.m. and reconvene at 9:00 a.m. the following day.

The hearings on the applications listed above are being consolidated as they share the common issues of the review by the interagency team and restrictions placed on the proposed use as a result of that review.

The Water Resources Department will present its case first. Ron Yockim, Attorney at law, representing the applicants for applications S71884, S72605 and S73096 will present the case on behalf of these applicants, followed by Steven Mountainspring, legal counsel presenting the applicants on applications S73073 and S73853, and Gary Hill, legal counsel for the applicant on application S72636. The individual unrepresented applicants will then present their cases in the order set out in the above case caption.

Prehearing telephone conference call

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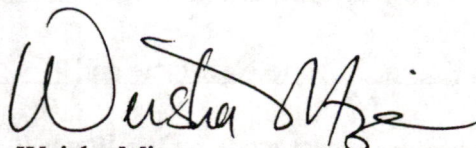
The purpose of the prehearing conference call will be to discuss and establish clear procedures and guidelines for the consolidated hearing, including order of presentation and time requirements; to identify, simplify and clarify issues; to specify matters on which judicial notice may be taken; to obtain stipulations of fact; and to discuss settlement or other resolution or partial resolution of the cases.

Department Representative

The Department has provided notice that it will be represented in this matter by Melinda Bruce, Assistant Attorney General, Department of Justice. Assisting Ms. Bruce will be Paul Conable, law clerk, and Adam Sussman, lay representative for the Department.

Any witness lists, copies of proposed exhibits, motions, pleadings or other filings to be served on the Department should be directed to Melinda Bruce at the address set out in the attached certificate of service.

DATED this 23rd day of August, 1996.

A handwritten signature in cursive script, appearing to read "Weisha Mize".

Weisha Mize
Administrative Law Judge

Certificate of Service

I certify that on August 23, 1996, I hand-delivered a copy of this Notice of Hearing in a sealed envelope to the office of Melinda Bruce, Assistant Attorney General; Oregon Dept. of Justice; 100 Justice Building, Salem, OR 97310; and mailed, first-class postage prepaid, a copy of this Notice and the agency's file to:

<u>Applicant</u>	<u>Appl. #</u>
Sonja Lindbloom/Carol Hamil	71884
Diana Cariaga	72605
WC Albro	73096
c/o Ron Yockim, Attorney at Law PO Box 456 Roseburg OR 97470	
Gerald & Doris Bacon	73073
Dale Woodruff	73853
Dave & Diana Harland	73313
c/o Stephen Mountainspring, Attorney at Law DOLE, COALWELL & CLARK, P.C. 810 SE Douglas Ave. Roseburg, OR 97470	
Hazel Gladwill Trust	72636
c/o Gary Hill, Attorney at Law PO 1146 Roseburg OR 97470	
Frank Nielson, Manager	70715
Douglas Co. Nat'l Resources Rm 103, Justice Building Roseburg OR 97470	
Donald Kilcrease	71817
601 Lone Rock Rd.. Glide OR 97443	
Art Adams	71908
6600 Camino De Luna Rancho Murieta CA 95683	
Randy Albertson	72152
849 Darrell St. Costa Mesa CA 92627	
Lori Depew & Paul Czemerys	72868
6038 South Umpqua Rd.. Tiller OR 97484	

Juliane Schnieder 72922
149 Lone Pine Lane
Roseburg OR 97470

John Irvine 73007
1304 SE 58th
Portland OR 97215

Wm. Bonaiuto 73747
1420 Echo Drive
Roseburg OR 97470

Donald & Norma Jean Wright 72248
1187 Little River Rd.
Glide OR 97443

DeAnna Moore 72478
PO Box 75
Umpqua OR 97486

Donald Stearns 72919
Stearns Family Trust
18057 Tyee Rd.
Umpqua OR 97486

Walter & Kathleen Loomis 73334
PO Box 195
Winchester OR 97495

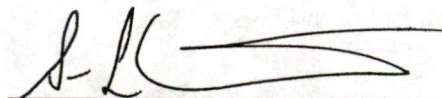
Robert Stolz 69537
Route 1 Box 2030
Bandon OR 97411

K. V. Miller 73065
PO Box 7366
Brookings OR 97415

James Deatherage 71883, R73469
PO Box 248
Allegany OR 97407

George Bussman 72496
2090 North Bank Rd.
Bandon OR 97411

Darlene & Kenneth Fulk 73251
HC 83 Box 2010
Coquille OR 97423



Sara Carter, Administrative Hearings Coordinator

July 12, 1996

WATER
RESOURCES
DEPARTMENT

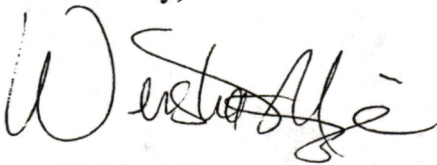
To the parties addressed:

In the enclosed contested case hearing notice, you may notice that someone beside Stephen Elmore has signed the notice and will be presiding over the hearing.

My name is Weisha Mize and I am the Administrative Law Judge who will be conducting the contested case hearing involving your application with the Water Resources Department. Steve Elmore, the ALJ previously assigned to your case, is no longer with the Department.

If you have questions about the contested case proceeding, you may contact Sara Carter at extension 300. Sara is the new Hearings Section support staff, and if she can't answer your question directly she will find the answer and get back to you promptly. However, neither Sarah nor I can discuss the specific facts of your application or the Department's proposed action - those questions should be directed to Adam Sussman at this number, extension 262.

Sincerely,



Weisha Mize
ALJ

encl.



Commerce Building
158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

State of Oregon
Water Resources Department

In the Matter of the Water Right Applications
71883 & R73469, 72496, 73065 and 73251

|
| **Notice of**
| **Contested Case Hearing**

TO: The parties addressed as shown on the attached Certificate of Service

A consolidated contested case hearing on the above-listed applications will commence at **9:00 a.m., Wednesday, September 18, 1996**, in Room 306, North Bend Annex, 1975 McPherson, North Bend, Oregon. The hearing will be conducted by Administrative Law Judge (ALJ) Weisha Mize, and will examine the following issues:

Whether, based on the review and recommendations made by an interagency review team, the Department has the legal authority to issue a Final Order which imposes additional requirements or restricts the period of use and thereby modifies an unprotested Proposed Final Order;

Whether the additional conditions and restrictions and changes from the Proposed Final Order to Final Order are necessary to further protect the public interest in fisheries and are supported by fact.

The hearing will commence promptly and will conclude no later than noon, at which time the hearing record will be closed.

As the hearing is a consolidated one involving 5 applications and 4 applicants with common grounds for protest, the Department is directed to present its factual case first and to complete its presentation on all cases, not including any rebuttal, within 1 hour. Each applicant will then have 30 minutes in which to present testimony and exhibits in support of the applicant's position on the issues in this hearing. The order of applicant presentation will be in the order set out in the caption above. Applicants are advised to be in the hearing room at least one hour prior to the time they are to present their case.


The agency's file on each application will be proposed exhibits. Any objections to entry of a specific file into the record should be raised at the hearing at the time the case on that application is presented.

Both the Protestant and the Department are ordered to provide each other and the Administrative Law Judge lists of any witnesses whom they propose to call, with a **brief** summary of anticipated testimony, and copies of any exhibits that they propose to introduce, **hand-delivered or postmarked no later than Monday, September 9, 1996**. Failure to deliver or mail witness lists and copies of exhibits by that postmark date may result in exclusion of the proposed evidence.

In the event the Department will not be represented by counsel at the hearing, the Department is further directed to file its argument on the legal issue set out above at the same time it files its witness list and exhibits.

Enclosed is a copy of STATEMENT OF PARTIES' RIGHTS IN CONTESTED CASE HEARINGS.

Dated July 16, 1996.

A handwritten signature in cursive script, appearing to read "Weisha Mize", written over a horizontal line.


Weisha Mize,
Administrative Law Judge
Water Resources Department
158 12th Street NE.
Salem, OR 97310

Certificate of Service

I certify that on July 16, 1996, I hand-delivered a copy of this Notice of Hearing in a sealed envelope to the office of Steven P. Applegate, Acting Administrator, and Adam Sussman, Water Rights Division, 158 12th St. NE, Salem, OR 97310; mailed, first-class postage prepaid, a copy of this Notice to Stephen E.A. Sanders and Melinda Bruce, Assistant Attorneys General; Oregon Dept. of Justice; 100 Justice Building, Salem, OR 97310; and mailed, first-class postage prepaid, a copy of this Notice and the agency's file to:

<u>Applicant</u>	<u>Appl. #</u>
James Deatherage PO Box 248 Allegany OR 97407	71883, R73469
George Bussman 2090 North Bank Rd. Bandon OR 97411	72496
K. V. Miller PO Box 7366 Brookings OR 97415	73065
Darlene & Kenneth Fulk HC 83 Box 2010 Coquille OR 97423	73251

Dated July 16, 1996.



Weisha Mize, ALJ

RECEIVED

JUN 12 1996

WATER RESOURCES DEPT.
SALEM, OREGON

PROTEST TO FINAL ORDER

Application No. S-72496

Applicant's Name: James A. Bussmann
George Bussmann

Protestant's name: George Bussmann
Address: 2090 North Bank Road
Bandon, Oregon 97411

Phone: (541) 347-4105

Interest in the Final Order: I manage the cranberry operations for Bussmann Farms. I am a brother to James A. Bussmann, and manage the cranberry operations on his ownership.

How the Final Order will impair or be detrimental to our interest: As written, the Final Order will not allow us to raise cranberries on the ownership as described in our application. Having water available from December 1 through April 30 will not be sufficient to raise a crop of cranberries. The 2.07 acre feet of storage described on application B-72495 will not be sufficient to provide for irrigation, temperature control and flood harvest between April 30 and November 1 each year.

Describe how the Final Order is deficient or in error, and how to correct it: The Final Order is in error because it modified the Proposed Final Order without notification or the consent of the applicant. We did not object to the Proposed Final Order because it allowed the raising of cranberries on the described acreage. The Final Order was modified without out consent or ability to participate in the decision making process.

The Final Order may be corrected by one of two actions:

1. The Final Order to have the same condition as the Proposed Final Order.
2. Allow the applicant to change the point of withdrawal (diversion) to two wells on the described land within 1,000 feet of the point of diversion described on the application (a suggestion that gained the approval of the local fishery biologist).

Cite any legal authority that supports your protest: It was my understanding that if there were no protests to the Proposed Final Order within the prescribed time limits, the Final Order shall stand as the Proposed Final Order was written. To our knowledge no protests were filed on our Proposed Final Order, therefore, by what authority may the Department change the Final Order without notifying us in advance of any meetings or hearings that may cause a significant change in the Proposed Final Order?

It is also my understanding that the interagency process that caused this change is described in the proposed Division 33 rules. Those rules have not been adopted by the agency of Water Resources Commission and, in fact, are scheduled for discussion at the June 27, 1996, Commission meeting in Ashland. Also, to my knowledge, emergency rule making has not been done on this process, therefore, by what legal authority do you, as an agency, have to make this detrimental change to our Proposed Final Order?

I believe this process is outside the bounds of legislative intent for the process of processing water right applications and there is no legal basis for the change to the Proposed Final Order.

The use, as described, does comply with the Curry County Comprehensive Plan, Basin Program Statement and meets your water availability criteria. These items were addressed in your technical review and Proposed Final Order.

Final Comment: I do wish a contested case hearing to discuss and determine the matters described above. I believe the Department has exceeded their authority in taking a process created by legislation and modifying it to suit standards and criteria not properly determined by rule or legislation.

I believe that if Department personnel and I discuss the use of water in this area, an equitable arrangement may be obtained that will allow cranberries to be raised and maintain the watershed integrity that the Department desires.

[Signature]
Applicant / James A. Bussmann

[Signature]
Manager / George Bussmann

I am the Applicant and do request a contested case hearing.

