

FILE#: S 72644

DONALD L MARKHAM  
MARKHAM, LINDA  
RT 1 BOX 1908  
BANDON, OR

97411

Application No. 72644

Permit No. 51738

Certificate No. 85510

Stream Index, Page No. 17

17-1550

V 3 Two mile Cr 295 & misc

FEES PAID

| Date           | Amount          | Receipt No.  |
|----------------|-----------------|--------------|
| <u>8-31-92</u> | <u>\$382.00</u> | <u>91341</u> |

|                          |               |              |
|--------------------------|---------------|--------------|
| Extension <u>9-30-97</u> | <u>100.00</u> | <u>16309</u> |
|--------------------------|---------------|--------------|

Cert. Fee

FEES REFUNDED

| Date              | Amount       | Check No.     |
|-------------------|--------------|---------------|
| <u>ML 10-6-95</u> | <u>48.00</u> | <u>000708</u> |

Date filed \_\_\_\_\_

Priority \_\_\_\_\_

Action suspended until EPD

Return to applicant \_\_\_\_\_

Date of approval \_\_\_\_\_

CONSTRUCTION

Date for beginning 10-96

Date for completion 10-1-97

Extended to 10-1-98

Date for application of water 10-1-98

Extended to 10-1-99

PROSECUTION OF WORK

Form "A" filed 10/23/96

Form "B" filed \_\_\_\_\_

Form "C" filed \_\_\_\_\_

FINAL PROOF

Blank mailed \_\_\_\_\_

Proof received \_\_\_\_\_

Date Certificate issued May 15, 2009

ASSIGNMENTS

| Date | To Whom | Address | Volume | Page |
|------|---------|---------|--------|------|
|      |         |         |        |      |
|      |         |         |        |      |
|      |         |         |        |      |

REMARKS

SEE R-72643  
118 sent 10/29/96



Excess of  
fees  
\$48.00  
Refund

0.328 CFS  
FILED. 8-31-1992  
72644 - T295 R14W 20

- LAND USE FORM RECEIPT RETURNED
- SOUTH COAST - COOS COUNTY
- MARCH 1 THROUGH OCTOBER 31
- RATE 0.328 CFS FROM UNDAINED STR.
- TURN OF TWO MILE CREEK.
- 2.39 ACRES FEET FROM MARKHAM Rd.
- 1/80 @ 2.5 ACRES-FOOT
- REPORTING = M
- FISH SCREENING

DRAINAGE BASIN = 17  
VOL. 3  
TWO MILE CREEK 295' @ 1/4 SEC.

RECEIVED

OCT 23 1996

Form A

(690-9-77)

Application No. S-72644

NOTICE OF BEGINNING OF CONSTRUCTION

I, Donald L. Markham

, the holder of Permit No. 51738

to appropriate the public waters of the state of Oregon, began the actual construction of the works described therein on the 10th day of July, 1996

Remarks: Install 800' of 2" Pipe From P.O.D. To pond in bottom ground  
Thereby changing Ground Water + causing sub irrigation. Water is  
no longer being wasted. Irrigation System To be installed for 1997  
irrigation period

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of October, 1996  
Donald L. Markham  
(Signature of Applicant)

RT 1 Box 1908, Bandon OR 97411  
(Address)



Limiting Water Availability Subbasins  
For Water Availability Subbasin 190000000000000000

3

|                                      |                       |                        |  |
|--------------------------------------|-----------------------|------------------------|--|
| 9.1AF<br>1.5GW<br>1.5supp<br>Lindsay | 6.4AF<br>0.9cp<br>Jsy | 2.7AF<br>1.1cp<br>Peck | 6.0cp<br>MANKKE<br>not here<br>30 days |
|--------------------------------------|-----------------------|------------------------|--|

Store  
Nov 15 - April 30  
5 MONTHS

NO Live flow

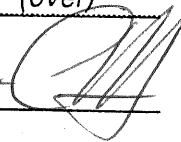
- ~~\_\_\_\_\_~~  
 May  
 Jan  
 July  
 Aug  
 Sept  
 Nov 1-15



Receipt for Request for Land Use Information

(over)

WRD Applicant Name:

Donald Mall - by agent 

This receipt must be signed by a local government representative and returned to the applicant for inclusion in the WRD application IF the local government can not provide the above requested land use information while the applicant waits.

City or County: Coos County

Staff Contact:

Planning Department

Phone:

396-3151 X20

Signature:

Shirley Wilson

Date of Information Request:

1/10



**Land Use Information Form: Permits, Hydroelectric Licenses, Water Uses In Addition to Classified Uses**

*This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. The Water Resources Department will use this and other information to evaluate the water use application. DO NOT FILL OUT THIS FORM IF water is to be diverted, conveyed, and/or used only on federal lands.*

Applicant's Name: Donald L. Markham  
Address: Rt 1 Box 1908  
City: Bandon OR State: OR Zip: 97411 Day Phone: 347-4674

*Please provide information as requested below for all tax lots on or through which water will be diverted or used. (Attach extra sheets as necessary.) Applicants for municipal use , or irrigation uses within irrigation districts, may substitute existing and proposed service area boundaries for the tax lot information requested below.*

| Tax Lot or Local I.D.# | Plan Designation/Zoning<br>(e.g. Rural Residential/RR-5) | Check All That Apply |                |           |
|------------------------|--|----------------------|----------------|-----------|
|                        |  | Water Diverted       | Water Conveyed | Water Use |
| 1001& 1000             | Forest-EFU-T29-R14-S20                                   | X                    | X              | X         |
|                        |  |                      |                |           |
|                        |  |                      |                |           |

Please list all counties and cities within which water is proposed to be diverted, conveyed, and/or used. Coos

*The following section must be completed by a planning official from each county and city listed unless your project will be located entirely within city limits. In this case, only the city planning agency must complete this form. Please request extra forms as needed.*

**For Local Government Use Only**

Local government planning officials are to complete the remainder of this form. If this form can not be completed while the applicant waits, please sign and detach the receipt as instructed below. Please mail the completed form directly to the Water Resources Department (3850 Portland Rd. NE, Salem, OR, 97310) within 60 days of the date of receipt as shown below. If the form is not completed within 60 days, the Department may take action to approve the water use.

a) Check the appropriate box below and provide requested information.

- ☐ Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): \_\_\_\_\_. Go to section b) on reverse side.
- ☐ Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below. **Note:** Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus any accompanying findings is sufficient.)

[illegible]

# Receipt for Request for Land Use Information

WRD Applicant Name: Charles M. Hall - by agent

This receipt must be signed by a local government representative and returned to the applicant for inclusion in the WRD application IF the local government can not provide the above requested land use information while the applicant waits.

City or County: Coos County

Staff Contact: Klaudia Johnson Phone: 396-3151 x324

Signature: Sharon Ellison Date of Information Request: 4/11/09



Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_  
Phone: \_\_\_\_\_

Signature: \_\_\_\_\_

**Additional Comments:**

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.



STATE OF OREGON

COUNTY OF COOS

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

DONALD L. AND LINDA MARKHAM  
ROUTE 1 BOX 1908  
BANDON, OREGON 97411

503-347-4674

to use the waters of MARKHAM RESERVOIR CONSTRUCTED UNDER APPLICATION R-72643, PERMIT R- AND AN UNNAMED STREAM, a tributary of TWOMILE CREEK, for IRRIGATION OF 26.20 ACRES.

This permit is issued approving Application 72644. The date of priority is AUGUST 31, 1992. The use is limited to not more than 0.655 CUBIC FOOT PER SECOND (CFS) BEING 0.3275 CFS FROM EACH POINT OF DIVERSION AND 2.39 ACRE-FEET FROM MARKHAM RESERVOIR, or its equivalent in case of rotation, measured at the point of diversion from the source.

The points of diversion are located as follows:

NE 1/4 SW 1/4, SECTION 20, T 29 S, R 14 W, W.M.; PONT OF DIVERSION 1 - 35 FEET SOUTH AND 1300 FEET WEST, POINT OF DIVERSION 2 - 500 FEET SOUTH AND 1260 FEET WEST, BOTH FROM C 1/4 CORNER, SECTION 20.

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

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

A description of the proposed place of use under this permit is as follows:

NE 1/4 SW 1/4 26.20 ACRES  
SECTION 20  
TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.

Actual construction work shall begin on or before , and shall be completed on or before October 1, 1994. Complete application of the water to the use shall be made on or before October 1, 1995.

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.

Issued this date,.

---

Water Resources Department  
Martha O. Pagel  
Director

Application 72644      Water Resources Department  
Basin 17      Volume 3 Twomile Creek 29S & Misc.  
73644.dlm

PERMIT  
District 19



## Description of Water Use

**Note to Applicant:** This sheet will provide local planning staff with a basic description of your proposed water use. Please fill out this sheet before bringing the attached land use form to your local planning office. It will help local planning offices complete your land use information form quickly.

**Note to Local Planning Officials:** Please initial this sheet. Do not separate it from the land use information form. If needed, please make a separate copy for your records.

Applicant Name: Donald L. Markham  
 Address: Route 1 Box 1908  
Bandon OR 97411  
 Phone: 1-503-347-4674

RECEIVED

AUG 31 1992

WATER RESOURCES DEPT.  
OREGON

Please indicate what you will use the water for. Check all boxes that apply and fill in the blanks with key characteristics of the project

- ☒ Irrigation (crop type, golf course, nursery or greenhouse): Grass - Commercial vegetable crops
- ☐ Livestock (type of livestock, feedlot, slaughterhouse): \_\_\_\_\_
- ☐ Residential (# units, single or multi-family, # lots if partition or subdivision): \_\_\_\_\_
- ☐ Commercial (i.e., retail, office, restaurant, gas station, hotel, service, etc.): \_\_\_\_\_
- ☐ Industrial (i.e., factory, pulp mill, research and development, processing, etc.): produce and fish processing
- ☐ Institutional (i.e., school, library, etc.): \_\_\_\_\_
- ☐ Mining (aggregate, metal, open pit, placer, etc.): \_\_\_\_\_
- ☐ Recreation (park, campsite, pond, etc.): \_\_\_\_\_
- ☐ Fish and Wildlife (pond, hatchery, etc.): \_\_\_\_\_
- ☐ Hydropower (dam, reservoir, power generating or transmitting facilities): \_\_\_\_\_
- ☐ Other (Name and list key characteristics): \_\_\_\_\_

| Indicate sources for the proposed water use below:   | Indicate the estimated quantity of water the use will require.   |
|--|--|
| <input checked="" type="checkbox"/> Surface Water<br>Name sources: <u>Unnamed stream</u><br>_____<br>_____ | <u>70</u> <sup>655</sup> Cubic feet per second.<br><u>294</u> Gallons per minute.<br><u>2.39</u> Acre-Feet |
| <input checked="" type="checkbox"/> Reservoir or pond  |  |
| <input type="checkbox"/> Ground Water  |  |

## STATE OF OREGON

## COUNTY OF COOS

## CERTIFICATE OF WATER RIGHT

## THIS CERTIFICATE ISSUED TO

DONALD L & LINDA MARKHAM  
RT 1 BOX 1908  
BANDON OR 97411

confirms the right to use the waters of MARKHAM RESERVOIR, CONSTRUCTED UNDER PERMIT R-11586, AND AN UNNAMED STREAM, tributaries of TWO MILE CREEK for IRRIGATION of 12.65 ACRES.

This right was perfected under Permit 51738. The date of priority is AUGUST 31, 1992. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.158 CUBIC FOOT PER SECOND FROM THE UNNAMED STREAM AND 1.24 ACRE FEET FROM STORED WATER ONLY FROM MARKHAM RESERVOIR, measured at the point of diversion.

Period of allowed use is March 1 through October 31.

The point of diversion is located as follows:

| Twp  | Rng  | Mer | Sec | Q-Q   | GLot | DLC | Measured Distances   |
|------|------|-----|-----|-------|------|-----|--|
| 29 S | 14 W | WM  | 20  | NE SW |      |     | NORTH 32 DEGREES 3 MINUTES WEST & 2464 FEET FROM S1/4 CORNER, SECTION 20 |

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

A description of the place of use to which this right is appurtenant is as follows:

| IRRIGATION |      |     |     |       |      |     |       |
|------------|------|-----|-----|-------|------|-----|-------|
| Twp        | Rng  | Mer | Sec | Q-Q   | GLot | DLC | Acres |
| 29 S       | 14 W | WM  | 20  | NE SW |      |     | 12.65 |

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.



Measurement, recording and reporting conditions:

- A. The water user shall maintain the meter or measuring device in good working order.
- B. The water user 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.
- C. The Director may require the water user to keep and maintain a record of the amount (volume) of water used and may require the water user to report water use on a periodic schedule as established by the Director. In addition, the Director may require the water user to report general water use information, the periods of water use and the place and nature of use of water under the right. The Director may provide an opportunity for the water user to submit alternative reporting procedures for review and approval.

Diversion screening or fish passage facilities shall be operated to Oregon Department of Fish and Wildlife specifications.

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


This right 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 right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

The 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.

Issued MAY 15 2009

  
Phillip C. Ward, Director  
Water Resources Department



# Oregon

Theodore R. Kulongoski, Governor

## Water Resources Department

North Mall Office Building  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
503-986-0900  
FAX 503-986-0904

**Date Mailed: May 15, 2009**

### NOTICE OF CERTIFICATE ISSUANCE

Attached are certificates that confirm water rights established under the terms of permits issued by this Department. The water rights are now appurtenant to the specific place where the use was established as described by the certificates. The water rights are limited to a specific amount of water, but not more than can be beneficially used for the purposes stated within the certificates.

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within **60 days of the mailing date stated above** as specified by ORS 183.484(2).

This statement of judicial review rights is required under ORS 536.075; it does not alter or add to existing review rights or create review rights that are not otherwise provided by law.

Under ORS 537.260 and 537.270, a water right certificate may be contested before the Water Resources Department within three (3) months of the date it is issued. If a certificate is contested, the qualifying contestant shall be offered an administrative hearing.

Oregon law does not allow the Director to reissue a certificate because of a change in the ownership of the appurtenant place of use. The water must be controlled and not wasted. To change the location of the point of diversion, the character of use, or the location of use requires the advance approval of the Water Resources Director.

If any portion of this water right is not used for five or more consecutive years, that portion of the right may be subject to forfeiture according to ORS 540.610. Land enrolled in a Federal Reserve Program is not subject to forfeiture during the period of enrollment. Other exceptions to forfeiture are explained in ORS 540.610.

If you have any questions please contact Gerry Clark at 503-986-0811



# Mailing List for Certificate

Scheduled Mailing Date:

**Application:** R-72643

**Permit:** Error! Reference source not found.

**Certificate:** 85509

**Permit/Certificate Holder:**

DONALD L & LINDA MARKHAM ✓  
RT 1 BOX 1908  
BANDON OR 97411

## Copies Mailed

by: Connie Vance  
(STAFF)

on: 5/15/2009  
(DATE)

### Copies of Final Certificate to be sent to:

1. Watermaster District 19, Mitch E. Lewis; Coos County Courthouse Annex ✓
2. Data Center (include copy of map) ✓
3. Water Availability ✓
4. Vault ✓
5. File ✓

### Other persons to receive copies: (include map):

1. Harvey Wilcox, CWRE ✓

## CLAIM OF BENEFICIAL USE

Section 20 Twp 29 South, Range 14 West, W.M.

Tax Lot #1000

Coos County

FOR: Donald L. and Linda Markham

Application #S-72644

Permit #51738

Date Surveyed: 2/13/01

### OWNER INFORMATION:

Permittee:

Donald L. and Linda Markham

RT 1 Box 1908

Bandon, Oregon 97411

Phone: (541) 347-2984

Property Owner:

same

Person Interviewed:

Chuck Markham

### SOURCE:

Markham reservoir located on an unnamed stream, which is a tributary of Two mile Cr.

### DIVERSION WORKS DESCRIPTION:

The diversion is a jet pump with 3" inlet from Markham reservoir.

Motor:

brand: Flint & Walling

model: 94J120

horsepower: 2 HP

Pump:

brand: Flint & Walling

model: CJ101C201

intake/discharge size: The intake is 1 1/2" jointed up to a 3" pipe, the discharge is 1 1/4" jointed to 2", then jointed to a 3" pipe.

Pipe:

There is 20' of 3" pipe to the pump and 1250' of buried 3" mainline with multiple connection points for the 2" movable irrigation line. There is 400' of 2" movable irrigation line with 20 sprinklers.

Heads:

The maximum number of sprinklers used at one time is 20. The sprinklers are Rainbird with 1/8" nozzles.

