

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



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

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

Use a separate form for each reservoir

SECTION 1: APPLICANT INFORMATION AND SIGNATURE

Applicant

NAME UNDERWOOD LIVING TRUST DATED AUGUST 8, 2023		PHONE (HM)	
PHONE (WK)	CELL 503-936-7527	FAX	
MAILING ADDRESS 18495 SE TICKLE CREEK ROAD			
CITY BORING	STATE OR	ZIP 97009	E-MAIL * BOB@TRANSPACIFICFOOD.COM

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Organization

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

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

AGENT / BUSINESS NAME DUNN CARNEY LLP, ATTN: SARAH LIJEFELT		PHONE 503-306-5321	FAX
MAILING ADDRESS 851 SW SIXTH AVE, SUITE 1500			CELL
CITY PORTLAND	STATE OR	ZIP 97204	E-MAIL * SLIJEFELT@DUNNCARNEY.COM

Note: Attach multiple copies as needed

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

By my signature below I confirm that I understand:

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



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

Applicant Signature

Applicant Signature

Robert Underwood, Trustee

Print Name and Title if applicable

Michelle Underwood, Trustee

Print Name and Title if applicable

2/29/24
Date

2/29/24
Date

SECTION 2: SOURCE OF WATER AND LOCATION OF RESERVOIR

Reservoir name:	1				
Source*:	Unnamed spring & runoff	Tributary:	Deep Creek		
County:	Clackamas				
Quantity:	20 Acre-Feet [length x width x depth / 43,560]				
Reservoir Location:	Township (N or S)	Range (E or W)	Section	Quarter-Quarter	Tax Lot #
	2S	4E	20	NENW	1200
Maximum Height of Dam:	9.8 feet. If excavated write "zero feet."				

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

SECTION 3: WATER USE

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

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, which may include stock water, fish and wildlife, domestic, irrigation, agriculture, fire protection and pollution abatement.

SECTION 4: PROPERTY OWNERSHIP

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

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

☒ There are no encumbrances.

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

☐ No (Please check the appropriate box below)

☐ I have a recorded easement or written authorization permitting access.

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

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

List the names and mailing addresses of all affected landowners:

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SECTION 5: ENVIRONMENTAL IMPACT

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

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

Existing: Is this an existing reservoir? ☐ YES ☒ NO

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

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

If YES, how much? _____ miles.

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

Indicate agency, staff and phone numbers of those involved. Also indicate any agencies that are cost sharing in this project. **We conducted a pre-application consultation with Danette Faucera at ODFW prior to submitting this application. Danette's phone number is: 971-280-3773.**

SECTION 6: WITHIN A DISTRICT

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

IRRIGATION DISTRICT NAME		ADDRESS	
CITY	STATE	ZIP	

SECTION 7: DESCRIPTION

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

An earthen impoundment and excavated area will be constructed downgradient from the seasonal spring to store water. The spring only flows in the winter and early spring, and therefore flow outside of the anticipated authorized storage season is extremely unlikely. If any such flow exists outside of the storage season, a trickle tube will be used to pass live flow.

If the diversion involves a dam, use this space below (or attached pages) 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).

See attached cross section.

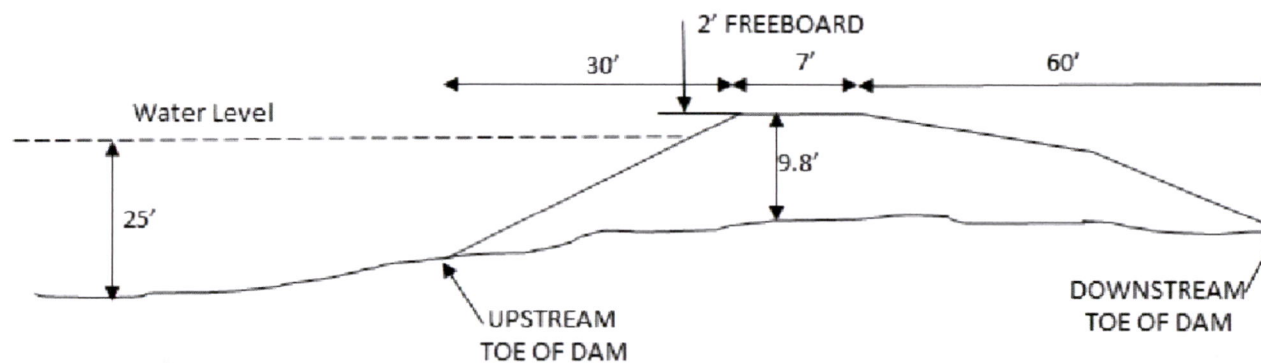
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DAM CROSS-SECTION

