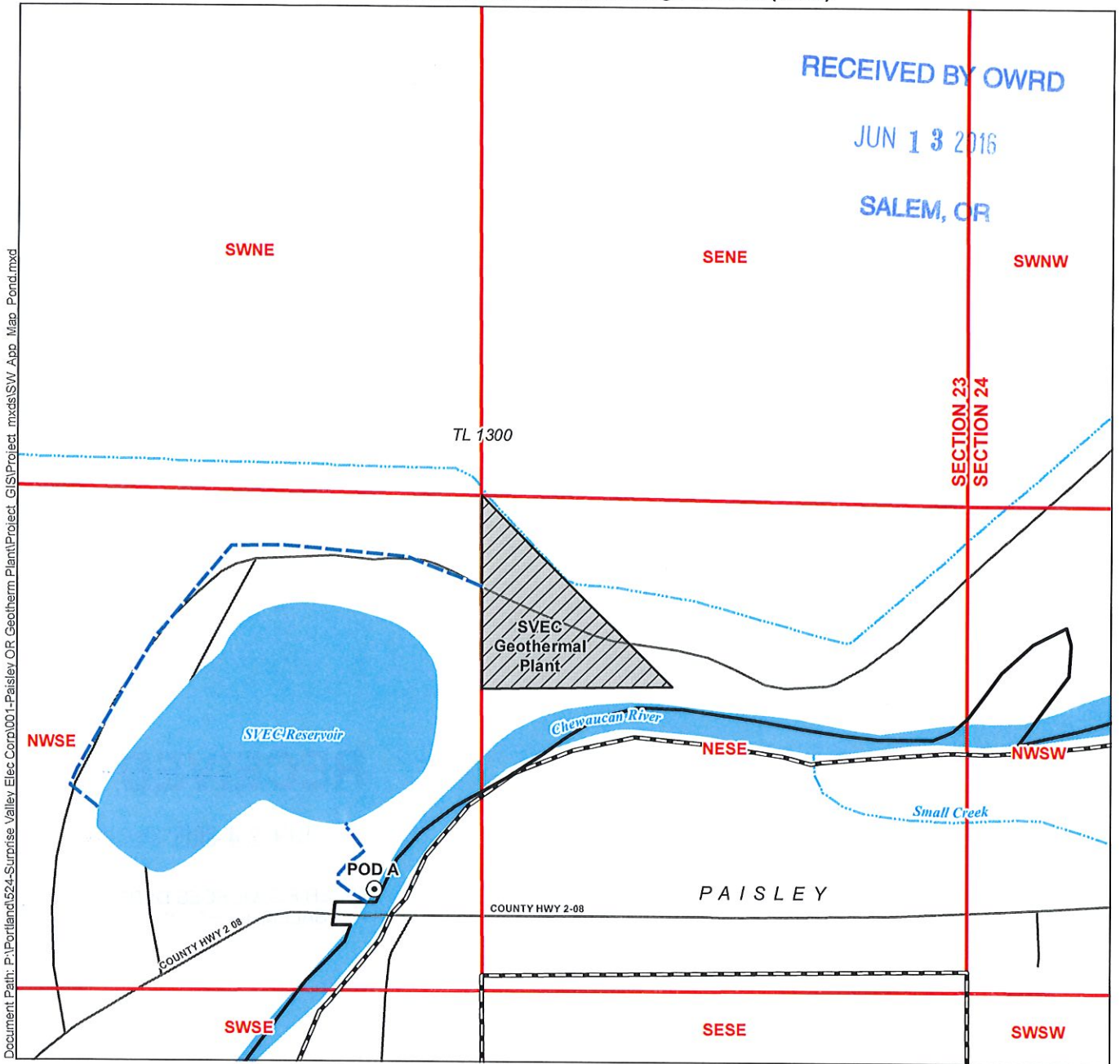


Alternate Reservoir Application Point of Diversion/Reservoir Location

Application in the Name of Surprise Valley Electrification Corporation
Section 23, Township 33 South, Range 18 East (W.M.)



Document Path: P:\Portland\524-Surprise Valley Elec Corp\001-Paisley OR Geotherm Plant\Project_GIS\Project_mxd\SW_App_Map_Pond.mxd

LEGEND

- Point of Diversion (POD)
- Distribution Pipeline
- Paisley City Limits
- Roads
- Watercourses
- Waterbodies

POD LOCATION DESCRIPTION

POD A
Located 1,050 feet South and 1,575 feet West from the E1/4 corner of Section 23, Township 33 South, Range 18 East (W.M.). Following the final design, the POD will be located within 300 feet in either direction of this location.

DISCLAIMER

This map was prepared for the purpose of identifying the location of a water right only and it is not intended to provide legal dimensions or location of property ownership lines.

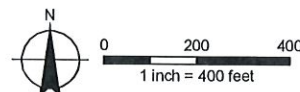
MAP NOTES

Date: May 10, 2016
Data Sources: OWRD, USGS, US BLM, ESRI
Prepared By: GSI Water Solutions, Inc.

RECEIVED BY OWRD

JUN 24 2016

SALEM, OR



R-08250

RECEIVED

JUN 24 2016

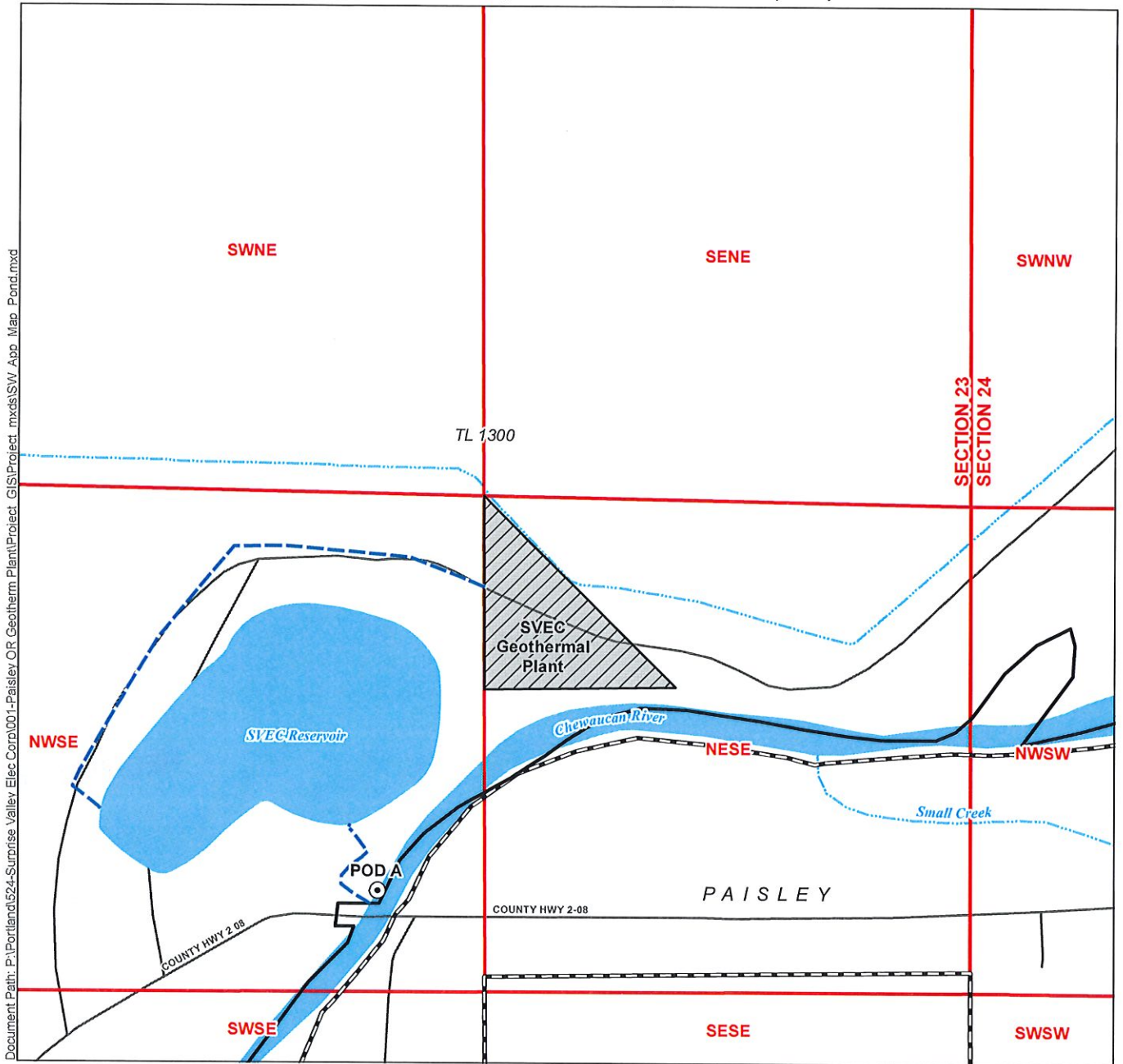
WATER RESOURCES DEPT
SALEM, OREGON

ATTACHMENT C
**Legal Description of Property and
Access Agreements**

Alternate Reservoir Application Point of Diversion/Reservoir Location

Application in the Name of Surprise Valley Electrification Corporation

Section 23, Township 33 South, Range 18 East (W.M.)