FORM NO. 23 — ACKNOWLEDGMENT
STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

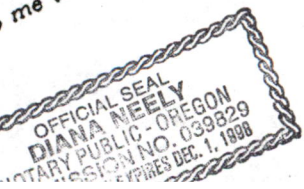
STATE OF OREGON,
County of Curry

BE IT REMEMBERED, That on this 10th day of June, 1996, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named George Bussmann and James A. Bussmann } ss.

known to me to be the identical individuals described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

[Signature]
Notary Public for Oregon.
My Commission expires 12-1-98



PROTEST TO FINAL ORDER

Application No. S-72496

Applicant's Name: James A. Bussmann
George Bussmann

Protestant's name: George Bussmann
Address: 2090 North Bank Road
Bandon, Oregon 97411

Phone: (541) 347-4105

Interest in the Final Order: I manage the cranberry operations for Bussmann Farms. I am a brother to James A. Bussmann, and manage the cranberry operations on his ownership.

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Describe how the Final Order is deficient or in error, and how to correct it: The Final Order is in error because it modified the Proposed Final Order without notification or the consent of the applicant. We did not object to the Proposed Final Order because it allowed the raising of cranberries on the described acreage. The Final Order was modified without our consent or ability to participate in the decision making process.

The Final Order may be corrected by one of two actions:

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Cite any legal authority that supports your protest: It was my understanding that if there were no protests to the Proposed Final Order within the prescribed time limits, the Final Order shall stand as the Proposed Final Order was written. To our knowledge no protests were filed on our Proposed Final Order, therefore, by what authority may the Department change the Final Order without notifying us in advance of any meetings or hearings that may cause a significant change in the Proposed Final Order?

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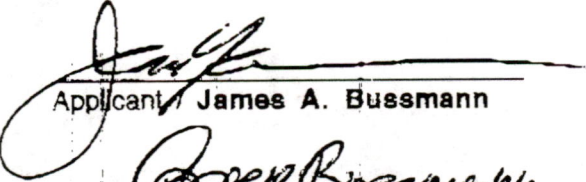
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Protest to Final Order
File No. S-72496
June 9, 1996
Page 2

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Final Comment: I do wish a contested case hearing to discuss and determine the matters described above. I believe the Department has exceeded their authority in taking a process created by legislation and modifying it to suit standards and criteria not properly determined by rule or legislation.

I believe that if Department personnel and I discuss the use of water in this area, an equitable arrangement may be obtained that will allow cranberries to be raised and maintain the watershed integrity that the Department desires.


Applicant / **James A. Bussmann**


Manager / **George Bussmann**

I am the Applicant and do request a contested case hearing.

FO CHECKLIST

TRIAGE FILES

FILE # 72996

REVIEW DATE: 05 / 08 / 1996

WEEK # WEEK 34

#20

INITIALS : LLS

In preparing the FO, you should check the following:

1. Y / N Were comments or protests received in response to the PFO?
2. List names and addresses of **ALL** commentors (regardless of comment date) on the PFO CC list.
3. Verify payment of recording fees (circle the appropriate option)
 - (1) Issue FO w/permit if fees are paid
(a) Prepare refund request for any excess fees
 - (2) Issue FO w/o permit if fees are lacking

200
100 1CFS
200 4CFS

500.00
4. Y / N Has the applicant signed an oath of accuracy for the application?
5. Y / N Is water use restricted for one or more months of the normal use period?
6. Assign permit numbers to files with oath, fees, and no protests or other unresolved issues

Route to: (circle one)

DENIAL	FO w/o PERMIT	FO & PERMIT	COMMENTS	
LARRY	CORY	JEREMY	JERRY	DOUG

51
51A
54A

7. Y / N If #5 = "Y", Have you completed the Triage Report Card sheet?

INITIALS : [Signature]

Modify FO as needed to:

8. Respond to significant comments, issues, or disputes related to the proposed use of water
9. Include or exclude permit conditions and management codes
10. Notify applicant of additional information or fees required prior to permit issuance (Use standard wording from M:\T\FO\TOOLS if possible)
11. Correct PFO errors (such as POD or POU location (verify from map), Permit format)
12. Y / N Is further processing possible? If not state reason: _____

Once FO document is completed:

13. Save WordPerfect document in M:\T\FO\WEEK 36 & delete duplicates
14. Print final draft of document and submit to team leader for review
15. Y / N Team leader review completed

~~HEX~~

>

COPY CHECK-OFF SHEET FOR PROPOSED FINAL ORDERS

CC: FILE # S-72496

WATERMASTER # 19

REGIONAL MANAGER: Al Cook

ODF&W - Curry County:

CWRE (if agent): John P. Prahar

DEQ

OTHER STATE AGENCY IF NECESSARY:

DIVISION 33 LIST: _____ COLUMBIA RIVER INTERTRIBAL FISH COMMISSION; U.S. FISH & WILDLIFE;
(CHECK ONLY IF APPLICABLE) NORTHWEST POWER PLANNING COUNCIL & NATIONAL MARINE FISHERIES

POWER BUILDER UPDATER; FRONT COUNTER

OTHER ADDRESSES OF PEOPLE WHO PAID THE \$10 FEE:

PEOPLE WITH OBJECTIONS, COMMENTS OR REQUESTED COPY W/O \$10 (SEND THE \$10 LETTER):

CASEWORKER : LJJ

RECEIVED

JUN 29 1992

Application No. 72496

State of Oregon
WATER RESOURCES DEPARTMENT

WATER RESOURCES DEPT.
SALEM, OREGON

Application for a Permit to Appropriate Surface Water

Applicant(s) James A. Bussmann
(Please print or type - use dark ink)

Mailing Address: P.O. Box 211
Sixes OR 97476 332-6611
City State Zip Daytime Phone No.

I (We) make application for a permit to appropriate the following described waters of the State of Oregon:

1. **SOURCE OF WATER** for the proposed use: unnamed stream,
a tributary of Sixes River

2. **TOTAL AMOUNT OF WATER** to be applied to beneficial use: 4.2 cubic feet per
second, OR 1884.96 gallons per minute. If water is to be used from more than one source,
give the quantity of water from each: n/a

3. **INTENDED USE(S) OF WATER:** Cranberry Production

If for more than one use, give the quantity of water from each source for each use; n/a

If for **DOMESTIC** use, state the number of households to be supplied; n/a

If for **MUNICIPAL OR QUASI-MUNICIPAL** use, state the present population to be served,
and an estimate of the future requirements: (List population projections, water needs, anticipated areas
to be provided water.)
n/a

If for **MINING** use, state the nature (gold, silver, etc.) of the mines to be served; n/a

If for **IRRIGATION**, or other land area use, state the **TOTAL** number of acres to be developed
under each use;

Irrigation 28.0
Other (describe) _____

4. **DESCRIPTION OF WATER DELIVERY SYSTEM:** *Include dimensions and type of construction of diversion works, length and dimensions of supply ditches or pipelines, size and type of pump and motor. If for irrigation, describe the type of system (i.e., flood, wheel line, hand line, drip, other).*

The diversion is an earth fill dam 150' long by 20' wide at the
top. At the North end of the dam I am going to install 2-20hp
"Cornell" pump/motor combinations which will pump through approx.
1500' of 2-6" plastic pipes to the I.S.H.F. (in system holding facility).
From the I.S.H.F. I will pump through approx. 6100' of 4" plastic
mainlines as shown on the accompanying map. "Rainbird" type sprinklers
will be used for irrigation and temp. control uses.

5. **PROJECT SCHEDULE:** *(List month and year)*

Proposed date construction work will begin Aug 1992

Proposed date construction work will be completed Aug 1993

Proposed date water use will be completed Aug. 1994

NOTE: A map prepared by a Certified Water Right Examiner (CWRE) and a complete legal description of the subject property are required under ORS 537.140 and OAR 690 as a part of your application. The legal description may be copied from your deed, title insurance policy, or land sales contract.

6. a) *In the event any deficiencies are noted involving the application map enclosed herein, please return the map with instructions for correction to (check one):*

 Applicant X CWRE Other (Identify in REMARKS section)

b) *In the event any deficiencies are noted involving the application, please return the application with instructions for correction to (check one):*


 Applicant X CWRE Other (Identify in REMARKS section)

7. *Are all lands involved (including the proposed diversion site, place of use, and access for conveying the water) under your ownership? yes. If not, list in the REMARKS section below, or on an attached sheet, the names and mailing addresses of the legal owners of all property involved in the proposed development.*

REMARKS: _____

I/We certify that the information I have provided in this application is an accurate representation of the proposed water use and is true and correct to the best of my knowledge.

NOTE: The permit, when issued, is for the beneficial use of water without waste. By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan. It is possible the land use you propose may not be allowed if it is not in keeping with the goals and acknowledged plan. Your city or county planning agency can advise you about the land-use plan in your area.



Signature of Applicant

6/24/92

Date

Signature of Co-Applicant, if any

Date

FOR WATER RESOURCES DEPARTMENT USE ONLY

Dear Applicant:

I certify that I have examined the foregoing application, together with the accompanying information, and am returning it to you for:

In order to retain its tentative priority, this application must be returned with the requested corrections or additions on or before:

_____, 19____.

WITNESS my hand this _____ day of _____, 19____.

Water Resources Director

By: _____

This instrument was first received in the office of the Water Resources Director at Salem, Oregon, on the 29th day of June, 19 92, at 8:0 o'clock, A M.

APPLICATION NO: _____

PERMIT NO: _____

STATE OF OREGON
WATER RESOURCES DEPARTMENT
WATER RIGHTS DIVISION

Before the Director Water Resources Department

In the matter of)	PROPOSED
Surface Water Application)	FINAL
S-72496 submitted by)	ORDER
JAMES A BUSSMANN		

FINDINGS OF FACT

Water Use Request

1. JAMES A BUSSMANN requested use of 4.2 CUBIC FEET PER SECOND of water from AN UNNAMED STREAM, A TRIBUTARY OF SIXES RIVER, for CRANBERRY OPERATIONS ON 28.0 ACRES AND USE OF STORED WATER UNDER R-72495 within the South Coast Basin.
2. The area of proposed use is in Curry County within SECTION 4, TOWNSHIP 32 SOUTH, RANGE 15 WEST, W.M.
3. The water delivery system is described by the applicant as follows: The diversion is an earth fill dam 150 feet long by 20 wide at the top. At the north end of the dam, two 20 horsepower Cornell pump/motor combinations will be installed. These will pump through approximately 1500 feet of two 6 inch plastic pipes to the I.S.H.F. (in system holding facility). From the I.S.H.F. water will be pumped through approximately 6100 feet of 4 inch plastic mainlines. "Rainbird" type sprinklers will be used for irrigation and temperature control uses.
4. The request was made in Application S-72496 which was received by the Water Resources Department on June 28, 1992.

Affected Waters

1. AN UNNAMED STREAM, A TRIBUTARY OF SIXES RIVER, AND WATER STORED UNDER R-72495 are not within or above a State Scenic Waterway.
2. ODFW has advised that one or more species of game fish are present at the described point of diversion.
3. There are senior water rights on AN UNNAMED STREAM, A TRIBUTARY OF SIXES RIVER, and on downstream waters.

Department Actions

1. The application was determined to be complete and not defective.
2. A technical review of the application was completed and a report of the results of that review was mailed to the applicant on March 9, 1994.

3. The technical review determined:
 - a. CRANBERRY OPERATIONS ON 28.0 ACRES is allowed under the South Coast Basin Program [OAR 690-517-001(8)].
 - b. The use is not prohibited by Statute.
 - c. Water is available for further appropriation (at a 50 percent exceedance probability) from AN UNNAMED STREAM for the period November 1 through September 30 and from STORED WATER FROM A RESERVOIR CONSTRUCTED UNDER R-72495 for the period YEAR ROUND.
 - d. The use would not injure existing water rights.
4. The report of technical review listed these determinations and disclosed a number of conditions and restrictions that would likely be included in the permit if issued. These conditions and restrictions are listed in the attached draft permit.