Use:

The use is irrigation of pasture.

**RECEIVED**

JUN 27 2001

WATER RESOURCES DEPT.  
SALEM, OREGON

Lift:

source to pump- 2'

Pump to place of use- The highest sprinkler is 13' above the pump and the lowest sprinkler is 6' below the pump.

**SYSTEM CAPACITY:**

I measured the system capacity by direct measure. I filled a 5 gallon bucket from one of the sprinklers. It took 225 seconds to fill. There are 20 sprinklers so the system can deliver 0.059 cfs. This is less than the 0.328 allowed under permit 51738.

Permit 51738 allows use of 2.39 acre-feet of stored water from Markham reservoir. Markham reservoir holds approximately 1.24 acre-feet when full.

**DIVERSION POINT LOCATION:**

The POD bears N32°03'W 2464' from the S1/4 corner of Section 20. I determined the location by tying the 2 points set on the North-South centerline of Section 20 by Richard Hintz. I then used Hintz's survey map to calculate the position of the South 1/4 Corner of Section 20.

**Rate:**

rate allowed by permit: 0.328 cfs or  $1/80 \times 12.65$  actual acres irrigated = 0.158 cfs.  
maximum rate measured based on system: 0.059 cfs

**PLACE OF USE AND EXTENT OF USE:**

The place of use is a pasture located in the NE1/4 of the SW1/4 of Section 20, T29S, R14W, W.M. between the County Road and Two Mile Cr. The pasture is 12.65 acres.

**PERMIT CONDITIONS:**

Chuck stated that the Water Master (John Drolet) told him he did not need a weir to measure the water. He also stated that ODFW told him he did not need fish screening or passage as there are no fish present in the stream.

ANY VARIATION OF PROJECT FROM PERMIT OR TRANSFER: The total acres irrigated was reduced from 26.20 acres to 12.65 acres. Reservoir permit R-11586 allowed the reservoir to cover 0.3 acres. I found it to be 0.25 acres. The permit allowed the reservoir to be 20' deep but not exceeding 9.0 feet at the dam. I found the reservoir to be approximately 9.9 feet at the deepest point, which gives approximately 1.24 acre-feet of water. Permit R-11586 allows 2.39 acre-feet.

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WATER RESOURCES DEPT.  
SALEM, OREGON



The final proof survey and inspection of the water use as found to be completed under the terms and conditions of permit #51738 was completed by me on 2/13/01, and the facts contained in this report and accompanying map are correct to the best of my knowledge.

We, Donald L. and Linda Markham, agree to the findings of the Water Rights Examiner and submit this report and map as our Claim of Beneficial Use of water as provided under the terms and conditions of our permit # 51738.

  
\_\_\_\_\_  
Donald L. Markham

  
\_\_\_\_\_  
Linda Markham

**RECEIVED**

JUN 27 2001

WATER RESOURCES DEPT.  
SALEM, OREGON

# Harvey Wilcox Surveying

Surveying, Water Rights, Engineering, Planning, Forestry

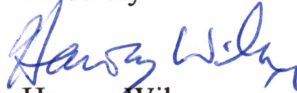
5/27/01

Chuck Markham  
Rt 1 Box 1908  
Bandon, Oregon 97411

Dear Chuck

I have enclosed your Final Proof Water Rights Map and Site Report. Please review them and if they look okay get Donald and Linda to sign the site report. Then send both of them to Water Resources. If you have any questions give me a call.

Sincerely



Harvey Wilcox  
70442 Hwy 101  
North Bend, Or 97459  
Phone: (541) 759-4467  
Email: easybar@gte.net

**RECEIVED**

JUN 27 2001

WATER RESOURCES DEPT.  
SALEM, OREGON

STATE OF OREGON

COUNTY OF COOS

PERMIT TO STORE THE PUBLIC WATERS

**RECEIVED**

JUN 27 2001

WATER RESOURCES DEPT.  
SALEM, OREGON

THIS PERMIT IS HEREBY ISSUED TO

DONALD L. AND LINDA MARKHAM  
RT 1 BOX 1908  
BANDON, OREGON 97411

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

APPLICATION FILE NUMBER: R-72643

SOURCE OF WATER: AN UNNAMED STREAM, A TRIBUTARY OF TWOMILE CREEK, within the SOUTH COAST basin

STORAGE FACILITY: MARKHAM RESERVOIR

PURPOSE OR USE OF THE STORED WATER: To be appropriated under Application S-72644, PERMIT 51738 for IRRIGATION.

QUANTITY OF WATER: 2.39 ACRE-FEET EACH YEAR

PERIOD OF STORAGE: NOVEMBER 1 THROUGH JUNE 30

DATE OF PRIORITY: August 31, 1992

The area submerged by the reservoir, when full, will be 0.3 acre and the maximum depth of water will be 20.0 feet. The maximum height of the dam shall not exceed 9.0 feet.

DAM LOCATION: NE 1/4 SW 1/4, SECTION 20, T29S, R14W, W.M.

THE AREA TO BE SUBMERGED BY THE RESERVOIR IS LOCATED AS FOLLOWS:

NE 1/4 SW 1/4  
SECTION 20

TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.

Measurement recording and reporting conditions:

- A. The Director may require the permittee to install a meter or other suitable measuring device as approved by the Director. If the Director notifies the permittee to install a meter or other measuring device, the permittee shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the permittee shall maintain the meter or measuring device in good working order and shall allow the watermaster access to the meter or measuring device. The



**RECEIVED**

JUN 27 2001

PAGE 2

WATER RESOURCES DEPT.  
SALEM, OREGON

Director may provide an opportunity for the permittee to submit alternative measuring procedures for review and approval.

- B. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

Diversion screening or fish passage facilities shall be designed, installed, and operated to Oregon Department of Fish & Wildlife specifications.

A regulating device shall be installed pursuant to ORS 540-310. Plans and specifications shall be approved by the Watermaster before installation. Work shall be done under the general supervision of the Watermaster. Weirs will be required both upstream and downstream of the reservoirs.

#### STANDARD CONDITIONS

The storage of water allowed herein is subject to the installation and maintenance of an fully functional conduit/gate assembly having a minimum diameter of 8 inches.

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. The reservoir shall be filled and complete application of the stored water to the use shall be made on or before October 1, 1998.

Issued November 6, 1995

  
Water Resources Department  
Martha O. Pagel  
Director



**RECEIVED**

JUN 27 2001

WATER RESOURCES DEPT.  
SALEM, OREGON

Application R-72643    Water Resources Department  
Basin 17                Volume 3 Twomile Creek 29S & Misc.  
DLB

PERMIT R-11586  
District 19

STATE OF OREGON

COUNTY OF COOS

PERMIT TO APPROPRIATE THE PUBLIC WATERS

RECEIVED

JUN 27 2001

WATER RESOURCES DEPT.  
SALEM, OREGON

THIS PERMIT IS HEREBY ISSUED TO

DONALD L and LINDA MARKHAM  
RT 1 BOX 1908  
BANDON, OREGON 97411

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

APPLICATION FILE NUMBER: S-72644

SOURCE OF WATER: MARKHAM RESERVOIR CONSTRUCTED UNDER APPLICATION R-72643, PERMIT R-11586, AND AN UNNAMED STREAM, BOTH TRIBUTARIES OF TWOMILE CREEK

PURPOSE OR USE: IRRIGATION OF 26.20 ACRES

Rate of use: NOT MORE THAN 0.328 CFS FROM THE UNNAMED STREAM AND 2.39 ACRE-FEET STORED WATER ONLY FROM MARKHAM RESERVOIR

Period of allowed use: March 1 through October 31

DATE OF PRIORITY: August 31, 1992

POINT OF DIVERSION LOCATION:

NE 1/4 SW 1/4, SECTION 20, T29N, R14W, W.M.; POD 1 - 35 FEET SOUTH & 1300 FEET WEST, POD 2 - 500 FEET SOUTH & 1260 FEET WEST, BOTH FROM C1/4 CORNER, SECTION 20

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NE 1/4 SW 1/4 26.2 ACRES  
SECTION 20  
TOWNSHIP 29 SOUTH, RANGE 14 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

Application 72644

Water Resources Department

PERMIT 51738



approved by the Director. The permittee shall maintain the meter or measuring device in good working order.

- 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.
- C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

Diversion screening or fish passage facilities shall be designed, installed, and operated to Oregon Department of Fish & Wildlife specifications.

#### 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.

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JUN 27 2001


WATER RESOURCES DEPT.  
SALEM, OREGON

PERMIT 51738



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 November 6, 1995

*for*   
Water Resources Department  
Martha O. Pagel  
Director



**RECEIVED**

JUN 27 2001

WATER RESOURCES DEPT.  
SALEM, OREGON

Application S-72644    Water Resources Department  
Basin 17                Volume 3 Twomile Creek 29S & Misc.  
DLB

PERMIT 51738  
District 19

38A85

18 17  
19 20

I.P./BC  
BT 4/125

N 87° 52' W 2564.69'

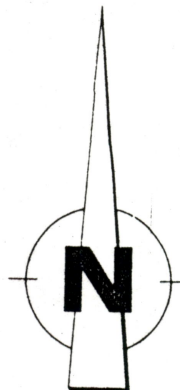
Basis For Brg. TRUE From Gould's 1912 Survey

1/4 Cor.

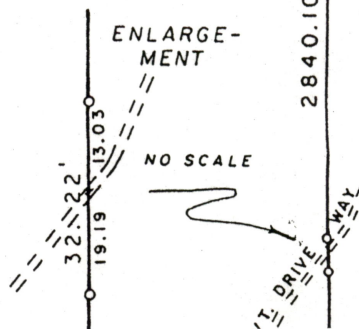
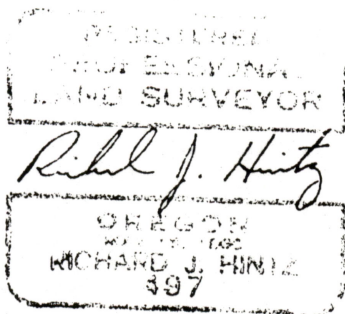
I.P./BC  
BT 4/127

PROPERTY SURVEY  
FOR  
ROBERT LARSEN

SE 1/4 SECTION 20, T 29 S, R 14 W  
SCALE: 1" = 500' MAY 1990



MONUMENTS FOUND ©  
SET 5/8 x 30" I.R.'S / PLASTIC CAPS ○  
STAMPED: R.J. HINTZ PLS 497



# Mailing List for Certificate

Scheduled Mailing Date:

**Application:** S-72644

**Permit:** 51738

**Certificate:** 85510

**Permit/Certificate Holder:**

DONALD L & LINDA MARKHAM ✓  
RT 1 BOX 1908  
BANDON OR 97411

## Copies Mailed

by: Connie Vance  
(STAFF)

on: MAY 15 2009  
(DATE)

### Copies of Final Certificate to be sent to:

1. Watermaster District 19, Mitch E. Lewis; Coos County Courthouse Annex ✓
2. Data Center (include copy of map) ✓
3. Water Availability ✓
4. Vault ✓
5. File ✓

### Other persons to receive copies: (include map):

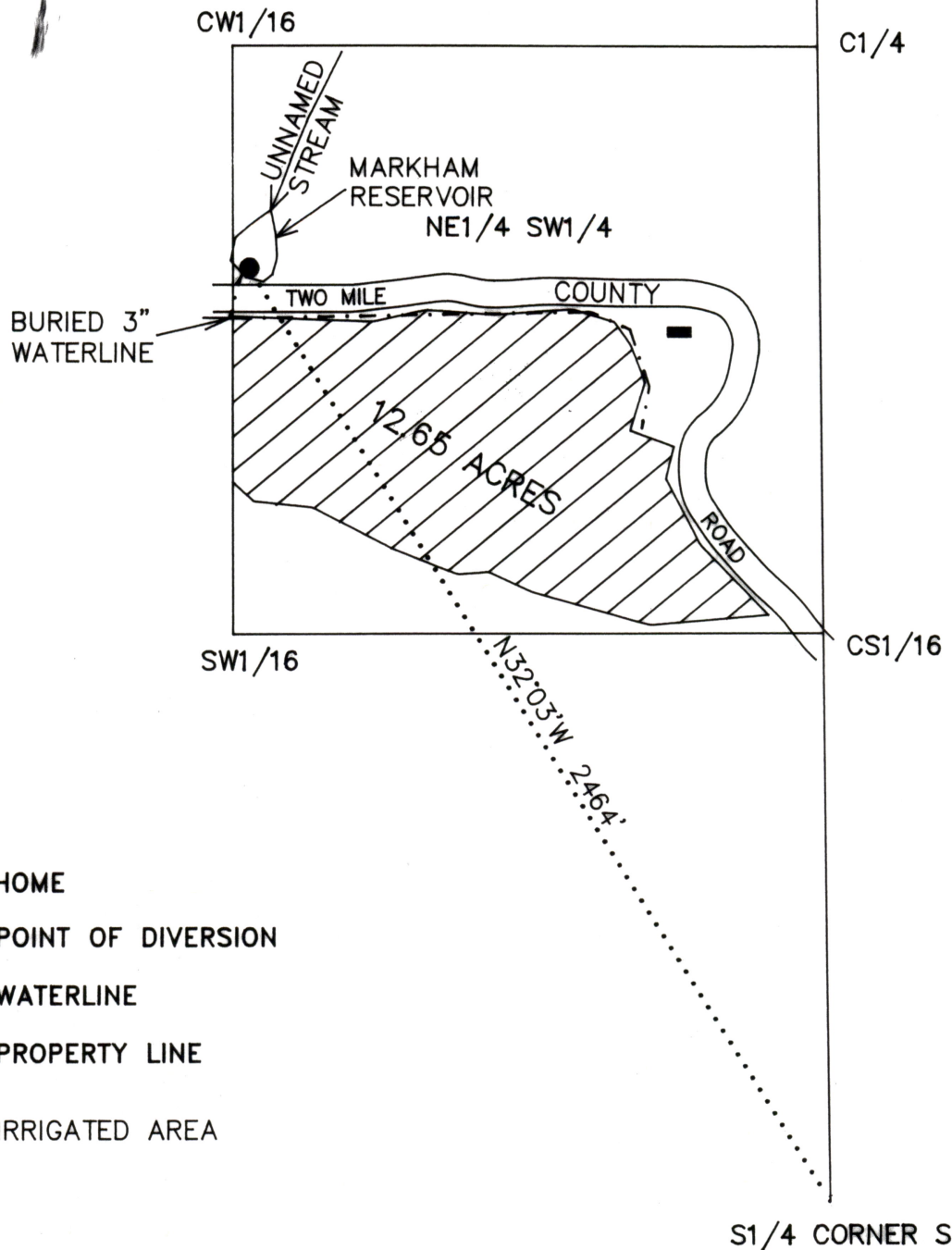
1. Harvey Wilcox, CWRE ✓



Tax Lot No. TL1000 29 14 20


Section 20 Township 29 S Range 14 W W.M.

Coos County



Scale 1" = 400'

LEGEND

- HOME
- POINT OF DIVERSION
- - - - WATERLINE
- · - · - PROPERTY LINE
-  IRRIGATED AREA

EXAMINERS DISCLAIMER STATEMENT

The preparation of this map was for the purpose of identifying the location of the Water Right only and has no intent to provide dimensions or location of property ownership lines.

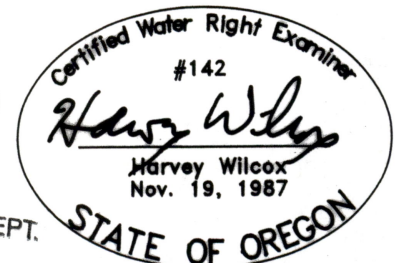
FINAL PROOF SURVEY  
IN THE NAME OF  
Donald L. and Linda Markham

Surveyed on 2/113/01 by H.A. Wilcox

RECEIVED

JUN 27 2001

WATER RESOURCES DEPT.  
SALEM, OREGON



RENEWAL 6/30/02

Application No. S-72644

Permit No. 51738

# Mailing List for Certificate

Scheduled Mailing Date:

Application: S-72644

Permit: 51738

Certificate: \*\*\*\*\*

Permit/Certificate Holder:

DONALD L & LINDA MARKHAM  
RT 1 BOX 1908  
BANDON OR 97411

## Copies Mailed

by: Connie Vance  
(STAFF)

FEB 27 2009

on: \_\_\_\_\_  
(DATE)

### Copies of Final Certificate to be sent to:

1. Watermaster District 19, Mitch E. Lewis; Coos County Courthouse Annex ✓
2. Data Center (include copy of map)
3. Water Availability
4. Vault
5. File ✓

### Other persons to receive copies: (include map):

1. Harvey Wilcox, CWRE ✓

Larry & Lynn Johnson  
88710 Two Mile Ln  
Bandon OR 97411

owners per Coos Co Assessor C.O.