Document Path: P:\Portland\524-Surprise Valley Elec Corp\001-Paisley OR Geotherm Plant\Project_GIS\Project_mxd\SW_App_Map_Pond.mxd

LEGEND

- Point of Diversion (POD)
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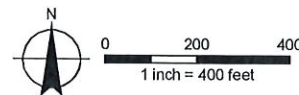
MAP NOTES

Date: May 10, 2016
Data Sources: OWRD, USGS, US BLM, ESRI
Prepared By: GSI Water Solutions, Inc.

RECEIVED

JUN 24 2016

WATER RESOURCES DEPT
SALEM, OREGON



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ATTACHMENT A

Maps

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SALEM, OR

R-88250

D. Reservoir Location

Township (N or S)	Range (E or W)	Section	quarter/quarter	tax lot number
33 S	18 E	23	NW SE	1300

E. Dam: Maximum height of dam: zero feet feet. If excavated, write "zero feet".

F. Quantity: Amount of water to be stored in the reservoir at maximum capacity. List volume in acre-feet: up to 100 acre-ft

Is this project fully or partially funded by the American Recovery and Reinvestment Act? (Federal stimulus dollars) Yes No

4. WATER USE

Indicate the proposed use(s) of the stored water. **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: stockwater, fish and wildlife, aesthetics, domestic, irrigation, agriculture, fire protection and pollution abatement.** If any use will be out of reservoir use, regardless of the type of storage listed, a secondary application must be filed to appropriate the stored water.

Multipurpose use

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5. PROPERTY OWNERSHIP

Please provide a copy of the recorded deed(s).

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:

Robert R. Carlon, Jr., PO Box 147, Paisley, OR 97636 (POD and reservoir)

6. ENVIRONMENTAL IMPACT

- A. **Channel:** Is the reservoir: in-stream or off channel?
- B. **Wetland:** Is the project in a wetland? Yes No Don't know
- C. **Existing:** Is this an existing reservoir? Yes No (former Mill Pond/reservoir)
If yes, how long has it been in place? _____ years.
- D. **Fish Habitat:** Is there fish habitat upstream of the proposed structure? Yes No Don't know
If yes, how much? _____ miles.
- E. **Partnerships:** 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.

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7. 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 - NA -	Address	
City	State	Zip

8. DESCRIPTION

Provide a 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 proposed reservoir will be off-channel. The location was historically a former logging pond (excavated pond) that will be modified/improved to suit this project's storage needs. Improvements likely will include lining the pond to minimize losses. The source of water for the reservoir will be water pumped from the Chewaucan River through a appropriately screened diversion intake into the storage pond. It is anticipated that the design of the intake will include a on-shore caisson (where the pump will be located) with a lateral pipe that will extend out into the river as the intake. However the exact design and configuration of the diversion has not been finalized so some variations to this layout may occur.

The water will be pumped from the river up to the storage pond located at a higher elevation. Live flow during periods outside of the authorized storage season will simply flow by the intake. The storage pond will be located at the site of a previous logging pond. This storage pond location will be enlarged and improved to the extent practicable to hold water for the SVEC geothermal project use. The final configuration of the pond may have 3 to 5 foot tall berms surrounding the pond to define the edge of the pond. The location of the anticipated diversion, storage pond and ultimate place of use of the water is shown on the enclosed application map (see Attachment A).

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If the diversion involves a dam, use this space 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).

The proposed reservoir will be off-channel. The location was historically a former logging pond (excavated pond) that will be modified/improved to suit this project's storage needs. The diversion does not include a dam, but will use an intake connected to a pump to move the water from the river to the reservoir. The anticipated reservoir design will include:

- o Excavated pond with earthen berm around the edge of the pond to define the edge of the pond. The berms will be between 3 and 5 feet high. the pond will meet County design requirements.
- o The interior of the reservoir will be excavated to 10 to 18 feet below the existing land surface, (final depth will be determined in final engineering design)
- o There will be a minimum of 1 foot of freeboard at the berm or reservoir edge when the reservoir is full.

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WATER RESOURCES DEPT
SALEM, OREGON

9. SIGNATURE

I swear that all statements made and information provided in this application are true and correct to the best of my knowledge.



Landowner Signature

June 10, 2016
Date

Before you submit your application be sure you have:

- Answered each question completely.
- Included a legible map that includes Township, Range, Section, quarter-quarter and tax lot number.
- The map must meet map requirements to be accepted.
- Included a land use form or receipt stub signed by a local planning official.
- Included a check payable to Oregon Water Resources Department for the appropriate amount.

POAGE Barbara J * WRD

From: Danette Faucera <danette.l.faucera@state.or.us>
Sent: Monday, October 10, 2016 11:57 AM
To: barbara.j.park@wrд.state.or.us
Cc: elizabeth.a.graham@wrд.state.or.us
Subject: R-88250, Surprise Valley Electrification Corp.

Follow Up Flag: Follow up
Flag Status: Completed

Barbe,

ODFW has submitted comments on this alternate reservoir to the applicant's agent and WRD that are in need of further revision (latest comments were dated 8-19-16). There are a few inconsistencies within the comments that need clarified, but more importantly, we would like to postpone commenting until we have worked through our comments for the associated surface water application (S-88233). We are scheduling a meeting with WRD and DEQ in the next few weeks to discuss these applications.

Therefore, I have two questions:

- 1) Can we withdraw our comments for R-88250?
- 2) If we cannot withdraw, can we clarify our comments made on 8-19-16?

Thanks for the assistance!

Danette

Danette Faucera
Water Policy Coordinator
Oregon Department of Fish and Wildlife
(503) 947-6092
4034 Fairview Industrial Drive SE
Salem, OR 97302

POAGE Barbara J * WRD

From: Justin P Miles <justin.p.miles@state.or.us>
Sent: Friday, August 19, 2016 9:44 AM
To: POAGE Barbara J
Subject: RE: Review for storage water on the Chewaucan River near Paisley, Oregon
Attachments: 201608190931.pdf

This is the updated information that was found regarding Chewaucan River flow recommendations near Paisley. I will email this pdf and call Bruce Brody to discuss the reasoning behind the updated review from ODFW.

Thank you Barbara

From: POAGE Barbara J [mailto:barbara.j.poage@state.or.us]
Sent: Thursday, August 18, 2016 3:54 PM
To: MILES Justin P <justin.p.miles@state.or.us>
Subject: RE: Review for storage water on the Chewaucan River near Paisley, Oregon

Go ahead and email it to me, no worries. More information is always good information.

BARBARA PARK POAGE ♦ WATER RIGHTS

WATER RESOURCES DEPARTMENT | 725 SUMMER ST. NE, SUITE A | SALEM, OREGON 97301
PH.: 503 986-0859 | FAX: 503 986-0901
Email: Barbara.J.Poage@wrд.state.or.us Web: <http://www.wrd.state.or.us>

From: Justin P Miles [mailto:justin.p.miles@state.or.us]
Sent: Thursday, August 18, 2016 3:52 PM
To: PARK Barbara J
Subject: Review for storage water on the Chewaucan River near Paisley, Oregon

Barbara,

This is Justin Miles from the Lakeview ODFW. I reviewed a surface water right application on the Chewaucan River near Paisley Oregon on 6-9-2016 for Bruce Brody-Heine (Surprise Valley Electrification Corp). The application was for a permit to Store Water in a Reservoir (alternative review). It didn't have an application number at the time, but I think Danette Faucera found it.....S 88250 maybe? (I attached the application Bruce sent to me)

Anyways we have found **more data on the Chewaucan River that needs to be included in that application** as well and I was curious how we go about resubmitting that review? It looked like the final review date for that application was 9-3-2016.

Danette Faucera thought she saw your name attached to this application along with Stacey Phillips? I have sent an email to Elisabeth Graham with the Water Resources Department earlier today. I have not been able to find a contact for Stacey.

Thank you for your time. Give me a call if you would like I might be in and out of the office tomorrow.

Justin Miles 

Assistant District Fish Biologist
Klamath Watershed (Lakeview Office)
18560 Roberta Road
Lakeview, OR 97630
Office: 541-947-2950
Fax: 541-947-4632
Cell: 541-219-1395
Justin.p.miles@state.or.us

ODFW's Clarifications for R-88250
11-15-16

fishdiv33

Instream flow needs are not protected by an instream water right at the proposed POD. However, there is an instream water right and a Basin Investigation Report identifying biologically necessary flows for fish in close proximity (less than a mile upstream) to the proposed POD. ODFW recommends the proposed use be limited to the following flows (or those adjusted to current Estimated Average Natural Flow values per [OAR 690-77-015(4)] to protect beneficial uses [OAR 690-410-0070(2)(h)]):

JAN	75	APR	75	JUL	30	OCT	75
FEB	50	MAY	75	AUG	30	NOV	75
MAR	50	JUN	50	SEP	30/50	DEC	75

Source: IS 70660; FISH AND WILDLIFE RESOURCES OF THE GOOSE AND SUMMER LAKES BASIN, OREGON, AND THEIR WATER REQUIREMENTS

Available information shows flows within the impacted reach are currently wholly or partially below those essential to support the biological needs of fish, and/or the proposed use will otherwise impact fish or wildlife habitat. Without appropriate mitigation, a further reduction in flow or alteration of habitat from the proposed water use will impair or be detrimental to fish, wildlife, and/or their habitat. ODFW recommends the applicant submit, to the application caseworker at WRD, a Mitigation Proposal that fulfills the Mitigation Obligation (consistent with the goals and standards of OAR 635-415-0025; ODFW Habitat Mitigation Recommendations) outlined below. ODFW recommends the Proposal include an assessment of options using the following actions listed in order of priority: 1) avoid the impact altogether, 2) minimize the impact by limiting the degree or magnitude of the action, 3) rectify the impact by repairing, rehabilitating, or restoring the affected environment, 4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the development action and by monitoring and taking appropriate corrective measures, and 5) compensating for the impact by replacing or providing comparable substitute resources or environments. Because the mitigation is site- and species-specific, written approval of the Proposal by ODFW is required prior to issuance of a Proposed Final Order. The mitigation provided shall be legally protected and maintained for the life of the permit and subsequent certificate. If questions arise about the following recommended mitigation obligation, the applicant should contact the caseworker to schedule a consultation with the local ODFW Fish Biologist.