NOTE: DIMENSIONS ARE APPROXIMATE
NOT TO SCALE AND MEASUREMENTS ARE ESTIMATED



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Land Use Information Form

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

NAME Underwood Living Trust dated August 8, 2023, c/o Sarah Liljefelt, Dunn Carney LLP			PHONE 503-306-5321		
MAILING ADDRESS 851 SW Sixth Ave, Suite 1500					
CITY Portland		STATE OR	ZIP 97204	EMAIL SLiljefelt@dunncarney.com	

A. Land and Location

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

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:	Proposed Land Use:
2S	4E	20	NENW	1200	EFU	☒ Diverted ☐ Conveyed ☒ Used	Water storage & irrigation
2S	4E	20	SENW	1200	EFU	☐ Diverted ☐ Conveyed ☒ Used	Water storage & irrigation
2S	4E	20	SWN W	1200	EFU	☐ Diverted ☐ Conveyed ☒ Used	Water storage & irrigation
						☐ Diverted ☐ Conveyed ☐ Used	

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

Clackamas County

NOTE: A separate Land Use Information Form must be completed and submitted for each county and city, as applicable.

B. Description of Proposed Use

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

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

Source of water: ☐ Reservoir/Pond ☐ Ground Water ☒ Surface Water (name) Unnamed spring & runoff

Estimated quantity of water needed: 60 ☐ 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 Storage for multiple purposes*

Briefly describe:

Water storage in ponds for multiple purposes*, and use of stored water for irrigation.

* Multiple purposes may include irrigation, nursery use, agricultural use, and other uses that may be authorized on EFU property.

Note to applicant: For new water right applications only, if the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt on the bottom of

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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 use(s), including proposed construction, are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): ZDO Section 401 (EFU)
- ☐ Land uses to be served by the proposed water use(s), 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:	
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued

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

All proposed uses are farm-related and allowed

Name: Ben Blessing Title: Sr. Planner

Signature:  Date: 2-13-2024

Governmental Entity: Clackamas County Phone: 503-742-4521

Receipt Acknowledging Request for Land Use Information

Note to Local Government Representative:

Please complete this form and return it to the applicant. For new water right applications only, if you are unable to complete this form while the applicant waits, you may complete this receipt and return it to the applicant. If you sign the receipt, you will have 30 days from the date of OWRD's Public Notice of the application to submit the completed Land Use Information Form to Oregon Water Resources Department. Please note while OWRD can accept a signed receipt as part of intake for an application for a new permit to use or store water, a completed Land Use Information Form is required for all other applications.

Applicant Name: _____

Staff Name: _____ Title: _____

Staff Signature: _____ Date: _____

page 4 and include it with the application filed with the Oregon Water Resources Department.

See Page 4 ➡

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Governmental Entity: _____ Phone: _____

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Watermaster Alternate Reservoir Application Review Sheet

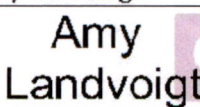
In lieu of the water right application process set forth in ORS 537.140 to 537.211, an owner of a reservoir may submit an alternate reservoir application for a reservoir that has a storage capacity less than 9.2 acre-feet or a dam or impoundment structure less than 10 feet in height. ORS 537.409 describes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

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

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

Applicant's Name: Underwood Living Trust		
1. Does the proposed reservoir have the potential to injure existing water rights? ☐ YES ☒ NO Explain:		
2. Can conditions be applied to mitigate the potential injury to existing water rights? ☐ YES ☐ NO Explain:		
3. Is water available for the proposed reservoir? ☒ YES ☐ NO		
4. If yes, during what period? Beginning: November 1 End: June 30 Attach a WARS printout at 50% exceedance. If WARS does not cover the proposed location, make a recommendation for a storage season based upon regulation history and your knowledge of the location. (Water Availability for Reservoir Policy found under OAR 690-410-0070(2)(c))		
5. Did you meet with staff from another agency to discuss this application? ☐ YES ☒ NO		
Name:	Agency:	Date:
Name:	Agency:	Date:

Watermaster Name: Amy Landvoigt

Watermaster Signature:  Date: 2/6/2024

Digitally signed by Amy Landvoigt
DN: OU=Watermaster, O=OWRD,
CN=Amy Landvoigt, C=amy.j.landvoigt@
water.oregon.gov
Reason: I am the author of this document
Location:
Date: 2024.02.07 09:12:26-09'00'
Font PD: Editor Version: 12.1.4

NOTE: This completed form must be returned to the applicant

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DETAILED REPORT ON THE WATER AVAILABILITY CALCULATION

DEEP CR > CLACKAMAS R - AT MOUTH

Watershed ID #: 89
Exceedance Level: 50
Time: 3:58 PM
Date: 02/06/2024

Basin: WILLAMETTE

Month	Natural	Consumptive	Expected	Reserved	Instream
Net	Stream	Use and	Stream	Stream	Requirements
Water	Flow	Storage	Flow	Flow	
Available					

Monthly values are in cfs.

Storage is the annual amount at 50% exceedance in ac-ft.

JAN	246.00	4.36	242.00	0.00	35.00
207.00					
FEB	206.00	3.73	202.00	0.00	35.00
167.00					
MAR	148.00	1.91	146.00	0.00	35.00
111.00					
APR	144.00	2.02	142.00	0.00	35.00
107.00					
MAY	96.50	3.82	92.70	0.00	35.00
57.70					
JUN	47.30	4.53	42.80	0.00	20.00
22.80					

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JUL	16.10	7.99	8.11	0.00	20.00
-11.90					
AUG	7.42	6.46	0.97	0.00	10.00
-9.04					
SEP	6.58	2.48	4.10	0.00	10.00
-5.90					
OCT	8.70	0.70	8.00	0.00	10.00
-2.00					
NOV	77.70	1.06	76.60	0.00	35.00
41.60					
DEC	273.00	4.75	268.00	0.00	35.00
233.00					
ANN	76,900	2,650	74,200	0	19,000
57,000					

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ODFW Alternate Reservoir Application Review Sheet

This portion to be completed by the applicant.

Applicant Name: Underwood Living TrustAddress: 18495 SE Tickle Creek Rd, Boring OR. 97009Phone/Email: 503-936-7527 / bob@transpacificfood.comReservoir Name: 1Volume (AF): 20Source: unnamed spring and runoffBasin Name: Willamette☒ in-channelTwp Rng Sec QQ: 2S 4E 20 NENW☐ off-channel

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

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

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

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

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

3) If NMF are or were historically present:

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

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

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

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

- ☒ Any diversion or appropriation of water for storage during the period July through November poses a significant detrimental impact to existing fishery resources. (For example, if diversion of water for storage

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)

Applicant Name: Underwood Living Trust ODFW Review

Review Date:

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.

ESA-listed fish (winter steelhead and spring Chinook Salmon), sensitive species (Coastal Cutthroat Trout and Pacific Lamprey), and other game fish (Coho Salmon) may be present in Deep Creek and/or the Clackamas River during the period of impact. ODFW has identified biologically necessary flows not captured in an instream water right (e.g., flows in a Basin Investigation Report, Persistence Flow Determination, Seasonally Varying Flow prescription, or other flow analysis) that would benefit fishery resources at the Point of Diversion or downstream. In addition to existing instream water rights and pending instream water right applications, ODFW recommends the following biologically necessary flows be available in Deep Creek at the mouth to protect public uses:

JAN	_cfs	APR	_cfs	JUL	_cfs	OCT	12 cfs
FEB	_cfs	MAY	_cfs	AUG	_cfs	NOV	_cfs
MAR	_cfs	JUN	_cfs	SEP	_cfs	DEC	_cfs