## STATE OF OREGON

## COUNTY OF COOS

## CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

DONALD L & LINDA MARKHAM  
RT 1 BOX 1908  
BANDON OR 97411

confirms the right to use the waters of MARKHAM RESERVOIR, CONSTRUCTED UNDER PERMIT R-11586, AND AN UNNAMED STREAM, tributaries of TWO MILE CREEK for IRRIGATION of 12.65 ACRES.

This right was perfected under Permit 51738. The date of priority is AUGUST 31, 1992. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.158 CUBIC FOOT PER SECOND FROM THE UNNAMED STREAM AND 1.24 ACRE FEET FROM STORED WATER ONLY FROM MARKHAM RESERVOIR, measured at the point of diversion.

Period of allowed use is March 1 through October 31.

The point of diversion is located as follows:

| Twp  | Rng  | Mer | Sec | Q-Q   | GLot | DLC | Measured Distances   |
|------|------|-----|-----|-------|------|-----|--|
| 29 S | 14 W | WM  | 20  | NE SW |      |     | NORTH 32 DEGREES 3 MINUTES WEST & 2464 FEET FROM S1/4 CORNER, SECTION 20 |

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

A description of the place of use to which this right is appurtenant is as follows:

| IRRIGATION |      |     |     |       |      |     |       |
|------------|------|-----|-----|-------|------|-----|-------|
| Twp        | Rng  | Mer | Sec | Q-Q   | GLot | DLC | Acres |
| 29 S       | 14 W | WM  | 20  | NE SW |      |     | 12.65 |

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.



Measurement, recording and reporting conditions:

- A. The water user shall maintain the meter or measuring device in good working order.
- B. The water user 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.
- C. The Director may require the water user to keep and maintain a record of the amount (volume) of water used and may require the water user to report water use on a periodic schedule as established by the Director. In addition, the Director may require the water user to report general water use information, the periods of water use and the place and nature of use of water under the right. The Director may provide an opportunity for the water user to submit alternative reporting procedures for review and approval.

Diversion screening or fish passage facilities shall be operated to Oregon Department of Fish and Wildlife specifications.

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

This right 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 right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

The 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.

Issued \_\_\_\_\_.

**PROPOSED**

\_\_\_\_\_  
Phillip C. Ward, Director  
Water Resources Department



# Oregon

Theodore R. Kulongoski, Governor

## Water Resources Department

North Mall Office Building  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
503-986-0900  
FAX 503-986-0904

**MAILED: FEB 27 2009**

### NOTICE

Reference : Permit R-11586 Application R-72643  
Permit S-51738 Application S-72644

Enclosed are proposed certificates of water rights and maps which illustrate the location of the rights. The proposed certificates and maps represent the extent water was used within the terms of the permits based upon a survey and inspection.

If you do not agree with the proposed certificates or maps, Oregon Administrative Rule 690-330-010 (2) allows the permittee or landowner 60 days from the mailing date of this notice to request the Department to reconsider the contents of the proposed certificates.

If you agree with the proposed certificates and maps, no response to this notice is required. Sometime after the 60 day period, the recorded certificates of water right will be mailed to the permittee.

If you have any questions please contact Gerry Clark at 503-986-0811.

Sincerely,

Dwight French  
Administrator  
Water Rights Division

# MEMO

TO: FILE 72644

FROM: JG

DATE: Jul, 2008

RE: DETERMINATION OF PROOF

I've determined that a ~~PROPOSED~~/ FINAL certificate should be prepared and mailed to the permit holder ~~consistent~~ with:

The Permit

The COBU/FPS

As described in the permit but as clarified by the COBU/FPS

As described in the PERMIT and COBU/FPS but as further specified below:





# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97301-4172  
(503) 378-3739  
FAX (503) 378-8130

February 7, 2001

Edward W. Riley  
P.O. Box 630  
North Bend, OR 97459

Reference: File R-72643, Permit R-11586; and  
File 72644, Permit 51738 - Donald L. and Linda Markham

Dear Mr. Riley:

I am enclosing copies of our Administrative Rules Divisions 15 and 300. Last year, the Department provided you with a Certified Water Rights Examiner Manual. These reference materials contain the standards, criteria and examples of the requirements of claims of beneficial use site reports and maps.

Please feel free to contact me if you have any questions and I will be happy to address any concerns you may have.

Sincerely,

Steve Brown  
Certificates



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97301-4172  
(503) 378-3739  
FAX (503) 378-8130

January 11, 2001

Edward W. Riley  
P.O. Box 630  
North Bend, OR 97459

Reference: File R-72643, Permit R-11586; and  
File 72644, Permit 51738 - Donald L. and Linda Markham

Dear Mr. Riley:

We received the attached letter from you which contains information regarding the use of water under Permit No. R-11586 and 51738.

The information you have provided as a claim of beneficial use report fails to meet the requirements of our Administrative Rules. It is our expectation a complete report and map be submitted as a claim. Failure to complete the required claims of beneficial use reports to the satisfaction of the Director may result in the cancellation of the permits.

Please feel free to contact me if you have any questions and I will be happy to address any concerns you may have.

Sincerely,

Steve Brown  
Certificates

c: Mr. and Mrs. Markham



# edward w. riley

ARCHITECTS - ENGINEERS

planning  
building design  
municipal engineering

AIRPORT TERMINAL BUILDING  
Post Office Box 630  
North Bend, Oregon 97459  
Telephone 541/756-6606  
Fax 541/756-7676

September 29, 1999

Water Resources Department  
3850 Portland Road NE  
Salem, OR 97310

Re: Donald L. and Linda Markham  
Route 1 Box 1909  
Bandon, OR

Application File No. S-72644 *is a 43*  
Permit No. R-11-586

Gentlemen:

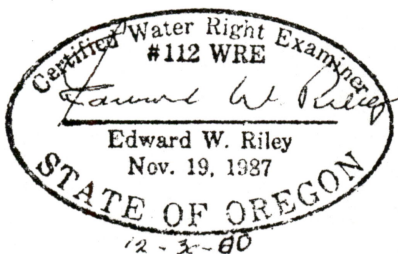
This is to certify that I have inspected the site and installation of the piping and valving from the Markham reservoir.

Notably the following:

The area to be served has been reduced from 26.4 acres to 11.4 acres.

Refer to the attached drawing.

Very truly yours,



EDWARD W. RILEY  
Architect-Engineer

EWR:lb

WRResourc.LTR(Water Resources Dept/Donald Markham Project)

**RECEIVED**

**OCT 01 1999**

**WATER RESOURCES DEPT.  
SALEM, OREGON**



Form C (690-8-77)

**IMPORTANT**—This form is a notice to the Water Resources Director that permittee is ready to make final proof to the extent to which the water has actually been applied to the intended use under the terms of the permit. Permittee is cautioned that Certificate of Water Right will be issued based on the extent of the quantity and use as determined by the final proof inspection and survey which will be made in response to the filing of this Form C.

**NOTE:** In the case of an irrigation permit, this Form C should not be mailed to the Water Resources Department until all of the land described in the permit, which it is intended to irrigate under this permit at any time, has actually been irrigated.

Fill out, detach and mail to the Water Resources Department, Salem, OR 97310, when all of the water has been applied.

Application No. R-72643

**NOTICE OF COMPLETE APPLICATION OF WATER TO A BENEFICIAL USE**

I, DONALD L. AND LINDA MARKHAM, the holder of Permit No. R-11586

to appropriate the public waters of the state of Oregon, completely applied the waters to a beneficial use in accordance with the terms of said permit, on the 29 day of SEPTEMBER, 19 99

Remarks: IRRIGATION REDUCED TO 14.4 ACRES. SEE ATTACHED DRAWING.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of September, 19 99

(Signature of Applicant)

(Address)

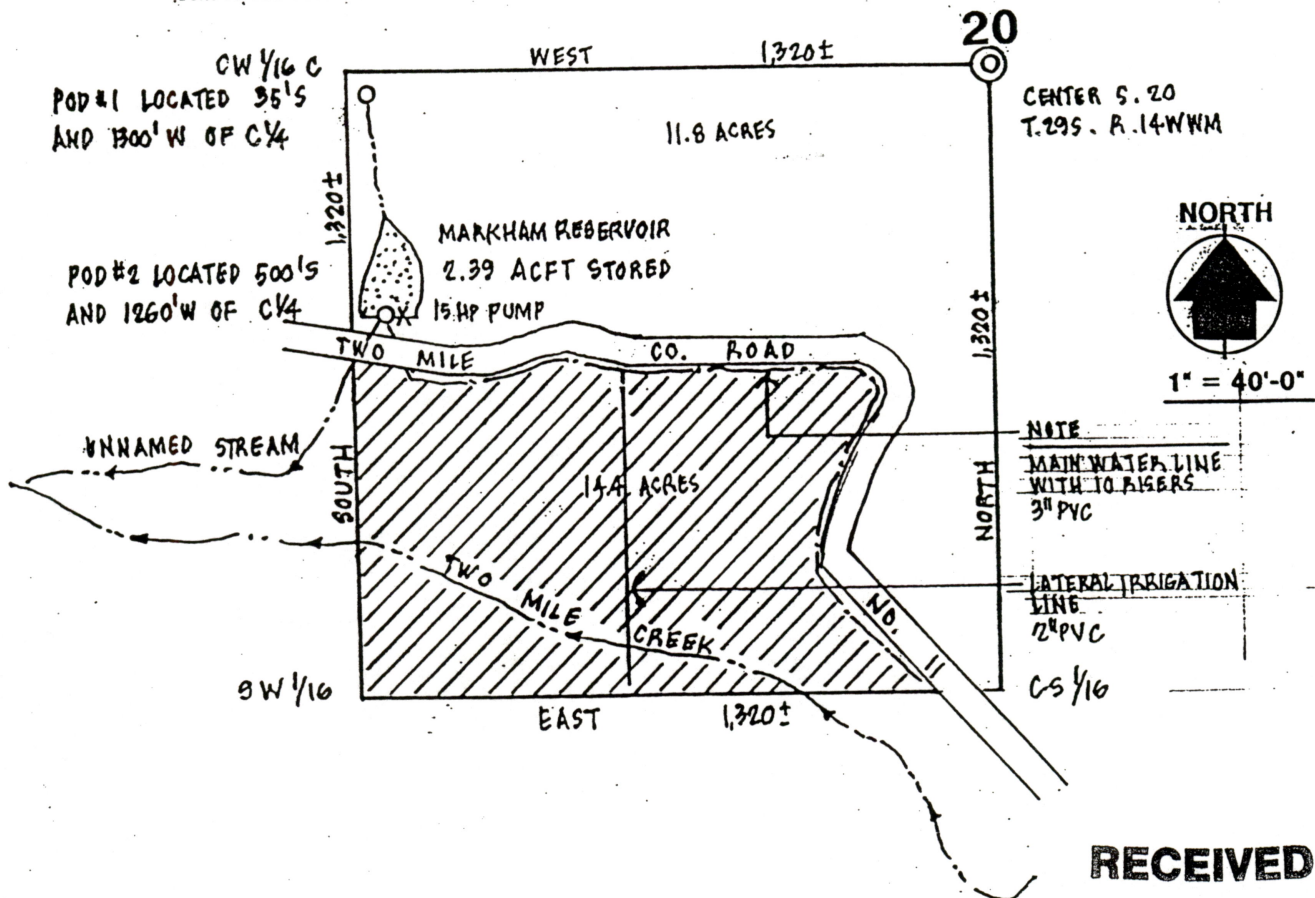
Agent for Don & Linda RT 1 Box 19-08 Bend OR 97711

TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M., COOS COUNTY.

Map to accompany the application to appropriate the Surface Waters of State of Oregon

Prepared For: Donald L. and Linda Markham  
Rt. 1 Box 1908  
Bandon, OR 97411  
(503) 347-4674

Prepared By: **edward w riley**  
ARCHITECT-ENGINEER  
PO Box 630  
North Bend, OR 97459  
Tel: 541-756-6606 Fax: 541-756-7676



LEGEND: ● Corner used to control survey (USGS. QUAD)

--- Two mile creek/unnamed stream

▨ area of irrigation

○ point of diversion as stated above  
--- main water lines

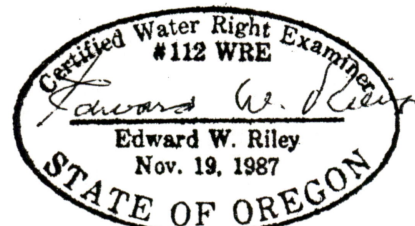
● "Markham" reservoir

x pump/motor combination

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OCT 01 1999

WATER RESOURCES DEPT.  
SALEM, OREGON



September 29 1999





# 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 21, 1998

DONALD & LINDA MARKHAM  
RT 1 BOX 1908  
BANDON OR 97411

REFERENCE: Files R-72643 & 72644

We have received your application for extension of the time limits to complete construction and make complete application of water under Permits R-11586 and 51738.

The application indicates reasonable diligence toward completion of the proposed project. The time limits to complete construction are extended to October 1, 1998, and the time limits to make complete application of water are extended to October 1, 1999. The order approving the extension was entered on October 19, 1998.

If you have any questions, please contact me at extension 272 (503)-378-3739, or toll-free 1-(800)-624-3199.

Sincerely,

Dallas Miller  
Water Rights Specialist

DM:jh

enclosure

cc: John Drolet, Watermaster  
John Prahar, CWRE



BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

MARION COUNTY

IN THE MATTER OF APPLICATION FOR )  
EXTENSION OF TIME IN WHICH TO )  
COMPLETE CONSTRUCTION WORK ) ORDER  
AND/OR MAKE COMPLETE APPLICATION )  
OF WATER UNDER CERTAIN PERMITS )

The owners of the following water permits issued by the Water Resources Director have submitted applications for extensions of time limits within which to complete the construction work and/or make complete application of water to beneficial use under their respective permits.

The Water Resources Director is authorized under the provisions of ORS 537.230 to grant extensions of time for good cause shown, within which to complete work to perfect a water right under a permit;

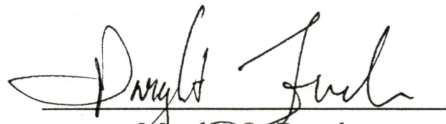
The statements in the applications for extensions filed regarding completion of the projects indicate that each has shown such reasonable diligence as entitles them to an extension of time; and

No protest or objections to the granting of an extension under any of the following permits have been filed by any subsequent permit holders;

NOW, THEREFORE, it is hereby ORDERED that extensions of time are granted as follows:

| PERMITTEE              | APPL.<br>NUMBER | PERMIT<br>NUMBER | BASIN<br>NUMBER | NEW TIME LIMITS TO: |                       |
|------------------------|-----------------|------------------|-----------------|---------------------|-----------------------|
|                        |                 |                  |                 | COMPL               | APPLY<br>CONST. WATER |
| Donald & Linda Markham | R-72643         | R-11586          | 17              | 10-1-98             | 10-1-99               |
| Donald & Linda Markham | 72644           | 51738            | 17              | 10-1-98             | 10-1-99               |
| Pat & Emile Naftaly    | R-73262         | R-11615          | 17              | 10-1-99             |                       |
| Pat & Emile Naftaly    | 73263           | 51855            | 17              | 10-1-99             |                       |

Dated at Salem, Oregon this 19<sup>th</sup> day of October, 1998.

  
Martha O. Pagel  
DIRECTOR

## EXTENSION REVIEW

- 1-Was construction started by the beginning of construction date on the permit? YES
- 2-What water right development steps has the permittee completed within the past year ?  
Installed mainlines and feeders, irrigated 6 acres.
- 3-What water right development steps has the permittee completed prior to last year? Construct dam, install culverts and pipe.
- 4-Can the water system be constructed and complete beneficial use of water be accomplished within the time period requested? Permittee states yes.
- 5-Are the permit conditions being met? No.
- 6-What percent of the total allowable water use under the permit does the current use represent?  
23%
- 7-What unforeseen events, if any, delayed development of water system and water use? Severe weather.
- 8-Have there been any changes in the market for either water or power since permit was granted which affected development program under the permit? No.
- 9-Has there been any change in demand for water or power since permit was granted? No.
- 10-If extension request is denied, is current level of water use under permit feasible? No.
- 11-Is there an alternative source of water available? No.
- 12-Has use of water under the permit caused an adverse impact on surface/groundwater resource in the area? No.
- 13-What has been the cost of the project? Not given.
- 14-Was there a previous extension condition, if so, was it met? No previous extensions.