*there
is not
a
PFO*

Category 3 Habitat: The mitigation goal is no net loss of either habitat quantity or quality. ODFW recommends mitigation of impacts through reliable in-kind, in-proximity habitat mitigation to achieve no net loss in either pre-development habitat quantity or quality. Mitigation should provide habitat of the same quantity and quality that may be harmed by the proposed action to meet biological requirements of the same population affected by the proposed action.

Recommended Mitigation Obligation

For Habitat Categories 3 - 6, the applicant may choose **FLOW -OR- HABITAT RESTORATION**. See details of each Mitigation Obligation below. (Note: check both boxes below.)

FLOW

1) Water Quantity: **100 AF** (cfs or AF; equals amount requested)

plus a net benefit

The applicant may show that replacement of **only the consumptive use** portion achieves no net loss of habitat quality or quantity. However, the applicant must agree to maintain the consumptive portion as proposed for the life of the permit and subsequent certificate.

2) Months:

period of impact¹ type here

when biologically-necessary flows are not met during the proposed use

3) Location of Mitigation Proposal:

within the watershed (HUC 8) **at or above** the point of diversion

at or above the point of diversion is preferred, but may occur within the watershed (HUC 8) of the impacted population

benefitting the impacted population and/or higher priority species²: list species here

HABITAT RESTORATION

1) Habitat in Need of Replacement:

spawning

rearing

migration

riparian area

other: type here

Note: If water for water mitigation is not provided within the impacted reach, the proposed use may trigger requirements for fish passage (ORS 509.585) by creating an artificial obstruction due to low flow.

2) Habitat quantity to be replaced: The riparian area is to be replaced with an equal quantity and quality as that impacted. 1.6 miles of rearing and migration habitat is to be replaced of equal or better quality of that impacted.

3) Months: in perpetuity

4) Location of Mitigation Proposal:

within the watershed (HUC 8) **at or above** the point of diversion

at or above the point of diversion is preferred, but may occur within the watershed (HUC 8) of the impacted population

within the watershed (HUC 8) of the impacted population

anywhere benefitting the impacted population and/or higher priority species: list species here

¹ when biologically-necessary flows are not known

² Native > Non-native; Listed > Non-listed; Migratory > Resident

ODFW Alternate Reservoir Application Review Sheet

This portion to be completed by the applicant.

Applicant Name/Address/Phone/Email: Surprise Valley Electric Corp. Attn: Lynn Culp
516 US Highway 395 E, Alturas, CA, 96101

Reservoir Name: SVEC Pond Source: Chewaucan River Volume (AF): 100

Twp Rng Sec QQ: T33S R18E Section 23 NW NE Basin Name: Chewaucan in-channel
 off-channel

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

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

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

- 2) Is the proposed project or AO located where NMF² **are or were historically present?**..... Δ YES Δ 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?.....Δ YES Δ NO
 - b. Is there an ODFW-approved fish-passage waiver or exemption?..... Δ YES Δ 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 Δ NO
 Explain below (for example, list STE species or other existing fishery resources that would be impacted negatively.)

defer to recommended flows below

- Any diversion or appropriation of water for storage during the period February 22 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 of water diversion then the applicant should be advised that a fish screen consistent with screening criteria will be required.
- This proposed pond or reservoir contemplates impounding water in the Columbia Basin above Bonneville Dam. ODFW has determined that additional diversions of water in this area pose a significant detrimental impact to existing fishery resources during the period April 15 through September 30.

Chewaucan Redband Trout Species Management Unit

100+ miles of fish habitat upstream of the proposed structure

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)

replace w/ language in clarification doc (attached)

The Oregon Department of Fish and Wildlife recommends filling the excavated reservoir one time a year. Instream flow needs are not protected by an instream water right at the proposed POD. However, there is an instream water right and a Basin Investigation Report identifying biologically necessary flows for fish in close proximity (less than a mile upstream) to the proposed POD. ODFW recommends the proposed use be limited to the following flows (or those adjusted to current Estimated Average Natural Flow values per [OAR 690-77-015(4)] to protect beneficial uses [OAR 690-410-0070(2)(h)]: January 75cfs, February 50cfs, March 50cfs, April 75cfs, May 75cfs, June 50cfs, July 30cfs, August 30cfs, September 30cfs, October 75cfs, November 75cfs, December 75cfs. If these flows are met, water can be diverted until the flows drop below the recommended cfs.

Available information shows flows within the impacted reach are currently below those essential to support the biological needs of fish as documented in the upstream instream water right and Basin Investigation Report recommendation.

Without appropriate mitigation, a further reduction in flow from the proposed water use will impair or be detrimental to fish, wildlife, and/or their habitat. To continue processing of this application ODFW recommends allowing the applicant to submit (to the application caseworker at WRD) a Mitigation Plan consistent with the goals and standards of OAR 635-415-0025 in minimizing impacts to the flow regime identified above. Because the mitigation is site- and species-specific, written approval of the plan by ODFW is recommended prior to permit issuance. The Mitigation Obligation must be legally protected (for water mitigation) and/or maintained (for habitat mitigation) for the life of the permit and subsequent certificate. If questions arise, the caseworker and applicant should schedule a consultation with the local ODFW Fish Biologist to discuss the following:

Category 3 Habitat: The mitigation goal is no net loss of either habitat quantity or quality. ODFW recommends mitigation of impacts through reliable in-kind, in-proximity habitat mitigation to achieve no net loss in either pre-development habitat quantity or quality. Mitigation should provide habitat of the same quantity and quality that may be harmed by the proposed action to meet biological requirements of the same population affected by the proposed action.

Recommended Mitigation Obligation:

Amount: 100 (acre feet; equals amount requested*)

Location: Chewaucan River downstream of the Town Weir in Paisley, Oregon; near the bridge on Mill Street (impacted reach or watershed of the impacted population)

Months: Sept. 1-May 31 (period of impact or proposed use)

*The applicant may show that replacement of only the consumptive use portion achieves no net loss of habitat quality or quantity.

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 above for mitigation clarification.

The structure under the road towards the east side of the proposed reservoir should be removed and filled with the appropriate material to prevent dam failure and unwanted material washing into the Chewaucann River.

The reservoir should not be dug so deep that it interferes with the Chewaucan River and its adjacent groundwater. An appropriate liner that is a complete barrier to adjacent groundwater is a necessity.

Riparian vegetation along the lower reaches of the Chewaucan River is very important and needs to be avoided if possible. A removeable pump and screen would contribute significantly less impacts to the cottonwood galleries than an on-shore caisson.

~~fishself~~

~~fishapprove~~

fishdiv33

ODFW Signature: Justin Miles Print Name: Justin Miles

ODFW Title: Assistant District Fish Biologist Date: 8-19-2016

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

Revised 10/4/12

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.

DRAFT

MENU OF CONDITIONS FOR WRD, ODFW, DEQ AND AG

The following condition will be included in any permit issued unless ODFW explicitly requests that it be omitted:

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream without providing a fishway to ensure adequate upstream and downstream passage for fish, unless the permittee has requested and been granted a fish passage waiver or exemption through the Oregon Department of Fish and Wildlife. The permittee is hereby directed to contact an Oregon Department of Fish and Wildlife Fish Passage Coordinator before beginning construction of any in-channel obstruction.

- 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.
- 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.
- 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 _____ through _____.
- 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 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. Additionally, before water use may begin under this permit, if the reservoir is located in channel then weirs or other suitable measuring devices must be installed upstream and downstream of the reservoir, and, a gated valve outlet must be installed. A written waiver may be obtained from the local Watermaster if in his judgment the installation of the weir(s) will provide no public benefit.
- 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 _____ River or sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.
- 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.
- 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.
- fence** The stream and its adjacent riparian area shall be fenced to exclude livestock.

WATERMASTER ALTERNATE RESERVOIR APPLICATION REVIEW SHEET

Recommendations for Water Right Applications under the Alternate Reservoir review process (ORS 537.409)

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 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))

The review of alternate reservoirs is limited to these criteria only.

Application #: R- Applicant's Name: *SVE - Paisley*

1) Does the proposed reservoir have the potential to injure existing water rights? NO YES

Explain: *Potential in all months with the exception of Oct, Nov, Dec.*

2) Can conditions be applied to mitigate the potential injury to existing water rights? NO YES

If YES, which conditions are recommended:

*Junior to all Rights. Limit diversion to Oct, Nov, Dec
Flowmeter both in and out of Res.
Shall not divert more than 1.25 cfs*

3) Did you meet with staff from another agency to discuss this application? NO YES

Who: *Justin Miles* Agency: *ODFW* Date: _____
Who: _____ Agency: _____ Date: _____

Watermaster signature: *B. Mayer* Date: *6/3/2016*

WRD Contact: Caseworker: Water Rights Division, 503-986-0900 / Fax 503-986-0901

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JUN 24 2016

WATER RESOURCES DEPT
SALEM, OREGON

NOTE: This completed form must be returned to the applicant

Use this menu to identify appropriate conditions to be included in the permit, and indicate the abbreviations on the review form:

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.

