

- Plans & Specs are Not needed. Proceed
w/ Technical Review. 7-13-93

Basin
17

[Handwritten mark]

Form A (690-9-77)

Application No. R-73400

NOTICE OF BEGINNING OF CONSTRUCTION

I, Peart Enterprises, Inc., the holder of Permit No. R-11771,
to appropriate the public waters of the state of Oregon, began the actual construction of the works described
therein on the 1ST day of April, 1997.

Remarks: Purchased Conduit Pipe, Cleared Land for w.s. construction
And Began preparation of dam base. Work completed on
Sites for Reservoir #1 & Reservoir #2.
The appropriator must state the manner of beginning of construction, the amount of work completed and the type of equipment
acquired for the water system up to the date of this statement, and any additional information which shows a substantial beginning of construction
authorized by your permit.

IN WITNESS WHEREOF, I have hereunto set my hand this 18 day of November, 1997
Michael W. Peart
(Signature of Applicant) HC 84 Box ST 76 MYRTLE POINT, ORE 97458
(Address)

Fill out, detach and mail to the Water Resources Department, Salem, OR 97310, when construction work is begun.

SP*35567-690

WATER RESOURCES DEPT.
SALEM, OREGON

NOV 20 1997

RECEIVED

OK
DSM

Change of address to

Pearl Enterprises Inc
Rt 2 Box 1900
Bandon, OR

97411

Appl. L-13413; R-73400; 73401

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DEC 09 1998

WATER RESOURCES DEPT.
SALEM, OREGON



WESTERN BANK

A DIVISION OF WASHINGTON MUTUAL • FDIC INSURED

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number R-73400

Final Order
Extension of Time for Permit Number R-11771

Application History

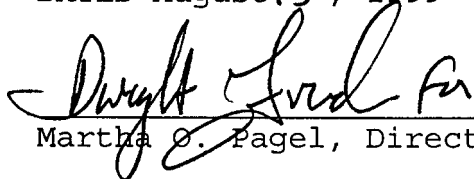
On December 9, 1998, Peart Enterprises Inc. submitted an application to the Department for an extension of time for permit number R-11771. The Department issued Permit number R-11771 on June 19, 1996. The permit called for completion of construction of the water development project by October 1, 1998 and complete application of water to the full beneficial use by October 1, 1999. In accordance with OAR 690-320-0010(8), on April 27, 1999, the Department issued a Proposed Final Order proposing to extend the time to complete development of the water development project to October 1, 2001, and the time to fully apply water to beneficial use to October 1, 2002. The protest period closed June 11, 1999. No protest was filed.

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.230, 537.248, 537.630 and 539.010(5).

Order

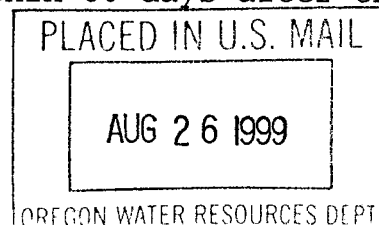
The extension of time for Application R-73400, Permit Number R-11771, therefore, is approved. The deadline for completing construction is extended to October 1, 2001. The deadline for applying water to full beneficial use is extended to October 1, 2002.

DATED August 13, 1999


Martha O. Pagel, Director

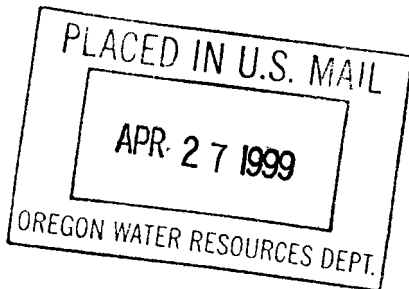
Appeal Rights

Under the provisions of ORS 536.075, the applicant may appeal this order by filing a petition for review in the Circuit Court for Marion County or the circuit court for the county in which the applicant resides or has a principal business office. The petition for review must be filed within 60 days after the date this order is served. ORS 183.484



db ✓
copies ✓

**Oregon Water Resources Department
Water Rights Division**



Water Right Permit Extension Application
for Permit Number R-11771

Water Right Application Number R-73400

Proposed Final Order

This Proposed Final Order applies only to permit number R-11771.

Summary of Recommendation

The Department proposes to:

grant the extension for complete construction of the water system from October 1, 1998 to October 1, 2001, and

grant the extension for complete application of water from October 1, 1999 to October 1, 2002.

Application History

Permit no. R-11771 was granted by the Water Resources Department on June 19, 1996. The permit authorizes storage of 19.5 AF of water from Tributaries of Sevenmile Creek for Cranberry Use in the Coquille River basin. It specified that construction must be completed by October 1, 1998, and water applied to full beneficial use by October 1, 1999. A copy of permit no. R-11771 is attached.

On December 9, 1998, the Department received an application from Peart Enterprises Inc. for an extension of time to complete construction and to apply water to full beneficial use. The applicant has requested until October 1, 2001 to complete construction of the water system and until October 1, 2002 to apply water to full beneficial use. This is the first permit extension request.