**Requesting extension of B to 10/1/98 and C to 10/1/99. Have completed construction and done some irrigation. Recommend extend as requested B 10/1/98 and C to 10/1/99.**

**RECEIVED**

OCT 27 1997

WATER RESOURCES DEPT.  
SALEM, OREGON

October 22, 1997

Water Resources Department  
C/O Dallas Miller  
158 12th Street NE  
Salem, OR 97310-0210

Dear Dallas:

We have received your letter dated 10/16/97. Thanks again for your quick response to our response to your letter of October 6, 1997.

Your 10/16/97 letter states: *"At this time the existing rules allow only one year extensions of time except for municipalities or districts."*

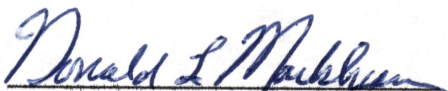
We expected to have finished our project by 10/1/97, and believe we will complete the project by 10/1/98. We request at least a one year extension of Permits #51738 and #R 11586. We are not playing games here.

-72644

72643

Please issue the one year extension for our project.

Sincerely,



Donald Markham  
Rt. 1, Box 1908  
Bandon, OR 97411



RECEIVED

OCT 27 1997

WATER RESOURCES DEPT.  
SALEM, OREGON

October 22, 1997

Water Resources Department  
C/O Dallas Miller  
158 12th Street NE  
Salem, OR 97310-0210

Dear Dallas:

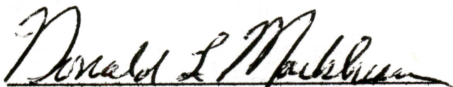
We have received your letter dated 10/16/97. Thanks again for your quick response to our response to your letter of October 6, 1997.

Your 10/16/97 letter states: *"At this time the existing rules allow only one year extensions of time except for municipalities or districts."*

We expected to have finished our project by 10/1/97, and believe we will complete the project by 10/1/98. We request at least a one year extension of Permits #51738 and #R 11586. We are not playing games here.

<sup>72643</sup>  
Please issue the one year extension for our project.

Sincerely,



Donald Markham  
Rt. 1, Box 1908  
Bandon, OR 97411

FILE NO. \_\_\_\_\_ WATER RESOURCES DEPT.  
SALEM, OREGON

# APPLICATION FOR EXTENSION OF TIME

September 15, 1998

Water Resources Department  
C/O Dallas and Jake  
Commerce Building  
158 12th Street NE  
Salem, OR 98310-0210

**RECEIVED**

SEP 29 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

Dear Dallas and Jake:

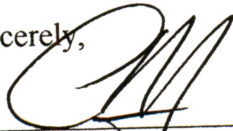
Re: Permit Numbers # 51738 and R11586 Extension Receipt #16309 - PCA66111  
Reference File R72643, 72644

I am writing because a friend of mine suggested I should make sure my "extension of our Permit to appropriate the public waters" included an extension of both "construction" and "beneficial use of water" dates. The original date for construction was 10/1/97, and the beneficial use of water date was 10/1/98. When I filed the one year extension, I expected both dates to be extended by one year (Beneficial use by 10/1/99).

Our construction is complete, and John Drollet of the Coquille Office has seen the same. We spent many dollars in the construction phase, and are now installing mainlines and feeder lines for irrigation. In the next 10 days we will ditch witch the trenches for the main lines. It is possible we may be able to have "beneficial use" of water before 10/1/98, though there is no functional reason to do so, because for all purposes, our irrigation period is already over. We will begin functional irrigation in May or June of 1999.

My file includes a letter from Dallas, dated 10/6/97, which states my extension application will not be processed until new rules are adopted in March of 1998. I understand that new rules have not yet been adopted, nor has my application for extension been processed. In my application for extension, I believe I checked both boxes for construction and beneficial use of water. If I did not, I authorize you to check both boxes for me. We have performed wonderful and beneficial use of water on some of our property, but still are not finished with the whole system. Have spent some thousands...with a few more to go...

Sincerely,



For: Donald Markham

Charles H. Markham  
Rt. 1 Box 1908  
Bandon, OR 97411  
1-541-347-2984 Home and Fax

c:

September 15, 1998

Water Resources Department  
C/O Dallas and Jake  
Commerce Building  
158 12th Street NE  
Salem, OR 98310-0210

**RECEIVED**

SEP 29 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

Dear Dallas and Jake:

Re: Permit Numbers # 51738 and R11586 Extension Receipt #16309 - PCA66111  
Reference File R72643, 72644

I am writing because a friend of mine suggested I should make sure my "extension of our Permit to appropriate the public waters" included an extension of both "construction" and "beneficial use of water" dates. The original date for construction was 10/1/97, and the beneficial use of water date was 10/1/98. When I filed the one year extension, I expected both dates to be extended by one year ( Beneficial use by 10/1/99).

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Sincerely,



For: Donald Markham

Charles H. Markham  
Rt. 1 Box 1908  
Bandon, OR 97411  
1-541-347-2984 Home and Fax

c:



RECEIVED

R-72643 SEP 30 1997  
File No. S-72644 WATER RESOURCES DEPT  
SALEM, OREGON

# APPLICATION FOR EXTENSION OF TIME

TO THE WATER RESOURCES DIRECTOR OF OREGON

I, Donald L. Markham  
name

RT. 1 Box 1908 Bandon OR 97411-1541-347-2984  
address city state zip phone

record owner of permit No. S-72644, do hereby request that the time in which to:

[ ] complete the construction of works and/or purchase and installation of the equipment necessary to the use of water, which time now expires on October 1, 1997, be extended to October 1, 1998, 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, 1998, be extended to October 1, 1999.

I have accomplished the following described works and/or purchase and installation of equipment necessary to use of water under said permit.

(1) within past year Purchase pipe + Fittings - Lay out point of Diversion - Send water To pond in pasture causing sub-irrigation.

(2) prior to this past year Construct Reservoir Dam Dam, and place outlet culverts - See: Attachment #1.

(3) and have accomplished beneficial use of water to the extent of (if for irrigation, state how many acres have been irrigated)

6 acres -

(4) unable to complete construction and/or application of water within the permit time limits because of severe weather at The end of 1996.

Donald L. Markham  
signature

9/24/97  
date

MAIL APPLICATION AND STATUTORY FEE OF \$100 FOR EACH PERMIT TO:  
WATER RESOURCES DEPARTMENT  
158 12TH ST NE  
SALEM, OREGON 97310



# Oregon

John A. Kitzhaber, M.D., Governor

October 6, 1997

## Water Resources Department

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

DONALD MARKHAM  
RT 1 BOX 1908  
BANDON, OR 97411

Reference File R 72643, 72644 Permit R 11586, 51738

Dear Extension Applicant:

We have received your request for extension of time limits under your permit.

Because of action taken by the Oregon Attorney Generals Office the Water Resources Department is working on new administrative rules affecting the extension process. Anticipating this change in the rules, we will hold your application until the new rules are in effect. We feel that processing your request under the new rules may be to your advantage. We anticipate that the rules will be adopted in March 1998.

If you must have an extension of time before that date, we may be able to process it if you can provide a statement that you can complete the project within five years.

Your patience is appreciated and we will process your request as soon as possible. Enclosed is receipt 16309 for the \$100 fee submitted.

If you have questions please contact me at the address below or phone 1-800-624-3199 ext. 272.

Sincerely,

Dallas Miller  
Natural Resource Specialist 2

Watermaster Dist 19



October 29, 1997

DONALD MARKHAM  
RT 1, BOX 1908  
BANDON, OR 97411

REFERENCE: Files R 72643, 72644

Dear Mr Markham:

In answer to your letter of 10/22/97, I need to point out a couple of things regarding your extension request of permits R 11586 and 51738.

You are requesting extension of time for completion of construction and complete application of water. The application of water date on the permit is 10/1/98 which is another year away and we can't allow extensions on dates that haven't occurred yet. We can consider the construction completion date which is 10/1/97.

How many acre-feet are being stored in the reservoir. You pointed out that 6 acres were being irrigated, but we need to know to what extent the storage permit is being used.

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



---

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



October 16, 1997

WATER  
RESOURCES  
DEPARTMENT

DONALD MARKHAM  
RT 1 BOX 1908  
BANDON, OR 97411

REFERENCE: File R 72643, 72644, Permit 51738, R 11586

Dear Mr Markham:

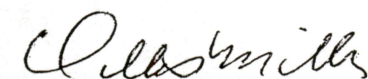
I received your letter regarding your extension request. We cannot waive the extension fees they are set by Oregon statute (536.050).

My letter to you on 10/6/97 contains an error. It mentions a five year extension, this is an error, you would have to be able to state that the project could be completed within a one year extension time frame.

There have not been any draft rules prepared yet. The letter indicated there may be an advantage processing an extension under the new rules. There is a possibility that under the new rules extensions of more than one year may be allowed. At this time the existing rules allow only one year extensions of time except for municipalities or districts.

If you have questions please contact me at the address below or phone 1-800-624-3199 ext. 272.

Sincerely,

  
Dallas Miller  
Water Rights Specialist

cc: Watermaster, District 19



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

**RECEIVED**

OCT 15 1997

WATER RESOURCES DEPT.  
SALEM, OREGON

October 11, 1997

Water Resources Department  
C/O Dallas Miller  
Commerce Bldg.  
158 12th Street NE  
Salem, OR 97310-0210

Re: File 72643, 72644 Permit 11586, 51738

We have received your letter dated October 7, 1997, in response to our request for extension of time to complete our permitted project to establish water right. We greatly appreciate your very timely response to our request.

As our extension application stated, our delay in completing our project was caused by an "Act of God" and not our negligence. We requested WRD to waive the \$200 dollar fee which was submitted with our application because we can use the \$200 dollars as part of the cost to complete our project. Funds meant for our project had to be spent for clean up after the floods. We need the \$200 dollars for our project.

Though we are quite sure we can complete our project in less than five years, we are curious about the new rules which may be to our advantage. Is it possible for us to receive some information about the new rules. We realize how busy you folks are, and appreciate your efforts. We have completed 3/4 of our project to date.

Our project will provide additional agricultural product, and benefit the economy of the State of Oregon, and ourselves. We already produce product, though our project when completed will contribute significantly more to the economy of Oregon.

Sincerely,



Donald Markham  
Rt. 1, Box 1908  
Bandon, OR 97411



file

STATE OF OREGON

COUNTY OF COOS

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

DONALD L and LINDA MARKHAM  
RT 1 BOX 1908  
BANDON, OREGON 97411

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

APPLICATION FILE NUMBER: S-72644

SOURCE OF WATER: MARKHAM RESERVOIR CONSTRUCTED UNDER APPLICATION R-72643, PERMIT R-11586, AND AN UNNAMED STREAM, BOTH TRIBUTARIES OF TWOMILE CREEK

PURPOSE OR USE: IRRIGATION OF 26.20 ACRES

Rate of use: NOT MORE THAN 0.328 CFS FROM THE UNNAMED STREAM AND 2.39 ACRE-FEET STORED WATER ONLY FROM MARKHAM RESERVOIR

Period of allowed use: March 1 through October 31

DATE OF PRIORITY: August 31, 1992

POINT OF DIVERSION LOCATION:

NE 1/4 SW 1/4, SECTION 20, T29N, R14W, W.M.; POD 1 - 35 FEET SOUTH & 1300 FEET WEST, POD 2 - 500 FEET SOUTH & 1260 FEET WEST, BOTH FROM C1/4 CORNER, SECTION 20

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NE 1/4 SW 1/4 26.2 ACRES  
SECTION 20  
TOWNSHIP 29 SOUTH, RANGE 14 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

Application 72644

Water Resources Department

PERMIT 51738



approved by the Director. The permittee shall maintain the meter or measuring device in good working order.

- 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.
- C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

Diversion screening or fish passage facilities shall be designed, installed, and operated to Oregon Department of Fish & Wildlife specifications.

#### 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 November 6, 1995

  
Water Resources Department  
for Martha O. Pagel  
Director

Application S-72644 Water Resources Department  
Basin 17 Volume 3 Twomile Creek 29S & Misc.  
DLB

PERMIT 51738  
District 19

STATE OF OREGON  
WATER RESOURCES DEPARTMENT  
WATER RIGHTS DIVISION

Before the Director Water Resources Department

|                           |   |       |
|---------------------------|---|-------|
| In the matter of          | ) | FINAL |
| Surface Water Application | ) | ORDER |
| S-72644 submitted by      | ) |       |
| DONALD L MARKHAM AND      |   |       |
| LINDA MARKHAM             |   |       |

**FINDINGS OF FACT**

*Water Use Request*

1. DONALD L MARKHAM AND LINDA MARKHAM requested use of 0.655 CUBIC FOOT PER SECOND (CFS) FROM AN UNNAMED STREAM, AND 2.39 ACRE-FEET OF WATER FROM MARKHAM RESERVOIR, CONSTRUCTED UNDER APPLICATION R-72643, PERMIT R-11586, TRIBUTARIES OF TWOMILE CREEK FOR IRRIGATION OF 26.20 ACRES within the South Coast Basin.

2. The area of proposed use is in Coos County within SECTION 20, TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.

3. The water delivery system is described by the applicant as follows: Diversion 1 will be a 10 x 10 x 3 deep hole with 2 inch PVC pipe located at the bottom and will be a gravity feed system. Diversion 2 which will be located at the centerline of the dam and will consist of a 36 inch by 45 inch CMP equipped with a gate valve capable of maintaining minimum stream flow at any given time. A 15 hp pump/motor combination will supply water through mainlines to sprinkler heads.

4. The request was made in Application S-72644 which was received by the Water Resources Department on August 31, 1992.

*Affected Waters*

1. MARKHAM RESERVOIR CONSTRUCTED UNDER APPLICATION R-72643 AND AN UNNAMED STREAM, A TRIBUTARY OF TWOMILE CREEK is not within or above a State Scenic Waterway.

2. The presence of fish at the dam location and or point of diversion is uncertain. The installation of fish screening and by-pass devices though not required at this time may be required in the future.

3. There are no senior water rights on MARKHAM RESERVOIR CONSTRUCTED UNDER APPLICATION R-72643 AND THE UNNAMED STREAM, A TRIBUTARY OF TWOMILE CREEK, there are senior water rights 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 November 17, 1993.
3. The technical review determined:
  - a. IRRIGATION OF 26.20 ACRES is allowed under the South Coast Basin Program.
  - b. The use is not prohibited by Statute.
  - c. Water is available for further appropriation (at an 80 percent exceedance probability) for the period **MARCH 1 THROUGH OCTOBER 31**, for live flow and year round for beneficial use from stored water
  - 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 PERMIT 51738.
5. A Proposed Final Order for this application was completed and copy of that review was mailed to the applicant on September 5, 1995.

*Assessment*

1. In proceeding with evaluation of Application S-72644, the following criteria were found to be relevant by the Department.
  - a. The South Coast Basin Program (OAR Chapter 690, Division 517)
  - b. The Coos County Comprehensive Plan and Zoning Ordinance
  - c. The amount of water available in MARKHAM RESERVOIR CONSTRUCTED UNDER APPLICATION R-72643 AND AN UNNAMED STREAM, A TRIBUTARY OF TWOMILE CREEK
  - 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 Proposed Final Order remain valid.
2. Based on comments and data received, the Department has determined that the proposed use can be allowed. 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 PERMIT 51738, would require fish screening.



3. Period of allowed use: March 1 through October 31

4. The Department finds that no more than 0.328 cfs would be necessary for the proposed use. The amount of water requested, 0.655 CUBIC FOOT PER SECOND FROM LIVE FLOW AND 2.39 ACRE-FEET STORED WATER FROM MARKHAM RESERVOIR, shall be restricted to 0.328 cfs from either point of diversion, being no more than 0.328 cfs at any time, and 2.39 ACRE-FEET STORED WATER from MARKHAM RESERVOIR.

5. Coos County Planning Department staff acknowledged receipt of the Department's Land Use Information Form. Since land use information was not postmarked or received within the 30 day comment period initiated pursuant to OAR 690-11-155, the Department has presumed that the land use served by the proposed water use is compatible with the comprehensive plans and land use regulations of affected local governments.

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 PERMIT 51738.

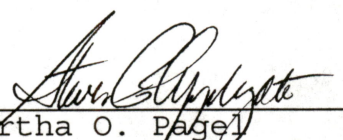
9. No protests were timely filed in response to the Proposed Final Order of September 5, 1995, and no significant issues or disputes are known to the Department at this time.