Assessment

1. In proceeding with evaluation of Application S-72496, the following criteria were found to be relevant by the Department.
 - a. The South Coast Basin Program [OAR 690-517-001(8)]
 - b. The Curry County Comprehensive Plan and Zoning Ordinance
 - c. The amount of water available in AN UNNAMED STREAM, A TRIBUTARY OF SIXES RIVER, AND WATER STORED IN A RESERVOIR CONSTRUCTED UNDER R-72495
 - d. The established rate and duty for the proposed use
 - e. Pending, senior applications and existing water rights of record
 - f. Comments received

CONCLUSIONS OF LAW

1. Based upon continued evaluation, the Department finds the determinations of the technical review remain valid.
2. Based on comments and data received, the Department has determined that the proposed use can be allowed as conditioned. The Department has further determined that, to protect the resource, an additional condition on the proposed water use is necessary. The condition, as further described on the attached draft permit, would require fish screening.
3. Period of allowed use:

From an unnamed stream: November 1 through September 30.

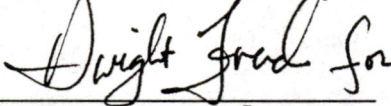
From stored water only (a reservoir constructed under application R-72495): Year-Round, if available.
4. The Department finds that no more than 4.2 CUBIC FEET PER SECOND from an unnamed stream would be necessary for the proposed use. The amount of water requested, 4.2 CUBIC FEET PER SECOND, is allowable.

5. Curry County Planning Department staff completed the Department's Land Use Information Form and indicated thereon that the land use associated with the proposed use is compatible with the Curry County Comprehensive Land Use Plan.
6. The proposed use would not conflict with existing water rights, and, if exercised in accordance with law, rule, and the proposed conditions would not result in injury to existing water users.
7. The proposed use complies with all other rules of the Commission.
8. Pursuant to Chapter 416, Oregon laws, 1995, enacted by the 68th Oregon Legislative Assembly, and given the findings listed above, a rebuttable presumption has been established that the use will not impair or be detrimental to the public interest if exercised in the manner described in the attached draft permit.
9. Therefore, the proposed use, as conditioned, and described in the attached draft permit, would not impair or be detrimental to the public interest.

PROPOSED ORDER

IT IS PROPOSED that Application S-72496 in the name of JAMES A BUSSMANN be approved for CRANBERRY OPERATIONS ON 28.0 ACRES as provided in the attached draft permit.

DATED December 12, 1995



Steven P. Applegate
Administrator
Water Rights and Adjudications Division

NOTICE:

This Proposed Final Order is issued by the Department pursuant to Chapter 416, Oregon laws, 1995, enacted by the 68th Oregon Legislative Assembly.

To seek changes in this proposed final order, you must file a formal protest.

Formal protests to this proposed final order must be made in proper form and accompanied by the statutory fee in the amount of \$200. Note: The applicant is not subject to this fee.

For other than the applicant, if you agree with the findings in this proposed order, but wish to maintain your right to participate in any contested case proceeding or judicial review, you must file a written request for standing. Requests for standing in proceedings relating to this application must be made in the proper form and accompanied by the statutory fee in the amount of \$50.

Protests or requests for standing, along with the appropriate fees must be received by the Water Resources Department in Salem, Oregon by 5:00 pm on January 26, 1996.

Only the applicant and any persons who timely file a protest or request for standing may participate in further proceedings before the Department or the Commission which deal with this Application.

DRAFT
STATE OF OREGON
COUNTY OF CURRY

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

JAMES A BUSSMANN
PO BOX 211
SIXES, OREGON 97476

(503)332-6611

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: S-72496

SOURCE OF WATER: AN UNNAMED STREAM, A TRIBUTARY OF SIXES RIVER, AND STORED WATER FROM A RESERVOIR CONSTRUCTED UNDER R-72495

PURPOSE OR USE: CRANBERRY OPERATIONS ON 28.0 ACRES

RATE OF USE: 4.2 CUBIC FEET PER SECOND FROM AN UNNAMED STREAM

PERIOD OF ALLOWED USE:

FROM AN UNNAMED STREAM: NOVEMBER 1 THROUGH SEPTEMBER 30

FROM A RESERVOIR CONSTRUCTED UNDER R-72495: YEAR-ROUND, IF AVAILABLE

DATE OF PRIORITY: JUNE 29, 1992

POINT OF DIVERSION LOCATION: NW 1/4 SW 1/4, SECTION 4, T32S, R15W, W.M.; 700 FEET SOUTH & 1220 FEET EAST FROM W1/4 CORNER, SECTION 4

The amount of water diverted for CRANBERRY OPERATIONS, together with amounts secured under any other rights existing for the same lands, is limited as follows: For temperature control, 0.15 cubic foot per second per acre; For flood harvesting or pest control, 0.05 cubic foot per second per acre; For irrigation of cranberries, ONE-FORTIETH of one cubic foot per second and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. For the irrigation of any other crop, ONE-EIGHTIETH of one cubic foot per second and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SW 1/4 NW 1/4 28.0 ACRES
SECTION 4
TOWNSHIP 32 SOUTH, RANGE 15 WEST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The permittee shall install, maintain, and operate fish screening and by-pass devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion. The required screen is to be in place and functional prior to diversion of any water.

This right is limited to any deficiency in the available supply of any prior right existing for the same land.

STANDARD CONDITIONS

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

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

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

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

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Actual construction work shall begin within one year from permit issuance and shall be completed on or before October 1, 1997. Complete application of the water to the use shall be made on or before October 1, 1998.

Issued _____, 199_

DRAFT

Water Resources Department
Martha O. Pagel
Director

Application S-72496 Water Resources Department
Basin 17 Volume 3
LJJ Sixes R. & Misc.

PERMIT DRAFT
District 19

Jose 11-9-95

APPLICATION NUMBER S-72496
 PRIORITY DATE June 29, 1992
 DATE TR/IR SENT Mar. 9, 1994
 TR VALID/MODIF. Valid
 LAND USE FORM Allowed (per land use form in R-72495)
 OBJECTIONS WW
 ABOVE SCENIC WATERWAY NO
 TMDL BASIN NO
 GW REVIEW N/A
 DIVISION 33 N/A
 IRR/STORAGE SEASON Nov. 1 - Sept. 30 LIVEFLOW ● YEAR-ROUND, IF AVAIL FOR STORED WATER UNDER R-72495.
 MEASURING/REPORTING LARGE ~~ROUND~~
 WATERMASTER 19

BAR 690-517-001(8)

28 ACRES X 0.15 CFS = 4.2 CFS (SAME AS TR)

WATER AVAILABILITY - WAB# 22000

ISWR's

Appl # 421
 Cert # 59882 - Priority: 4-1-80. Allows: Domestic, Livestock & 1/2 ac of Irrigation of Non-Comm. Gardens.

Appl. # 70877 - Priority: 11-8-90. Allows: Human Consumption & Livestock Consumption

Basin:

Water Availability By Month for Exceedance Level 50
For Water Availability Subbasin 2200000000000000
And Its Associated Nested Subbasins

11:47

01/11/1994

Item #	W.A. Subbasin	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Sto
1	2200000000000000	YES	YES	YES	YES	YES	YES	YES	YES	YES	NO	YES	YES	YES

ISWE 421 - siled 4-1-80
Affects this APPLICATION

Basin:

Detailed Report for Water Availability Subbasin 2200000000000000
Water Availability By Month for Exceedance Level 50
11:48 01/11/1994

MO	Gross Water Avail	Consumptive Use		Storage Rights		Net Min Flow	Instream Water Rights		Net Water Avail
		Applic	Permit	Applic	Permit		Applic	Permit	
1	1230	0	0	0	0	1240	0	215	1020
2	1350	0	0	0	0	1360	0	215	1140
3	1180	0	0	0	0	1180	0	190	990
4	666	0	0	0	0	666	0	190	476
5	321	0	0	0	0	321	0	190	131
6	252	0	0	0	0	252	0	120	132
7	158	0	0	0	0	158	0	40	118
8	101	0	0	0	0	101	40	0	61
9	74	0	0	0	0	74	40	0	34
10	102	0	0	0	0	102	0	215	-113
11	628	0	0	0	0	628	0	215	413
12	1420	0	0	0	0	1430	0	215	1210
Stor	348000	0	0	0	0	348000	0	62900	285000

← ISWA filed
4-1-80
Affects
This application

DETAILED REPORT OF ISWRs

Basin: SOUTH COAST

Stream: SIXES R

> PACIFIC OCEAN

Water Availability Subbasin: 2200000000000000

Time: 08:14

Date: 12/01/1995

		-----ISWRs-----					RESULTANT
APP # :	421A	70877A	0	0	0		
STATUS:	Cert.	App.					
1	215.0	215.0	0.0	0.0	0.0	215.0 C	
2	215.0	215.0	0.0	0.0	0.0	215.0 C	
3	190.0	190.0	0.0	0.0	0.0	190.0 C	
4	190.0	190.0	0.0	0.0	0.0	190.0 C	
5	190.0	190.0	0.0	0.0	0.0	190.0 C	
6	120.0	120.0	0.0	0.0	0.0	120.0 C	
7	40.0	40.0	0.0	0.0	0.0	40.0 C	
8	25.0	40.0	0.0	0.0	0.0	40.0 A	
9	25.0	40.0	0.0	0.0	0.0	40.0 A	
10	215.0	215.0	0.0	0.0	0.0	215.0 C	
11	215.0	215.0	0.0	0.0	0.0	215.0 C	
12	215.0	215.0	0.0	0.0	0.0	215.0 C	

59882 - Priority: April 1, 1980.

DO, LV & IR of 1/2 ac. Non-Comm Gardens.

70877 - Priority: Nov 8, 1990

HC, LC

FOR ISWR USE ONLY.

MARCH 9, 1994

WATER
RESOURCES
DEPARTMENT

JAMES A. BUSSMANN
PO BOX 211
SIXES, OREGON 97476

Reference: File S 72496

Hello:

This letter informs you of the current status of your application for a water use permit and accompanies the Satisfactory Report of Technical Review For Water Use Permit(s). We apologize for the delay in transmitting this information and Report to you and for any inconvenience the wait may have caused you.

The enclosed Report of Technical Review is the Department's summary of a specialized analysis of various legal and scientific aspects of your application and proposed water use. We are required by the state of Oregon's administrative rules (in OAR 690-11-160) to conduct this official technical review of each application submitted to the Oregon Water Resources Department for a water use permit. This process was designed to insure that your application receives a fair evaluation and to secure protection of existing water rights and of the public at large.

AS THE RESULT OF OUR TECHNICAL EVALUATION, WE HAVE DETERMINED THAT YOUR APPLICATION SATISFIES THE REQUIREMENTS OF THE TECHNICAL REVIEW.

The Department will now move your application to the next phase of processing. This phase includes a public interest review of your proposed water use. No final action may be taken on your application until the public interest review is completed.

You should also note that the Report of Technical Review describes conditions currently anticipated which may limit the water use proposed in your application.

If you wish to object to any of the analyses contained in the Report, you must submit your objection to the Department in writing within 60 days of the date of mailing of this Report or by the date specified below. Your objection must allege that the technical review is defective and you may also submit evidence which demonstrates that your proposed water use will not impair or be detrimental to the public interest.

Copies of the Report of Technical Review will be distributed to all persons who have filed comments or otherwise expressed an interest in the water use proposed in your application. Interested parties must also submit their objections within the prescribed objection period. Those objections must allege that the technical review is defective and/or that the proposed water use may impair or be detrimental to the public interest.



3850 Portland Rd NE
Salem, OR 97310
(503) 378-3739
FAX (503) 378-8130

If an objection contains allegations that the technical review is defective, it must be accompanied by facts which support such allegations. If an objection contains allegations that the proposed water use may impair or be detrimental to the public interest, the objection must specify the particular public interest standards which apply as set out in Oregon Revised Statutes (ORS 537.170(5)) and Oregon Administrative Rules (OAR 690-11-195) and state facts showing how such standards would be violated.

