



**SECTION 2: SOURCE OF WATER AND LOCATION OF RESERVOIR**

Reservoir name: Smith A Ranch #2  
 Source\*: Domestic/Ranch Tributary: Sugar Creek  
 County: Mohave  
 Quantity: 0.710 Acre-Ft [length x width x depth / 43,560]  
 Reservoir Location: Township (N or S) 23-SOUTH Range (E or W) 41-E Section 6 Quarter-Quarter SW1/4SW1/4 Tax Lot # 909  
 Maximum Height of Dam: 5 1/2 Ft High 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.  
IT IS AN UNNAMED RUN OFF WATER SOURCE AND SEEPAGE MAY SEEP OUT OF GROUND

**SECTION 3: WATER USE**

Indicate the proposed use(s) of the stored water: Irrigation - Storage - multipurpose use

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

**SECTION 4: PROPERTY OWNERSHIP**

- Do you own all the land where you propose to divert, transport, and use water?  
 Yes (please check appropriate box below then skip to section 5)  
 There are no encumbrances  
 This land is encumbered by easements, right of way, roads of way, roads or other encumbrances  
 No (Please check the appropriate box below)  
 I have a recorded easement or written authorization permitting access.  
 I do not currently have written authorization or easement permitting access.  
 Written authorization or an easement is not necessary, because the only affected lands I do not own are state-owned submersible lands, and this application is for irrigated and/or domestic use only (ORS 274.040). (Do not check this box if you described your use as "Multipurpose" in #3 above.)

List the names and mailing addresses of all affected landowners:

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 JUN 24 2024  
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**SECTION 5: ENVIRONMENTAL IMPACT**

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**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? 12 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.

**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: South Board	Address: 195 / 1st W
City: Homedale	State: Idaho
	Zip: 83628

**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.

5 1/2 ft High earth Dam with a  
 spillway for overflow with Bottom Headgate -  
 6"

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



# Watermaster Alternate Reservoir Application Review Sheet

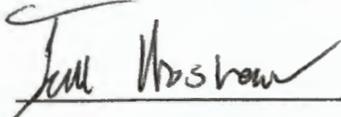
In lieu of the water right application process set forth in ORS 537.140 to 537.211, an owner of a reservoir may submit an alternate reservoir application for a reservoir that has a storage capacity less than 9.2 acre-feet or a dam or impoundment structure less than 10 feet in height. ORS 537.409 describes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

<b>Applicant's Name</b> Harold Bruning (Reservoir Name: Smiley A Ranch #2)		
1. Does the proposed reservoir have the potential to injure existing water rights? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
Explain: Reservoir location is within boundaries of Ridgeview Irrigation District. To my knowledge, the district maintains control of this drainage/runoff water and can re-divert to serve other downstream users under Certificate 81012 during the irrigation season (April 1 - October 15)		
2. Can conditions be applied to mitigate the potential injury to existing water rights? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
Explain: 1.) Require a headgate and reservoir staff gauge. 2.) Only allow storage outside irrigation season. 3.) Applicant shall monitor reservoir level (staff gauge) during irrigation season and adjust headgate (outflow) to insure no new storage takes place during this period.		
3. Is water available for the proposed reservoir? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
4. If yes, during what period? Beginning: October 15      End: April 1		
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 690-4.10-0070(2)(c))		
5. Did you meet with staff from another agency to discuss this application? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
Name:	Agency:	Date:
Name:	Agency:	Date:

Watermaster Name: Jered Hoshaw, District 9

Watermaster Signature:  Date: July 31, 2023

NOTE: This completed form must be returned to the applicant

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# Land Use Information Form



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

## 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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# Land Use Information Form