10. Therefore, the proposed use, as conditioned, and described in PERMIT 51738, would not impair or be detrimental to the public interest.

#### ORDER

**IT IS HEREBY ORDERED** that Application S-72644 in the name of DONALD L MARKHAM AND LINDA MARKHAM be approved for IRRIGATION OF 26.20 ACRES as provided on PERMIT 51738.

**DATED November 6 , 1995**

*for*   
Martha O. Page  
Director  
Water Resources Department

**NOTICE:**

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

If this Final Order has modified the Department's prior findings or conditions, the applicant may request a contested case hearing within 14 days from the date of this order. Issues on which a contested case hearing may be requested and conducted are limited to issues based on modifications to the Proposed Final Order.

Requests for a contested case hearing must be made in proper form, submitting the information required under Section 11(6), Chapter 416, Oregon Laws, 1995.

Requests for a contested case hearing must be received by the Water Resources Department in Salem, Oregon by 5:00 pm on November 20, 1995.

Only the applicant and any persons who timely filed a protest may appeal the provisions of this final order.



COPY CHECK-OFF SHEET FOR PROPOSED FINAL ORDERS

CC: FILE # 72644

WATERMASTER # 19

REGIONAL MANAGER: SWI - AL Cook

ODF&W - County: Coos

CWRE (if agent): John PRAHAR #107

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):

SAVE PFO TO: M:\T\PFO\DONE\ (APPLICATION #)

CASEWORKER'S NAME J.R. SAUTER

M:\T\PFO\CHKOFF.PPR

ORIGINAL TO APPLICANT 8/11/95

(revised 4/30/93)

TOWNSHIP 29 SOUTH, RANGE 14 WEST, W. M., COOS, COUNTY.

Map to accompany the application to appropriate the Surface Waters of State of Oregon.

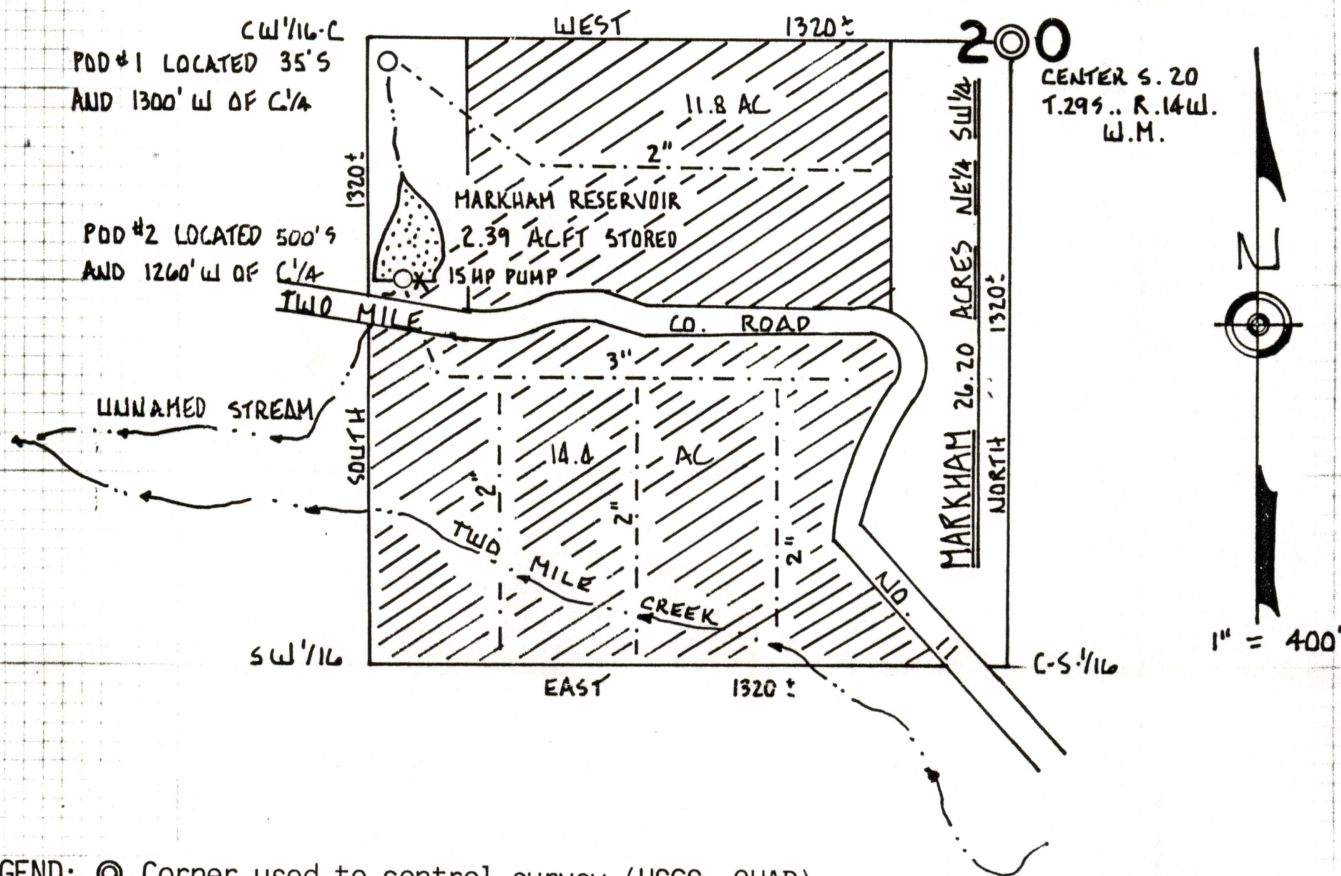
Prepared For: Donald L. and Linda Markham  
Rt. 1 Box 1908  
Bandon, OR 97411  
(503)347-4674

Prepared By: Prahar Surveying CWRE#107  
1045 Baltimore #1  
Bandon, OR 97411  
(503)347-9517

**RECEIVED**

MAY - 3 1993

WATER RESOURCES DEPT.  
SALEM, OREGON



LEGEND: © Corner used to control survey (USGS. QUAD)

←...← ..Two mile creek/unnamed stream

 area of irrigation

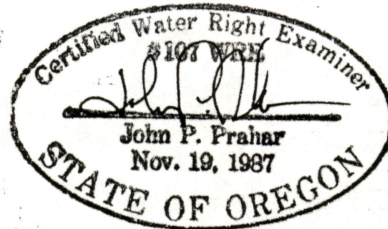
○ point of diversion as stated above

— . — . — main water lines

 "Markham" reservoir

x pump/motor combination

AUG. 25, 1992



Application No. R-72613  
Permit No. 51738



November 17, 1993

DONALD L AND LINDA MARKHAM  
RT 1 BOX 1908  
BANDON, OR 97411

Reference: 72644

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 OF YOUR APPLICATION, 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 January 26, 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,

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

STEVE BROWN  
Manager  
Water Rights Division

Enclosures

Report Date: November 17, 1993

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: January 26, 1994

1. APPLICATION FILE NUMBER - S 72644
2. MINIMUM APPLICATION INFORMATION

Applicant name/address/county/phone:

DONALD L AND LINDA MARKHAM  
RT 1 BOX 1908  
BANDON, OR 97411  
COOS COUNTY 503-347-4674

Date application received for filing and/or tentative date of priority: 8/31/1992

SOURCE: UNNAMED STREAM TRIBUTARY TO: TWO MILE CREEK  
MARKHAM RESERVOIR TRIBUTARY TO: UNNAMED STREAM

Purpose and/or use: IRRIGATION OF 26.2 ACRES.

Flow and Volume: 0.655 cfs total, being 0.3275 cfs from each of Diversion Points #1 and #2, and 2.39 acre feet from Markham Reservoir.

Point of Diversion Location:

POINT OF DIVERSION #1 - 35 FEET SOUTH AND 1300 FEET WEST; AND  
POINT OF DIVERSION #2 - 500 FEET SOUTH AND 1260 FEET WEST, BOTH  
FROM CENTER QUARTER, SECTION 20, T 29 S, R 14 W., W.M.

Place of use:

NESW 26.2 Acres  
Section 20  
T 29 S, R 14 W, W.M.



## SURFACE WATER AVAILABILITY

Water is likely available in excess of needs for all existing rights 80% 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 no** existing water rights appurtenant to the lands described in the application.

## REPORT CONCLUSIONS:

Water in the amount of 0.328 cfs is likely available for 8 months of the 8 months normal period of use. 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: 72644

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: March 1 through October 31
3. Rate of use: 0.328 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.
  - 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.
  - C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.



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 used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

RECEIVED

AUG 31 1992

WATER RESOURCES DEPT  
SALEM, OREGON

Application No.

72644

State of Oregon  
WATER RESOURCES DEPARTMENT

# Application for a Permit to Appropriate Surface Water

Applicant(s) Donald L. and Linda Markham

(Please print or type - use dark ink)

Mailing Address: Rt. 1 Box 1908

Bandon,

City

OR

State

97411

Zip

(503)347-4674

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 Two Mile Creek plus 2.39acft of stored water from Markham Reservoir.

2. **TOTAL AMOUNT OF WATER** to be applied to beneficial use: 0.655 cubic feet per  
second, OR 294 gallons per minute. If water is to be used from more than one source,  
give the quantity of water from each: 0.3275cfs from P.O.D. 1 and 2 plus 2.39 acft of  
stored water from "Markham Reservoir."

3. **INTENDED USE(s) OF WATER:** irrigation of hay and Fig trees

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

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

26.20 acres

Other (describe)



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WATER RESOURCES DEPT.  
SALEM, OREGON

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).

Located at the point of diversion #1 we will dig a 10'x10'x3' deep hole to  
allow for the diversion works which will simply consist of a 2" pvc pipe  
located at the bottom of the hole. This will be a gravity feed system.

Located at the point of diversion #2, which is centerline of the dam and its  
intersection of the centerline of the unnamed stream, there will be a 36"x45'  
cmp equipt with a gate valve which will allow this system to maintain minimum  
stream flow at any given time. There will be a 15hp "Berkley" pump motor combination  
supplying water through the main water lines as shown on map. "Rainbird" type sprinkler  
heads with 1/8" nozzles will be used from the secondary waterlines.

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

Proposed date construction work will begin Oct. 1993

Proposed date construction work will be completed Oct. 1994

Proposed date water use will be completed Oct. 1995

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.

AUG 31 1992

WATER RESOURCES DEPT.  
SALEM, OREGON

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.


\$682.00

☒ Donald L. Markham  
Signature of Applicant Donald L. Markham

August 27 '92  
~~APRIL~~

---

Date

  
Signature of Co-Applicant, if any Linda Markham

AUGUST 27'92

---

Date \_\_\_\_\_



RECEIVED

AUG 31 1992

WATER RESOURCES DEPT  
SALEM, OREGON

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 31st day of August, 1992, at 12:00 o'clock, P M.

APPLICATION NO: 72644

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-72644 submitted by      | ) | ORDER    |
| DONALD L MARKHAM AND      |   |          |
| LINDA MARKHAM             |   |          |

**FINDINGS OF FACT**

*Water Use Request*

1. DONALD L MARKHAM AND LINDA MARKHAM requested use of 0.655 CUBIC FOOT PER SECOND FOR IRRIGATION, BEING 0.3275 CFS FROM EACH POINT OF DIVERSION ON AN UNNAMED STREAM, AND 2.39 ACRE-FEET OF WATER FROM MARKHAM RESERVOIR CONSTRUCTED UNDER APPLICATION R-72643, BOTH TRIBUTARY TO TWOMILE CREEK FOR IRRIGATION OF 26.20 ACRES within the South Coast Basin.
2. The area of proposed use is in Coos County within  
SECTION 20  
TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.
3. The water delivery system is described by the applicant as follows: Diversion 1 will be a 10 x 10 x 3 deep hole with 2 inch PVC pipelocated at the bottom and will be a gravity feed system. Diversion 2 which will be located at the centerline of the dam and will consist of a 36 inch by 45 inch CMP equipped with a gate valve capable of maintaining minimum stream flow at any given time. A 15 hp pump/motor combination will supply water through mainlines to sprinkler heads.
4. The request was made in Application S-72644 which was received by the Water Resources Department on August 31, 1992.

*Affected Waters*

1. MARKHAM RESERVOIR CONSTRUCTED UNDER APPLICATION R-72643 AND AN UNNAMED STREAM, A TRIBUTARY OF TWOMILE CREEK is not within or above a State Scenic Waterway.
2. The presence of fish at the dam location and or point of diversion is uncertain. The installation of fish screening and by-pass devices though not required at this time may be required in the future.
3. There are no senior water rights on MARKHAM RESERVOIR CONSTRUCTED UNDER APPLICATION R-72643 AND THE UNNAMED STREAM, A TRIBUTARY OF TWOMILE CREEK, there are senior water rights 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 November 17, 1993.
3. The technical review determined:
  - a. IRRIGATION OF 26.20 ACRES is allowed under the South Coast Basin Program.
  - b. The use is not prohibited by Statute.
  - c. Water is available for further appropriation (at an 80 percent exceedance probability) for the period **MARCH 1 THROUGH OCTOBER 31**, for live flow and year round for beneficial use from stored water
  - 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-72644, the following criteria were found to be relevant by the Department.
  - a. The South Coast Basin Program (OAR Chapter 690, Division 517)
  - b. The Coos County Comprehensive Plan and Zoning Ordinance
  - c. The amount of water available in MARKHAM RESERVOIR CONSTRUCTED UNDER APPLICATION R-72643 AND AN UNNAMED STREAM, A TRIBUTARY OF TWOMILE CREEK
  - 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. 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: March 1 through October 31

4. The Department finds that no more than Rate of use: 0.328 cfs would be necessary for the proposed use. The amount of water requested, 0.655 CUBIC FOOT PER SECOND BEING 0.3275 CFS FROM EACH POINT OF DIVERSION AND 2.39 ACRE-FEET FROM MARKHAM RESERVOIR, shall be restricted to 0.328 cfs from either point of diversion, being no more than 0.328 cfs at any time, and 2.39 ACRE\_FEET from MARKHAM RESERVOIR

5. Coos County Planning Department staff acknowledged receipt of the Department's Land Use Information Form. Since land use information was not postmarked or received within the 30 day comment period initiated pursuant to OAR 690-11-155, the Department has presumed that the land use served by the proposed water use is compatible with the comprehensive plans and land use regulations of affected local governments.

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.

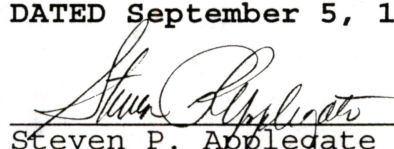
9. Therefore, the proposed use, as conditioned, and described in the attached draft permit, would not impair or be detrimental to the public interest.



**PROPOSED ORDER**

**IT IS PROPOSED** that Application S-72644 in the name of DONALD L MARKHAM AND LINDA MARKHAM be approved for IRRIGATION OF 26.20 ACRES as provided on the attached draft permit.

**DATED September 5, 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 October 20, 1995.**

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 COOS

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

DONALD L MARKHAM AND  
LINDA MARKHAM  
RT 1 BOX 1908  
BANDON, OREGON 97411

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

APPLICATION FILE NUMBER: S-72644

SOURCE OF WATER: MARKHAM RESERVOIR CONSTRUCTED UNDER APPLICATION R-72643 AND AN UNNAMED STREAM, BOTH TRIBUTARY TO TWOMILE CREEK

PURPOSE OR USE: IRRIGATION OF 26.20 ACRES

Rate of use: 0.328 CFS FROM EITHER POINT OF DIVERSION AND 2.39 ACRE-  
FEET FROM MARKHAM RESERVOIR

Period of allowed use: March 1 through October 31

DATE OF PRIORITY: August 31, 1992

POINT OF DIVERSION LOCATION: No.1 NE 1/4 SW 1/4, SECTION 20, T29N, R14W, W.M.; 35 FEET SOUTH & 1300 FEET WEST FROM C1/4, SECTION 20  
No.2 NE 1/4 SW 1/4, SECTION 20, T29N, R14W, W.M.; 500 FEET SOUTH & 1260 FEET WEST FROM C1/4 CORNER, SECTION 20

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NE 1/4 SW 1/4 26.2 ACRES  
SECTION 20  
TOWNSHIP 29 SOUTH, RANGE 14 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.
- 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.
- C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

Diversion screening or fish passage facilities shall be designed, installed, and operated to Oregon Department of Fish & Wildlife specifications.

**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-72644      Water Resources Department  
Basin 17                      Volume 3  
JKS                              Twomile Creek 29S & Misc.

