

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



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

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

Use a separate form for each reservoir

RECEIVED
 MAY 08 2023

SECTION 1: APPLICANT INFORMATION AND SIGNATURE

Applicant

NAME <i>Anthony Soter</i>		PHONE (HM)	
PHONE (WK) <i>(503) 662-5600</i>	CELL <i>(503) 319-1500</i>	FAX	
MAILING ADDRESS <i>PO Box 430</i>			
CITY <i>Carlton</i>	STATE <i>OR</i>	ZIP <i>97111</i>	E-MAIL * <i>tsotesotervineyards.com</i>

OWRD

Organization

NAME <i>Somer Ranches</i>		PHONE <i>(503) 662-5600</i>		FAX
MAILING ADDRESS <i>PO Box 430</i>			CELL	
CITY <i>Carlton</i>	STATE <i>OR</i>	ZIP <i>97111</i>	E-MAIL * <i>mary@sotervineyards.com</i>	

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

AGENT / BUSINESS NAME <i>Joel Sotoloff</i>		PHONE <i>(503) 729-2275</i>		FAX
MAILING ADDRESS <i>PO Box 430</i>			CELL	
CITY <i>Carlton</i>	STATE <i>OR</i>	ZIP <i>97111</i>	E-MAIL * <i>joel@sotervineyards.com</i>	

Note: Attach multiple copies as needed

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

By my signature below I confirm that I understand:

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

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

Applicant Signature

Print Name and Title if applicable

Date

Applicant Signature

Print Name and Title if applicable

Date

[Signature] *Joel Sotoloff - Vineyard Mgr* *3/24/23*
[Signature] *Anthony Soter - Owner* *3/8/23*

SECTION 2: SOURCE OF WATER AND LOCATION OF RESERVOIR

Reservoir name: Pond #1
 Source*: Runoff Tributary: MIA
 County: Yamhill
 Quantity: 3.5 Acre-Feet [length x width x depth / 43,560]

Reservoir Location:	Township (N or S)	Range (E or W)	Section	Quarter-Quarter	Tax Lot #
	<u>T35</u>	<u>R4W</u>	<u>23,24</u>	SE	<u>700,800, 1400, 900</u>

Maximum Height of Dam: 0 feet. If excavated write "zero feet."

0 Ft.

~~SE~~
SENE

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

SECTION 3: WATER USE

Indicate the proposed use(s) of the stored water: Irrigation, Fire Suppression, Agricultural Uses, Wildlife

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

SECTION 4: PROPERTY OWNERSHIP

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

Yes (please check appropriate box below then skip to section 5)

There are no encumbrances

This land is encumbered by easements, right of way, roads of way, roads or other encumbrances

No (Please check the appropriate box below)

I have a recorded easement or written authorization permitting access.

I do not currently have written authorization or easement permitting access.

Written authorization or an easement is not necessary, because the only affected lands I do not own are state-owned submersible lands, and this application is for irrigated and/or domestic use only (ORS 274.040). (Do not check this box if you described your use as "Multipurpose" in #3 above.)

List the names and mailing addresses of all affected landowners:

MIA

SECTION 5: ENVIRONMENTAL IMPACT

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

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

Existing: Is this an existing reservoir? YES NO

If YES, how long has it been in place? ~~174~~ years. 17

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

If YES, how much? miles.

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

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

SECTION 6: WITHIN A DISTRICT

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

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

SECTION 7: DESCRIPTION

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

The reservoir is an excavated holding space in which water is pumped out for end use. There is a spillway maintained for overflow at or about 12' from bottom of reservoir.