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.

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 _____ through _____.

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.

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 _____ River or sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

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.

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.

fence: The stream and its adjacent riparian area shall be fenced to exclude livestock.

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.

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ATTACHMENT B

Land Use Form

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SALEM, OR

R-00250

Land Use Information Form



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.wrd.state.or.us

NOTE TO APPLICANTS

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

This form is NOT required if:

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

NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for or modifying a water right. The Water Resources Department (WRD) requires its applicants to obtain land-use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan. Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to the WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land-use form and return it to the WRD. If no land-use information is received from you within that 30-day period, the WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan. Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact the WRD's Customer Service Group at 503-986-0801.

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JUN 24 2016

Land Use Information Form



Oregon Water Resources Department
 725 Summer Street NE, Suite A
 Salem, Oregon 97301-1266
 (503) 986-0900
 www.wrd.state.or.us

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Applicant: Surprise Valley Electric Corp. Attn: Lynn Culp

JUN 13 2016

Mailing Address: 516 US HWY 395 E

SALEM, OR

Alturas CA 96101 Daytime Phone: 530-233-3511
 City State Zip

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:
33S	18E	23	NW SE	1300		<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	Multi-purpose
						<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:

Lake County

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B. Description of Proposed Use

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

SALEM, OR

- 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) Chewaucan River

Estimated quantity of water needed: up to 100 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 Multi-purpose

Briefly describe:

The surface water (when available) will be stored in an off-channel reservoir during the winter periods for multi-purpose and general industrial uses during the summer (including make-up cooling water) at the geothermal plant.



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.

See bottom of Page 3. →

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): LAKE COUNTY ZONING ORD. ARTICLE 3.
- 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:	
<u>Conditional Use Permit</u>		<input checked="" 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.

SEE LAND USE APPROVAL 1256-CUP

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JUN 24 2016

WATER RESOURCES DEPT
SALEM, OREGON

Name: DARWIN JOHNSON Title: PLANNING DIRECTOR
 Signature: [Signature] Phone: 541-947-6036 Date: 17 May 2016
 Government Entity: LAKE COUNTY PLANNING DEPT.

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: _____

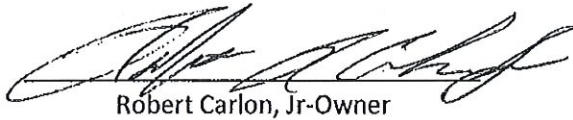
Robert Carlon, Jr.
P.O. Box 147
Paisley, OR 97636

May 10, 2016

To Whom It May Concern:

I authorize Surprise Valley Electric, owner of the Paisley Geothermal Generating Plant, access to my property to potentially construct a storage pond, surface water diversion and pipeline.

I agree that further negotiations for the use of such property will proceed once a permit from Oregon Water Resources Department has been granted.



Robert Carlon, Jr-Owner

5-10-16
Date

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SALEM, OR

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SALEM, OR

A-88250

Robert R. Carlon, Sr.

Grantor's Name and Address

Robert R. Carlon, Jr.
P.O. Box 259
Paisley, OR 97636

Grantee's Name and Address

After recording return to:
Robert R. Carlon, Jr.
P.O. Box 259
Paisley, OR 97636

Until a change is requested all tax statements
shall be sent to the following address:
Robert R. Carlon, Jr.
P.O. Box 259
Paisley, OR 97636

Escrow No. LA09616KW
BSD

M0652340

BARGAIN AND SALE DEED 125529

KNOW ALL MEN BY THESE PRESENTS, That Robert R. Carlon, Sr. and Norma J. Carlon, hereinafter called grantor, for the consideration hereinafter stated, does hereby grant, bargain, sell and convey unto Robert R. Carlon, Jr. and Terri E. Carlon, as tenants by the entirety, hereinafter called grantee, and unto grantee's heirs, successors and assigns all of that certain real property with the tenements, hereditaments and appurtenances thereunto belonging or in anyway appertaining, situated in the County of LAKE, State of Oregon, described as follows, to wit:

Township 33 South, Range 18 East of the Willamette Meridian,
Section 23: NW1/4SE1/4, EXCEPTING THEREFROM

A parcel of land conveyed to Walter M. Anderson, et ux, by deed recorded in Book 108 at Page 15, Lake County Deed Records, Oregon, more fully described as:

Commencing at the Southeast corner of the NW1/4SE1/4 of Section 23, Township 33 South, Range 18 East of the Willamette Meridian,
Thence North 00°03'00" East along the East line of said NW1/4SE1/4 of said Section 23, 33 feet to the true point of beginning, continuing
Thence North 00°03'00" East along said East line 140 feet to the South margin of the County Road;
Thence South 89°57'00" West along said South margin of County Road 60 feet;
Thence South 00°03'00" West and parallel to said East line 140 feet;
Thence North 89°57'00" East 60 feet to the point of beginning, ALSO EXCEPTING THEREFROM,

A parcel of land conveyed to Jack H. Lange and Vivian M. Lange, by deed recorded in Book 125 at Page 133, Lake County Deed Records, Oregon, more fully described as:

Beginning at a point on the North line of the County Road where the same intersects the East line of the NW1/4SE1/4 of Section 23, Township 33 South, Range 18 East of the Willamette Meridian, said point being North 00°03'00" East a distance of 233 feet from the Southeast corner of said NW1/4SE1/4 of Section 23;
Thence North 00°03'00" East along the East line of the NW1/4SE1/4 of Section 23, a distance of 204 feet to the bank of the Chewaucan River,
Thence South 63°03'00" West along the Chewaucan River 282.0 feet;
Thence continuing along the Chewaucan River South 42°53'00" West 104.4 feet to the intersection with the North line of the County Road;
Thence North 89°57'00" East along said North line of the County Road 322.30 feet to the point of beginning.

33 18 2300 - 013

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JUN 24 2016

WATER RESOURCES DEPT
SALEM, OREGON

234

M0652341

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

To Have and to Hold the same unto grantee and grantee's heirs, successors and assigns forever.

The true and actual consideration paid for this transfer, stated in terms of dollars, is **\$0.00**.

However, the actual consideration consists of or includes other property or value given or promised which is the whole / part of the consideration.

In construing this deed, where the context so requires, the singular includes the plural and all grammatical changes shall be made so that this deed shall apply equally to corporations and to individuals.

In Witness Whereof, the grantor has executed this instrument this 15 day of July, 2008; if a corporate grantor, it has caused its name to be signed and its seal if any, affixed by an officer or other person duly authorized to do so by order of its board of directors.

Robert R. Carlon Sr.
Robert R. Carlon, Sr.
Norma J. Carlon
Norma J. Carlon

State of Oregon
County of Jackson

This instrument was acknowledged before me on July 15, 2008 by Robert R. Carlon, Sr. and Norma J. Carlon.

Kelli Hogenson
(Notary Public for Oregon)
My commission expires 3.2.12



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JUN 13 2016

SALEM, OR

State of Oregon } ss. Reel 65
County of Lake } File 2340

I hereby certify that the within instrument was received and filed for record on the 18 day of July 2008 at 1:54 o'clock P. M. and recorded on page 233 in book 27d record of Deeds of said County
Kelli Hogenson
County Clerk

By _____ Deputy

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JUN 24 2016

SALEM, OR

R-48250



Oregon

Kate Brown, Governor

Water Resources Department

North Mall Office Building
725 Summer St NE, Suite A
Salem, OR 97301
Phone (503) 986-0900
Fax (503) 986-0904
www.wrd.state.or.us

June 13, 2016

Surprise Valley Electric Corp.
516 US Highway 395 E
Alturas CA 96101

Dear Surprise Valley Electric Corp.:

The Water Resources Department has received your application(s) to use or store water. At this time however, we are unable to accept your application(s), because the minimum filing requirements are not met according to the Oregon Revised Statutes (ORS 537.409). and (ORS 537.400) for stored water including a non-expired agreement for stored water.

We are hereby returning the incomplete application(s) and the fees submitted. Please return the application(s), the required information, and this checklist, so the Department may begin processing your application(s) in a timely manner.

This review is based only on the completeness of your application. Any determination of water availability, compliance with basin plan rules, or any other water related issues has not been made.

Should you have any questions, please do not hesitate to contact me at the address above or by telephone at 503-986-0801.

Sincerely,

Scott
Customer Service Group

Cc: OWRD Fiscal

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JUN 24 2016

SALEM, OR

R-80250





Oregon Water Resources Department
Permit to Appropriate Surface Water for Storage - Alternate Reservoir Application

🏠 Main
 ⌂ Return

For impoundments less than 10 feet in height or storing less than 9.2 acre feet of water.