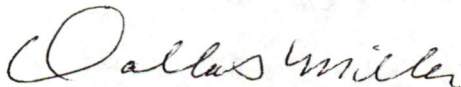
All evidence and objections must be received by our Salem office **no later than 5:00 p.m. on or before JUNE 1, 1994** or the Department may presume there is no opposition to any of the analyses set out in the technical review report. Evidence and objections must be addressed and delivered to: Oregon Water Resources Department, Water Rights Section, 3850 Portland Road, Northeast, Salem, Oregon 97310.

If objections and evidence are submitted on or before the above time and date, the Director of the Water Resources Department will evaluate each issue raised in the objections and either accept or deny them. Objectors are encouraged to indicate whether they would be interested in resolving their concerns through alternative dispute resolution.

If any of the objections are denied, the objector will be allowed thirty days to submit a protest to the denial. The protest must meet the standards set forth in OAR 690-02-030 through 080.

If you have any questions, please feel free to telephone me or any of the Department's Water Rights Section staff. My telephone number is 378-3739, in Salem, or you may call toll free from within the state to 1-800-624-3199.

Sincerely,



DALLAS MILLER
Water Rights Division

Enclosures

Report Date: MARCH 9, 1994

OREGON WATER RESOURCES DEPARTMENT

SATISFACTORY REPORT OF TECHNICAL REVIEW

FOR WATER USE PERMIT(S)

OBJECTIONS TO THE PROPOSED WATER USE AS DESCRIBED BELOW MUST BE RECEIVED IN WRITING BY THE OREGON WATER RESOURCES DEPARTMENT, 3850 PORTLAND ROAD N.E., SALEM, OREGON 97310, BY 5 P.M. ON OR BEFORE: JUNE 1, 1994

1. APPLICATION FILE NUMBER - S 72496
2. MINIMUM APPLICATION INFORMATION

Applicant name/address/county/phone:
JAMES A BUSSMANN
PO BOX 211
SIXES, OR 97476
CURRY Co. 503-332-6611

Date application received for filing and/or tentative date of priority: 6/29/1992

SOURCE: UNNAMED STREAM AND BUSSMANN RESERVOIR
TRIBUTARY TO: SIXES RIVER

Purpose and/or use: CRANBERRY USE ON 28.0 ACRES.

Flow: 4.2 cfs

Point of Diversion Location:
NWSW SEC 4, T 32 S R 15 W, 700'S, 1220'E, W 1/4 COR SEC 4

Place of use:
SWNW 28.0 Acres
Section 4
T 32 S R 15 W, W.M.

SURFACE WATER AVAILABILITY

Water is likely available in excess of needs for all existing rights 50% of the time during each monthly period proposed by the technical review.

Water availability tables are available in the application file and may be reviewed in the office of the Water Resources Department in Salem.

CONFLICTS WITH OTHER WATER RIGHTS:

There are no existing rights from this point of diversion.

There are existing water rights appurtenant to the lands described in the application. See proposed conditions.

REPORT CONCLUSIONS:

Based on the Department's review of water availability and Oregon Administrative Rules, water in the amount of 4.2 CFS is likely available for 11 months. Therefore, the Director finds that water is available in sufficient amount and during periods which will reasonably support the proposed use.

THE PROPOSED WATER USE, AS CONDITIONED, SATISFIES THE REQUIREMENTS OF THIS TECHNICAL REVIEW.

This Report of Technical Review sets out the Director's technical analysis of the application. In addition to this technical analysis, the Director will evaluate this application to determine whether the proposed water use might impair or be detrimental to the public interest under the standards set out in ORS 537.170(5) and OAR 690-11-195. Matters relating to public interest in the proposed water use which are raised in objections will be evaluated following the 60-day objection period.

PROPOSED PERMIT CONDITIONS

Application: S 72496

The following conditions will apply to water use under the permit, and will appear in the permit, if issued.

1. Use of water under this permit is subject to all prior rights.
2. Period of allowed use: CRANBERRY OPERATIONS- NOVEMBER 1 TO SEPTEMBER 30 FROM STREAM. FROM RESERVOIR CONSTRUCTED UNDER APPLICATION R 72495 12 MONTHS, IF AVAILABLE.
3. Rate of use: 4.2 CFS
4. Water use development requirements:
 - A. Begin construction by (one year from issuance of permit).
 - B. Complete construction by October 1, 1996.
 - C. Completely apply the water to beneficial use by October 1, 1997.
5. Measurement, recording and reporting conditions:
 - A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.
 - B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
6. Failure to comply with any of the provisions of the permit may result in action including, but not limited to, restrictions on the use, penalties, or cancellation of the permit.

7. The permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.
8. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.
9. The amount of water diverted for CRANBERRY OPERATIONS, together with amounts secured under any other rights existing for the same lands, is limited as follows: For temperature control, 0.15 cubic foot per second per acre; For flood harvesting or pest control, 0.05 cubic foot per second per acre; For irrigation of cranberries, ONE-FORTIETH of one cubic foot per second and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. For the irrigation of any other crop, ONE-EIGHTIETH of one cubic foot per second and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
10. This right is limited to any deficiency in the available supply of any prior right existing for the same land.
11. Diversion screening or fish passage facilities shall be designed, installed, and operated to Oregon Department of Fish & Wildlife specifications.

May 12, 1994

RECEIVED

MAY 16 1994

Water Rights Section
Water Resources Department
3850 Portland Rd., NE
Salem, OR 97310

WATER RESOURCES DEPT.
SALEM, OREGON



DEPARTMENT OF
FISH AND
WILDLIFE

RE: Water Right Application #R-72495 and 72496; Reports of
Technical Review

HABITAT
CONSERVATION
DIVISION

During discussion between ODFW field personnel and the applicant, the applicant agreed to the shortening of the allowed storage to exclude summer low-flow months, June through October. Therefore, ODFW requests WRD modify the proposed permit conditions for R-72495 to reflect this agreement.

Because one or more species of game fish are present at the described POD, ODFW will require the applicant to provide fish screening pursuant to ORS 498.248. Therefore, ODFW requests WRD add the following condition to those already proposed:

The permittee shall install and maintain a fish screening device as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion. The required screen is to be in place and functional prior to diversion of any water.

ODFW also requests the following condition relating to in-channel obstructions be included as a permit condition:

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script, appearing to read "A. Mirati, Jr.".

Albert H. Mirati, Jr.
Water Right Review Coordinator

c. WaterWatch of Oregon (public information request)
Unterwegner, Gold Beach

FILE: R-72495.TEC



2501 SW First Avenue
PO Box 59
Portland, OR 97207
(503) 229-6967

MAY 20 1994

WATER RESOURCES DEPT.
SALEM, OREGON

May 19, 1994

Oregon Water Resources Department
Water Rights Section
158 12th Street NE
Salem, Oregon 97310

Re: Objection to Technical Report for:
72496, R 72495, Bussmann, Cranberry, Unnamed Strm/Sixes
Coos Co., South Coast

WaterWatch submits the following objections pursuant to OAR 690-11-170:

◆ **The Technical Reports are Defective**

The technical reports fail to contain many of the elements and evaluations required in OAR 690-11-160(1). The areas of deficiency are the same as those identified in WaterWatch's April 5 objection to application #69165 which we hereby incorporate into this objection.

◆ **The Water Availability Analyses in the Technical Reports are Defective**

The analyses are defective for the following reasons:

- The technical reports fail to contain any analysis of water availability, contrary to OAR 690-11.
- There is no water availability analysis for the proposed source of water, the unnamed stream.
- The water availability analysis in the technical reports fail to take into account flows needed to meet senior pending instream water rights for the Sixes River. If the analysis had taken into account the flows requested by ODFW, the report would have concluded that the river is overappropriated from May through November.¹

¹ The instream flows currently proposed by the Water Resources Department are lower than those requested by ODFW. The exact flows that will be adopted will not and cannot be determined until the instream certificates are issued. To base water availability analysis on the Department's lower flows is bad policy and will result in an overestimation of water availability. Even if the analysis had taken into account the instream flows proposed to be issued by the WRD, the analysis would have concluded that the river is overappropriated August through November and should have prohibited use during those months.

- The analyses fail to take into account existing water rights of record. Failure to account for future increases in water use pursuant to rights of record results in an over-estimation of water availability and over-allocation of the resource. This is contrary to the statewide Water Allocation Policy. OAR 690-400-010.

◆ **The Uses As Proposed are Not in the Public Interest**

The proposed uses fail to pass the public interest considerations in ORS 537.170 and are contrary to the South Coast basin program. *See also*, OAR 690-11-195(3)(d), (4)(a), (4)(c)(A), (4)(d)(A), (4)(f).

The South Coast Basin plan states:

Income from water-related recreation is a major contributor to the economy of the South Coast Basin. Finding 39.

The natural lakes, storage reservoirs and free-flowing streams support part of the water-based recreation use. Finding 40.

The water resources, wetlands and associated habitat are critical to the subsistence and propagation of wildlife in the Basin. Finding 42.

The coastal streams support resident and anadromous species of fish. Finding 43.

The fish resources of the South Coast Basin are significant to the State of Oregon. Finding 44.

Adequate streamflow throughout the year is necessary for the maintenance of aquatic life in the coastal streams. Finding 45.

Low summer streamflow in many Basin streams is one factor limiting production of salmonids. Finding 46.

Summer flows in some streams will not support recommended minimum flows. Finding 47.

The Sixes River system support a variety wildlife and fish life. Coho, Chinook salmon and winter steelhead rely on flows in the Sixes River for different stages of their life cycles.

1. **The proposed uses are not in the public interest because they will interfere with flows needed to support public instream uses of water.**

The proposed uses will deplete flows needed for numerous public instream uses of the Sixes River and its tributaries. This river system supports a variety of fish life including chinook salmon, winter steelhead and coho salmon. Petitions have been filed requesting listing of coastal coho and steelhead under the Federal Endangered Species Act. Low flows during summer months impair fish survival by among other things raising water temperatures and decreasing aquatic habitat and fish rearing areas. Low flows in the winter adversely affect fish habitat by among other things exposing spawning gravel and reducing feeding and rearing areas in the river. Water diversions create problems for fish passage and survival in the basin.

Currently there are pending instream water right applications for the Sixes River system. These pending instream water right applications request flows needed for fish life in the system. The public uses reflected in the instream water right applications (protection and conservation of fish life) has a "reasonable expectation of being developed" as evidenced by the pending instream water right application. This instream use provides greater benefit to the public at large than these proposed uses. These fish populations have statewide and even national significance and streamflows are essential for maintenance of these fish. The additional diversion of water from the unnamed stream will reduce flows in the Sixes system. Thus, the proposed uses are not in the public interest because they will preclude flows needed for the pending instream water right applications.

2. **Measurement and reporting.**

These conditions should allow the Director to require measurement and reporting of both **rate and duty** of water stored and used. The proposed permit conditions restrict use based upon a specific rate. If measurement and reporting of water use is to be a useful informational and regulatory tool for the Department, it should provide the information needed to ensure that water use is within the terms of the permit.

The surface waters of the Sixes River system are overallocated several months of the year. The information generated by these proposed conditions are essential to the management and control of the water resource. If these uses were to be permitted, water use measurement and reporting should be a mandatory condition of use. This information is essential for protection of the public interest in the resource. However, we question the Department's ability to control this use, even with these requirements.

The technical reports propose to limit the amount and months of use. The Department's enforcement staff is already incapable of control existing rights to use water in

the basin. These proposed uses add yet another enforcement responsibility on top of an already unmanageable load. Under these circumstances, it is difficult if not impossible for the state to ensure that these applicants will, **at all times**, use water in compliance with the permit conditions. Given the critical state of the water resource in the basin and the Department's inability to control these uses, even with measurement and reporting, these uses are not in the public interest.

3. The uses will impair the public interest because fish screening and passage facilities are not mandatory conditions of use.

The technical reports does not require mandatory fish screening and passage facilities prior to any use of water. Given the critical status of fish populations in the this basin, the adverse impact diversions and dams have on fish habitat, screening and passage should clearly be required to be in place **before** any diversion or storage of water. In addition, failure to maintain screening and passage facilities must be grounds for shutting off water use. There should be a condition which **clearly** states these requirements.