PERMIT DRAFT  
District 19



October 9, 1995

WATER  
RESOURCES  
DEPARTMENT

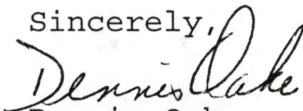
Donald L and Linda Markham  
Rt. 1, Box 1908  
Bandon, OR 97411

Subject: Application # R 72643, S 72644

Dear Mr. and Mrs. Markham,

Due to overcollection of permit recording fees, the Water Resources Department is sending you refund checks in the amount of \$250 for application # R-72643 and \$48 for application # S 72644. Should you have any other questions concerning your application, please call me personally at 1-800-624-3199, extension 327.

Sincerely,



Dennis Oakes  
Completeness Team



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

ORIGINAL

ACTION  
CODE

B

03--00-0

48.0

000708

AGENCY VOUCHER NO.

DATE 10-04-95

VENDOR NUMBER A69000

PAYEE AND ADDRESS

MARKHAM, DONALD L & LINDA  
RT BOX 1908  
BANDON OR 97411

AUDITED BY

WATER RESOURCES  
158 12TH ST NE  
SALEM OR 97310-0210

TOTAL

\$48.00

PAYMENT OF: INVOICE REFERENCE 091341

48.00

NET PAID .....

\$48.00

MESSAGE: REVENUE REFUND S-72644 91341

ACCOUNT CODING: AGY 69000 BCH C05 INV TC 40 TD 951004 REF 091341  
DESCRIPTION PCD PROJECT FUND BI COST CENTER ACCOUNT AMOUNT  
MARKHAM, DONALD L & 062300 427 7 06 23 00 01 899900 48.00

## NOTICE TO VENDOR

## REMITTANCE ADVICE

Enclosed is warrant in full payment of claim listed above. Please refer to Voucher Number indicated if you have any question regarding this payment.

By

## FOR STATE AGENCY USE ONLY

This certifies that the materials, services, cash advanced, or expenses covered by this claim have been furnished, rendered or expended on behalf of the State of Oregon. The provision for payment is made by law and appropriation, the obligation or expenditure is authorized by law and the claim otherwise satisfies the requirements as provided by ORS 293.295. This claim has been approved for payment in the above amount.

By



## STATE OF OREGON

## INTEROFFICE MEMO

TO: MARIE LICARI, FISCAL

DATE:

FROM:

Dennis Oakes  
Authorized Examiner

SUBJECT:

Request for Refund Check

Please refund \$ 48.00 to Donald L. Rhinda Markham, RT1, Box 1908, Bandon Or 97411  
file no. 572644, receipt no. 91341. These funds are  
refunded due to:

\_\_\_\_\_ Application rejected  
\_\_\_\_\_ Application withdrawn  
\_\_\_\_\_ Excess fees collected for application  
\_\_\_\_\_ File closed  
\_\_\_\_\_ Other: \_\_\_\_\_  
\_\_\_\_\_ Protest Filing Fees

0102C

*8/12/00 2*

SEP 27 1995

**COMPLETED**

**COMPLETENESS DETERMINATION CHECKLIST**

| Application # | Review Date | Reviewer |
|---------------|-------------|----------|
| S - 72644     | 8/23/95     | DTB      |

A checkmark (✓) indicates that the item is incomplete or defective.

- \_\_\_\_\_ 1. ~~Examination~~ fees (and recording fees, if for PFO/FO). *Refund \$48.00*
- \_\_\_\_\_ 2. Name and address of the applicant, and title if applicable.
- \_\_\_\_\_ 3. Source of water.
- \_\_\_\_\_ 4. Use of water.
- \_\_\_\_\_ 5. Amount of water.
- \_\_\_\_\_ 6. Description of delivery system.
- \_\_\_\_\_ 7. A statement of **whether** the applicant has written authorization or easements permitting access to lands owned by others.
- \_\_\_\_\_ 8. Name(s) and address(es) of the owners of any lands involved, but not owned by the applicant.
- \_\_\_\_\_ 9. Proposed dates of beginning and completion of construction, and complete application of water.
- \_\_\_\_\_ 10. If for **municipal use**, the present population to be served and expected future water requirements.
- \_\_\_\_\_ 11. If for **mining use**, the type of mines and methods of supplying & utilizing the water.
- \_\_\_\_\_ 12. If for a **reservoir**:
- \_\_\_\_\_ a. The height of the dam.
- \_\_\_\_\_ b. The storage capacity.
- \_\_\_\_\_ c. The area submerged.
- \_\_\_\_\_ d. The maximum depth.
- \_\_\_\_\_ e. The construction method (earthfill, concrete, flashboard, etc.).
- \_\_\_\_\_ f. A description of the outlet conduit.
- \_\_\_\_\_ g. A description of the spillway.
- \_\_\_\_\_ 13. If for **groundwater**, the horizontal distance from the well to the nearest surface water source (if within one mile), and the difference in land surface elevation between them.
- \_\_\_\_\_ 14. If the application was made under **HB 2107**:
- \_\_\_\_\_ a. Name and address of each adjacent property owner and verification that each owner has been mailed a copy of the completed notice.
- \_\_\_\_\_ b. A description of the proposed water used and related project, the condition it will address, and the benefits that are expected to result from the project.
- \_\_\_\_\_ c. The number of reservoirs per application is appropriate as per OAR 690-11-049 (3)(b)
- \_\_\_\_\_ 15. An oath that the application information is true and correct.
- \_\_\_\_\_ 16. The signature of the applicant(s).
- \_\_\_\_\_ 17. A satisfactory map of the proposed POD & POU.
- \_\_\_\_\_ 18. A Land Use Information Form or receipt.
- \_\_\_\_\_ 19. A legal description of the property where water will be used.

8/16/95

*TAX LOTS 1000 & 1001*



5-72644

RECEIVED

AUG 31 1992

WATER RESOURCES DEPT.  
SALEM, OREGON

EXHIBIT "A"

Parcel I

That portion of the following described property lying Northerly of Two Mile County Road; The Northeast quarter of the Southwest quarter of Section 20, Township 29 South, Range 14 West of the Willamette Meridian, Coos County, Oregon, SAVE & EXCEPT therefrom any portion lying within the limits of the public road right of way.

Account No. 12205.01 Map 29-14-20 TL 1001

Parcel II

That portion of the following described property lying Southerly of Two Mile County Road; The Northeast quarter of the Southwest quarter of Section 20, Township 29 South, Range 14 West of the Willamette Meridian, Coos County, Oregon, SAVE & EXCEPT therefrom any portion lying within the limits of the public road right of way.

Account No's 12205.00 & 12205.90 Map 29-14-20 TL 1000

July 9, 1995

Oregon Water Resources Department  
3850 Portland Rd NE  
Salem, OR 97310

Dear Permit Department:

We submitted our application to appropriate surface waters of the State of Oregon on August 28, 1992. (Files R-72643 and S-72644) We received confirmation of WRD receipt of our application dated September 4, 1992 along with explanations about waiting periods, etc.

On September 14, 1992, we received inquiry from DSL about fill/removal rules. On September 27, 1992 we responded to DSL. A fill/removal permit is not applicable to our project.

Our Farm Management Plan included commercial orchard on our hill property and irrigation of our bottom ground for hay and pasture, with each water use requiring Permit and Water Right from WRD. We touched base with ODF&W to determine when they had received "Notice" of our application. Months went by and ODF&W did not receive notice of our application. Finally we met with ODF&W Biologist Resse Bender, and SCS District Conservationist Ed Petersen, who each walked our property and reviewed our management plan. Still, Notice of our application had not reached ODF&W.

Prior to April 9, 1993, we laid drip irrigation lines for our orchard, and planted 300 fruit trees, anticipating a "Permit" to use water for irrigation of the trees would be forth coming before the dry months of summer and the need to irrigate. In late February we phoned WRD and spoke with Dave Marcol who assured us that "Notice" of our application had been sent to "Public" and "Private Interest Groups" and that after we got off the phone he would check to make sure notices had been sent. We waited a month and again checked with ODF&W, and they had not received "Notice" of our application.

On April 7, 1993, we phoned again to Water Resources Department and spoke with Dallas Miller who told us of the 4000 applications which are back logged at the department and that the department is waiting to process applications until the OAR's are amended again. It was at this point in time that we started to fear for our orchard, as the dry months were coming, and we had no permit or right to use the water which we had applied for in August of 1992. Further, we started to have negative feelings towards WRD, and began to think they are unresponsive beaurocrats, stymied by politics.

On April 9, 1993, we Faxed a letter to WRD expressing our concerns regarding our need to have a "Permit" to use water for irrigation, and that we would suffer a hardship without a permit to establish our system and use water.



On April 26, 1993, we received a letter from ODF&W written by Albert Mirati, who stated ODF&W has not had an opportunity to comment on our applications to use water for irrigation. Mr. Mirati further explained that WRD must first complete a technical analysis before ODF&W can make their concerns, (if any) known. Mr. Mirati further stated that we should contact WRD's water rights section in their Salem office. We became further frustrated at this news, and began to understand that WRD and the State of Oregon have severe problems, which are apparently political, rather than functional on the ground problems.

Finally, on May 24, 1993, we received a letter from Carol Spence of WRD, telling us that we must have an easement from Coos County in order to run our water line under the road. On July 15, 1993 we supplied the easement from Coos County which allows us to run our water line under Two Mile County Road #11.

Almost a year and one half after we submitted our application we received notice of a "Satisfactory Report of Technical Review For Water Use Permit" on November 17, 1993. The letter states that "all evidence and objections to our application must be received by January 26, 1994, or the Department may presume there is no opposition to any of the analysis set out in technical review report." There were no objections to the technical report, as far as we know?

To date, we have not heard from WRD, though we have inquired about the status of our application to use water. Our "Management Plan" has been disrupted; delayed; and frustrated by a non-responsive State of Oregon Agency.

### OUR CONCLUSIONS

As a Land Use Consultant; a Farmer; a Self Employed Person; and a Citizen, participating in "Government and not Politics", I am more than frustrated with the present state of affairs of the State of Oregon.

**When Land is Resource Land**, and some purported environmentalist objects to the use of water on that resource land, even after a technical report has been completed by WRD which shows compatibility with the rule and is labeled as satisfactory report, and then some environmental zealot who has never seen the subject property, and lives hundreds of miles from the subject property, objects to the use of water for the property, there is a problem, and there must be some environmental zealots at WRD and in the legislature, who are ignorant of Statewide Planning Goals related to resource use. We are stymied in our efforts to contribute to the economy of the State of Oregon by zealots.

**When Land is not Resource Land**; and is without water availability; or soils and climate requisite for forest practices; and lays adjacent to Rural Residential zoned land; and we make application to put the land to the best use, some "Resource Zealots" object and essentially abuse the OAR's and ORS's, and Statewide Planning Goals, to the detriment of the state of Oregon. The abuse must stop. "Standing To Appeal must be



limited to those parties and individuals who have visited and analyzed the site and made written Findings of Objection; and participated in "Person" in hearings, or certified they have listened to the audio tapes of the hearings. No more tyrannical abuse by state agencies or individuals who simply write computer driven, boiler plate objections. In the not so recent past, DLCD sent a Field Representative to Land Use Hearings which they were objecting to. DLCD is in chaos, and fails to participate in a meaningful manner; does not visit the site; attend hearings; or listen to audio tapes of hearings; and not infrequently cites rules incorrectly when writing letters to the Coos County Governing Body.

1. Our land is resource land, and has the water to use the land as resource land.
2. Our land has a "Satisfactory Technical Report", without objection of public.
3. Our management plan is designed to provide livelihood to us, and therefore will contribute to the economy of the State of Oregon, as intended by Statewide Planning Goal #3 and ORS, Chapter 215.000.
4. Our water use plan will contribute to a more even dispersal of seasonal rains by utilizing reservoir and terrace waters throughout the dry months of Mediterranean Climate, which will benefit both fish and man.

WRD is requested to issue our Draft Permit and shortly thereafter issue our Permit, at which time we will "Prove Our Right" to use water for our benefit and the benefit of the State of Oregon. Please do it now! We are not getting any younger and time is a wasting. We applied for water in August of 1992; all studies are done; and there is no excuse for not issuing our "Permit".

Sincerely,



Charles H. Markham

P.O. Box 1161

Bandon OR 97411

1-503-347-9431 Office

1-503-347-2984 Home

1-503-347-4166 Fax

c: Governor Kitzhaber  
State Rep. Veral Tarno  
Oregonians In Action  
Coos County BOC  
House Speaker Bev Clarno  
Senate President Gordon Smith  
Water and Land Use Committee



# WaterWatch

O F O R E G O N

By FAX and Regular Mail

January 26, 1994

Oregon Water Resources Department  
Water Rights Section  
3850 Portland Road NE  
Salem, Oregon 97310

Re: Objections pursuant to OAR 690-11-170 to Technical Report for:  
R 73170, 73171, G 13251, Lindsay, Cranberry Ops  
R 73262, 73263, Jay, Cranberry Ops  
R 72438, 72439, Richert, Cranberry Ops  
G 13220, Hoffer, Cranberry Ops  
R 73461, 73462, Peck, Cranberry Ops, Domestic, Livestock  
R 72309, 72310, Bowder, Cranberry Ops  
R 72643, 72644, Markham, Irrigation  
G 12600, Brown, Cranberry Ops

WaterWatch submits the following objections:

◆ **The Technical Reports are Defective**

The technical reports fail to include some of the elements and evaluations required in OAR 690-11-160(1). The areas of deficiency are the same as those identified in our objections to R-71100 and 71101, which are hereby incorporated into this objection letter.

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

The analyses are defective for the following reasons:

- The technical reports fail to include an analysis of water availability as required under OAR 690-11.
- The water availability analysis for R 73170, R 73262, R 73461 and R 72643 uses a 50% exceedence flow rather than an 80% exceedence flow.<sup>1</sup> The Water Allocation Policy requires that water be available at least 80% of the time before a permit can be issued. OAR 690-400-010(2)(a). Subsection (c) does give the agency the discretion to allow new storage facilities even if

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<sup>1</sup> These applications were filed after July of 1992, so the 80% exceedence standard applies. OAR 690-400-010(11)(b).

**Water Resources Department**

R 73170, 73171, G 13251, R 73262, 73262, R 72438, 72439,  
G 13220, R 73461, 73462, R 72309, 72310, R 72643, 72644, G 12600

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water is not available under this standard. It does not, however, automatically exempt storage facilities from this standard.

The initial water availability analysis must use the same standard for storage and other proposed uses of water. If, after the initial calculations are made, it is determined that a different standard will be used, the Department must justify the use of a different standard. This justification should be stated in the technical report. It is not good public policy to use two different water availability standards in the initial analysis. The lower standard of water availability is not appropriate given the critical status of the water resource and the public uses that rely on the resource for survival.

- The water availability analysis for 72644, G 13251 and 73462 are exactly the same. The analysis for R 72309, G 12600, R 72643, 72310 and R 73461 are also identical to one another. Use of the exact same water availability analysis for competing applications results in an overestimation of water availability, contrary to OAR 690-410-070.
- The "net water available" information used to determine water availability for all the above referenced applications is fundamentally flawed. The starting point for the analysis appears to be the estimated average natural flows, rather than the required "net water available". (Compare the ENAF flow figures for instream water right application 72803 with the "net water available" figures for these applications). In order to ensure against overappropriation, the "net water available" should have taken into account "expected demands from all water rights". OAR 690-400-010(11). This analysis not only failed to take into account prior pending applications that have been proposed for issuance but also failed to take into account existing water rights. Water users may at any time use the water which they are legally entitled to up to the limit of their 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.
- There was no water availability for surface waters that will be depleted by ground water pumping proposed in G 13220.



Water Resources Department

R 73170, 73171, G 13251, R 73262, 73262, R 72438, 72439,  
G 13220, R 73461, 73462, R 72309, 72310, R 72643, 72644, G 12600

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- The technical report for R 72438 and 72439 stated that the water availability tables were available in the application file at the Department. However, the file WRD staff could not locate these files when we requested an opportunity to review them on January 24. We assume that the analysis for these applications was similar to the analysis of the other above-referenced applications.

- The water availability analysis for G 13220, 73464, R 73461 and G 13251 failed to take into account the senior pending instream water right application for Two Mile creek.