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

**Received**  
**JUN 24 2024**

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**Applicant**

NAME <i>Harold W. Bruning</i>		PHONE (HM) <i>208-402-3380</i>
PHONE (WK)	CELL <i>Same</i>	FAX
ADDRESS <i>1030 Desert Glen Rd.</i>		
CITY <i>ADRIAN</i>	STATE <i>OR.</i>	ZIP <i>97901</i>
E-MAIL* <i>Harold.Bruning@Gmail.com</i>		

**A. Land and Location**

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

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:			Proposed Land Use:
<i>23S</i>	<i>42E</i>	<i>6</i>	<i>SE / SW</i>	<i>202</i>		<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	<i>Irrigation Stock</i>
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	

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

**B. Description of Proposed Use**

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

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

Source of water:  Reservoir/Pond  Groundwater  Surface Water (name) \_\_\_\_\_

Estimated quantity of water needed: \_\_\_\_\_  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 *Free*

Briefly describe:

*Small Pond for Pump Irrigation #2*

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

## For Local Government Use Only

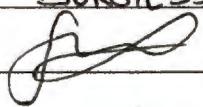
The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land-use plan. Do not include approval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

**Please check the appropriate box below and provide the requested information**

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

Type of Land-Use Approval Needed (e.g., plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
	<b>Received</b>	<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
	<b>JUN 24 2024</b>	<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
	<b>OWRD</b>	<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.

Name: TATIANA BURGESS Title: PLANNING MANAGER  
 Signature:  Phone: 541-473-5185 Date: 7-20-23  
 Government Entity: MALHEUR CO PLANNING & ZONING 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: \_\_\_\_\_

**FW: Legal Description**

2 messages

**Mike Malmberg** <mike.malmberg@amerititle.com>  
To: "Debbiebruning8@gmail.com" <Debbiebruning8@gmail.com>  
Cc: Ashlee Hamilton <Ashlee.Hamilton@amerititle.com>

Thu, Mar 21, 2024 at 9:57 AM

Ok, so you and Harold owned this parcel, then you partitioned it into 3 parcels.

You sold off two of the parcels. I have attached the Partition Plat and the 2 parcels sold.

So that leaves your legal description as:

Land in Malheur County, Oregon, as follows:

In Twp. 23 S., R. 47 E., W.M.:

Sec. 6: Parcel No. 3 of Partition Plat No. 20-09, recorded May 20, 2020, Instrument No. 2020-1776, Official Records of Malheur County, Oregon.

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JUN 24 2024

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**Michael Malmberg | Title Manager / Officer**  
**AmeriTitle, LLC**

81 S. Oregon Street | Ontario, OR | 97914

541-889-6451 Direct | 541-889-4161 Fax

mike.malmberg@amerititle.com | www.amerititle.com

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**CERTIFID**

P.1, P.2, P.3 P.P. 2020-09

234700, 200/270, 271 (2)

Tab B slide 113



# RECORD OF SURVEY PARTITION PLAT NO. 20-09

THE W1/2 SW1/4, GOVERNMENT LOT 3 AND GOVERNMENT LOT 4  
OF SECTION 6, T. 23 S., R. 47 E., W.M.,  
MALHEUR COUNTY, OREGON, 2020

ROAD ACCEPTANCE:  
I HEREBY ACCEPT ON BEHALF  
OF THE PUBLIC OFFERED DEDICATIONS  
OF LAND FOR PUBLIC ROAD PURPOSES  
Dan P. Joyce  
MALHEUR COUNTY COMMISSIONER  
Judge

**SURVEYOR'S NARRATIVE:**  
This survey was made at the request of Harold and Debbie Bruning for a Partition Plat of their parcel along the Oregon-Idaho Border. Said survey is intended to create 3 parcels for the purpose of land distribution on the part of the owners. Warranty Deed 2006-4650, Record of Survey No. 23-47-0003 and Oregon GLO Plat, Township 23 South Range 47 East, along with a field survey of the area were used in the creation of this plat.  
Basis of Bearing in the West line of the SW 1/4 of Section 6, T. 23 S., R. 47 E., as shown on Record of Survey No. 23-47-0003 and retraced via field survey for this plat. The 2000 Record of Survey No. 23-47-0003 was retraced for Boundary data and existing Monumentation (Consisting of Found Aluminum and Brass caps) were found to confirm said Boundary. Set 5/8" pins were placed to mark the definition between the new parcels. Occupation lines fit reasonably well with the found monuments.