4. The proposed uses are contrary to Oregon policy.

ORS 537.170(5)(a) and (c) require the Department to ensure that waters in the basin will be used and controlled for all purposes, not just consumptive purposes. The Statewide Instream Flow Protection Policy states that "(w)here streamflows have been depleted to the point that public uses have been impaired, methods to restore the flows are to be developed and implemented." OAR 690-410-030(1). When considering applications for new water rights the agency is required to consider the needs of instream and out-of-stream uses and the need to develop streamflow restoration programs. OAR 690-410-030(2)(a). No such consideration has been done.

The recent petition for listing of coho and steelhead populations coast wide makes the protection of instream flows even more important for achieving a balance in this basin. The establishment and protection of instream water rights will help to achieve a balanced allocation of water between public instream and other uses in Basin and throughout the state. Establishment of the instream water right also furthers statewide policies, priorities and goals for streamflow restoration including those in OAR 690-11-030(1), 690-410-070, and 690-77-015. Providing streamflow protection for fish is also necessary in order to carry out the state policy of restoring native fish stocks. ORS 496.435. Thus, protection of the public interest requires denial of these applications.

Failure of the State to look for or provide other sources of water, in the face of potential listing of the coastal coho creates expectations for water that may not be fulfilled if/when the species are listed. Instream flows in the creek provide critical habitat for fish -

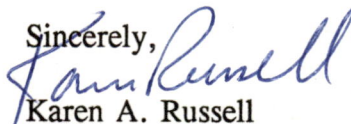
Water Resources Department
72496, R 72495
Page 5

without water instream there is **no** habitat. Continuing to issue water rights on a river with a possibility of a listed species, as well as existing water availability and water quality problems makes little sense.

Conservation

Oregon statutes and rules also call for the state to "aggressively promote" water conservation and places a high priority on eliminating waste and improving the efficiency of water use. ORS 537.460(2)(a) and OAR 690-410-060(1). The proposed conditions do little to further these policies. Given the presence of potentially listed species, the water quality problems and the fact water diversions are one of the causes of anadromous fish declines it is imperative that the water use be as efficient as possible. These proposed uses should be held to a high efficiency standard **prior to** any permit issuance.

Sincerely,



Karen A. Russell
Assistant Director

TECHNICAL REVIEW CHECKLIST

Application: 72496

Review Date: 1993 11 94 D Miller

- S indicates information was completed or adequately addressed.
- U indicates information is needed, or incomplete, or inadequately addressed
- N/A indicates Not Applicable

SUMMARY	
<u>S</u>	Completeness
<u>S</u>	Land Use
<u>NA</u>	GW Interference (if potential interference with surface water, see results of water availability analysis)
<u>S</u>	Conflicts
<u>S</u>	Water Availability

S The applicant has certified that the information provided in the application is an accurate representation of the proposed use and is true and correct to the best of their knowledge.

NA No oath is required because application was filed before June 5, 1992.

Application fees:

Examination fee:	\$ 200
Recording fee:	\$ 436
TOTAL REQUIRED	\$ 636
TOTAL SUBMITTED	\$
AMOUNT DUE prior to issuance of permit	\$ 136
AMOUNT OVERPAID	
refund due applicant	\$

Handwritten notes:
 ✓ Use 2 per Jake
 4.2 (55) = 300
 100 - 100 = 0
 100 - 136 = 136

S Proposed dates of beginning and completion of construction, and complete application of water.

S A satisfactory map of the proposed place of water use prepared by a certified water right examiner, unless exempt under OAR 690-14-150(3).

NA

A CWRE map is not required for applications filed before November 9, 1987.

S

A written copy of the legal description of the property on which the water is to be used.

NA

A copy of written authorization, contract or easement permitting access to the land or reservoir not owned by the applicant.

NA

No statement of ownership was required for applications filed before August, 1990.

S

The proposed use is not restricted or prohibited by statute.

S

The source of water is not withdrawn from appropriation by order of the State Engineer or Water Resources Commission, or legislatively withdrawn under ORS Chapter 538.

S

Irrigation (Cranberry) use(s) (is) are classified uses(s) under the South Coast Basin Program, OAR 690 - 517-001. (8)

S

The application, map and supporting data are complete and free of defects.

Land Use Compatibility:

As expressed by the Planning Department of Curry

S
V

The land uses to be served by proposed water uses (including proposed construction) are allowed or are not regulated by the local comprehensive plan (ordinance section 3.050).

NA

The land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals which have been obtained.

NA

The local government was notified, and sent no comment pursuant to the rules at the time; land use was presumed in compliance per such statement printed on the application.

For ground water applications:

A copy of the constructor's log, if available, for any well already constructed, or required information regarding actual or anticipated construction.

The report from groundwater section has been received.

For reservoir applications:

NA

Plans, specifications and supporting information for the dam and impoundment area.

WaterWatch

O F O R E G O N

RECEIVED

JUL 31 1992

WATER RESOURCES DEPT.
SALEM, OREGON

July 30, 1992

Stephen C. Brown
Water Resources Department
3850 Portland Rd. N. E.
Salem, OR 97310

RE: Application for Permit #R72495, 72496, J. Bussman
Sixes River, 2.07 af, 4.2 cfs, Cranberry Operations

WaterWatch has reviewed the limited amount of information contained in the public notice of this water right application. Based upon that information, WaterWatch raises the following issues, questions, and concerns:

Is there unappropriated water available for this proposed use? Will the Department use the 80% exceedence level in determining water availability?

What effect will this proposed use have on instream flows necessary to protect the public's interest in fish, wildlife, recreation, and a healthy aquatic system?

This water source may suffer from water quality problems. Has the Department consulted with the Department of Environmental Quality to determine the effect this proposed withdrawal will have on water quality?

If this water source provides habitat to native fish during any phase of their life cycle, we request that the Department include conditions requiring the installation and maintenance of fish screening and bypass devices prior to any diversion of water.

Given the importance of surface water sources, and the Department's limited enforcement staff, it only makes sense to require this applicant to measure and record water use. Measurement not only helps the Department carry out its statutory mandate to promote the control of water resources for all beneficial uses, it helps the Department protect the public's interest in assuring the use is within the bounds of the permit. ORS 536.220(1)(a), 537.170(5).

Will this proposed use be compatible with Goal 5 elements of the local comprehensive plan?

It is a high priority of the state to eliminate waste and improve the efficiency of water use. OAR690-410-060(1). Statewide policy also calls upon water users to use and maintain their water systems in a manner consistent with the state's priority. OAR 690-410-060(2)(a). What conditions are proposed for this permit that will carry out and encourage compliance with state policy?

Is this an existing illegal use of water? If so, will the continued use without a permit cause harm to existing water rights and the public interest?

We request a copies of the draft permit and the Department's technical analysis of this application.

Sincerely,

Jim Myron



RECEIVED
AUG 14 1992
WATER RESOURCES DEPT
SALEM, OREGON

August 12, 1992

Steve Brown
Water Resources Department
3850 Portland Rd., NE
Salem, OR 97310

RE: Water Right application review; request for report of technical review

Dear Steve:

ODFW is interested in reviewing WRD's technical analyses for the following water use applications when they become available:

72487	72495	72532	72540	72547
72491	72496	72533	72544	72550
72492	72529	72538	72545	
72493	72530	72539	72546	

These applications have the potential to impact fish and wildlife resources in the subject waterways and are, therefore, of concern to ODFW.

Thank you.

Sincerely,

Albert H. Mirati, Jr.
Instream Water Right and
Water Right Review Coordinator

c WaterWatch of Oregon (public information request)

File: WRD/WR/Comments



N 1/16

EAST

130 f

NW 1/16

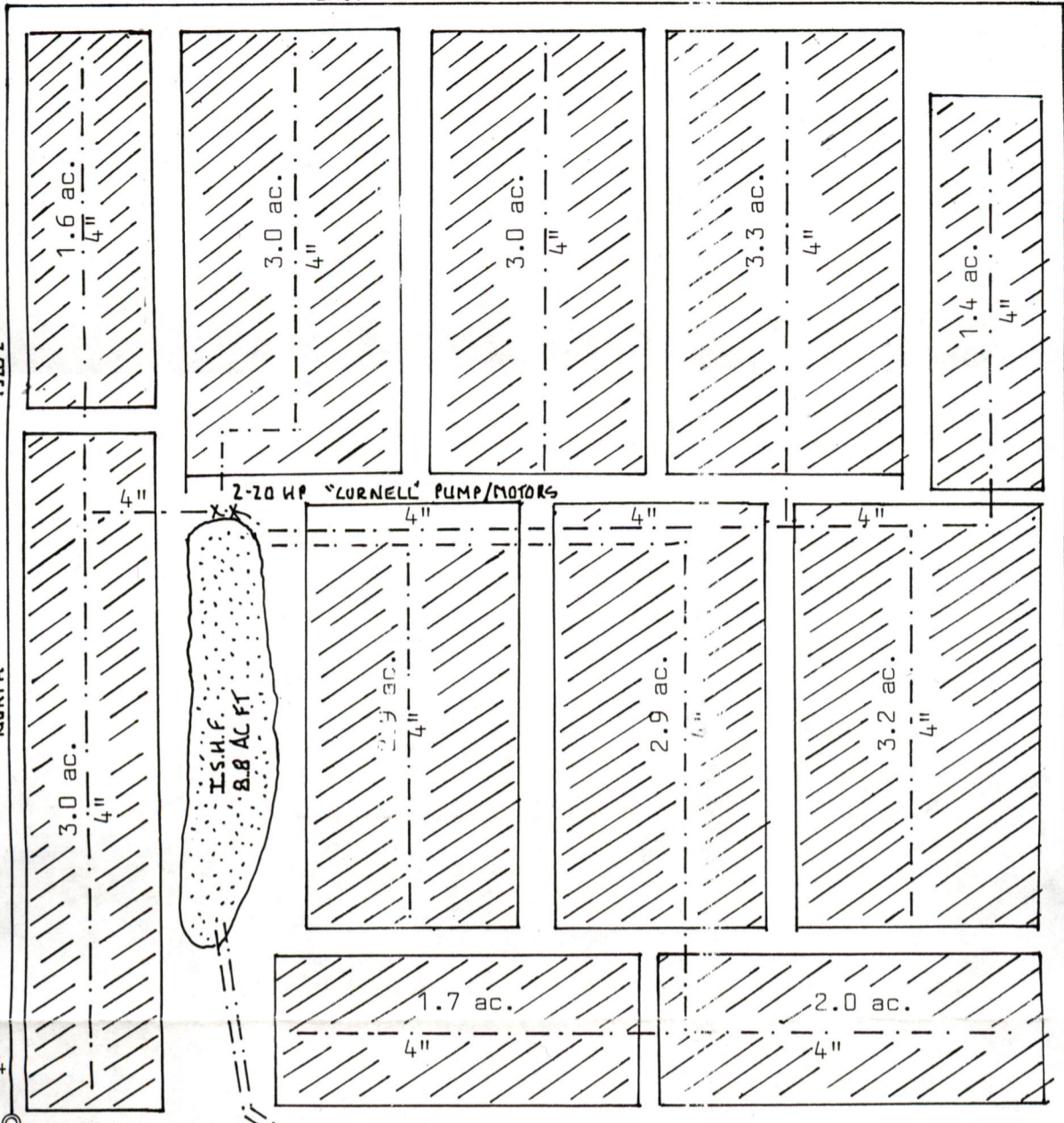
RECEIVED

MAR 18 1994

WATER RESOURCES DEPT.
SALEM, OREGON 97331

28 acres
SW1/4, NW1/4
Sec. 4
T32S., R15W
Cranberry
Production

NORTH



BCIP W 1/4
Sec. 4
32-15.

SW 1/16

MAP TO ACCOMPANY THE
APPLICATION TO APPROPRIATE
THE SURFACE WATERS AND BUILD
THE BUSSMANN #1 RESERVOIR.