Findings of Fact

ORS 537.230(2) and 537.630 (1) allows the Department to grant an extension of time to perfect a water right for good cause. In evaluating good cause, the Department has considered the written record in the permit application file in relation to the requirements of ORS 537.230(2), ORS 537.630 (1) and ORS 539.010(5) and makes the following findings:

1. The applicant is legally entitled to apply for an extension on this permit.
2. The applicant has submitted a completed permit extension form and the required fee.
3. The water project development made to date has been accomplished in accordance with the terms and conditions contained in the permit.
4. Progress in perfecting the permit was slowed by: abnormally wet weather; renovation to existing fields was necessary, which was unplanned; material for the new bogs(sand and clay) had to be brought in from off site, which was time consuming and costly; and income from timber sales was not as high as planned, making the money projected to be available for the project unavailable.
5. The applicant has pursued perfection of the right in good faith and with reasonable diligence.
 - a) Work on the water development project completed to date includes reconstruction of dikes on existing bogs, construction of 4.5 acres of new cranberry fields, storage of 60-70% of the water necessary for use.
 - b) The applicant has invested approximately \$ 110,000 of an estimated total water system project cost of \$ 260,000.
 - c) The work to be completed consists of the remaining construction of the reservoirs and delivery system and complete application of water.
6. Based on the written record, the Department finds there is good cause to approve the extension request. The applicant has pursued perfection of the right in good faith and with reasonable diligence. Perfection of the permit has been delayed by the size and scope of the project, weather, economic reasons, and the types of soils necessary to construct the bogs and reservoirs.
7. Due to the reasons outlined above in item 4 and the water development progress to date, the Department finds that the length of time requested for completion of construction should be extended to October 1, 2001 and the length of time requested for completion of the application of water should be extended to October 1, 2002 as requested by the applicant.

Conclusions of Law

1. The applicant is entitled to apply for an extension of time to complete construction and/or completely apply water to the full beneficial use pursuant to ORS 537.230, and ORS 537.630.
2. The applicant has submitted an extension application form and the fee required by ORS 536.050(1)(L).
3. The applicant has pursued perfection of the right in good faith and prosecuted construction with reasonable diligence.
4. The applicant has shown good cause for the untimely completion of the water development project and complete application of water to full beneficial use pursuant to ORS 537.230(2), and ORS 537.630 (1).
5. The permit extension should be approved until October 1, 2001 to complete construction and until October 1, 2002 to complete the application of water.

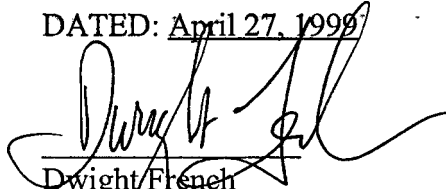
Recommendation

The Department proposes to issue an order to:

extend the permit time to complete construction from October 1, 1998 to October 1, 2001 and

extend the permit time to complete application of water from October 1, 1999 to October 1, 2002.

DATED: April 27, 1999


Dwight French
Water Rights Section Manager

*If you have any questions,
please check the information
box on the last page for the
appropriate names and
phone numbers.*

Protest Rights and Comments

1. Under the provisions of OAR 690-320-0010(8) you have the right to protest this proposed final order. Your protest must be in writing and must include the following:
 - a) Your name, address and telephone number;
 - b) Your interest in this proposed final order, and if you claim to represent the public interest, a precise statement of the public interest represented;
 - c) A detailed description of how the action in the proposed final order would impair or be detrimental to your interest;
 - d) A detailed description of how the proposed final order is in error or deficient and how to correct the alleged error or deficiency;
 - e) Any citation of legal authority supporting your protest, if known; and
 - f) If you are not the applicant, the \$25 protest fee required under ORS 536.050 (1)(j).
2. Each person submitting a protest shall raise all reasonably ascertainable issues and all reasonably available arguments supporting the person's position by the close of the comment period.
3. The Water Resources Department must receive written protests or written comments no later than **June 11, 1999**.
4. After the close of the comment and protest period, the Director will either issue a final order, or schedule a contested case hearing if the Director finds there are significant disputes related to the use of water.

This document was prepared by Russell W. Klassen. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me toll free within Oregon at 1-800-624-3199 extension 272. Outside of Oregon you can dial 1-503-378-8455.

If you have questions about how to file a protest or if you have previously filed a protest and want to know the status, please contact Adam Sussman. His extension number is 262.

If you have other questions about the Department or any of its programs please contact our Water Rights Information Group at extension 499.

STATE OF OREGON

COUNTY OF COOS

PERMIT TO STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

PEART ENTERPRISES, INC.