**DECLARATION & DEDICATION**  
State of Oregon  
County of Malheur } ss  
Know all men by these presents:  
That Harold & Debbie Bruning, owner of the lands as shown and described on this Plat, and have caused the same to be partitioned and surveyed in accordance with Oregon Revised Statute, Chapter 92.  
We hereby dedicate to the public for road purposes the Right-of-ways as shown hereon.

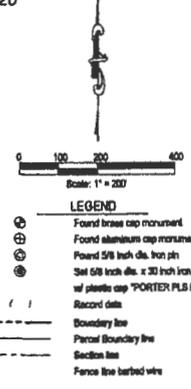
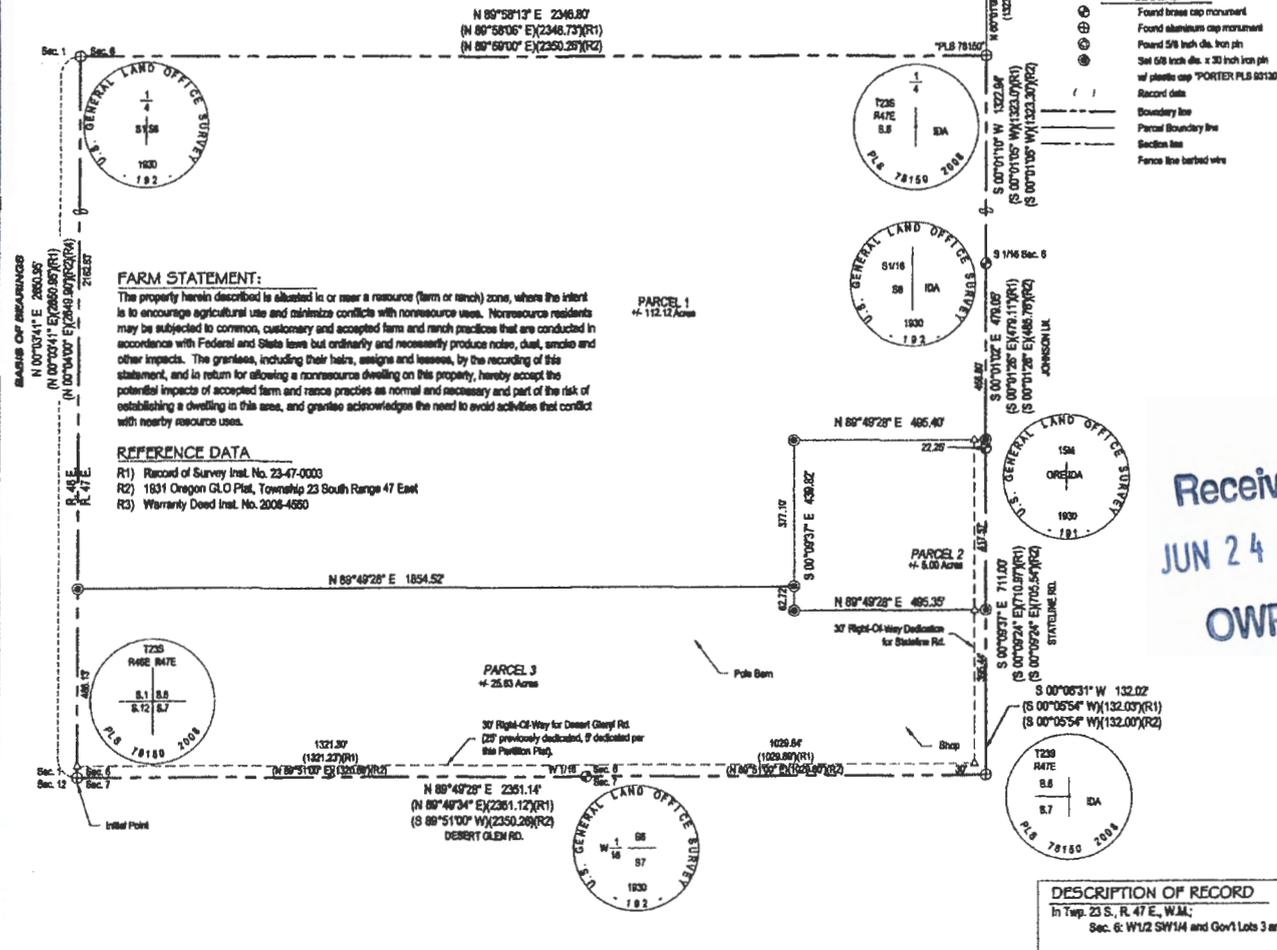
Harold Bruning  
Owner  
Debbie Bruning  
Owner