- ♦ **The Uses are Not in the Public Interest**

1. **Measurement and Reporting**

In general, we support the proposed measurement and reporting conditions. However, these conditions should allow the Director to require measurement and reporting of both **rate and duty** of water use. The proposed permit conditions restrict use based upon a specific rate. 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 resources of Two Mile Creek are in critical condition. 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 would be essential for protection of the public interest in the resource and must be a condition of use. In addition, these applications should be conditioned to protect the senior instream flows. Critical to the protection of instream flows is knowing and controlling water use in the basin. These and other potential water users in the basin should be required, as a condition of use, to contribute to activities that enable the state to better manage and control the resource - such the installation and maintenance of gauging stations in key locations.<sup>2</sup> However, we question the Department's ability to control these uses, even with these requirements.

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<sup>2</sup> The WRD water availability analysis appeared to be based upon modeled flows rather than actual streamflow measurements. Clearly there is a need for actual streamflow measurements.



**Water Resources Department**

R 73170, 73171, G 13251, R 73262, 73262, R 72438, 72439,  
G 13220, R 73461, 73462, R 72309, 72310, R 72643, 72644, G 12600

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The applicants have asked for water to provide for multiple uses. The technical report proposes to limit the months of use for each of these applicants. The Department's enforcement staff is already stretched thin. 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 the applicant will, **at all times**, use water in compliance with the permit conditions. Given the critical state of the water resource in the creeks and this basin and the Department's inability to control these uses, even with measurement and reporting, these uses are not in the public interest.

- 2. The proposed uses would preclude other, more valuable uses, would exacerbate existing water quality problems and are not consistent with Oregon water resources policies.**

The proposed uses fails to pass the public interest considerations in ORS 537.170(5) including ORS 537.170(5)(a), (c), (d), (e), and (g) and ORS 537.620. *See also* OAR 690-11-195 (3)(d), (4)(a)(B)(D), (c)(A) and (d)(A). The analysis in the technical reports fail to take into account flows necessary to maintain petitioned coho salmon and other sensitive fish populations in this creek. These analyses also fail to take into account the pending application by the Oregon Department of Fish & Wildlife for instream water rights for Two Mile Creek. These flows are essential for sensitive coho salmon, winter steelhead and searun and resident cutthroat trout.

When pending applications are in conflict for water, the Water Resources Commission may choose to issue either application, regardless of the filing sequence. *See* Or Ag. Opin. 3/18/88 at 2. The public interest in providing legal protect for streamflows in this creek is high. 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.



## Water Resources Department

R 73170, 73171, G 13251, R 73262, 73262, R 72438, 72439,  
G 13220, R 73461, 73462, R 72309, 72310, R 72643, 72644, G 12600

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The Plan also recognizes the importance of fish life in the basin:

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.

Review of these out-of-stream water use applications should take into account water needed to protect these public uses regardless of the application filing date. This is consistent with the statewide policy on water allocation requires that applications for out-of-stream water rights be subject to review to ensure that public values are protected. OAR 690-410-070(2). See also Instream Flow Protection policy OAR 690-410-030.

The state and federal Endangered Species Acts place a burden on the Commission. Under the state act, the Department has a duty to consult with the ODFW to ensure that the Department's actions do not adversely affect listed species. The federal Act prohibits the "taking" of endangered species. 16 USCA § 1538(a)(1)(B). Taking is defined in Section (3)(18) includes "harm" as well as killing and capturing. 16 USCA § 1532 (19). The regulatory definition of "harm" includes "significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering." 50 CFR § 17.3. Thus it is clear that actions by the Commission can rise to the level of an unpermitted taking of a species if habitat destruction or modification harms a listed species. See Palilia v. Hawaii Department of Land and Natural Resources, 649 F.Supp. 1070 (D. Hawaii 1986), aff'd, 852 F.2d 1106 (9th Cir. 1988). Significantly, the above reference Palilia case, the oft-cited case on habitat alteration rising to the level of take involved a state agency allowing goats to destroy the food source of an endangered bird. Taking water from fish is at least as clear a causal connection.



## Water Resources Department

R 73170, 73171, G 13251, R 73262, 73262, R 72438, 72439,  
G 13220, R 73461, 73462, R 72309, 72310, R 72643, 72644, G 12600

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Listing under the federal endangered species act is a sign not only of the health of a particular species but also a warning signal for the health of the human environment. It has been a goal of Governor Roberts and the state not to allow resource conflicts to reach the level where federal intervention removes the state control. The proposed approval of this and other applications will inevitably lead to these issues being resolved in Washington D.C. not in Oregon.

These proposed uses, cumulatively propose to divert large amounts of water from this stream system. Even using the WRD's flawed water availability analysis, there is insufficient water to satisfy both the instream water right applications and these proposed uses from at least April through December of every year. In addition, several of these applications are for supplemental supply, a further indication that the surface water resources are not capable of accommodating existing uses in the area. Approval of these out-of-stream applications would lead to overappropriation of the resource, contrary to the statewide allocation policy. These applications should be denied.<sup>3</sup>

These uses not only affect quantity, but also affect water quality. The failure to require a water quality management plan for the agricultural operations and the failure to require livestock fencing of the stream corridor as conditions of use are contrary to the public's interest in protecting the resource and violates the state's duty<sup>4</sup> to ensure new uses of water do not cause water quality problems.

The uses proposed in these applications will impair and be detrimental to the public's interest in maintaining sufficient streamflows for fish life and other public uses of water in this creek. See ORS 537.170(5)(a), (b), (c) and (g) and OAR 690-11-195(3), (4)(a)(D), (c)(A) (d), & (f).

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<sup>3</sup> If any of these proposed uses were considered for issuance, they should be subordinate to the pending instream water right applications for this creek.

<sup>4</sup> When evaluating applications for new uses, the Department has a duty to ensure that the use will not harm either the quantity or the quality of surface waters. The governing statutory and regulatory schemes make this self evident. See e.g. ORS 537.170(5)(a)&(c). Other statutory mandates amplify this requirement. ORS 468B.015, ORS 468B.015(2), (4). ORS 468B.020, ORS 468B.015, ORS 536.220(1)(b), ORS 536.220(2)(a), ORS 537.332(4)(c), OAR 690-11-010(3), OAR 537.170(4)(a) & (c), OAR 690-11-195(4)(c).



## Water Resources Department

R 73170, 73171, G 13251, R 73262, 73262, R 72438, 72439,

G 13220, R 73461, 73462, R 72309, 72310, R 72643, 72644, G 12600

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**3. The uses will impair the public interest because fish screening and passage facilities are not a condition of use.**

The technical reports for the surface water applications do not require that fish screening and passage facilities be installed and operational prior to use under the proposed permit. Given the critical status of coastal fish populations and the adverse impact these diversions and storage project 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).

Allowing the proposed uses is contrary to the Commission's Water Allocation Policy. The policy allows additional uses on overappropriated streams only "where public interest in those uses is high and uses are conditioned to protect instream values." OAR 690-410-070(1)(a) (emphasis added). No such determination has been made and the proposed uses have not been conditioned in a way that will protect instream values.

Failure by the State to address this issue now, in the face of potential listing of coastal coho populations, creates expectations for water that may not be fulfilled if/when the species are listed. Instream flows in Two Mile Creek provide critical habitat for fish - without water instream there is no habitat. Continuing to issue water rights on a creek with a possibility of a listed species, as well as existing water availability and water quality problems makes little sense.

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



Water Resources Department

R 73170, 73171, G 13251, R 73262, 73262, R 72438, 72439,  
G 13220, R 73461, 73462, R 72309, 72310, R 72643, 72644, G 12600

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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).

The recent petition for listing of coho and other contemplated petitions for fish populations in this basin and 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 South Coast Basin and throughout the state.

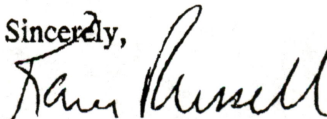
Establishment of the instream water right also furthers statewide policies, priorities and goals for streamflow restoration including those in OAR 690-11-030(1), 690-410-070, and 690-77-015. Providing streamflow protection for fish is also necessary in order to carry out the state policy of restoring native fish stocks. ORS 496.435. Thus, protection of the public interest requires denial of these applications.

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 critical status of the public uses that rely upon the water resource for survival and the fact that these proposed uses are the type of uses known to cause these existing problems it is imperative that water use be as efficient as possible. A conservation plan should be in place **prior** to any permit issuance.

◆ **Conclusion**

We are open to discussion with the Department and the applicants on all of the issues raised in this objection letter.

Sincerely,



Karen A. Russell  
Assistant Director



OATH  
Easement

May 24, 1993

Donald L. and Linda Markham  
Rt. 1 Box 1908  
Bandon, OR 97411

Reference: File Number R-72643\4

Dear Markhams,


As a follow-up to our phone conversation on April 29, 1993, I again reviewed your application for a water use permit, and determined that your application is still incomplete.

Your C.W.R.E., John Prahar, has sent a corrected map (copy enclosed); however, before we can process your application further, you need to provide us with a copy of written authorization or easement permitting access to land not owned by you. Please refer to the copy of your legal description enclosed. According to the map, a pipeline from the reservoir crosses under Two Mile County Road No. 11.

We will continue our assessment of your application after we have received the above information. If you have any questions you may telephone me at 378-3739, in Salem, or call toll free from within the state, 1-800-624-3199.

Please include your application file number (as referenced at the head of this letter) whenever you write or call.

Sincerely,



CAROL LEWIS SPENCE  
SENIOR WATER RIGHTS SPECIALIST

ENCL(S) 2

cc: John Drolet, WATERMASTER #19  
John Prahar, C.W.R.E.



INTEROFFICE MEMO

TO: FISCAL SECTION

DATE: 7/193

FROM: Carol Lewis Spence  
Authorized Examiner

SUBJECT: Request for transfer of fees or refund check

Please transfer \$\_\_\_\_\_ Receipt \_\_\_\_\_ from file  
\_\_\_\_\_ to file \_\_\_\_\_ for:  
\_\_\_\_\_ Examination fee  
\_\_\_\_\_ Permit Recording Fee

Send out  
to fiscal  
after get Wt  
(complete date)

\*  
Please refund \$ 48.00 to Donald L. & Linda Markham  
S-72644, receipt 91341. These funds are  
deduced due to:

- \_\_\_\_\_ Application rejected
- \_\_\_\_\_ Application withdrawn
- X \_\_\_\_\_ Excess fees collected for application/PON
- \_\_\_\_\_ Payment of PON
- \_\_\_\_\_ Protest Filing Fees
- \_\_\_\_\_ Other: \_\_\_\_\_

\* see refund from R-72643.



## COPY CHECK-OFF SHEET FOR TECHNICAL REVIEWS

✓ CC: FILE # 72644

✓ WATERWATCH ✓

✓ 2 ODF&amp;W ✓

✓ WATERMASTER # 19✓ REGIONAL MANAGER - Cook✓ CWRE - PRAHAR

## OTHER ADDRESSES:

✓ STAR✓ DEQCASEWORKER jake

ORIGINAL TO APPLICANT 7/29/93

WATER RESOURCES DEPARTMENT

INTEROFFICE MEMO

May 3, 1993

To: files # R-72643 and 72644  
Markham, T 29 S, R 14 W, Sec. 20, COOS CO  
From: Carol Lewis Spence *Carol Spence*  
Subject: status of Technical Review

It is my understanding Mr. Markham had called WRD (Reed??) about his concern of losing his fig trees unless he was issued a permit to irrigate asap. I was asked by Darlene on 4/21/93 to let her know the status ASAP of water availability and where in line the above files stood to be processed for a TR. I responded there were approximately 110 basin-wide ahead of him, that there were at least 5 ahead of him on Two Mile Creek, and that water availability looked ok because of the reservoir application for use of stored water.

On 4/26/93, having had no response from Darlene/Reed regarding action on the Markham files, I asked if I should do something further. Reed responded I should go ahead and process a TR, which I did.

I found a couple of corrections needed on the application: on the map, the township in the top header is incorrect (says T 28, should be T 29), although lower down on the map the center point is labeled T29S, R14W., Sec. 20, so lower labeling is okay. I called the CWRE (John Prahar), leaving a message on the ans. machine that I needed a corrected map. 4/26/93

Second thing is an easement is needed for crossing the county road.

I called Markhams on 4/29/93 to say that water availability tables had been requested, and that the above two things needed correction in the application. When told about the map error, Mrs. Markham said it sounded like the CWRE had used incorrect acreage figures on the map. She said Markhams would doublecheck with the CWRE to confirm figures, and that an easement would be forthcoming.

The file now (as of 5/3/93) is awaiting WA, confirmation on acreage on the map as well as correction in the top header, and an easement from the county.

cc: Wm #19



# TECHNICAL REVIEW CHECKLIST

Application: S-72644

Review Date: 4/29/93 *CX*

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

| SUMMARY       |  |
|---------------|--|
| <u>OK</u>     | Completeness   |
| <u>OK</u>     | Land Use   |
| <u>N/A</u>    | GW Interference (if potential interference with surface water, see results of water availability analysis) |
| <u>OK</u>     | Conflicts <u>NCR</u>   |
| <u>OK</u>     | Water Availability   |
| <u>S</u> or U | Satisfactory or Unsatisfactory Conclusions based on information available on the review date above.        |

OK

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.

N/A

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

OK

Application fees:

|  |        |
|--|--------|
| Examination fee:                       | \$ 200 |
| Recording fee:                         | \$ 134 |
| TOTAL REQUIRED                         | \$ 334 |
| TOTAL SUBMITTED                        | \$ 382 |
| AMOUNT DUE prior to issuance of permit | \$ -0- |

(26.2a)  
 IRR 100 + 17. x 2. = 34

REFUND

\$ 48



OK

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

OK

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).

N/A

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

OK

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

N/A S

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

OK

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

OK

The report from watermaster has been received.

OK

The proposed use is not restricted or prohibited by statute.

OK

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.

OK

*Longation*  
use(s) is/are classified uses(s) under the South Coast Basin Program, OAR 690 - 517.

# OK

The application, map and supporting data are complete and free of defects. *Wrong Township in header - fixed*

#### Land Use Compatibility:

As expressed by the Planning Department of Coos Co

N/A

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 \_\_\_\_\_).

N/A

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

OK

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:

N/A

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

N/A

The report from groundwater section has been received.

For reservoir applications:

N/A

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

|         |          |             |
|---------|----------|-------------|
| Brown   |          | use 50      |
| Bowder  | 4/9/92   | use 50      |
| Richard | 6/5/92   | use 50      |
| Markham | 8/31/92  | use 80      |
| ISUR    | 9-8-92   | use Natural |
| Lindsay | 1/15/93  | use 80      |
| Jay     | 2/24/93  | use 80      |
| Peck    | 6/29/93  | use 80      |
| Manick  | 10/18/93 | use 80      |



Brown G-12600 all year 7-3-91

Bowder R-72309 Nov 1-June 30 4-9-92  
.72310 all year 4-9-92

Richert R 72438 Nov 1 June 30 6-5-92  
72439 year round

Markham R 72643 Nov 1-June 30 8-31-92  
72644 Mar 1-Oct 31 8-31-92

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ODFW IWR 72803 all year 9-8-92

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Hoffer G-13220 Dec 1-April 30 12-17-92

Lindsay R 73170 Dec 1-June 30 ~~2~~-15-93 fix  
73171 Dec 1-April 30 ~~2~~-15-93  
613251 Dec 1-April 30 1-15-93

Jay R 73262 Dec 1-June 30 2-24-93  
73263 Dec 1 April 30 2-24-93

Pack R 73461 Dec 1-June 30 6-29-93.  
73462 Dec 1-April 30 6-29-93 all year  
all year Dec 1-Nov 30  
Nov 1-April 30  
stock all year

Two Mile Creek 295 14w Below Brandon

Limiting Water Availability Subbasins  
For Water Availability Subbasin 1900000000000000

Water Availability By Month for Exceedance Level 80

| Month | Limiting<br>Subbasin | Water<br>Available? | Net Water<br>Available |
|-------|----------------------|---------------------|------------------------|
| 1     | 1900000000000000     | YES                 | 43                     |
| 2     | 1900000000000000     | YES                 | 52                     |
| 3     | 1900000000000000     | YES                 | 47                     |
| 4     | 1900000000000000     | YES                 | 28                     |
| 5     | 1900000000000000     | YES                 | 15                     |
| 6     | 1900000000000000     | YES                 | 9                      |
| 7     | 1900000000000000     | YES                 | 8                      |
| 8     | 1900000000000000     | YES                 | 8                      |
| 9     | 1900000000000000     | YES                 | 8                      |
| 10    | 1900000000000000     | YES                 | 6                      |
| 11    | 1900000000000000     | YES                 | 14                     |
| 12    | 1900000000000000     | YES                 | 35                     |
| Stor  | 1900000000000000     | YES                 | 25400                  |



CENTURY 21 PHAY REALTY, INC.  
Highway 101 & 42S  
PO Box 1500  
Bandon, Or. 97411

OFFICE # (503) 347-9431

RECEIVED

JUL 15 1993

WATER RESOURCES DEPT  
SALEM, OREGON

FAX # (503) 347-4166

## FACSIMILE COVER SHEET

DATE: 7/15/93TOTAL NUMBER OF PAGES INCLUDING COVER SHEET 3TO: W.R.D. - Carol L. SpenceTELEFAX NUMBER OF COMPANY/PERSON 378-8130FROM: Markham R-72643/4RE: Permit OR Easement under County Road ✓COMMENTS: Hope This is what you need - I hope our  
water availability study has been done...Thanks For your concern + effort Carol...