Based on parameters assessed by ODFW, instream flows are currently below those essential to support the biological needs of an existing fishery resource during July – November. In addition, ODFW reviewed available information (Clackamas Subbasin Willamette TMDL; DEQ) regarding water quality impairment and determined that the proposed use would impair water quality that supports existing fishery resources (e.g., habitat) at or downstream of the Point of Diversion. DEQ has identified water quality impairments for dissolved oxygen, temperature, and biological criteria in the Clackamas River. Both temperature and dissolved oxygen are related to flow modifications and water withdrawals, and both, when combined with reduced streamflow, can increase stress on aquatic life while a biocriteria impairment is an indicator of the overall biological condition of the waterbody. Consequently, ODFW recommends that because the proposed use, including any releases throughout the year from the reservoir to waters of the state (see “Water Quality” condition below), would impair water quality that supports existing fishery resources (e.g., habitat) at or downstream of the Point of Diversion that the water use be restricted during mid July through September.

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

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

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

- ☒ See applicable conditions selected from “Menu of Conditions” on next page

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Applicant Name: Underwood Living Trust ODFW Review

Review Date:

ODFW recommends the season of use be restricted to coincide with the period December through June or the proposed use be mitigated prior to issuance of a Proposed Final Order for any use outside of this period.
Without appropriate mitigation and/or conditions, a further reduction in flow or alteration of habitat from the proposed water use will result in a significant detrimental impact to an existing fishery resource.

Janna
Stevens

Digitally signed by Janna
Stevens
Date: 2024.02.28
14:35:28 -08'00'

ODFW Signature: _____

Print Name: Janna Stevens

ODFW Title: Water Planning Coordinator

Date: 2/28/2024

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

Revised 10/4/12; reformatted 5/12/20

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MENU OF CONDITIONS FOR WRD, ODFW, DEQ AND ODA

Revised May 12, 2020, March 25, 2021

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

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- ☒ **Agricultural Water Quality Management Area Rules:** The permittee shall comply with basin-specific Agricultural Water Quality Management Area Rules described in Oregon Administrative Rule Chapter 603-095. The permittee shall protect riparian areas, including through irrigation practices and the management of any livestock, allowing site capable vegetation to establish and grow along streams, while providing the following functions: shade (on perennial and some intermittent streams), bank stability, and infiltration or filtration of overland runoff.
- ☐ **b52** Water may be diverted only when Department of Environmental Quality sediment standards are being met.
- ☐ **b5** The water user shall install and maintain adequate treatment facilities meeting current DEQ requirements to remove sediment before returning the water to the stream.
- ☒ **b51a** The period of use has been limited to December through June.
- ☐ **b57** Before water use may begin under this permit, a totalizing flow meter must be installed at each diversion point.
- ☐ **b58** Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level and dead-pool storage must be installed in the reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.
- ☐ **blv:** Water must be diverted to a trough or tank through an enclosed water delivery system. The delivery system must be equipped with an automatic shutoff or limiting flow control mechanism or include a means for returning water to the stream source through an enclosed delivery system. The use of water shall not exceed 0.10 cubic feet per second per 1000 head of livestock.
- ☐ **Bypass Flows:** Per 690-410-0070 (2)(c), the following flows shall be bypassed or passed through the reservoir during the filling season:
- 1) When the biologically necessary flows identified below are not available immediately upstream of the impacted area, the permittee shall pass all live flow downstream at a rate equal to the inflow, minus the amount of mitigation water provided upstream, if applicable, and
 - 2) When the biologically necessary flows identified below are available immediately upstream of the impacted area, the permittee shall pass flow downstream at a rate equal to or greater than the biologically necessary flows.
- Once the reservoir has reached the permitted volume, all live flow shall be passed downstream at a rate equal to the inflow.
- The permittee shall quantify and document inflow and outflow and maintain the bypass flows for the life of the permit and subsequent certificate per the approved Bypass Plan. The bypass flow data shall be available upon request by the Oregon Water Resources Department, Oregon Department of Fish and Wildlife, Oregon Department of Environmental Quality, or Oregon Department of Agriculture.
- ☐ **fence:** The stream and its adjacent riparian area shall be fenced to exclude livestock.
- ☐ **fishapprove:** The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.
- ☐ **fishmay:** Notwithstanding that ODFW has made a determination that fish screens and/or by-pass devices are not necessary at the time of permit issuance, the permittee may be required in the future to install, maintain, and operate fish screening and by-pass devices to prevent fish from entering the proposed diversion and to provide adequate upstream and downstream passage for fish.
- ☐ **fishpass:** As required by ORS 509.585, a person owning or operating an artificial obstruction (AO) may not construct or maintain any AO across any waters of this state that are inhabited, or historically inhabited, by native migratory fish (NMF) without providing passage for NMF. A person owning or operating an AO shall, prior to construction, fundamental change in permit status or abandonment of the AO in any waters of this state, obtain a determination from ODFW as to whether NMF are or historically have been present in the waters. If ODFW determines that NMF are or historically have been present in the waters, the person owning or operating the AO shall either submit a proposal for fish passage to ODFW or apply for a waiver or exemption. Approval of the proposed fish-passage facility, waiver, or exemption must be obtained from the department prior to construction, permit modification or abandonment of the AO. Approved fish-passage plans, waivers, and exemptions shall maintain adequate passage of NMF at all times (ORS 509.601) as per the approved plan, waiver or exemption.
- ☐ **fishself:** The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional prior to diversion of any water. Permittee