**ACKNOWLEDGMENT**  
STATE OF OREGON } SS  
COUNTY OF MALHEUR }  
On this 14 day of May, in the year 2020, before me, Harold Bruning and Debbie Bruning, personally appeared, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

In witness whereof, I have hereunto set my hand and notarial seal the day last above written.  
Notary Public for Idaho  
Residing at McAdida, ID  
Commission expires 07/10/2023

**SURVEYOR'S NOTE:**  
1) This Record of Survey was prepared at the request of Harold & Debbie Bruning. The recording of this Record of Survey does not enable the owners of the property shown to convey ownership based solely on this map. A written conveyance of the new parcels must accompany such transfer in ownership. This Record of Survey does not serve as a legal description for the property shown hereon.  
2) This drawing does not necessarily show all of the physical features of the property. Compass Land Surveying P.L.L.C. assumes no liability for present or future compliance or non-compliance with governing jurisdictions restrictions as it pertains to building permits, vehicle access permits or septic permits.  
3) The bold graphic lines shown hereon as "boundary lines" depict the field location of the records contained in the record description, recorded as Warranty Deed Inst. No. 2006-4650, records of Malheur County, Oregon.

**CERTIFICATE OF SURVEYOR**  
I, Alex Porter, a Registered Professional Land Surveyor hereby certify that this survey was made by me or under my direct supervision, that the boundary corners are marked as shown and in conformity with the Laws of the State of Oregon. This map is a true and accurate representation of said survey. Survey completed on 5/13/2020.



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**PARTITION PLAT NO. 20-09**  
MALHEUR COUNTY, OR 2020-1776  
PARTITION PL. 06/20/2020 10:10 AM  
Cdn# 1 Est# Total \$112.00  
000622102000001776001011  
I, Alex V. Trotter, County Clerk for Malheur County, Oregon, hereby certify that the Partition Plat described hereon is recorded in the Clerk's records.  
Gayle V. Trotter - County Clerk

PARTITION APPROVALS OF PLANNER, ASSESSOR, & SURVEYOR		MALHEUR COUNTY SURVEYOR	
County Surveyor	Approval Date	Received	2/26/2020
County Planner	Approval Date	Filed	5/20/2020
County Assessor	Approval Date	Survey No.	23-47-0004
		Orig No.	B-01758

**RECORD OF SURVEY FOR:**  
HAROLD & DEBBIE BRUNING  
COMPASS LAND SURVEYING, PLLC  
623 11th Avenue South Nampa, ID 83651  
Office: (208) 443-0115 Fax: (208) 327-2108  
SHEET NO. 1 OF 1 JOB NO. 8918 ORIG NO. 8918R06 SCALE 1"=200' DRAWN BY: ANW DATE: 02/25/2020 REC: A