Today's Date: Monday, June 13, 2016

Base Application Fee for Storage of Surface Water.		\$350.00
Proposed Dam Height in feet.	0	
Proposed Reservoir volume in Acre Feet.	100	\$3,000.00
Permit Recording Fee. ***		\$450.00
*** the Permit Recording Fee is not required when the application is submitted but, must be paid before a permit will be issued. It is fully refundable if a permit is not issued. If the recording fee is not paid prior to issuance of the Final Order, permit issuance will be delayed.	Recalculate	
Estimated cost of Permit Application		\$3,800.00

OWRD Fee Schedule

Fee Calculator Version: B20130709

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SALEM, OR

R-88250

Alternate Reservoir Application Completeness Checklist
This is the checklist used by WRD staff

Minimum Requirements (ORS 537.409)

- Completed ODFW review sheet signed and dated by ODFW representative.**
The ODFW review sheet must have been completed within the last 6 months.

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SALEM, OR

R-88250

ODFW Alternate Reservoir Application Review Sheet

This portion to be completed by the applicant.

Applicant Name/Address/Phone/Email: Surprise Valley Electric Corp. Attn: Lynn Culp
516 US Highway 395 E, Alturas, CA, 96101

Reservoir Name: SVEC Pond Source: Chewaucan River Volume (AF): 100

Twp Rng Sec QQ: T33S R18E Section 23 NW NE Basin Name: Chewaucan in-channel
 off-channel

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

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

- 1) Is the proposed project and AO¹ off channel? YES NO
 (if yes then proceed to #4; if no then proceed to #2)
- 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 February 22 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 of water diversion then the applicant should be advised that a fish screen consistent with screening criteria will be required.

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

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Chewaucan Redband Trout Species Management Unit
 100+ miles of fish habitat upstream of the proposed structure

JUN 24 2016

SALEM, OR

¹AO = 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)

R-98250

SUPERCEDED

The Oregon Department of Fish and Wildlife recommends filling the excavated reservoir one time a year when there are sufficient flows exceeding 30 cfs on the Chewaucann River according to the Oregon Water Resources Departments gauge near Paisley, http://apps.wrd.state.or.us/apps/sw/hydro_near_real_time/display_hydro_graph.aspx?station_nbr=10384000. To protect native adult and juvenile redband trout migration and associated habitat in the Chewaucann River, water should be diverted into the reservoir between November 1st and February 21st.

The structure under the road towards the east side of the proposed reservoir should be removed and filled with the appropriate material to prevent dam failure and unwanted material washing into the Chewaucann River.

The reservoir should not be dug so deep that it interferes with the Chewaucann River and its adjacent groundwater. An appropriate liner that is a complete barrier to adjacent groundwater is a necessity.

Riparian vegetation along the lower reaches of the Chewaucann River is very important and needs to be avoided if possible. A removable pump and screen would contribute significantly less impacts to the cottonwood galleries than an on-shore caisson.

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)

The permittee shall work with Central Point fish screening shop (541-826-8774) to install appropriate screens on the point of diversion (pump) and follow the instream work period (July 15-September 30) when construction takes place within the riparian.

The permittee should also contact the County planning department, Department of State Lands, the United States Army Corp of Engineers and any associated agencies to determine specific regulations.

fishself, fishapprove, fishdiv33

ODFW Signature: Justin Miles Print Name: Justin Miles

ODFW Title: Lakeview Assistant Dist. Fish Biologist Date: 6-9-16

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

RECEIVED

JUN 24 2016

WATER RESOURCES DEPT
SALEM, OREGON

Use this menu to identify appropriate conditions to be included in the permit, and indicate the abbreviations on the review form:

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.

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.

- 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 _____ through _____.
- 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.

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 _____ River or sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

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.

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.

fence: The stream and its adjacent riparian area shall be fenced to exclude livestock.

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.

RECEIVED BY OWRD

JUN 24 2016

SALEM, OR

R-88250

-ODFW requires mitigation

-em to Keith Mills on
Att Res or Std

|| → em Tim/Dwight on
Std res ?

IR = deny (w/ MO)
public comment

MO ⇒ JK ⇒ PFO Approve

6/1/17

OSHA Training

Agenda Items

100AF

10-18 ft deep excavation

3-5 ft berms p. 3

ORS 537.409 ALTERNATE RESERVOIR CHECKLIST

FILE # : R-88250
WM DIST: 12
REGION: SCR
WID #: 13 - 31300602
PUBLIC NOTICE: 7/5/2016

Res name: SVEC Pond Use: MP

Volume: 100 AF Dam height: zero < 10 ft _____ ft

Land use allowed outright not approved being pursued county notified needed NA

SWW Out In (may not be allowed) Above* _____

*Make sure to add SWW language from S:\groups\wr\Resource Center\language\Scenic Waterway gages-language

Electronic/written comments? No Yes _____ Comment eval? N/A No Yes

App w/in a District boundary No Yes, cc: _____

In Umatilla No Yes - cc: Confederated Tribes of the Umatilla Indian Reservation, Nixyaawii Governance Center
46411 Timine Way, Pendleton, Oregon 97801

Water available: year-round

Allowed season: JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC

Measurement Conditions: Small (≤ 9.2 af) | Medium (> 9.2 , but < 100 af) | Large (≥ 100 af or govt. entity)
*use staff gage if source is runoff or if res is in-channel

Other Conditions: use fishmay if ODFW doesn't request screen/by-pass condition _____

fishdiv 33 + limit to flows ; mitigation
limit diversion to OCT, NOV, DEC ; lmt to ≤ 1.25 cfs
flowmeter IN & OUT

Fees Paid? Yes No, need: _____
 (\$300 base, \$25 per af, & \$400 recording) OR (\$350 base, \$30 per af, & \$450 recording)

Base (\$300 or <u>\$350</u>)	<u>350</u>	Recording Fee (\$400 or <u>\$450</u>)	<u>450</u>
100 AF (\$25, or \$30 per af)	<u>3000</u>		
Total Exam Fees	<u>3350</u>		
Exam Fees Paid	<u>(3350)</u>	Recording Fee Paid	<u>(450)</u>

FO w/ permit # _____

FO w/ draft permit; still needed:

- fees
- easement
- land use

Remarks: may need to process via std res

Completed by bp on 6/1/2017. Peer review:



**Oregon Water Resources Department
Point of Diversion Characteristics**

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Point of Diversion Characteristics

Right:	App: R 88250 *
Name:	SURPRISE VALLEY ELECTRIC CORP.

TRSQQ: 33.00S-18.00E-23-NWSE

County: Lake

Basin: Goose & Summer Lakes

WM District: 12

WM Region: SC

Withdrawn Area:

WAB: CHEWAUCAN R > L ABERT - AT MOUTH (31300602)

Priority WAB: CHEWAUCAN R > L ABERT - AT MOUTH (OWRD: Very good, ODFW: High) (31300602)

Rule 4D:

Groundwater Restricted

Area:

Scenic Water Way:

Division 33: STATEWIDE

Water Quality Limited: Yes



Oregon Water Resources Department
Water Availability Analysis

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Water Availability Analysis

CHEWAUCAN R > L ABERT - AT MOUTH
GOOSE & SUMMER LAKE BASIN
Water Availability as of 1/17/2017

Watershed ID #: 31300602 (Map)
Date: 1/17/2017

Exceedance Level: 50%
Time: 4:21 PM

[Download Data](#)

Water Availability

Select any Watershed for Details

Nesting Order	Watershed ID #	Stream Name	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Sto
1	31300602	CHEWAUCAN R > L ABERT-AT MOUTH	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Limiting Watersheds

Monthly Streamflow in Cubic Feet per Second
Annual Volume at 50% Exceedance in Acre-Feet

Month	Limiting Watershed ID #	Stream Name	Water Available?	Net Water Available
JAN	31300602	CHEWAUCAN R > L ABERT - AT MOUTH	Yes	84.10
FEB	31300602	CHEWAUCAN R > L ABERT - AT MOUTH	Yes	121.00
MAR	31300602	CHEWAUCAN R > L ABERT - AT MOUTH	Yes	136.00
APR	31300602	CHEWAUCAN R > L ABERT - AT MOUTH	Yes	195.00
MAY	31300602	CHEWAUCAN R > L ABERT - AT MOUTH	Yes	288.00
JUN	31300602	CHEWAUCAN R > L ABERT - AT MOUTH	Yes	89.90
JUL	31300602	CHEWAUCAN R > L ABERT - AT MOUTH	Yes	20.30
AUG	31300602	CHEWAUCAN R > L ABERT - AT MOUTH	Yes	6.86
SEP	31300602	CHEWAUCAN R > L ABERT - AT MOUTH	Yes	13.30
OCT	31300602	CHEWAUCAN R > L ABERT - AT MOUTH	Yes	28.50
NOV	31300602	CHEWAUCAN R > L ABERT - AT MOUTH	Yes	59.80
DEC	31300602	CHEWAUCAN R > L ABERT - AT MOUTH	Yes	62.00
ANN	31300602	CHEWAUCAN R > L ABERT - AT MOUTH	Yes	66,600.00

Detailed Reports for Watershed ID #31300602

CHEWAUCAN R > L ABERT - AT MOUTH
 GOOSE & SUMMER LAKE BASIN
 Water Availability as of 1/17/2017

Watershed ID #: 31300602 [\(Map\)](#)
 Date: 1/17/2017

Exceedance Level: 50%
 Time: 4:21 PM

Water Availability Calculation

Monthly Streamflow in Cubic Feet per Second
 Annual Volume at 50% Exceedance in Acre-Feet