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

N/A

Watermaster Alternate Reservoir Application Review Sheet

OWRD

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

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

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

Applicant's Name Joel Sokoloff 3S 4W Sec 23 SENE TL 1400		
1. Does the proposed reservoir have the potential to injure existing water rights? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO Explain:		
2. Can conditions be applied to mitigate the potential injury to existing water rights? <input type="checkbox"/> YES <input type="checkbox"/> NO Explain: NA		
3. Is water available for the proposed reservoir? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
4. If yes, during what period? Beginning: October 1 End: July 31		
Attach a WARS printout at 50% exceedance. If WARS does not cover the proposed location, make a recommendation for a storage season based upon regulation history and your knowledge of the location. (Water Availability for Reservoir Policy found under OAR 690-410-0070(2)(c))		
5. Did you meet with staff from another agency to discuss this application? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
Who:	Agency:	Date:
Who:	Agency:	Date:

Watermaster Name: Joel Plahn

Watermaster Signature: Joel Plahn 2023.03.16 09:33:31-07'00' Date: 3/16/2023

NOTE: This completed form must be returned to the applicant

Land Use Information Form



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266503-986-0900
www.oregon.gov/OWRD

OWRD

NAME <i>Anthony Soter / SOMAR Ranches</i>		PHONE (HM) <i>(503) 662-5600</i>	
PHONE (WK) <i>(503) 729-2275</i>	CELL <i>" "</i>	FAX	
ADDRESS <i>Po Box 430</i>			
CITY <i>Carlton</i>	STATE <i>OR</i>	ZIP <i>97111</i>	E-MAIL* <i>jod@sotervineyards.com</i>

A. Land and Location

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

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:			Proposed Land Use:
<i>35</i>	<i>4W</i>	<i>24</i>	<i>SENE</i>	<i>1400</i>	<i>Rural</i>	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	<i>Multi-Use</i>
---	---	---	---	---	---	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	---
---	---	---	---	---	---	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	---
---	---	---	---	---	---	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	---

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

Yamhill

B. Description of Proposed Use

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

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

Source of water: Reservoir/Pond Ground Water Surface Water (name) _____

Estimated quantity of water needed: *3.5* cubic feet per second gallons per minute acre-feet

Intended use of water: Irrigation Commercial Industrial Domestic for _____ household(s)

Municipal Quasi-Municipal Instream Other *Stock, Fire Suppression*

Briefly describe:

Existing reservoir for agricultural irrigation.

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

For Local Government Use Only

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

Please check the appropriate box below and provide the requested information

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

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

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

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

Ag use is outright permitted use in EFD.

Name: Desiree Lundeen Title: Associate Planner
Signature: [Signature] Phone: (503) 434-7516 Date: 3/17/23
Government Entity: Yamhill County

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

Receipt for Request for Land Use Information

Applicant name: _____
City or County: _____ Staff contact: _____
Signature: _____ Phone: _____ Date: _____

RECEIVED

MAY 08 2023

OWRD

LEGAL DESCRIPTION

Real property in the County of Yamhill, State of Oregon, described as follows:

PARCEL 1

Parcel 2 of Partition No. 97-9 recorded in Film Volume 4, Pages 382-383, Records of Partition Plats for Yamhill County, Oregon, recorded February 4, 1997 as Document No. 199701768.

TOGETHER WITH an easement for access and utilities as delineated on the recorded partition plat.

TOGETHER WITH a tract of land in Sections 23 and 24, Township 3 South, Range 4 West, Yamhill County, Oregon, being part of Parcel 2 of Yamhill County Partition Plat 2004-07 and being more particularly described as follows:

Beginning at the most Easterly Northeast corner of said Parcel 2; thence North $79^{\circ}52'21''$ West 643.46 feet along the Northerly line of said Parcel 2 to an iron rod at the True Point Of Beginning; thence North $08^{\circ}02'10''$ East 333.92 feet along said Northerly line; thence North $62^{\circ}47'58''$ West 1050.14 feet along said line; thence North $49^{\circ}38'00''$ West 499.13 feet along said line; thence North $60^{\circ}23'58''$ West 302.08 feet along said line; thence North $47^{\circ}48'09''$ West 606.35 feet along said line; thence South $77^{\circ}56'31''$ West 126.17 feet along said line; thence South $23^{\circ}35'46''$ East 594.96 feet to an iron rod; thence South $59^{\circ}02'07''$ East 2174.64 feet to the True Point Of Beginning.

PARCEL 2

Lot 3 of Section 24, Township 3 South, Range 4 West of the Willamette Meridian in Yamhill County, Oregon.

TOGETHER WITH an easement for access and utilities over Parcel 1 of Partition No. 97-9 as created by Instrument No. 200202035 recorded January 28, 2002.