Applicant Name: Underwood Living Trust ODFW Review

Review Date:

shall obtain written approval from ODFW that the installation of the required screen and by-pass devices meets the state's criteria or the permittee shall submit documentation that ODFW has determined screens and/or by-pass devices are not necessary.

- ☒ **Fish Stocking:** Per ORS 498.222 and OAR 635-007-0600, all persons transporting live fish in Oregon shall have a Fish Transport Permit (FTP) issued by the Oregon Department of Fish and Wildlife (ODFW). The permittee shall not stock fish in the reservoir without an FTP approved by ODFW. As part of the FTP permitting process, the permittee may be required to screen the inlet and outlet of the reservoir to ensure that fish cannot escape into public waters and/or to keep wild fish from entering the reservoir.
- ☐ **futile call:** The use of water allowed herein may be made only at times when waters from the (NAME OF SURFACE WATER) would not otherwise flow into a tributary of the type here River or sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.
- ☒ **In-Water Work:** Any in-water work related to construction, development, or maintenance of the proposed use shall be conducted during the preferred work period of July 15 – Aug. 31 unless an alternate time period is approved by the Oregon Department of Fish and Wildlife.
- ☒ **Live Flow:** Once the allocated volume has been stored, permittee shall pass all live flow downstream at a rate equal to inflow, using methods that protect instream water quality.
- ☐ **Off-Channel Stored Water Releases:** The permittee shall not release polluted water from this off-channel reservoir into waters of the state except when the release is directed by the State Engineer to prevent dam failure.
- ☒ **On-Channel Reservoir:** The permittee shall design and operate the water storage facility such that all waters within and below the reservoir meet water quality criteria. The permittee shall develop a reservoir operations plan that details how water quality criteria and standards will be met. A Certified Water Rights Examiner shall verify that the reservoir operations are consistent with the plan before a certificate is issued. The reservoir operator shall maintain a copy of the plan and make it available for review upon request.
- ☒ **riparian:** If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.
- ☒ **Water Quality:** All water use under this permit shall comply with state and federal water quality laws. The permittee shall not violate any state and federal water quality standards, shall not cause pollution of any waters of the state, and shall not place or cause to be placed any wastes in a location where such wastes are likely to escape or be carried into the waters of the state by any means. The use may be restricted if the quality of source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards.
- ☐ **wq:** The use may be restricted if the quality of the source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

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Clackamas County Official Records
Catherine McMullen, County Clerk

2023-029930

08/21/2023 09:48:07 AM

D-D Cnt=1 Str=4 MELISSA
\$15.00 \$16.00 \$10.00 \$62.00

\$103.00

After recording return to:

Myatt & Bell, P.C.
10300 SW Greenburg Rd., Ste. 500
Portland, OR 97223

Until a change is requested,

send tax statements to:

MICHELLE M. UNDERWOOD, Trustee

Warranty Deed

MICHELLE UNDERWOOD, "Grantor," hereby conveys and warrants to MICHELLE M. UNDERWOOD AND ROBERT F. UNDERWOOD, Trustees, or their successors in trust, under UNDERWOOD LIVING TRUST, DATED 08-08-23, and any amendments thereto, (Separate Property of Michelle M. Underwood) "Grantee," the following real property situated in Clackamas County, State of Oregon, free of encumbrances except for matters of public record:

SEE ATTACHED EXHIBIT A

SUBJECT TO covenants, conditions, restrictions and/or easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

The true and actual consideration paid for this conveyance is the mutual covenants contained in the Living Trust described above and the conveyance described herein which are for the purposes of estate planning and consist of value wholly other than cash. The Trust is for the Grantor's benefit.