HC 84 BOX ST 76

MYRTLE POINT, OREGON 97458

(541) 572-5030

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

APPLICATION FILE NUMBER: R-73400

SOURCE OF WATER: TRIBUTARIES OF SEVENMILE CREEK

STORAGE FACILITY: THREE UNNAMED RESERVOIRS

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER APPLICATION S-73401, PERMIT 52164, FOR CRANBERRY USE ON 9.55 ACRES.

VOLUME OF USE: 19.5 ACRE-FEET (AF); BEING 5.0 AF EACH IN RESERVOIR 1 AND RESERVOIR 2; 9.5 AF IN RESERVOIR 3

PERIOD OF ALLOWED USE: WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD DECEMBER 1 THROUGH APRIL 30

DATE OF PRIORITY: MAY 17, 1993

The area submerged by Reservoir 1, when full, will be 0.5 acre and the maximum depth of water will be 11.0 feet. The maximum height of the dam shall not exceed 9.5 feet.

The area submerged by Reservoir 2, when full, will be 0.6 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 9.5 feet.

The area submerged by Reservoir 3, when full, will be 1.0 acre and the maximum depth of water will be 12.0 feet. The maximum height of the berm around the excavated reservoir shall not exceed 4.0 feet.

DAM LOCATION: NW 1/4 NE 1/4, SECTION 3, T28S, R14W, W.M.; RESERVOIR 1 - 2800 FEET NORTH AND 3750 FEET EAST; RESERVOIR 2 - 2350 FEET NORTH AND 3545 FEET EAST; RESERVOIR 3 - 1790 FEET NORTH AND 3650 FEET, ALL FROM THE W 1/4 CORNER OF SECTION 3

THE AREA TO BE SUBMERGED BY THE RESERVOIRS ARE LOCATED AS FOLLOWS:

NW 1/4 NE 1/4
SECTION 3
TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
- C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

Use under this permit is limited to the reservoir area. This permit does not provide for the appropriation of water for maintaining the water level or maintaining a suitable fresh water condition.

In the event of a request for a change in point of appropriation, an additional point of appropriation or alteration of the appropriation facility associated with this authorized diversion, the quantity of water allowed herein, together with any other right, shall not exceed the capacity of the facility at the time of perfection of this right.

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, I or M. Additionally, before water use may begin under this permit, if the reservoir is located in channel then weirs 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 judgement the installation of the weir(s) will provide no public benefit.

STANDARD CONDITIONS

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

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

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Actual construction work shall begin within one year from permit issuance and shall be completed on or before October 1, 1998. The reservoir shall be filled and complete application of the water to the use shall be made on or before October 1, 1999.

Issued June 19, 1996


for Martha O. Page, Director
Water Resources Department

DEC 09 1998

APPLICATION FOR EXTENSION OF TIME

WATER RESOURCES DEPT.
SALEM, OREGON

TO THE WATER RESOURCES DIRECTOR OF OREGON

I, Pearl Enterprises, Inc.

		NAME					
<u>Route 2, Box 1900</u>	<u>Bandon</u>	<u>Oregon</u>	<u>97411</u>	<u>(541)</u>	<u>347-1345</u>		
ADDRESS	CITY	STATE	ZIP	PHONE			

record owner of application No. R-73400 permit No. R-11771, do hereby request that the time in which to:

☐ complete the construction of works and/or purchase and installation of the equipment necessary to the use of water, which time now expires on October 1, 1998, be extended to October 1, 2001, and/or the time in which to

☐ accomplish beneficial use of water to the full extent under the terms of the permit, which time, now expires on October 1, 1999, be extended to October 1, 2002.

The extension of time requested should be long enough to finish the project. Should this request be approved, it will be the Department's expectation that you will complete your project within the new time period allowed. Future extensions may not be granted.

1-Did water system construction/well drilling begin within the time specified in the permit [yes/no]? Yes

2-Have you put any water to use under this permit [yes/no]? Yes
If yes, has that use been made consistent with the terms and conditions of the permit [yes/no]? Yes If no, please explain.
Which terms and/or conditions have not been completely fulfilled at this time. _____

3-I have accomplished the following described works, purchases and installation of equipment necessary to the use of water under said permit.

(a) within past year Rebuilt dikes on existing bogs, renovated 1.75 acres on supplemental acreage, imported sand for construction and continued construction on dam. (had to import additional clay).

(b) prior to this past year Built and planted 4.5 acres of new cranberry fields, constructed one well and sumpwell and initiated reservoir construction (we are storing 60-70% of what we need).

7-15 6 000

and have accomplished beneficial use of water to the extent of
(amount of water used or acres irrigated) _____

Irrigated supplemental acreage (9.55 acres) new acreage (4.5 acres).

4-Cost of project to date \$110,000. Projected cost for
completion of project \$100,000 - \$150,000.

5-Have there been any unforeseen events which delayed development
of water system? We have had limited construction seasons the last two years because
of weather. We had to do unplanned renovation to existing fields. We had to
import material for construction and the timber price dropped.