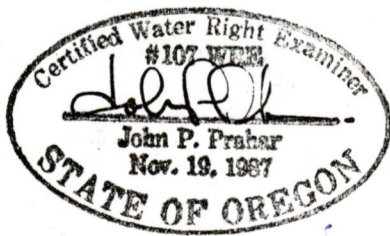
Prepared For: James A. Bussmann
P.O. Box 211
Sixes, OR 97476

Prepared By: Prahar Surveying
1045 Baltimore #1
Bandon, OR. 97411

- LEGEND: ● Found monuments as noted
- Main waterlines
 - ▨ Area of Cranberry Production/Irrigation/FH/TC.
 - unnamend stream
 - ▨ I.S.H.F. (in system holding facility)
 - Point of diversion

SCALE: 1"==200.00.

DATE: June 23, 1992



NW 1/4, SW 1/4

permit 52322

Point of Diversion
is located 700' South
and 1220' East of the
West 1/4 corner Sec 4.
T. 32S., R.15W., W.M.



WEST

1275 f

Revised
3/18/94

RECEIVED

JUN 29 1992

WATER RESOURCES DEPT. SALEM, OREGON

Supervised 3/11/94

28 acres SW1/4, NW1/4 Sec. 4 T32S., R14W Cranberry Production

BCIP W 1/4 Sec. 4 32-15.

CW 1/16

MAP TO ACCOMPANY THE APPLICATION TO APPROPRIATE THE SURFACE WATERS AND BUILD THE BUSSMANN #1 RESERVOIR.

Prepared For: James A. Bussmann P.O. Box 211 Sixes, OR 97476

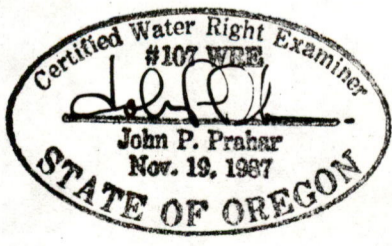
Prepared By: Prahar Surveying 1045 Baltimore #1 Bandon, OR. 97411

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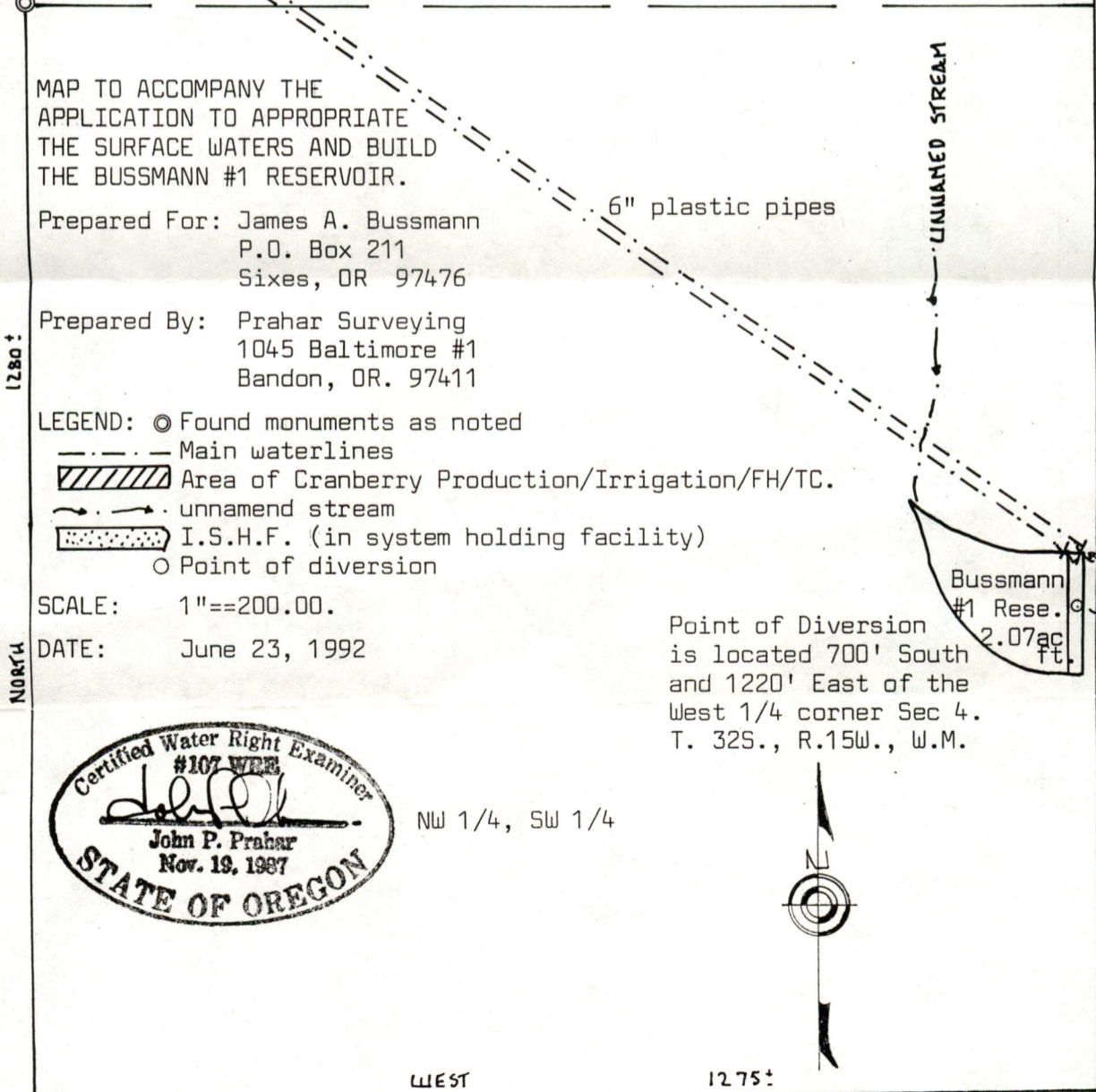
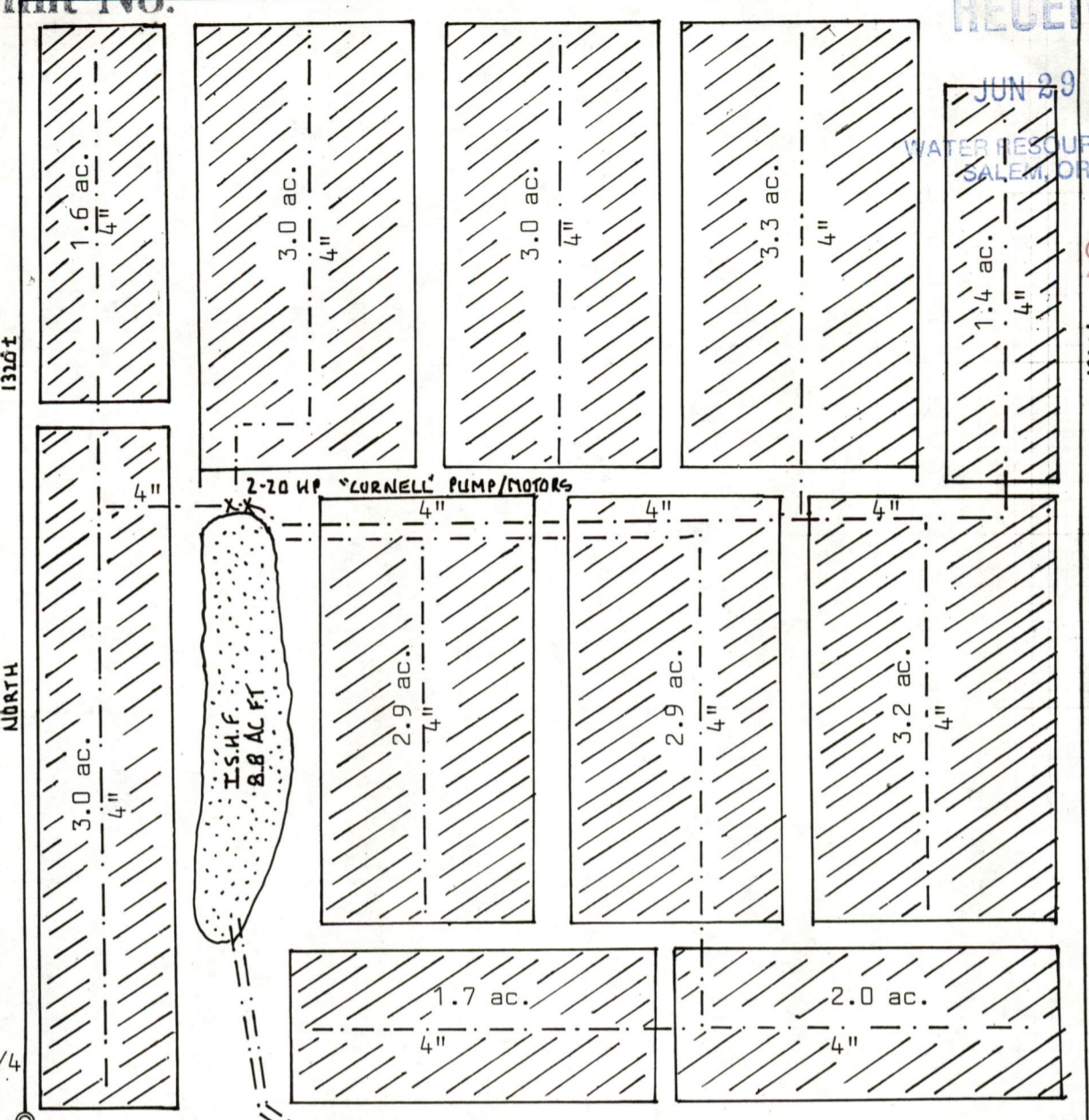
SCALE: 1"==200.00.

DATE: June 23, 1992

Point of Diversion is located 700' South and 1220' East of the West 1/4 corner Sec 4. T. 32S., R.15W., W.M.



NW 1/4, SW 1/4



N 1/16

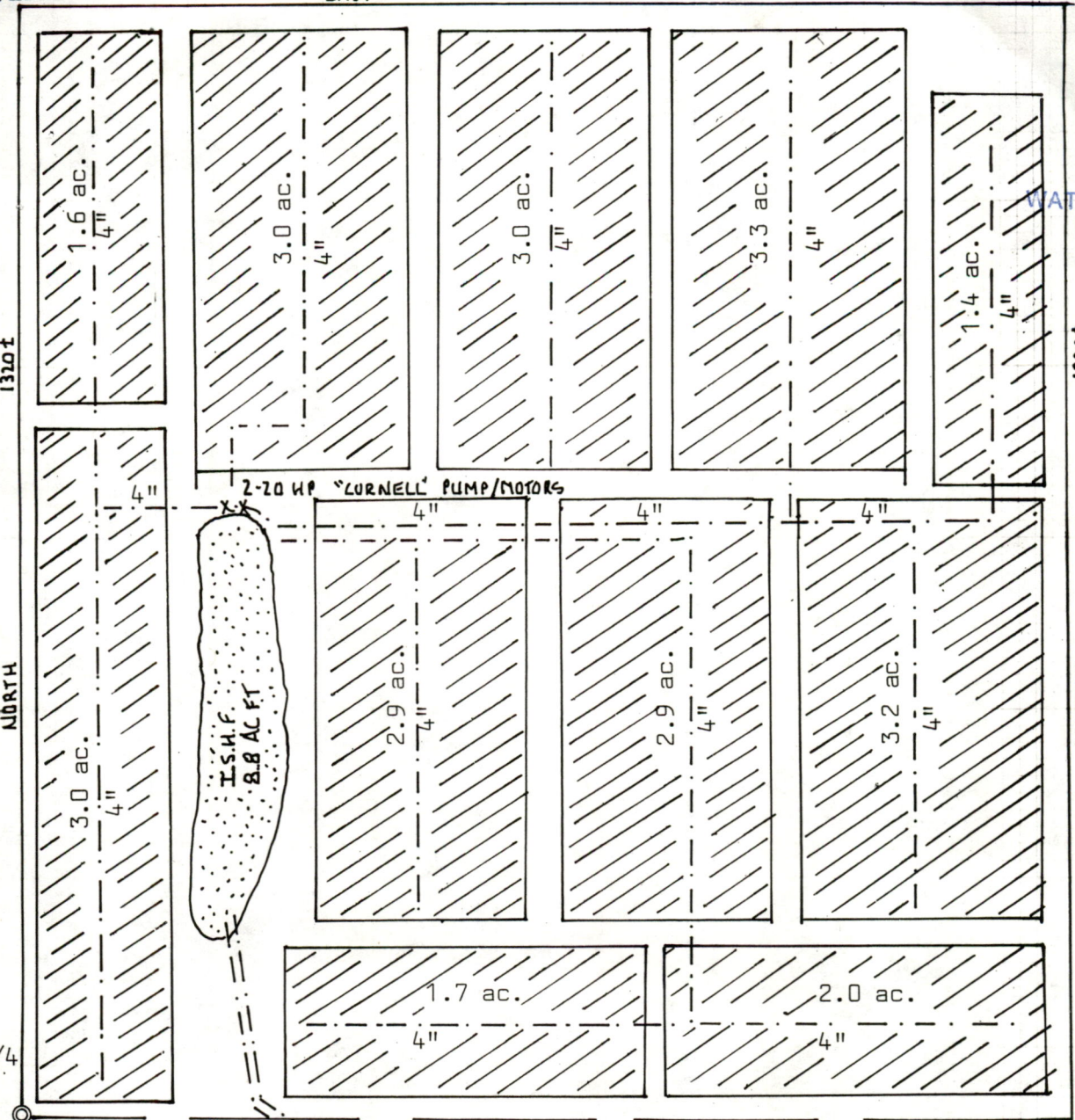
EAST

1300 ±

NW 1/16

RECEIVED
 JUN 29 1992
 WATER RESOURCES
 SALEM, OREGON

BCIP W 1/4
 Sec. 4
 32-15.