Month	Natural Stream Flow	Consumptive Uses and Storages	Expected Stream Flow	Reserved Stream Flow	Instream Flow Requirement	Net Water Available
JAN	85.00	0.88	84.10	0.00	0.00	84.10
FEB	122.00	1.16	121.00	0.00	0.00	121.00
MAR	160.00	23.80	136.00	0.00	0.00	136.00
APR	308.00	113.00	195.00	0.00	0.00	195.00
MAY	587.00	299.00	288.00	0.00	0.00	288.00
JUN	339.00	249.00	89.90	0.00	0.00	89.90
JUL	103.00	82.70	20.30	0.00	0.00	20.30
AUG	54.40	47.50	6.86	0.00	0.00	6.86
SEP	53.70	40.40	13.30	0.00	0.00	13.30
OCT	51.00	22.50	28.50	0.00	0.00	28.50
NOV	60.50	0.68	59.80	0.00	0.00	59.80
DEC	62.70	0.73	62.00	0.00	0.00	62.00
ANN	120,000.00	53,400.00	66,600.00	0.00	0.00	66,600.00

Detailed Report of Consumptive Uses and Storage

Consumptive Uses and Storages in Cubic Feet per Second

Month	Storage	Irrigation	Municipal	Industrial	Commercial	Domestic	Agricultural	Other	Total
JAN	0.62	0.00	0.00	0.23	0.00	0.02	0.01	0.00	0.88
FEB	0.90	0.00	0.00	0.23	0.00	0.02	0.01	0.00	1.16
MAR	1.29	22.30	0.00	0.23	0.00	0.02	0.01	0.00	23.80
APR	2.32	110.00	0.00	0.23	0.00	0.02	0.01	0.00	113.00
MAY	3.72	295.00	0.00	0.23	0.00	0.02	0.01	0.00	299.00
JUN	1.88	247.00	0.00	0.17	0.00	0.02	0.01	0.00	249.00
JUL	0.55	81.90	0.00	0.17	0.00	0.02	0.01	0.00	82.70
AUG	0.30	47.00	0.00	0.17	0.00	0.02	0.01	0.00	47.50
SEP	0.32	39.90	0.00	0.23	0.00	0.02	0.01	0.00	40.40
OCT	0.32	21.90	0.00	0.23	0.00	0.02	0.01	0.00	22.50
NOV	0.43	0.00	0.00	0.23	0.00	0.02	0.01	0.00	0.68
DEC	0.48	0.00	0.00	0.23	0.00	0.02	0.01	0.00	0.73

Detailed Report of Reservations for Storage and Consumptive Uses

Reserved Streamflow in Cubic Feet per Second

No reservations were found for this watershed.

Detailed Report of Instream Flow Requirements

Instream Flow Requirements in Cubic Feet per Second

No instream flow requirements were found for this watershed.



Oregon Water Resources Department
Water Rights with Coincident Places of Use

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Place of Use Conflict Report

The following rights have acreage in the same quarter-quarter as App: R 88250 *

Right	Name	Decree	App	Permit	Cert	Priority	Status	Use	T-R-S-QQ	DLC	Gov't Lot	Acres
CERT:3680_OR*	GEORGE S PARK	CHEWAUCAN RIVER			3680	12/31/1908	NC	IR	33.00S-18.00E-23-	<input type="checkbox"/>		1.0000
CERT:38351_OR*	OSTRANDER CONSTRUCTION CO.		R-39116	R-3962	38351		NC	FP	33.00S-18.00E-23-NWSE	<input type="checkbox"/>		7.5000
CERT:38352_OR*	OSTRANDER CONSTRUCTION CO.		S-39005	S-29504	38352	8/20/1963	NC	IM	33.00S-18.00E-23-NWSE	<input type="checkbox"/>		



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Application: R 88250

Name First, Mi, Last **Ronald J Larson** Received Date 7/25/2016 Time 4:32 PM

Company

Name Other

Street 6527 Climax Ave

City Klamath Falls State Oregon Zip 97603

Home Phone 5418510981

Cell Phone

Company Phone

Fax Phone

Email Address rlarson@ccountry.net

Comments

The system Chewaucan River is already over appropriated and increases in water diversions are negatively affecting the Lake Abert ecosystem, according to recent peer-reviewed studies by Moore (2016) and Larson et al. (in press.). Therefore, I recommend that OWRD issue no further surface- or ground-water diversion permits for the Chewaucan Basin that would decrease inflows to Lake Abert. If a water use-permit is issued, I recommend that OWRD requires the applicant be buy water from an existing permit holder, so there is no net loss of water to the system. References: Larson, R., J. Eilers, K. Kreuz, W.T. Becher, S. Dassarma, and S. Dougill. In Press. Recent Desiccation-related Ecosystem Changes at Lake Abert, Oregon. Western North American Naturalist. Moore J. 2016. Recent desiccation of Western Great Basin Saline Lakes: Lessons from Lake Abert, Oregon. U.S.A. Science of the Total Environment 554-555:142-154.



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Application: R 88250

Name First, Mí, Last **David Herbst** Received Date 9/2/2016 Time 8:06 PM

Company **University of California Sierra Nevada Aquatic Research Laboratory**

Name Other

Street 1016 Mt Morrison Road

City Mammoth Lakes State California Zip 93546

Home Phone Cell Phone

Company Phone Fax Phone

Email Address herbst@lifesci.ucsb.edu

David B. Herbst, PhD Sierra Nevada Aquatic Research Laboratory, University of California 1016 Mt Morrison Road, Mammoth Lakes, CA 93546 herbst@lifesci.ucsb.edu 258-6066 August 9, 2016 To: Oregon Water Resources Department Re: Further diversions of the Chewaucan River to Lake Abert It has come to my attention, and to others concerned about diversions of inflows of the Chewaucan River from their destination to **Lake Abert**, that Application R 88250, continues **neglect of the ecological values** of this rare and threatened lake. The incremental strangling of flows has, over many years, resulted in chronic deficits of inflow to this saline lake, with the consequence that life in the lake has been decimated by **low water levels** and **toxic high salinity**. Abert has been shown to be critical migratory habitat for millions of shorebirds, waterfowl, and waterbirds, supplying them tremendous food resources from productive invertebrate populations (brine shrimp and flies). Without inflows sufficient to balance evaporation, the lake has been declining and seldom has sufficient water to support the kind of habitat it has been in the past. This is NOT a result of the recent drought. While the drought exacerbates the problem, it has been upstream agricultural diversions and impoundments that undermine the long-term stability of the lake. While this 100 AF proposed by this application is not much water in the big picture, granting another diversion amounts to continued neglect by water management authorities of the State of Oregon. I obtained my PhD at Oregon State University, and have

Comments

David B. Herbst, PhD Sierra Nevada Aquatic Research Laboratory, University of California 1016 Mt Morrison Road, Mammoth Lakes, CA 93546 herbst@lifesci.ucsb.edu 258-6066 August 9, 2016 To: Oregon Water Resources Department Re: Further diversions of the Chewaucan River to Lake Abert It has come to my attention, and to others concerned about diversions of inflows of the Chewaucan River from their destination to **Lake Abert**, that Application R 88250, continues **neglect of the ecological values** of this rare and threatened lake. The incremental strangling of flows has, over many years, resulted in chronic deficits of inflow to this saline lake, with the consequence that life in the lake has been decimated by **low water levels** and **toxic high salinity**. Abert has been shown to be critical migratory habitat for millions of shorebirds, waterfowl, and waterbirds, supplying them tremendous food resources from productive invertebrate populations (brine shrimp and flies). Without inflows sufficient to balance evaporation, the lake has been declining and seldom has sufficient water to support the kind of habitat it has been in the past. This is NOT a result of the recent drought. While the drought exacerbates the problem, it has been upstream agricultural diversions and impoundments that undermine the long-term stability of the lake. While this 100 AF proposed by this application is not much water in the big picture, granting another diversion amounts to continued neglect by water management authorities of the State of Oregon. I obtained my PhD at Oregon State University, and have

done research at this lake for many years. My published research and Lake Abert technical papers for ODFW highlight the problems of higher salinities, which includes decreasing the productivity of the lake and eventually passing a threshold of ecosystem function. It is a wonder to see when this lake is thriving, and should be treated as a critical wildlife habitat unique in all of Oregon. At a technical review level, this is not an alternate reservoir, subject only to review of existing water rights. Since OWRD data shows the Chewaucan is over-allocated, cumulative impacts on the river and Lake Abert must be addressed. The standard review process should be followed here as that includes a public interest review. It is in the public interest to evaluate any and all diversion permits from the Chewaucan, to consider how Chewaucan diversions have already disrupted the Lake Abert ecosystem. It is time not to consider more diversion, but for the State to review existing management, and find solutions that balance the needs for water in this valuable ecosystem alongside other water uses in the larger Chewaucan basin. Sincerely David B. Herbst, PhD
Research Scientist, University of California



Lisa Brown
WaterWatch of Oregon
213 SW Ash St., STE 208
Portland, OR 97204

September 6, 2016

Stacy Phillips
OWRD
725 Summer St. NE, STE A
Salem, OR 97301

RE: WaterWatch of Oregon comments on Application R-88250 (proposed new diversion from the Chewaucan River)
Sent: via email to stacy.h.phillips@wrld.state.or.us

Dear Ms. Phillips:

Thank you for the opportunity to comment on application R-88250 which seeks to divert and store water from the Chewaucan River.¹ For at least the reasons outlined below, WRD should deny the permit.