6-Have there been any significant government requirements that
have delayed the completion of construction or application of
water ? [please explain] No

7-What reasons was the project not completed within permit time
limits ? See No. 5. Mainly because of weather conditions, importing materials
(adds to cost and time of construction) and we did not get income planned from
timber sales.

8-Has there been any change in the demand for water or power
since permit was issued? (please explain) No

9-Has there been any change in the market for water or power
since the permit was issued? (please explain) No

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WATER RESOURCES DEPT.
SALEM, OREGON

10-Will the income or use from this project provide reasonable returns against the investment in this project? (please explain)

Yes - when complete the farm will support two families. Current acreage not sufficient to support two families. However, at full development, our acreage will support two families.

11-If the extension request is denied, is the current level of water use economically feasible? (please explain)

No. The current level will support one family but not two.

12-Is there an alternative source of water available [yes/no please explain]? No. We are using ground water and reservoirs for the use. There are no alternatives.

13-Has the use of water under the permit caused an adverse impact on the surface/groundwater resource in the area ? (please explain)

Not in our opinion. Our seasonal creek is dry in the summer and the reservoir fills during the first good rainfall event. The ground water development has not shown any impact on the surface water in this area.

All items must be completed or the application will be returned. Please feel free to provide the Department with any additional information you might have that would aid us in making our decision. Please use an additional sheet of paper, if needed.

I am the permittee or have authorization from the permittee to apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for the Department to suspend processing of the request and/or reason to deny the extension.

Signature

Michael W. Peart

MAIL COMPLETED APPLICATION TO:
WATER RIGHT PERMIT EXTENSIONS
WATER RESOURCES
158 12TH ST NE
SALEM, OREGON 97310

December 2, 1998

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**WATER RESOURCES DEPT.
SALEM, OREGON**

Dallas Miller
Oregon Water Resources Department
158 12th Street, NE
Salem, Oregon 97310

Re: Extension of time for Permits G 12100, S 52164 and R 11771

Dear Mr. Miller

Enclosed find a check for \$300.00 to cover the cost of requesting extensions of time on the three permits noted above. The forms are similar as this is one family project covered by three permits.

We are requesting extensions of time so all three permits will be complete by the year 2002 and we can do the final proof survey by October, 2003. We have had some unanticipated problems which has caused some delays. There are four reasons for our request:

1. We had to import material because our ownership did not have suitable construction material for our project.
2. In our area, the normal construction season is June through September. The last two years, June has been wetter than normal and we did not accomplish as much as planned.
3. We had to do unplanned repairs and renovations to our existing acreage.
4. The timber price for chips dropped from \$70/ton to \$30/ton which diminished considerably the monies we had available to do the work.

We are a small operation and have most the work contracted. For example, the dam construction was more than anticipated because we had to haul material for construction from a site 6 miles from our ownership.

If you have any questions, please contact us.

Yours truly,



Michael Peart

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number R-73400

Final Order

Application History

On May 17, 1993, PEART ENTERPRISES, INC. submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on November 7, 1995. The protest period closed December 22, 1995, and no protest was filed.

An interagency team reviewed this proposed use for potential adverse impacts on declining fish populations. This team consisted of representatives from the Oregon Departments of Water Resources (WRD), Environmental Quality, Fish and Wildlife (DFW), and Agriculture. WRD and DFW representatives included both technical and field staff. The interagency team recommended that additional limitations or conditions of use be imposed on this application as follows:

The period of use to appropriate water for storage has been limited to DECEMBER 1 through APRIL 30.

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, I or M. Additionally, before water use may begin under this permit, if the reservoir is located in channel then weirs 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 judgement the installation of the weir(s) will provide no public benefit.

The proposed use would not impair or be detrimental to the public interest, but the Department's continuing evaluation reveals that the Proposed Final Order requires modification to include the condition(s) described above.

Order

Application R-73400 therefore is approved with the above modifications to the Proposed Final Order, and Permit Number R-11771 is issued as limited by the conditions set forth in the permit.

DATED June 19, 1996


for Martha O. Pagel
Director

Hearing and Appeal Rights

Under the provisions of ORS 537.170, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 527.153(6) to the Department within 14 days after this order is issued. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the above modifications to the proposed final order may be addressed.

Under the provisions of ORS 183.484, the applicant or any person having standing may appeal this order by filing a petition for review in the Circuit Court for Marion County or the circuit court for the county in which the applicant resides or has a principal business office. The petition for review must be filed within 60 days after the date this order is served.

STATE OF OREGON

COUNTY OF COOS

PERMIT TO STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

PEART ENTERPRISES, INC.

HC 84 BOX ST 76

MYRTLE POINT, OREGON 97458

(541) 572-5030

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

APPLICATION FILE NUMBER: R-73400

SOURCE OF WATER: TRIBUTARIES OF SEVENMILE CREEK

STORAGE FACILITY: THREE UNNAMED RESERVOIRS

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER APPLICATION S-73401, PERMIT 52164, FOR CRANBERRY USE ON 9.55 ACRES.