28 acres
 SW1/4, NW1/4
 Sec. 4
 T32S., R14W
 Cranberry
 Production

CW 1/16

MAP TO ACCOMPANY THE
 APPLICATION TO APPROPRIATE
 THE SURFACE WATERS AND BUILD
 THE BUSSMANN #1 RESERVOIR.

Prepared For: James A. Bussmann
 P.O. Box 211
 Sixes, OR 97476

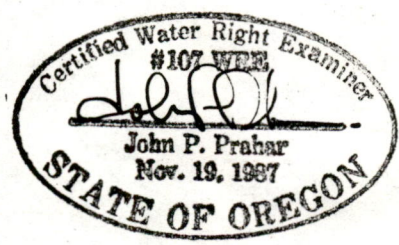
Prepared By: Prahar Surveying
 1045 Baltimore #1
 Bandon, OR. 97411

- LEGEND: ● Found monuments as noted
 - - - - - Main waterlines
 [Hatched Box] Area of Cranberry Production/Irrigation/FH/TC.
 - - - - - unnamend stream
 [Dotted Box] I.S.H.F. (in system holding facility)
 ○ Point of diversion

SCALE: 1"==200.00.

DATE: June 23, 1992

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 West 1/4 corner Sec 4.
 T. 32S., R.15W., W.M.



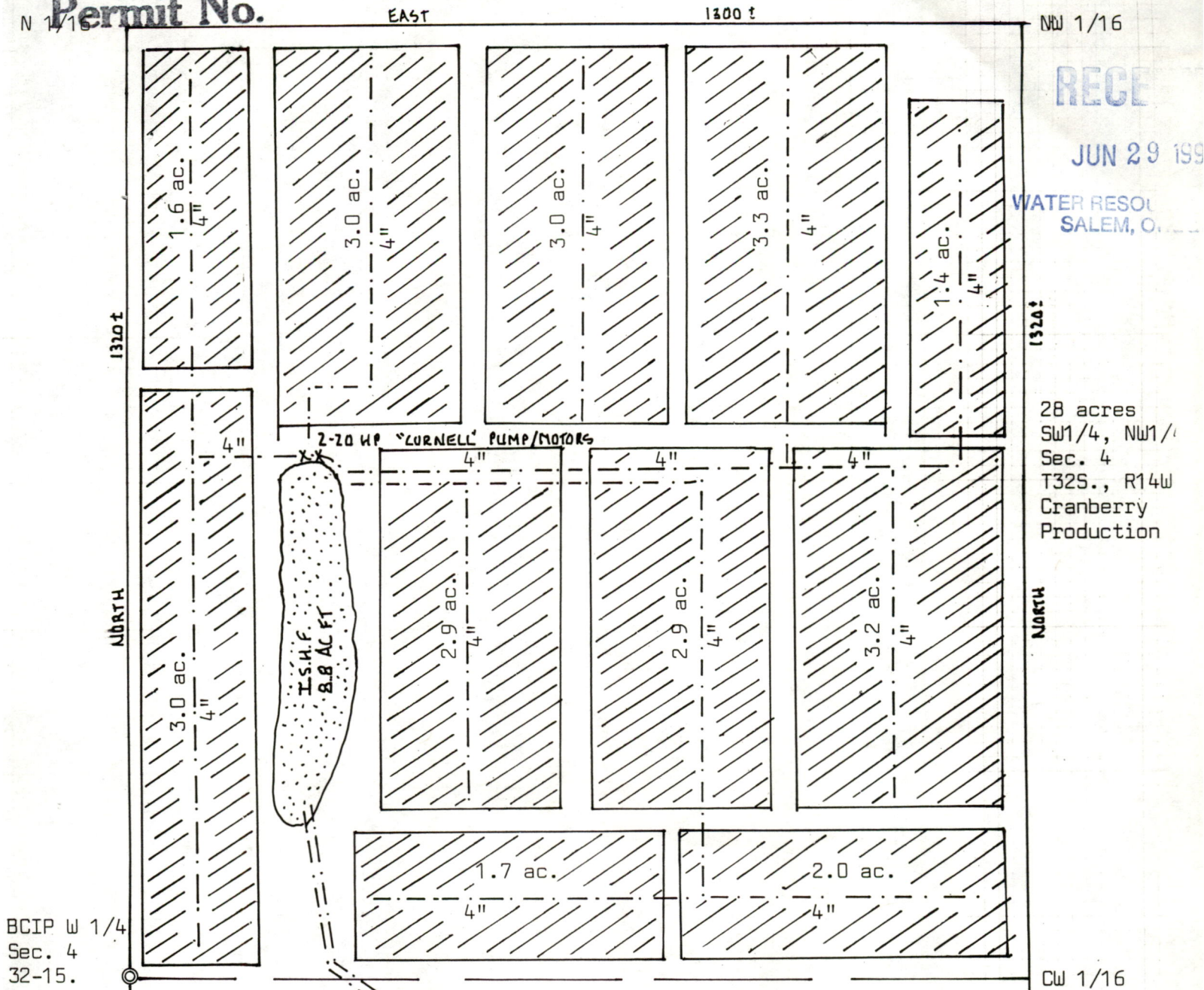
NW 1/4, SW 1/4



WEST

1275 ±

Permit No.



RECEIVED JUN 29 1992

WATER RESOURCES DIVISION SALEM, OREGON

28 acres SW1/4, NW1/4 Sec. 4 T32S., R14W Cranberry Production

BCIP W 1/4 Sec. 4 32-15.

CW 1/16

MAP TO ACCOMPANY THE APPLICATION TO APPROPRIATE THE SURFACE WATERS AND BUILD THE BUSSMANN #1 RESERVOIR.

Prepared For: James A. Bussmann P.O. Box 211 Sixes, OR 97476

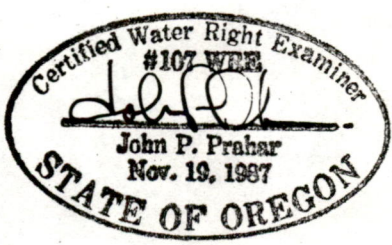
Prepared By: Prahar Surveying 1045 Baltimore #1 Bandon, OR. 97411

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DATE: June 23, 1992

Point of Diversion is located 700' South and 1220' East of the West 1/4 corner Sec 4. T. 32S., R.15W., W.M.



NW 1/4, SW 1/4



WEST 1275 ±

N 1/16

EAST

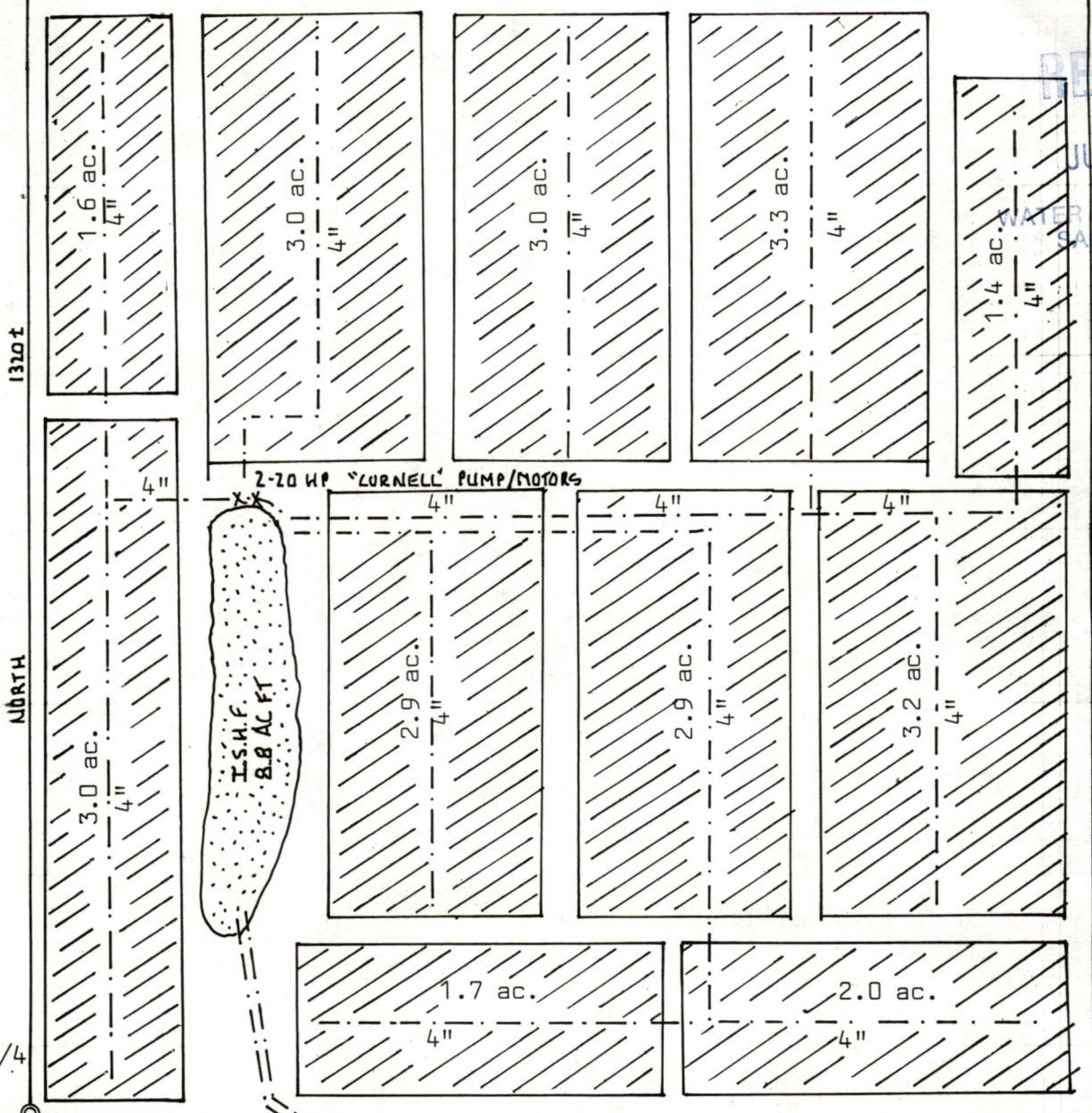
1300 ±

NW 1/16

RECEIVED

JUN 29 1992

WATER RESOURCES
SALEM, OREGON



28 acres
SW1/4, NW1/4
Sec. 4
T32S., R14W
Cranberry
Production

BCIP W 1/4
Sec. 4
32-15.