The liability and obligations of the Grantor to Grantee and Grantee's heirs and assigns under the warranties and covenants contained herein or provided by law shall be limited to the extent of coverage that is provided to Grantor under any policy of title insurance insuring Grantor's interest in the above described property. The limitations contained herein expressly do not relieve Grantor of any liability or obligations under this instrument to the extent of coverage that is provided to Grantor under any policy of title insurance insuring Grantor's interest in the above described property.

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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, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. 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, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

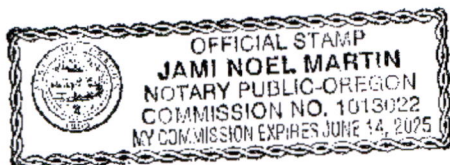
WITNESS the hand of said Grantor on this 8 day of Aug, 2023.

GRANTOR:

Michelle Underwood
MICHELLE UNDERWOOD

STATE OF OREGON)
)
COUNTY OF WASHINGTON) ss.

The forgoing instrument was acknowledged before me on this 8 day of Aug, 2023, by MICHELLE UNDERWOOD.



Jami Martin
Notary Public for Oregon
My commission expires: 06/14/25

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EXHIBIT "A"
LEGAL DESCRIPTION

PARCEL I:

The Northeast one-quarter of the Northwest one-quarter and the North one-half of the South one-half of the Northwest one-quarter of Section 20, Township 2 South, Range 4 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon.

PARCEL II:

An easement for ingress and egress purposes over and across a strip of land being 20.00 feet in width, 10.00 feet each side of, (when measured at right angles to), the following described centerline, said strip of land being situated in the East one-half of the Southeast one-quarter of the Southwest one-quarter of Section 17, Township 2 South, Range 4 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, said centerline being more particularly described as follows:

Commencing at a brass cap monument marking the Southeast corner of said legal subdivision; thence West, along the West line thereof, a distance of 30.00 feet to the point of beginning; thence North 10°00'00" East a distance of 45 feet, more or less, to a point in the Southerly right of way line of S.E. Tickle Creek Road, (a.k.a. Epperson & Kelly C.R.#118 and Epperson & Decker C.R. #356, 80 feet in width) and the point of terminus of the centerline of the easement herein described.

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T2S. R4E.W.M.



LEGEND:

- POD
- Unnamed Spring
- ▤ Proposed Place of Use

This map is not intended to provide legal dimensions or locations of property ownership lines.



0 200 400
Feet
1 INCH = 400 FEET

Alternate Reservoir Application Map

Underwood Living Trust
Clackamas County, Oregon



JAN-2024
PROJECT NO.
AS230619

AT
KAM / ---
REVISED AT
--- / ---

FIGURE NO.
1



Sarah Liljefelt
Of Counsel
sliljefelt@dunn-carney.com
Direct 503-306-5321

March 5, 2024

Via U.S. Mail

Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301

Re: Alternate Reservoir Application
Our File No.: UND5.2

To Whom It May Concern,

Enclosed on behalf of our client, Robert and Michelle Underwood, Trustees of the Underwood Living Trust dated August 8, 2023, please find the following application materials:

- Alternate Reservoir Process Application;
- Completed Watermaster Review Sheet;
- Completed ODFW Review Sheet;
- Completed Land Use Information Form;
- A Deed with Legal Description of the Property;
- Application Maps; and
- A Check made Payable to OWRD for the Application Fees.

Please let us know if anything further is needed to process this application.

Best regards,

A handwritten signature in blue ink, appearing to read "Sarah Liljefelt", written over a light blue horizontal line.

Sarah Liljefelt

SRL1:wms
Enclosures
CC: Client; Aspect Consulting

Received

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