VOLUME OF USE: 19.5 ACRE-FEET (AF); BEING 5.0 AF EACH IN RESERVOIR 1 AND RESERVOIR 2; 9.5 AF IN RESERVOIR 3

PERIOD OF ALLOWED USE: WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD DECEMBER 1 THROUGH APRIL 30

DATE OF PRIORITY: MAY 17, 1993

The area submerged by Reservoir 1, when full, will be 0.5 acre and the maximum depth of water will be 11.0 feet. The maximum height of the dam shall not exceed 9.5 feet.

The area submerged by Reservoir 2, when full, will be 0.6 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 9.5 feet.

The area submerged by Reservoir 3, when full, will be 1.0 acre and the maximum depth of water will be 12.0 feet. The maximum height of the berm around the excavated reservoir shall not exceed 4.0 feet.

DAM LOCATION: NW 1/4 NE 1/4, SECTION 3, T28S, R14W, W.M.; RESERVOIR 1 - 2800 FEET NORTH AND 3750 FEET EAST; RESERVOIR 2 - 2350 FEET NORTH AND 3545 FEET EAST; RESERVOIR 3 - 1790 FEET NORTH AND 3650 FEET, ALL FROM THE W 1/4 CORNER OF SECTION 3.

THE AREA TO BE SUBMERGED BY THE RESERVOIRS ARE LOCATED AS FOLLOWS:

NW 1/4 NE 1/4
SECTION 3
TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
- C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

Use under this permit is limited to the reservoir area. This permit does not provide for the appropriation of water for maintaining the water level or maintaining a suitable fresh water condition.

In the event of a request for a change in point of appropriation, an additional point of appropriation or alteration of the appropriation facility associated with this authorized diversion, the quantity of water allowed herein, together with any other right, shall not exceed the capacity of the facility at the time of perfection of this right.

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, I or M. Additionally, before water use may begin under this permit, if the reservoir is located in channel then weirs 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 judgement the installation of the weir(s) will provide no public benefit.

STANDARD CONDITIONS

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

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

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

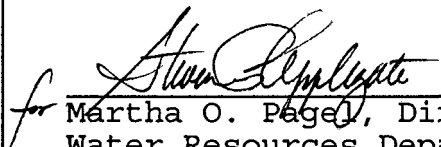
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Actual construction work shall begin within one year from permit issuance and shall be completed on or before October 1, 1998. The reservoir shall be filled and complete application of the water to the use shall be made on or before October 1, 1999.

Issued June 19, 1996


for Martha O. Pagel, Director
Water Resources Department

2

COPY CHECK-OFF SHEET FOR PROPOSED FINAL ORDERS

CC: FILE # R-73400

WATERMASTER # 19

REGIONAL MANAGER: Southwest

ODF&W - Coos County:

CWRE (if agent): James F Gosson #054

DEQ

OTHER STATE AGENCY IF NECESSARY:

DIVISION 33 LIST: _____ COLUMBIA RIVER INTERTRIBAL FISH COMMISSION; U.S. FISH & WILDLIFE;
(CHECK ONLY IF APPLICABLE) _____ NORTHWEST POWER PLANNING COUNCIL & NATIONAL MARINE FISHERIES

POWER BUILDER UPDATER; FRONT COUNTER

OTHER ADDRESSES OF PEOPLE WHO PAID THE \$10 FEE:

PEOPLE WITH OBJECTIONS, COMMENTS OR REQUESTED COPY W/O \$10 (SEND THE \$10 LETTER):
Ken Stahr, Water Availability Section

CASEWORKER : GH

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JUN 12 1996

JAMES F. GOSSON Consulting Engineer

WATER RESOURCES DEPT.
SALEM, OREGON

580 South State Street
Sutherlin, Oregon 97479

CIVIL ENGINEER
LAND SURVEYOR
WATER RIGHTS EXAMINER

(503) 459-2243

June 8, 1996

Oregon Water Resources Department
158 12th Street, N.E.
Salem, Oregon 97310

Attention: Jerry Gainey

RE: File No. R-734000

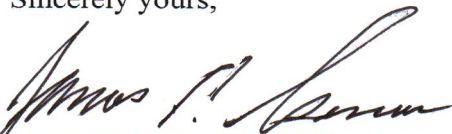
Dear Mr. Gainey:

Please find enclosed a corrected map for Peart Enterprises, Inc. The location of Reservoir No. 1 has been correctly described on the corrected map.

In response to your request to locate each reservoir to a recognized corner, this was done on the original application. Examination of the map will show that the applicant's pump is located immediately upstream from the dam on each of the three reservoirs.

If you need additional information, please contact me.