If you do not receive the page(s) or are disconnected please  
call back as soon as possible. (503) 347-9431

NOTE: If transmitting contracts, please set FAX on FINE for greater clarity.

# Oregon

WATER  
RESOURCES  
DEPARTMENT

May 24, 1993

Donald L. and Linda Markham  
Rt. 1 Box 1908  
Bandon, OR 97411

Reference: File Number R-72643\4

Dear Markhams,

As a follow-up to our phone conversation on April 29, 1993, I again reviewed your application for a water use permit, and determined that your application is still incomplete.

Your C.W.R.E., John Prahar, has sent a corrected map (copy enclosed); however, before we can process your application further, you need to provide us with a copy of written authorization or easement permitting access to land not owned by you. Please refer to the copy of your legal description enclosed. According to the map, a pipeline from the reservoir crosses under Two Mile County Road No. 11.

We will continue our assessment of your application after we have received the above information. If you have any questions you may telephone me at 378-3739, in Salem, or call toll free from within the state, 1-800-624-3199.

Please include your application file number (as referenced at the head of this letter) whenever you write or call.

Sincerely,



CAROL LEWIS SPENCE  
SENIOR WATER RIGHTS SPECIALIST

ENCL(S) 2

cc: John Drolet, WATERMASTER #19  
John Prahar, C.W.R.E.

#254 - Court House  
Water availability study  
can be done.



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



DATE: 6/16/93

UTILITY PERMIT

NO.

188

## BEFORE THE ROADMASTER OF COOS COUNTY

This permit is issued to DONALD MARKHAM, Rte 1 BX 1908, BANDON OR 97411 PH: 347-3674  
 for the placement and/or construction of the following facility: push water pipe under county road  
 upon the MP2 on Two Mile County Road  
 No. 11 at the following location: MP2 T28 R14 S20 TL:1000 & 1001  
 All work shall be in strict conformity with all terms of this permit, with any exhibits attached hereto, and with Article Four, Division One of the Coos County Code, and ORS 374.305 to 374.340 and 758.010.

## GENERAL PROVISIONS:

Permit Holder shall be solely responsible for any and all damages to or destruction of any road, road structure, utility, cable, pipe, waterline, ditch or culvert arising out of or incident to this permit. Permit Holder shall repair or reimburse the County or utility for any and all costs of repair, restoring or replacing damaged or destroyed property.

Permit Holder shall indemnify, hold harmless, and defend Coos County, its elected officials, officers and employees from any liability, claim, damage, loss and/or expense, including, but not limited to, reasonable attorney's fees, arising out of or resulting from the performance of or failure to perform the obligations of this Permit by Permit Holder, its employees, agents and subcontractors.

Permit Holder shall provide adequate warning and traffic control in a manner to insure public safety and cause minimum inconvenience. Control of traffic will be in accordance with the current provisions in the Manual on Uniform Traffic Control Devices for Streets & Highways.

This permit is revokable at any time when area is determined to be needed for road purposes.

Permit Holder or his contractor shall notify the county (396-3121 X 366) forty-eight (48) hours prior to commencing work and after completing work covered by this permit.

No work other than that specifically mentioned is authorized by this permit.

In compliance with county policy all aerial lines shall be at a minimum height of twenty-two (22) feet and poles a minimum of six (6) feet from traveled surface of road.

**SPECIAL PROVISIONS:** the interpretation of the intent of the special provisions is at the discretion of the County.

- / / Permit Holder shall construct backfill material for roadway crossing in which asphalt has been removed to conform with the design in Exhibit A as attached and shall maintain finish conformation same as original for one (1) year after completion of construction.
- ☒ Permit Holder shall compact backfill material on shoulders and rock surface of roadway to 95% of original density and maintain finish conformation same as original for one (1) year after completion of construction on same as original for one (1) year after completion of construction.
- / / Minimum depth shall be 30" from top of cable with a ribbon lying 12" directly above.
- / / Permit Holder shall bury cable over culverts where 30" cover can be maintained. When 30" depth cannot be maintained, bury around end and 24" minimum below bottom of culvert.
- ☒ Permit Holder shall mark waterline permanently and clearly on BOTH sides of road.
- ☒ Permit Holder shall provide insurance as described in the attached insurance provisions.
- ☒ Min. Depth 24" BOTTOM OF DITCH.

I accept and agree to the conditions herein:

Permittee

6/16/93

Date

This permit shall be void unless the work herein contemplated shall have been completed before: 9/16/93

19

Meets permit conditions

By

Oswell R King

Date: 6-16-93

ISSUED BY AGENT OF BOARD OF COMMISSIONERS

Marvin Sackett

date

6/16/93

Roadmaster

September 4, 1992

DONALD L MARKHAM  
MARKHAM, LINDA  
RT 1 BOX 1908  
BANDON, OR 97411

REFERENCE: File(s) R-72643, S-72644

We received your application(s) proposing to use water, along with supporting data and fees. Your receipt is enclosed unless you received it earlier. The application has been assigned the above referenced file number and will be reviewed in detail as time allows. If you need to call or write to us, be sure to reference the file number(s) listed above so we may assist you promptly.

Applications which are received in proper form with required maps, supporting data and fees can be considered for approval by issuance of permits following a mandatory 60-day waiting period and after public interest matters are resolved.

Processing of applications which require additional information will be delayed further. If you feel that a delay in the processing of your application will cause a hardship, please advise in writing.

If the application is approved, the use allowed by the permit will be subject to the Water Resources Commission's Basin Program statements, instream flow requirements, and demands of prior rights.

If you have any questions, please contact the Water Right Section at the telephone number referenced below.

cc: CWRE



---

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



# WATER AVAILABILITY REPORT-SURFACE WATER APPLICATION

Name of Applicant D & L MARKHAM Application Number R-72643  
72644

1. To your knowledge, has the stream or basin that is the source for this application ever been regulated for prior rights?

Yes \_\_\_\_\_ No ☒

If yes, please explain.

(I) Senior d.s. water users

P# 17313

P# 17494

P# 48335

} rights w/ POD's on main stem  
of Zmi Cr.

SEP 24 1992

2. Has the stream or basin that is the source for this application ever been regulated for minimum streamflows? I AM NOT AWARE OF AN EXISTING IWR ON THIS STREAM

Yes \_\_\_\_\_ No N/A

If yes, please explain.

3. Do you observe this stream system during regular field work?

Yes \_\_\_\_\_ No ☒

If yes, what are your observations for the stream.

4. Based on your observations, would there be water available in the quantity and at time needed to supply the development proposed by this application.

Yes \_\_\_\_\_ No \_\_\_\_\_ Don't Know ☒

What would you recommend for conditions on a permit, that may be issued approving this application?  
Because of possibility of regulation for ds senior rights:

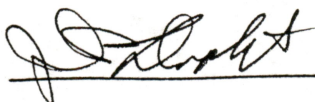
Require outlet at NATURAL stream elevation equipped w/gated valve

Require wier or other suitable MEASURING device u.s. & d.s. from res.

5. Any other recommendations you would like to make?

Recommend permit not be Allowed to go to certificate unless  
Above requirements met

Signature



WM District # XIX

Date

09-22-92



# WaterWatch

O F O R E G O N

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SEP 15 1992

WATER RESOURCES DEPT.  
SALEM, OREGON

September 14, 1992

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

RE: Application for Permit #R72645, 72646, D. Belcher  
Cow Cr., Douglas Co., 9.0 af, .01 cfs, Irrigation

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





September 15, 1992

RECEIVED  
SEP 17 1992  
WATER RESOURCES DEPT.  
SALEM, OREGON

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

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

Dear Steve:

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

|         |         |         |       |         |
|---------|---------|---------|-------|---------|
| R-72638 | R-72641 | 72644   | 72647 | R-72650 |
| 72639   | 72642   | R-72645 | 72648 |         |
| 72640   | R-72643 | 72646   | 72649 |         |

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,

A handwritten signature in cursive script, appearing to read "Albert H. Mirati, Jr.", written over a horizontal line.

Albert H. Mirati, Jr.  
Water Right Review Coordinator

c WaterWatch of Oregon (public information request)

File: WRD/WR/RTA Request



2501 SW First Avenue  
PO Box 59  
Portland, OR 97207  
(503) 229-5400

DATE 8/31/92 INITIALS gnMINIMUM REQUIREMENTS TO FILE

Name and mailing address  
 Source of water  
 Quantity of water  
 Location of project  
 Use of water  
 Signature of applicant  
 Allowable use by policy  
 State Engineer withdrawal  
 Legislative withdrawal  
 Land use approved yes pending \_\_\_\_\_

FIELD OPERATIONS

Application date stamped per money receipt date  
 Stream Indexed  
 Stream Code \_\_\_\_\_  
 Scenic Waterway \_\_\_\_\_  
 Findings:  
 1) Concluded - Scenic-Reg Ack letter  
 2) Under Study - Scenic-Ack letter  
 3) Basin 2 - Willamette-Ack letter  
 Plat Carded and copy made YES NO  
 Conflicts (well \_\_\_\_\_ surface \_\_\_\_\_) \_\_\_\_\_  
 Prior ISWR # \_\_\_\_\_  
 Within Irrigation District \_\_\_\_\_ (name)  
 Notified \_\_\_\_\_  
 District excerpt received \_\_\_\_\_  
 Entered in Paradox \_\_\_\_\_  
 Prepare six copies of Draft Permit  
 Send one copy to Data Center

SUPPORT SERVICES

Stamp contents with application number  
 Mail/Provide copies of draft permits to DEQ, ODFW,  
 PARKS, AND WATERMASTER  
 Mail ack letter (provided by Data Center) with  
 receipt to applicant, cc to CWRE and file  
 Place label on file and card  
 If dam is over 10 feet or storage exceeds 9.2 AC-FT,  
 route file to Dam Safety Section  
 Notify Irrigation District

FIELD OPERATIONS

|   | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| Ownership Statement                         | _____      | _____     |
| Name and address of all owners              | _____      | _____     |
| Other landowners notified                   | _____      | _____     |
| Legal Description                           | _____      | _____     |
| Need Commission review                      | _____      | _____     |
| _____ Requests greater than 5.0 cfs         | _____      | _____     |
| _____ Dam height greater than 20 feet       | _____      | _____     |
| _____ Storage greater than 100 acre-feet    | _____      | _____     |
| _____ Out of Basin diversion                | _____      | _____     |
| _____ Groundwater recharge project          | _____      | _____     |
| _____ Other substantial public interest     | _____      | _____     |
| GW comments received _____ resolved _____   | _____      | _____     |
| ODFW comments received _____ resolved _____ | _____      | _____     |
| DEQ comments received _____ resolved _____  | _____      | _____     |
| Interest Groups _____                       | _____      | _____     |
| Water availability received _____           | _____      | _____     |
| Objections received _____ resolved _____    | _____      | _____     |
| Protest received _____ resolved _____       | _____      | _____     |
| Management Codes                            | _____      | _____     |

EXAMINATION FEE: \_\_\_\_\_  
 RECORDING FEE: \_\_\_\_\_

REMARKS: \_\_\_\_\_

TOTAL: \_\_\_\_\_  
 REFUND: \_\_\_\_\_  
 DEFICIENT: \_\_\_\_\_



**SUPERSEDED  
BY 5/3/93 MAP**

**TOWNSHIP 28<sup>29</sup> SOUTH, RANGE 14 WEST, W.M., COOS COUNTY.**

Map to accompany the application to appropriate the Surface Waters of State of Oregon.

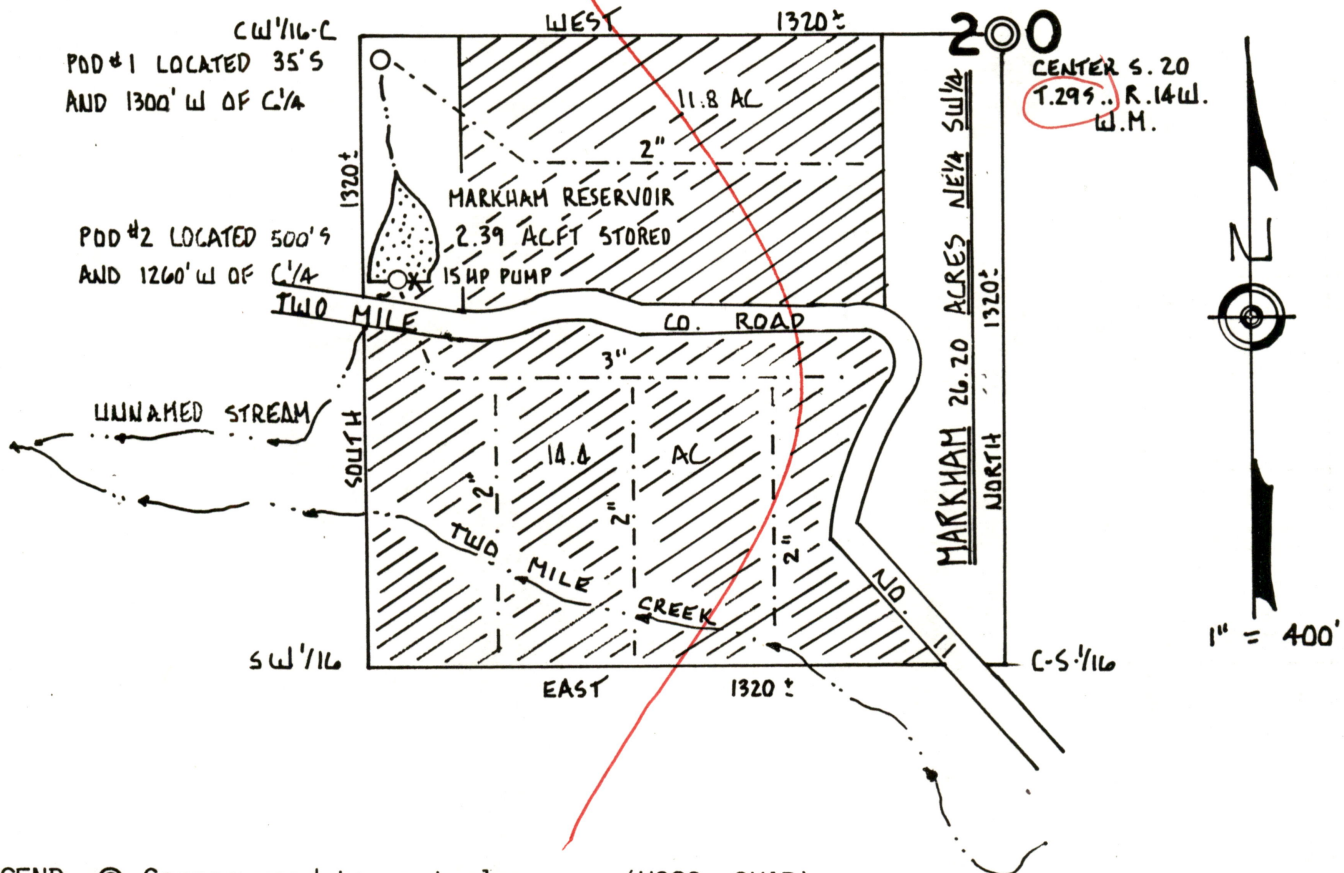
Prepared For: Donald L. and Linda Markham  
Rt. 1 Box 1908  
Bandon, OR 97411  
(503)347-4674

Prepared By: Prahar Surveying CWRE#107  
1045 Baltimore #1  
Bandon, OR 97411  
(503)347-9517

**RECEIVED**

**AUG 31 1992**

WATER RESOURCES DEPT.  
SALEM, OREGON



LEGEND: ● Corner used to control survey (USGS. QUAD)

— Two mile creek/unnamed stream

▨ area of irrigation

○ point of diversion as stated above

— main water lines

— "Markham" reservoir

x pump/motor combination

AUG. 25, 1992