2020

JULY 1, 2022 TO JUNE 30, 2023 REAL  
 MALHEUR COUNTY  
 251 B ST W, STE #14  
 VALE, OR 97918

PROPERTY TAX STATEMENT ACCT NO: 20806  
 PROPERTY ADDRESS:  
 1030 DESERT GLEN RD LOAN INFO:  
 ADRIAN

**LAST YEAR'S TAX** 2,714.84  
 See back for explanation of taxes marked with (\*)

PROP CLASS: 471  
 CODE: 36 ACRES: 23.76  
 MAP: 23S4706 202

BRUNING, HAROLD & DEBBIE  
 1030 DESERT GLEN RD  
 ADRIAN, OR 97901

VALUES:	LAST YEAR	THIS YEAR
REAL MARKET (RMV)		
LAND	112,150	185,920
STRUCTURES	337,320	651,050
LESS EXEMP		
TOTAL VALUE	449,470	836,970
ASSESSED	251,761	470,497
<b>NET TAXABLE:</b>	251,761	470,497

SCH DIST #61	1,760.79
MAL ESD	144.77
T V C C	575.65
EDUCATION TOTAL:	2,481.21
COUNTY GENRL	1,214.96
VECTOR CNTRL	94.10
MAL AG DIST	108.21
OWYHEE CEM	56.84
ADRIAN RFPD	174.04
GENERAL GOVT TOTAL:	1,648.15
SC DST 61 BD	626.80
CO JAIL BD	
ADR FIRE BD	
BONDS - OTHER TOTAL:	626.80
TOTAL 2022-2023 TAX	4,756.16

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If a mortgage company pays your taxes,  
 This statement is for your records only.

Full Payment with 3% Discount	2/3 Payment with 2% Discount	1/3 Payment No Discount	TOTAL TAX (After Discount)
4,613.48	3,107.35	1,585.39	4,613.48

# ODFW Alternate Reservoir Application Review Sheet

**This portion to be completed by the applicant.**

Applicant Name: Harold Bruning

Address: 1030 Desert Glen Rd. Adrian Or. 97901

Phone/Email: 208-402-3666

Reservoir Name: #2

Source: Drainage/Runoff

Basin Name: Succor Creek

Twp Rng Sec QQ: 23S 47E 6 SWSW

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Volume (AF): .790

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) staff.**

1) Is the proposed project and AO<sup>1</sup> 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 NMF<sup>2</sup> 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 type here through type here poses a significant detrimental impact to existing fishery resources. (For example, if diversion of water for storage

<sup>1</sup> 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)

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

Applicant Name: Harold Bruning

ODFW Review

Review Date: 6/13/2024

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.

Based on a site visit to the area and assessment of the National Hydrography Dataset, ODFW has determined that the proposed pond is disconnected from Succor Creek which flows into Idaho downstream from the property. Therefore, no fish are present at the POD. Redband presence in Succor Creek is also unlikely in Oregon based on degraded habitat conditions observed by the district fish biologist.

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

describe Mitigation Obligation here, if applicable

Janna  
Stevens

Digitally signed  
by Janna Stevens  
Date: 2024.06.13  
15:38:15 -07'00'

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

Print Name: Janna Stevens

ODFW Title: Water Planning Coordinator

Date: 6/13/2024

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

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

**MENU OF CONDITIONS FOR WRD, ODFW, DEQ AND ODA**

Revised May 12, 2020, March 25, 2021

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

- Agricultural Water Quality Management Area Rules:** The permittee shall comply with basin-specific Agricultural Water Quality Management Area Rules described in Oregon Administrative Rule Chapter 603-095. The permittee shall protect riparian areas, including through irrigation practices and the management of any livestock, allowing site capable vegetation to establish and grow along streams, while providing the following functions: shade (on perennial and some intermittent streams), bank stability, and infiltration or filtration of overland runoff.
- b52** Water may be diverted only when Department of Environmental Quality sediment standards are being met.
- b5** The water user shall install and maintain adequate treatment facilities meeting current DEQ requirements to remove sediment before returning the water to the stream.
- b51a** The period of use has been limited to January - December.
- 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