Sincerely yours,



James F. Gosson, CWRE

cc: Mike Peart
M. John Youngquist

JAMES F. GOSSON Consulting Engineer580 South State Street
Sutherlin, Oregon 97479CIVIL ENGINEER
LAND SURVEYOR
WATER RIGHTS EXAMINER

(503) 459-2243

June 8, 1996

Oregon Water Resources Department
158 12th Street, N.E.
Salem, Oregon 97310

Attention: Jerry Gainey

RE: File No. R-734000

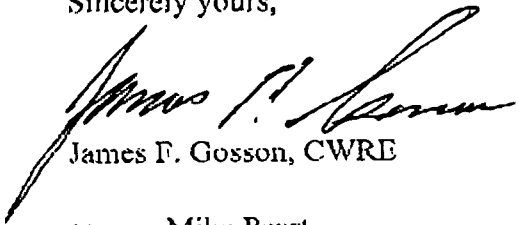
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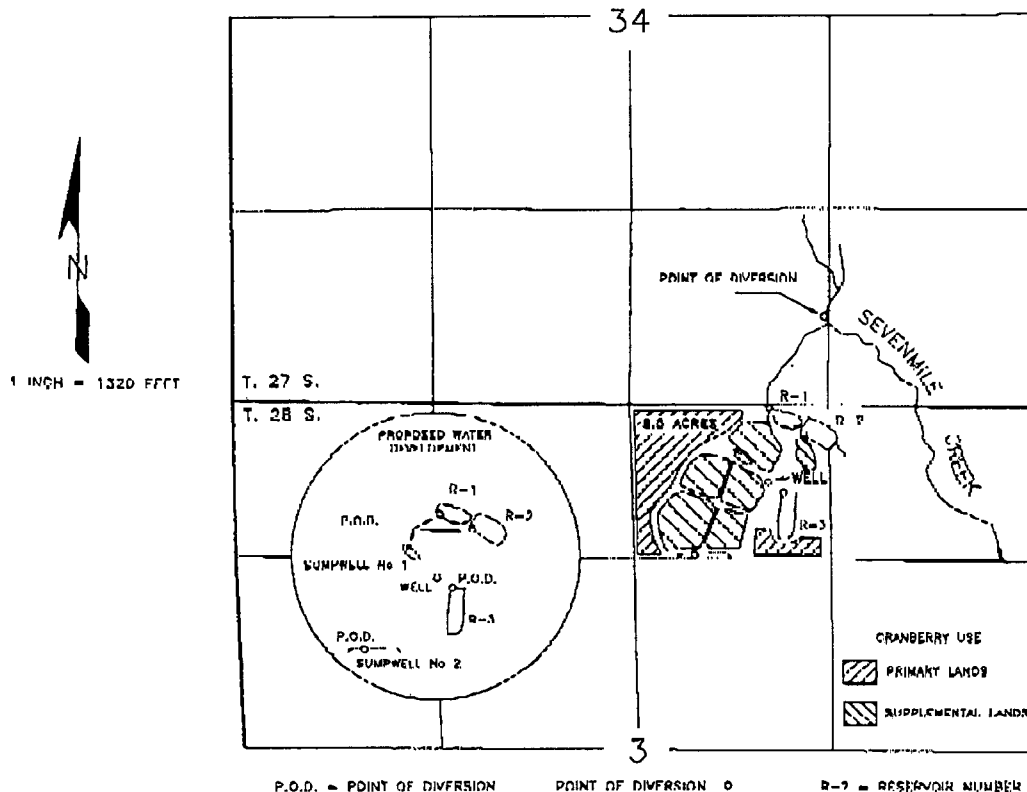

James F. Gosson, CWREcc: Mike Peart
M. John Youngquist

Post-It™ brand fax transmittal memo 7671		# of pages > 2	
To	Jerry Gainey	From	John Youngquist
Co.	OWRD	Co.	
Dept.	APPLICATIONS	Phone #	541-672-5692
Fax #	503-378-6203	Fax #	541-672-5692

APPLICATION MAP

IN THE NAME OF PEART ENTERPRISES, INC.

SECTION 34, T 27 S, R 14 W, W.M.
and
SECTION 3, T 28 S, R 14 W, W.M.



THE POINTS OF DIVERSION ARE TO BE LOCATED AS FOLLOWS:

SOURCE	NORTH	EAST	1/4 1/4	Sec.	Twp.	Rng.
SEVENMILE CREEK	2000 FEET	3995 FEET	SW1/4SE1/4	34	27S	14W
RESERVOIR No. 1	2800 FEET	3750 FEET	NW1/4NE1/4	3	28S	14W
RESERVOIR No. 2	2350 FEET	3545 FEET	NW1/4NE1/4	3	28S	14W
RESERVOIR No. 3	1790 FEET	3650 FEET	NW1/4NE1/4	3	28S	14W
WELL	1050 FEET	3545 FEET	NW1/4NE1/4	3	28S	14W
SUMPWELL No. 1	2045 FEET	3405 FEET	NW1/4NE1/4	3	28S	14W
SUMPWELL No. 2	1355 FEET	3100 FEET	NW1/4NE1/4	3	28S	14W

ALL FROM THE WEST QUARTER CORNER OF SECTION 3, TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.,
COOS COUNTY.