PARCEL 3

That part of the Abijah S. Hendricks Donation Land Claim, Notification No. 1529, Claim No. 72 in Section 24, Township 3 South, Range 4 West of the Willamette Meridian in Yamhill County, Oregon, and beginning at a point in the center of the old County Road North $05^{\circ}45'$ East, 290.4 feet from the most Westerly Southwest corner of said Hendricks Claim; thence North $06^{\circ}53'$ East along the West line of said Claim, 177.21 feet to a point on the Southerly margin of the New County Road now there; thence South $77^{\circ}21'$ East along the Southerly margin of said new road, parallel with and 70 feet Southerly from the centerline of the new road, 65 feet; thence North $06^{\circ}53'$ East, 30.21 feet to an angle in the Southerly margin of said road; thence South $77^{\circ}51'$ East along the Southerly margin of the new road, 40 feet from and at right angles from the centerline, 1123.66 feet; thence leaving the road and running South $05^{\circ}45'$ West, 206.49 feet to a point in the center of the old County Road; thence with the centerline of the old County Road North $82^{\circ}42'$ West, 591.30 feet to an angle; thence North $83^{\circ}36'$ West, 155.95 feet to an angle; thence North $69^{\circ}03'$ West, 387.12 feet to an angle; thence North $73^{\circ}32'$ West, 66.30 feet to the Place of Beginning.

PARCEL 4

A part of the Donation Land Claim of Abijah S. Hendrix and wife, Claims No. 72 and 62, Notification No. 1529 in Section 24, Township 3 South, Range 4 West of the Willamette Meridian, Yamhill County, Oregon, and bounded as follows, to-wit Beginning at the angle corner of said Donation Land Claim in original survey and running thence South

$88^{\circ}30'$ West 18.09 chains; thence North $5^{\circ}45'$ East 4.40 chains to the center of the Old County Road from Carlton to Chehalem, Oregon; thence along center of said road as follows: South $89^{\circ}45'$ East 6.28 chains; thence South $83^{\circ}15'$ East 12.00 chains, South 0.40 chains to the Place Of Beginning.

TOGETHER WITH that portion of County Road No. 310 which would inure thereto by reason of Vacating Order No. 76-247, recorded March 2, 1979 in Film Volume 137, Page 1363, Deed and Mortgage Records of Yamhill County, Oregon.

PARCEL 5

All that portion of the following described property lying SOUTH of Market Road No. 1:

Beginning at the corner of Sections 13, 14, 23 and 24 in Section 24, Township 3 South, Range 4 West of the Willamette Meridian in Yamhill County, Oregon; thence North 31.35 chains to stake; thence East 27.69 chains to stake at the Northwest corner of A. S. Hendricks Donation Land Claim; thence South $5^{\circ}45'$ West 52.40 chains to the Southwest corner of said Hendricks Claim; thence North $80^{\circ}30'$ West along the North line of the A. J. Hembree Donation Land Claim No. 71, 23 chains to the Section line; thence North 17.13 chains to the Place Of Beginning.

TOGETHER WITH that portion of County Road No. 310 which would inure thereto by reason of Vacating

Order No. 76-247, recorded March 2, 1979 in Film Volume 137, Page 1363, Deed and Mortgage Records of Yamhill County, Oregon.

RECEIVED

MAY 08 2023

OWRD

ODFW Alternate Reservoir Application Review Sheet

This portion to be completed by the applicant.

Applicant Name: Anthony Soter

Address: PO Box 430 Carlton OR. 9711

Phone/Email: 503-662-5600, (c) 503-319-1500, ts@sotervineyards.com

Reservoir Name: Pond #1

Source: Runoff

Basin Name: Hawn Creek > Yamhill R.