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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 type here unless an alternate time period is approved by the Oregon Department of Fish and Wildlife.
- Live Flow:** Once the allocated volume has been stored, permittee shall pass all live flow downstream at a rate equal to inflow, using methods that protect instream water quality.
- Off-Channel Stored Water Releases:** The permittee shall not release polluted water from this off-channel reservoir into waters of the state except when the release is directed by the State Engineer to prevent dam failure.
- On-Channel Reservoir:** The permittee shall design and operate the water storage facility such that all waters within and below the reservoir meet water quality criteria. The permittee shall develop a reservoir operations plan that details how water quality criteria and standards will be met. A Certified Water Rights Examiner shall verify that the reservoir operations are consistent with the plan before a certificate is issued. The reservoir operator shall maintain a copy of the plan and make it available for review upon request.
- riparian:** If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.
- Water Quality:** All water use under this permit shall comply with state and federal water quality laws. The permittee shall not violate any state and federal water quality standards, shall not cause pollution of any waters of the state, and shall not place or cause to be placed any wastes in a location where such wastes are likely to escape or be carried into the waters of the state by any means. The use may be restricted if the quality of source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards.
- 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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# Oregon

Tina Kotek, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

February 27, 2024

Harold Bruning  
1030 Desert Glen Rd  
Adrian, OR 97901

**Re: Application for a Permit to Store Water in a Reservoir (Alternate Review): Pond 2**

Dear Applicant:

The Oregon Water Resources Department recently received your application for a permit to store water in a reservoir. At this time, however, we are unable to accept your application because the minimum filing requirements have not been met according to the Oregon Administrative Rules 690-310-0040 and 690-310-0050.

The Department is returning the incomplete application and fees. You may re-submit the application with the required information and fees noted on the reverse side of this letter.

Should you have any questions, please contact Water Right Customer Service at 503-986-0801 or 503-986-0810.

Sincerely,

Nick Reece  
Water Rights Customer Service

cc:  
OWRD Fiscal Check (#497)

Enclosures: Application and check.

*This review is based only on the completeness of your application(s). Any determination of water availability, compliance with basin program rules, or any other water-related issues has not been made. Fees are subject to change.*

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FEB 05 2024

ODFW Alternate Reservoir Application Review Sheet

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This portion to be completed by the Applicant					OWRD	
Applicant Harold W. Berman			Phone No. 208-402-3666		Email Harold.Berman@owrd.com	
Address 1030 Deserter			City ADRIAN	State OR	Zip 97901	
Reservoir Name: <u>Snikw A</u>		Source: <u>Drainage / Runoff</u>		Volume (AF): <u>0.99 Acres Ft</u>		
Township (N or S)	Range (E or W)	Section	Quarter/ Quarter	Basin Name:		<input checked="" type="checkbox"/> in-channel <input type="checkbox"/> off-channel
<u>835</u>	<u>47 E</u>	<u>6</u>	<u>S1/4 - S1/4</u>	<u>Outer</u>		<u>owytce</u>

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

1) Is the proposed project and AO<sup>1</sup> 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 NMF<sup>2</sup> 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 \_\_\_\_\_ through \_\_\_\_\_ 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.

If YES, can conditions be applied to mitigate the significant detrimental impact to an existing fishery resource?  
 YES (Select from Menu of Conditions on next page)  NO (explain)

ODFW Signature: \_\_\_\_\_ Printed Name:

ODFW Title: \_\_\_\_\_ Date:

NOTE: This completed form must be returned to the applicant

<sup>1</sup> 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)

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

**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:** 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.

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**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.

**bly:** 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.