FO CHECKLIST

PFO TO FO CONVERSION

FILE # R 73400

WEEK # WEEK 33

#15

REVIEW DATE: 04 /30 /96

INITIALS : LLS

In preparing the FO, you should check the following:

1. Y / N Were comments or protests received in response to the PFO?
2. List names and addresses of **ALL** commentors (regardless of comment date) on the PFO CC list.
3. Verify payment of recording fees (circle the appropriate option)
 - (1) Issue FO w/permit if fees are paid Prepare refund request for excess fees
 - (2) Issue FO w/o permit if fees are lacking
 - (3)
4. Y / N Has the applicant signed an oath of accuracy for the application? 200
100
300
5. Y / N Has ODFW asked for self certification on screening condition?
6. Y / N Is water use prohibited for one or more months of the normal use period?
7. Y / N If #6 = "Y", is short season letter on file?
8. Assign permit numbers to files with oath, fees, and no protests or other unresolved issues

DENIAL FO w/o PERMIT
LARRY CORY

Route to: (circle one)
FO & PERMIT COMMENTS
JERRY DOUG

51151A
MOD-1358/Storage
Time-

Modify FO as needed to:

INITIALS :

9. Respond to significant comments, issues, or disputes related to the proposed use of water
10. Include or exclude permit conditions and management codes
11. Notify applicant of additional information or fees required prior to permit issuance (Use standard wording from M:\T\FO\TOOLS if possible)
12. Correct PFO errors (such as POD or POU location (verify from map), Permit format)
13. Y / N Is further processing possible? If not state reason:

Once FO document is completed:

14. Save WordPerfect document in M:\T\FO\WEEKXX & delete duplicates
15. Print final draft of document and submit to team leader for review
16. Y / N Team leader review completed

51151A

Fish District: Coos/Coquille

WAB #

Application # R-73400

Applicant Name Peart Enterprises

Date: March 27, 1996

AREA

☒ Source Watershed☐ Senior instream water right application to junior out-of-stream application☐ No water availability information

INFORMATION/CONDITIONS

1. Are there water quality concerns related to salmon/steelhead/trout? Y (N)

Should the application be denied? Y N

Should the application be restricted? Y N

Jan	Feb	Mar	Apr	May	Jun 1-15	June 16-30	Jul	Aug	Sep 1-15	Sep 16-30	Oct	Nov	Dec

2. Are there adequate flows to protect salmon/steelhead/trout? Y (N)

Should the application be denied? Y (N)

Should the application be restricted? (Y) N

☒ Based on water availability

Jan	Feb	Mar	Apr	May	Jun 1-15	June 16-30	Jul	Aug	Sep 1-15	Sep 16-30	Oct	Nov	Dec
				X								X	

3. Domestic

Should domestic use be conditioned to human consumption? Y N ☐ Based on water availability

4. Fish Screening and Passage

- ☐ A. Requires fish screening and passage, with ODFW certification (applications > 0.5 cfs).
☐ B. Requires fish screening and passage, without ODFW certification (applications < 0.5 cfs).
☐ C. No dam or obstruction without a fishway.
☒ M. Screening may be required

5. Miscellaneous

- ☐ A. Reservoir Filling
☐ B. Water Quality Permits
☐ C. Return Flow
☐ D. Time Limited Water Right
☒ E. Other Reservoir Special

6. Measurement and Reporting

- ☐ A. Small diversions (<0.1 cfs or <9.2 ac/ft. may/may)
☐ B. Medium diversions (0.1 cfs or >9.2 and <1.5 cfs or <100 ac/ft. shall/may)
☐ C. Large diversions (1.5 cfs or >100 ac/ft. shall/shall)
☒ T. Totalizing

FINDINGS

☐ Permit is proposed for denial prior to interagency team review for fishery concerns.☐ Deny permit due to fishery concerns, except for

- ☐ A. Domestic (which may be limited to human consumption, see above)
☐ B. Livestock
☐ C. Unless water is from storage

☐ Do not condition further due to fishery concerns.☒ Condition permit due to fishery concerns listed above.

Fish District: Coos/Coquille

WAB #

Application # R-73400Applicant Name Peart Enterprises

Date: March 27, 1996

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Jan	Feb	Mar	Apr	May	Jun 1-15	June 16-30	Jul	Aug	Sep 1-15	Sep 16-30	Oct	Nov	Dec
				<u>X</u>								<u>X</u>	

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Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number R-73400

Final Order

Application History

On May 17, 1993, PEART ENTERPRISES, INC. submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on November 7, 1995. The protest period closed December 22, 1995, and no protest was filed.