1. WRD should not be issuing new water permits from the Chewaucan River. According to the application, this proposed reservoir would be filled from a direct diversion from the Chewaucan River. WRD has over-allocated the Chewaucan Basin and currently has no plan or ability to maintain or restore water levels in Lake Abert, a terminal lake into which the river flows. Lake Abert, a hypersaline lake, provides critically important habitat to several kinds of birds. Because the state has not secured an instream water right for this globally important lake, the lake level does not register in the WRD's water availability model and thus the model causes it to appear that there is "water available" for additional over-allocation of the resource, but that is an overly simplistic and inaccurate view of the situation. ?

Further, the water availability model appears to inaccurately reflect water rights (or water use) as demonstrated by lack of inflow to the Lake Abert during times when that model indicates there would be inflow. Even the Water Master review, which states that the 3

¹ Because the comment deadline fell on Saturday, September 3, this comment is timely filed today as this is the next business day following the weekend and Labor Day. However, the public comment upload link has already been removed from WRIS.

reservoir has the potential to injure existing water rights “[p]otential[ly] in all months with the exception of Oct., Nov., and Dec.” appears to overestimate water availability.

For a snapshot of some of the issues facing Lake Abert, please watch this Oregon Field Guide video from 2015 “Lake Abert dries up” (incorporated here by reference): <http://www.opb.org/television/programs/ofg/segment/lake-abert-dries-up/>

For background information on the importance of Lake Abert to Pacific Flyway birds and other birds, wildlife and a commercial brine shrimp fishery, see the comments previously filed by numerous organizations and individuals on permit S-51164 (Rivers End Ranch). Those comments are incorporated here by reference.

Issuing new water appropriation permits from the Chewaucan River is absolutely the wrong course for the WRD to take at this juncture. The river and lake are in desperate need of a streamflow restoration program, not further diversions. WRD should deny the permit.

2. The proposed reservoir is unlawfully being processed as an alternate reservoir when the impoundment structure is more than 10 feet in height. ORS 537.409(1)(a). The application reports that the berm in combination with the excavation will result in a total impoundment structure that is 13 feet to 23 feet in height (pending final determination by final engineering study) (Application, page 4). The application also reports that the proposed reservoir would store “up to 100 acre-ft.” (Application, page 2).

The statute allows proposed reservoirs to be processed under the streamlines alternate reservoir statute if certain conditions are met including that the proposed reservoir “[h]as a storage capacity of less than 9.2 acre-feet or a dam or impoundment structure less than 10 feet in height.” OAR 537.409(1)(a) (emphasis added). The application is clearly for more than 9.2 acre feet and the impoundment structure is more than 10 feet in height. The statute does not merely apply to new dams, but to an impoundment structure, including the excavation and berm being proposed here.

Notwithstanding WRD’s application form, which directs the applicant to report an impoundment height of zero feet if the reservoir is an excavation (page 2)—which is inconsistent with the statute—this proposed reservoir fails to meet the first qualifying prong of the alternate reservoir statute because the impoundment is too tall. The application should be returned to the applicant and a new standard reservoir application should be filed subject to a full public interest review.

3. If the application is being processed under the alternate reservoir statute (which, again, is contrary to the statute), WRD and ODFW must consider the impacts of the diversion on Lake Abert’s commercial brine shrimp fishery. ORS 537.409(1)(c). Because water has been over-allocated in the Chewaucan Basin, the lake already suffers from insufficient inflow that has put the brine shrimp fishery at-risk. Approving any further water diversions from the Chewaucan River, such as that which would be required to fill this

proposed reservoir, poses a significant detrimental impact to existing fishery resources. The permit should be denied.

4. The application's claim, on page 2, that the reservoir will be for "[m]ultiple purpose use" is not supported by any information in the application and appears to be erroneous and not supported by any evidence. The purpose of the reservoir is to support a geothermal development. To the extent that the applicant is claiming that this proposed use is only one of "multiple" uses that are compatible and feasible with that use, that needs to be explained and confirmed by the applicant and WRD.

5. A related application filed by the same applicant for the same project, S-88233, also proposes direct diversion from the Chewaucan River. That application should be denied because it impairs and is detrimental to the public interest and the public interest presumption is not established and is overcome. (*See* WaterWatch's comment letter on the IR for S-88233). WRD should consider the cumulative nature of the applicant's proposed water use on the much needed inflow to Lake Abert and should deny both of the permits.

Thank you again for the opportunity to comment. Please do not hesitate to contact me with any questions.

/s/ Lisa A. Brown

Lisa A. Brown
Staff Attorney

POAGE Barbara J * WRD

From: WALLIN Tim
Sent: Tuesday, September 06, 2016 12:36 PM
To: POAGE Barbara J
Subject: FW: Audubon letter on Surprise Valley application
Attachments: Audubon comments on Surprise Valley application.pdf; ATT00001.htm

Follow Up Flag: Follow up
Flag Status: Completed R - 88250

Commentor

From: Senner, Stanley [<mailto:ssenner@audubon.org>]
Sent: Tuesday, September 06, 2016 7:41 AM
To: thomas.m.byler@state.or.us; dwight.w.french@state.or.us; timothy.wallin@state.or.us
Subject: Audubon letter on Surprise Valley application

Gentlemen,

I submitted the attached comments on the Surprise Valley's reservoir application online, but I wanted to highlight for you National Audubon's high level of concern about the status and fate of Lake Abert. This application, and the one for the River's End Ranch reservoir, bear directly on water availability for Lake Abert. Both applications represent opportunities to exercise some discipline about water use on the Chewaucan River and to affirm the public's interest in water for Lake Abert and its wildlife.

Thank you for your consideration,

Stan Senner

Stan Senner, Vice President
Bird Conservation - Pacific Flyway
National Audubon Society
111 SW Columbia St., Suite 200
Portland, OR 97201
Office: (503) 681-2211
Mobile: (907) 903-6796

Sent from my iPhone



National Audubon Society –
Pacific Flyway
111 SW Columbia St., Suite 200
Portland, OR 97201

September 2, 2016

Oregon Department of Water Resources
725 Summer St. NE, STE A
Salem, OR 97301

National Audubon Society comments on Application R-88250 (Store Water in a Reservoir) and Application S-88233 (Proposed new diversion from the Chewaucan River)

Dear Sir/Madam:

Thank you for the opportunity to comment on the applications referenced above concerning a proposed diversion of water from the Chewaucan River by the Surprise Valley Electric Corporation and storage of that water in an off-channel reservoir. The OWRD should deny these permits for the following reasons:

- 1. Water in the Chewaucan River is the primary source of water for Lake Abert and water in the Chewaucan is already over-allocated.** According to a recent paper by Moore (2016)¹:

...(W)ater rights on the Chewaucan River are extensive (Fig. SI-2), allocating substantially more than the mean annual flow in the river (<http://www.oregon.gov/owrd/pages/WR/wris.aspx>). Additionally, one shallow reservoir covering about 223 ha (550 acres) impounds the Chewaucan River and Crooked Creek (the largest tributary above Lake Abert and below Paisley) immediately upstream from Lake Abert. This reservoir stores about 2.27×10^6 m³ (Mm³, 1840 acre feet) of water, so that Lake Abert receives river flow only when that flow exceeds the storage capacity of this reservoir, or is released from a small outlet drain. Lake Abert has no “water right” and is therefore not officially considered in water management of the

¹ Moore, J.N. 2016. Recent desiccation of Western Great Basin Saline Lakes: Lessons from Lake Abert, Oregon, U.S.A. *Science of the Total Environment* 554–555 (2016) 142–154.

Chewaucan River basin. Therefore, inflow to the lake is dependent entirely on the flows remaining after withdrawals are made upstream when irrigation/other demands are lower than river flows or the diversion infrastructure cannot extract the entire flow of the river during short-term, high flow spring runoff.

Diverting additional water from the Chewaucan River and retaining it upstream will only exacerbate water supply issues at Lake Abert.

2. **It is not in the public interest to further reduce water reaching Lake Abert, which supports nationally and internationally significant numbers of migratory birds.** Surveys and research by the federal Bureau of Land Management and others have shown that when there is adequate water within an appropriate range of salinity during spring and fall migrations, Lake Abert may support tens of thousands of waterfowl, including northern shovelers and ruddy ducks, tens of thousands of eared grebes, and hundreds of thousands of shorebirds, including Wilson's and red-necked phalaropes, American avocets and western sandpipers. For some species, like Wilson's Phalarope, significant percentages of their entire world populations stop at Lake Abert. Lake Abert also supports one of the few sizeable inland-nesting populations of snowy plovers in Oregon and provides critical post-breeding habitat for American Avocets from nesting areas, such as at the nearby Summer Lake.
3. **Recommendations to limit the proposed diversion to November 1-February 21 (Oregon Dept. of Fish and Wildlife) or the months of October, November and December (Watermaster) are inadequate in terms of allowing water to reach Lake Abert.** Given that the irrigation season on the Chewaucan River may begin as early as January, the fall and early winter months may be one of the best times of the year when significant flow actually reaches Lake Abert. Although the volume of water in the proposed reservoir is relatively small, Lake Abert is suffering a death by a thousand cuts. The cumulative effect of the many upstream diversions is devastating to the Lake Abert ecosystem and the migratory birds that depend on it, and responsible management agencies must begin to exercise some discipline in water use.
4. **Monitoring of actual water use on the Chewaucan River is inadequate and must be documented before consideration of additional diversions.** Currently, the single water gauge at Paisley provides the only data on water in the Chewaucan River, and it is inadequate for monitoring the volume and timing of actual water use. Common sense suggests that no additional diversions should even be considered, much less granted, for any purpose until water use in the Chewaucan River, including above and below River's End Ranch Reservoir, is completely documented and there is a

solid, technical basis to support appropriate decisions about additional water diversions.