Twp Rng Sec QQ: 3S 4W 23 SENE

Volume (AF): 3.5

in-channel

off-channel

RECEIVED

MAY 08 2023

OWRD

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

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

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

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

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

3) If NMF are or were historically present:

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

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

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

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

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

Any diversion or appropriation of water for storage during the period May 1 through October 31 poses a significant detrimental impact to existing fishery resources. (For example, if diversion of water for storage during a certain time period would cause a significant detrimental impact to an existing fishery resource, then ODFW should recommend conditions or limitations.) If NMF fish are present at the project site or point

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

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

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

- NO (explain)
- YES (select from Menu of Conditions on next page)

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

ODFW recommends the storage season be restricted to coincide with this period (November.1-April.30) or the proposed use be mitigated prior to issuance of a Proposed Final Order for any use outside of this period. Without appropriate mitigation and/or conditions, a further reduction in flow or alteration of habitat (including impairment of water quality) from the proposed water use during May 1st – October. 31st will result in a significant detrimental impact to an existing fishery resource. Mitigation is often complicated, time consuming, and expensive, and may include, but is not limited to, actions such as replacing the proposed amount of water through purchasing or transferring an existing water right. If the applicant chooses to pursue mitigation after application submittal to WRD, ODFW will provide appropriate conditions and a Mitigation Obligation consistent with the goals and standards of OAR 635-415-0025 (ODFW Habitat Mitigation Recommendations) to compensate for any potential impact from the proposed use. Upon request, the WRD caseworker can schedule a consultation with ODFW for more information.

Janna L
Stevens

Digitally signed by
Janna L Stevens
Date: 2023.05.03
11:16:05 -07'00'

ODFW Signature: _____

Print Name: Janna Stevens

ODFW Title: Water Planning Coordinator

Date: 5/3/2023

RECEIVED

MAY 08 2023

OWRD

NOTE: This completed form must be returned to the applicant.

MENU OF CONDITIONS FOR WRD, ODFW, DEQ AND ODA

Revised May 12, 2020, March 25, 2021

RECEIVED

MAY 08 2023

OWRD

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

- Agricultural Water Quality Management Area Rules:** The permittee shall comply with basin-specific Agricultural Water Quality Management Area Rules described in Oregon Administrative Rule Chapter 603-095. The permittee shall protect riparian areas, including through irrigation practices and the management of any livestock, allowing site capable vegetation to establish and grow along streams, while providing the following functions: shade (on perennial and some intermittent streams), bank stability, and infiltration or filtration of overland runoff.
- b52** Water may be diverted only when Department of Environmental Quality sediment standards are being met.
- b5** The water user shall install and maintain adequate treatment facilities meeting current DEQ requirements to remove sediment before returning the water to the stream.
- b51a** The period of use has been limited to **November 1 through April 30.**
- b57** Before water use may begin under this permit, a totalizing flow meter must be installed at each diversion point.
- b58** Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level and dead-pool storage must be installed in the reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.
- blv:** Water must be diverted to a trough or tank through an enclosed water delivery system. The delivery system must be equipped with an automatic shutoff or limiting flow control mechanism or include a means for returning water to the stream source through an enclosed delivery system. The use of water shall not exceed 0.10 cubic feet per second per 1000 head of livestock.
- Bypass Flows:** Per 690-410-0070 (2)(c), the following flows shall be bypassed or passed through the reservoir during the filling season:
- 1) When the biologically necessary flows identified below are not available immediately upstream of the impacted area, the permittee shall pass all live flow downstream at a rate equal to the inflow, minus the amount of mitigation water provided upstream, if applicable, and
 - 2) When the biologically necessary flows identified below are available immediately upstream of the impacted area, the permittee shall pass flow downstream at a rate equal to or greater than the biologically necessary flows.
- Once the reservoir has reached the permitted volume, all live flow shall be passed downstream at a rate equal to the inflow.

The permittee shall quantify and document inflow and outflow and maintain the bypass flows for the life of the permit and subsequent certificate per the approved Bypass Plan. The bypass flow data shall be available upon request by the Oregon Water Resources Department, Oregon Department of Fish and Wildlife, Oregon Department of Environmental Quality, or Oregon Department of Agriculture.

- Construction Activities:** For construction activities (clearing, grading, excavation, staging, and stockpiling) that will disturb one or more acres and may discharge to state waters, the permittee is required to obtain from DEQ a 1200-C NPDES Stormwater Construction Permit prior to project construction.
- fence:** The stream and its adjacent riparian area shall be fenced to exclude livestock.
- fishapprove:** The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.
- fishdiv33:** If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

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

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

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

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

RECEIVED

MAY 08 2023

OWRD