CW 1/16

MAP TO ACCOMPANY THE
APPLICATION TO APPROPRIATE
THE SURFACE WATERS AND BUILD
THE BUSSMANN #1 RESERVOIR.

Prepared For: James A. Bussmann
P.O. Box 211
Sixes, OR 97476

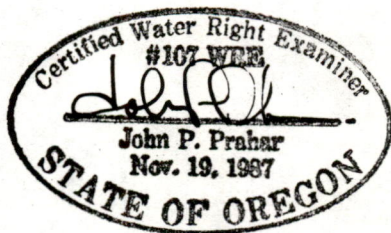
Prepared By: Prahar Surveying
1045 Baltimore #1
Bandon, OR. 97411

- LEGEND:
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 - Point of diversion

SCALE: 1"==200.00.

DATE: June 23, 1992

Point of Diversion
is located 700' South
and 1220' East of the
West 1/4 corner Sec 4.
T. 32S., R.15W., W.M.



NW 1/4, SW 1/4



WEST

1275 ±

1280 ±

NORTH

1320 ±

NORTH

1280 ±

NORTH

2-20 HP LORNELL
PUMP / MOTORS

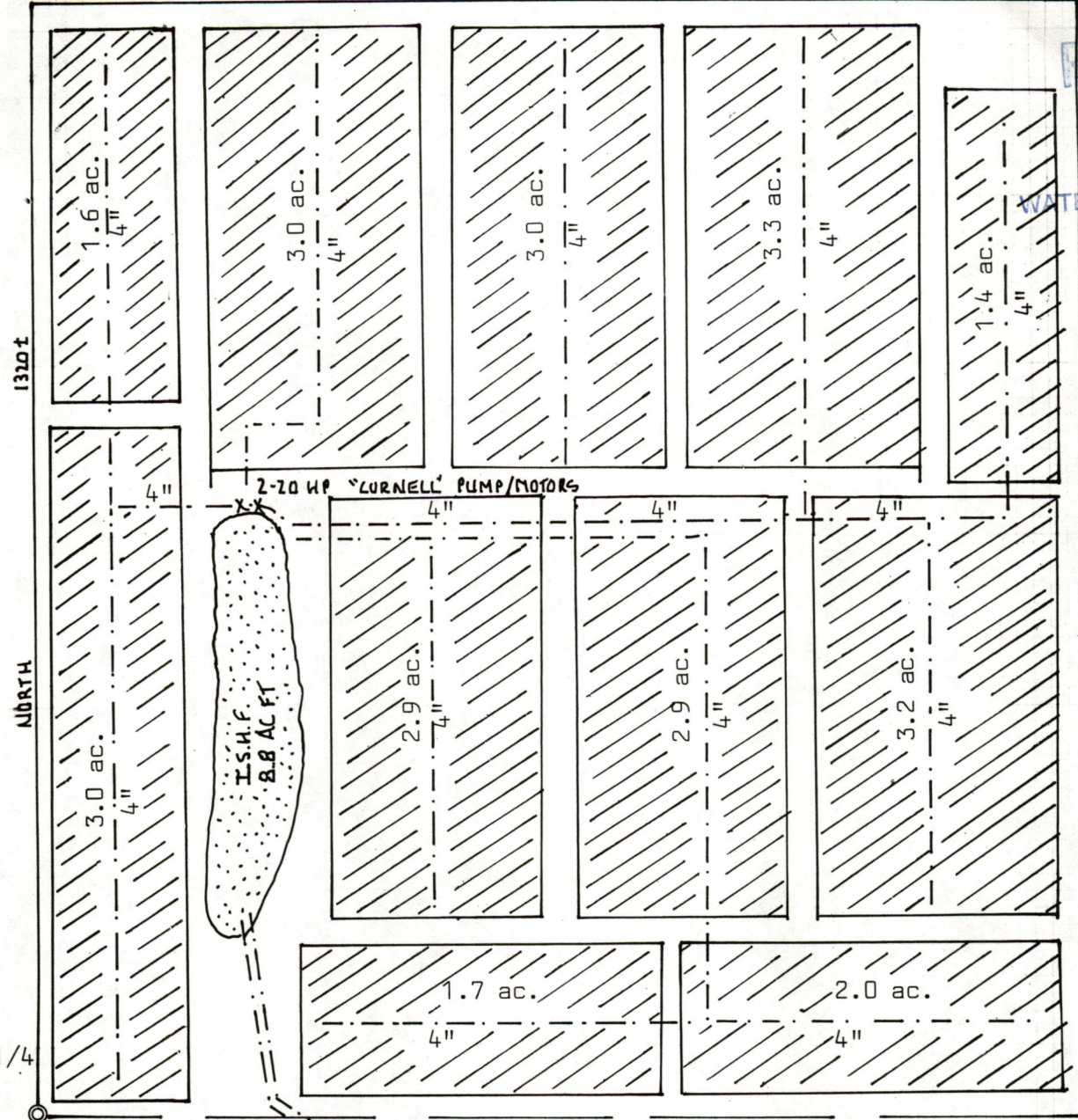
Bussmann
#1 Rese.
2.07 ac
ft.

N 1/16

EAST 1300'

NW 1/16

RECEIVED
 JUN 29 1992
 WATER RESOURCE
 SALEM, OREGON



28 acres
 SW1/4, NW1/4
 Sec. 4
 T32S., R14W
 Cranberry
 Production

BCIP W 1/4
 Sec. 4
 32-15.

CW 1/16

MAP TO ACCOMPANY THE
 APPLICATION TO APPROPRIATE
 THE SURFACE WATERS AND BUILD
 THE BUSSMANN #1 RESERVOIR.

Prepared For: James A. Bussmann
 P.O. Box 211
 Sixes, OR 97476

Prepared By: Prahar Surveying
 1045 Baltimore #1
 Bandon, OR. 97411

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 - - - unnamend stream
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SCALE: 1"==200.00.

DATE: June 23, 1992

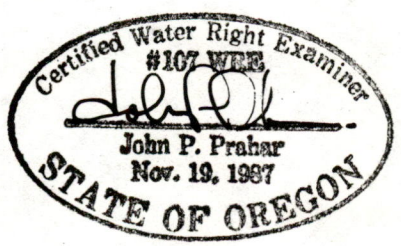
6" plastic pipes

UNNAMED STREAM

Bussmann
 #1 Rese. 2.07 ac
 ft.

2-20 HP 'LORNELL'
 PUMP / MOTORS

Point of Diversion
 is located 700' South
 and 1220' East of the
 West 1/4 corner Sec 4.
 T. 32S., R.15W., W.M.



NW 1/4, SW 1/4



WEST

1275'

Permit No.

N 1/16

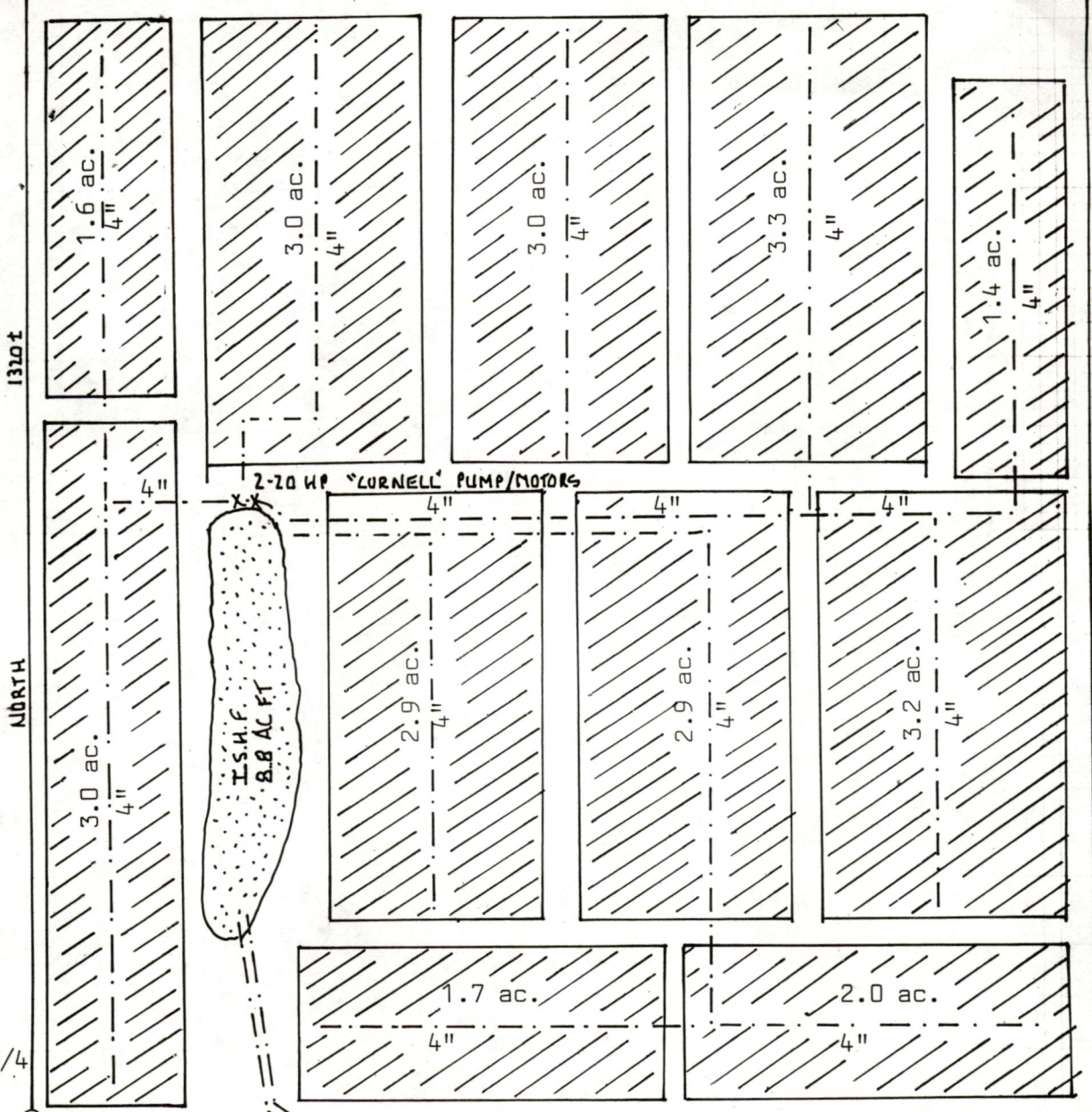
EAST

1300 ±

NW 1/16

RECEIVED JUN 29 1992

WATER



28 acres SW1/4, NW1/4 Sec. 4 T32S., R14W Cranberry Production

BCIP W 1/4 Sec. 4 32-15.

CW 1/16

MAP TO ACCOMPANY THE APPLICATION TO APPROPRIATE THE SURFACE WATERS AND BUILD THE BUSSMANN #1 RESERVOIR.

Prepared For: James A. Bussmann P.O. Box 211 Sixes, OR 97476

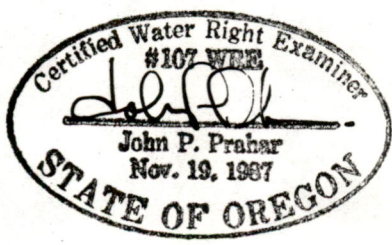
Prepared By: Prahar Surveying 1045 Baltimore #1 Bandon, OR. 97411

- LEGEND: ● Found monuments as noted
 --- Main waterlines
 [Hatched Box] Area of Cranberry Production/Irrigation/FH/TC.
 -.-.- unnamend stream
 [Dotted Box] I.S.H.F. (in system holding facility)
 ○ Point of diversion

SCALE: 1"==200.00.

DATE: June 23, 1992

Point of Diversion is located 700' South and 1220' East of the West 1/4 corner Sec 4. T. 32S., R.15W., W.M.



NW 1/4, SW 1/4



WEST

1275 ±