In summary, Lake Abert is a terminal lake relying almost entirely on water from the Chewaucan River and water from that river is already over-allocated. Lake Abert is an area of extraordinary importance for migratory birds, and it is increasingly stressed due to upstream withdrawals, exacerbated by a changing climate. Water use in the Chewaucan River is not well monitored, and new water diversions should not even be considered until such time as existing uses are fully accounted for and a plan is in place that balances water uses for the entire watershed, including Lake Abert. Hence, the two applications referenced above should be denied.

Thank you,

A handwritten signature in black ink that reads "Stanley Senner". The signature is written in a cursive, flowing style.

Stanley Senner
Vice President for Bird Conservation

POAGE Barbara J * WRD

From: WALLIN Tim
Sent: Tuesday, September 06, 2016 5:16 PM
To: POAGE Barbara J
Subject: FW: comment letter R-88250 and S-88233
Attachments: OWRD comment latter 2016.docx

Follow Up Flag: Follow up
Flag Status: Completed

From: orddesertbrineshrimp@comcast.net [<mailto:orddesertbrineshrimp@comcast.net>]
Sent: Tuesday, September 06, 2016 4:49 PM
To: GRAHAM Elisabeth A; PHILLIPS Stacy H
Cc: dwight w french; timothy.wallin@state.or.us
Subject: comment letter R-88250 and S-88233

To: OWRD

Please accept my comments on the proposed Surprise Electric Co reservoir S- 88233 and surface water permit R-88250 . Please see attachment.

Thank you

Keith Kreuz
Oregon Desert Brine Shrimp Co.
503-285-3729

OREGON DESERT BRINE SHRIMP COMPANY

Natural fish food from the high Oregon desert since 1979



9360 N.W. Harbor Blvd.
Portland, OR 97231
503-285-3729

September 6, 2016

Elisabeth Graham
OWRD
725 Summer St. NE, STE A
Salem, OR 97301

RE: WaterWatch of Oregon comments on Application S-88233 (Proposed new diversion from the Chewaucan River)

Dear Ms. Graham:

As owner of Oregon Desert Brine Shrimp Co., I have been informed that yet another water right diversion from the Chewaucan is up for review. I harvested brine shrimp commercially from Lake Abert from 1979 until 2013 at which time the lake went dry. I witnessed the lake level drop 10 ft in 10 years beginning in 2003. Two recent scientific peer reviewed papers have concluded that the desiccation of Lake Abert was caused by water diversions.

Despite the fact that this water right is for only 100 acre feet I strongly urge OWRD to deny this permit. It must be remembered that it is the cumulative effect of many small (and not so small) diversions that has caused the drying and ecological collapse of Lake Abert. No new water rights on the Chewaucan River or its tributaries should be granted until a thorough hydrological analysis is conducted on the Chewaucan watershed.

It is well documented that Lake Abert serves has a critical food source for tens of thousands of migratory birds. Lake Abert has also supported a low impact sustainable brine shrimp fishery for over 35 years.

Under the "ODFW Alternate Resource Application Sheet" included in the OWRD permit form a question is posed:

"Would the proposed project pose any significant detrimental impact to an existing fishery resource locally downstream?"

This permit as others before have never considered the potential negative impact that water diversions would have on an existing commercial brine shrimp fishery.

The desiccation of Lake Abert has forced me to terminate our business until the lake recovers. I again urge OWRD to put a moratorium on any new water rights on the Chewaucan or its tributaries until a comprehensive hydrological study is done.

Regards

Keith Kreuz
Oregon Desert Brine Shrimp Co.

Alternate Reservoir Application Completeness Checklist

This is the checklist used by WRD staff

Application R-88250 County LAKE
 Priority Date 6-24-16 Township 33S Range 18E Section 23 Taxlot 1300
 Use Multi Purpose Caseworker PARK
 Amount (AF) 100 Watermaster MAYER (P12)

Minimum Requirements (ORS 537.409)

6/27/16

- Completed Watermaster review sheet** signed and dated by Watermaster.
 Will the reservoir injure an existing water right? YES NO
 If YES, can conditions be applied to mitigate the injury? YES NO **If NO, return the application.**
 Did the watermaster determine when water is available for the proposed use? YES NO
The Watermaster review sheet must have been completed within the last 6 months.
If the watermaster determined that water is NOT available, return the application.
- Completed ODFW review sheet** signed and dated by ODFW representative.
 Will the reservoir pose a significant detrimental impact to an existing fishery resource? YES NO
 If YES, can conditions be applied to mitigate the impact? YES NO **If NO, return the application.**
The ODFW review sheet must have been completed within the last 6 months.
- Completed Land-Use Form** or receipt signed by the appropriate planning department official enclosed?
Does the use on land-use form match the proposed use on the application? Must be an original "wet" signature within the last 12 months.
- Landowner Name, Mailing Address** and Telephone Number.
- Source and tributary** listed. **NO WELLS-MUST HAVE GW APP TO USE A WELL AS A SOURCE !!**
- Reservoir Location-** Township, Range, Section, Quarter Quarter, Taxlot
- Dam height**, if applicable
- Total Quantity of Storage Requested:** 100 Af
- Proposed Use of the water....** Cannot accept application for use of this stored water at the same time (E2)
- Property ownership indicated?** If applicant does not own all the land is the affected landowner's name and mailing address listed? (Including: lands not owned by applicant, upon which the source is locatedor..... that are crossed by the diversion works. This includes any roads or rights-of-way.)
- Provide the **legal description** of all the property involved with this application. You may include a copy of your deed land sales contract or title insurance to meet this requirement
- Environmental Impact** section completed?
- Application signed by the landowner(s)?** All parties noted as applicants must sign the application.
Must be an original "wet" signature.
- Acceptable map ** Indicates requirements of standards set forth by the Commission and causes fatal flaw if not provided by the applicant.**
- Reservoir Location - noting Township, Range, Section, 1/4 1/4 and Tax Lot number(s)*
- Scale of the Map (not less than 1" = 1320') **
- Reference corner on map
- North Directional Symbol **
- 1/4's clearly identified
- Reservoir clearly identified **
- Dam or POD (If off channel) Location coordinates referenced to a government land survey corner* If no dam, use coordinates to center of reservoir.**
- Fees enclosed**? Examination: Base Fee\$ 350 Permit Recording Fee\$ 450
 plus\$ 3000
 plus\$ _____

RECEIVED BY OWRD

JUN 24 2016

SALEM, OR

Total Paid \$ 3800

Total Fees \$ 3800

Completeness Check by: Scott

Date: 6-13-16

Revised 2011-3-3

✓ 6-27-16

R-88250

Surprise Valley Electric Corp.
Attn: Lynn Culp
516 US Highway 395 E
Alturas, CA 96101

R-88250

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**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **120276**

725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172
(503) 986-0900 / (503) 986-0904 (fax)

INVOICE # _____

RECEIVED FROM: Surprise Valley
BY: Electrification Corp.

APPLICATION	R-86250
PERMIT	
TRANSFER	

CASH: CHECK:# 27980 OTHER: (IDENTIFY)

TOTAL REC'D \$ 3800.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407	COPIES	\$
	OTHER: (IDENTIFY)	\$
0243	I/S Lease	
0244	Muni Water Mgmt. Plan	
0245	Cons. Water	

4270 WRD OPERATING ACCT

MISCELLANEOUS			
0407	COPY & TAPE FEES		\$
0410	RESEARCH FEES		\$
0408	MISC REVENUE: (IDENTIFY)		\$
TC162	DEPOSIT LIAB. (IDENTIFY)		\$
0240	EXTENSION OF TIME		\$
WATER RIGHTS:		EXAM FEE	RECORD FEE
0201	SURFACE WATER	\$ <u>3,350.00</u>	0202 \$ <u>450.00</u>
0203	GROUND WATER	\$	0204 \$
0205	TRANSFER	\$	
WELL CONSTRUCTION		EXAM FEE	LICENSE FEE
0218	WELL DRILL CONSTRUCTOR	\$	0219 \$
	LANDOWNER'S PERMIT		0220 \$
	OTHER (IDENTIFY)		

0536 TREASURY 0437 WELL CONST. START FEE

0211	WELL CONST START FEE	\$	CARD #
0210	MONITORING WELLS	\$	CARD #
	OTHER (IDENTIFY)		

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233	POWER LICENSE FEE (FW/WRD)	\$
0231	HYDRO LICENSE FEE (FW/WRD)	\$
	HYDRO APPLICATION	\$

TREASURY OTHER / RDX

FUND _____ TITLE _____
 OBJ. CODE _____ VENDOR # _____
 DESCRIPTION _____ \$ _____

RECEIPT: **120276** DATED: 10/24/10 BY: Carlos O. Turner

Surprise Valley Electrification Corp. Alturas, California 96101

27980

DATE	DESCRIPTION	INV. NUMBER	AMOUNT
05-31-2016	APPLICATION-ALTERNATIVE STORAGE PERM	-MAY 2016	3800.00

RECEIVED BY OWRD

JUN 13 2016

SALEM, OR

05-31-2016	VENDOR NO.	2990	CHECK #	27980	NET TOTAL	3800.00
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