An interagency team reviewed this proposed use for potential adverse impacts on declining fish populations. This team consisted of representatives from the Oregon Departments of Water Resources (WRD), Environmental Quality, Fish and Wildlife (DFW), and Agriculture. WRD and DFW representatives included both technical and field staff. The interagency team recommended that additional limitations or conditions of use be imposed on this application as follows:

The period of use to appropriate water for storage has been limited to DECEMBER 1 through APRIL 30.

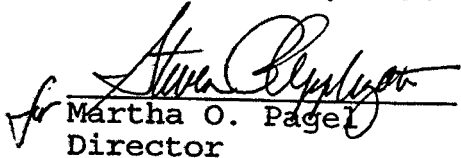
Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in the reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E, I or M. Additionally, before water use may begin under this permit, if the reservoir is located in channel then weirs 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 judgement the installation of the weir(s) will provide no public benefit.

The proposed use would not impair or be detrimental to the public interest, but the Department's continuing evaluation reveals that the Proposed Final Order requires modification to include the condition(s) described above.

Order

Application R-73400 therefore is approved with the above modifications to the Proposed Final Order, and Permit Number R-11771 is issued as limited by the conditions set forth in the permit.

DATED June 19, 1996


for Martha O. Pagel
Director

Hearing and Appeal Rights

Under the provisions of ORS 537.170, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 527.153(6) to the Department within 14 days after this order is issued. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the above modifications to the proposed final order may be addressed.

Under the provisions of ORS 183.484, the applicant or any person having standing may appeal this order by filing a petition for review in the Circuit Court for Marion County or the circuit court for the county in which the applicant resides or has a principal business office. The petition for review must be filed within 60 days after the date this order is served.

**CERTIFIED MAIL
Return Receipt Requested**

WATER
RESOURCES
DEPARTMENT

May 7, 1996

PEART ENTERPRISES, INC.
HC 84 BOX ST 76
MYRTLE POINT OREGON 97458

RE: Application File # R-73400 AND S-73401

Dear Applicant,

The Water Resources Department is in the process of issuing a permit for water use. However, the application map does not meet the standards of OAR 690-310-050.

- The map reservoir recognize accompani recognize be shown (distance the corne

In order to expedite that you submit the

Should you have any required materials 1-800-624-3199 exte

Sincerely,

Jerry Gainey
Jerry Gainey
Final Order Team
Water Rights

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Peart Enterprises, Inc.
HC 84 Box St. 76
Myrtle Point, OR 97458

73400 & 73401

5. Received By: (Print Name)

H.D. Jones

6. Signature: (Addressee or Agent)

X *H.D. Jones*

PS Form 3811, December 1994

4a. Article Number

P-56233

4b. Service Type

- | | |
|---|---|
| ☐ Registered | ☒ Certified |
| ☐ Express Mail | ☐ Insured |
| ☐ Return Receipt for Merchandise | ☐ COD |

7. Date of Delivery

5-13-96

8. Addressee's Address (Only if requested and fee is paid)

Domestic Return Receipt

Thank you for using Return Receipt Service.



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

CERTIFIED MAIL
Return Receipt Requested

May 7, 1996

WATER
RESOURCES
DEPARTMENT

PEART ENTERPRISES, INC.
HC 84 BOX ST 76
MYRTLE POINT OREGON 97458

RE: Application File # R-73400 AND S-73401

Dear Applicant,

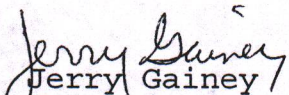
The Water Resources Department is in the process of issuing a permit for water use. However, the application map does not meet the standards of OAR 690-310-050.

- The map must show the location of the dams for each reservoir and the point of diversion referenced to a recognized public land survey corner. The map that accompanied the applications did not indicate a recognized public land survey corner. The locations may be shown by distance and bearing or by coordinates (distance north or south and distance east or west from the corner).

In order to expedite the processing of your application, we request that you submit these items by JUNE 7, 1996. 6-6-96 13

Should you have any questions regarding your application or the required materials listed above, please call me personally at 1-800-624-3199 extension 458.

Sincerely,


Jerry Gainey
Final Order Team
Water Rights



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

WATER RESOURCES DEPARTMENT
WATER RIGHTS DIVISION

Before the Director of the Water Resources Department

In the matter of	)	PROPOSED
Reservoir Application	)	FINAL
R-73400 submitted by	)	ORDER
PEART ENTERPRISES, INC.		

FINDINGS OF FACT

Water Use Request

1. PEART ENTERPRISES, INC. requested to construct THREE UNNAMED RESERVOIRS and to store the waters of TRIBUTARIES TO SEVENMILE CREEK, for CRANBERRY OPERATIONS to be appropriated under Application S-73401, for CRANBERRY OPERATIONS within the South Coast Basin.
2. The amount of water requested for storage each year for all three reservoirs is a total of 19.5 acre-feet, being 5.0 acre-feet in Reservoir 1, 5.0 acre-feet in Reservoir 2, and 9.5 acre-feet in Reservoir 3.
3. The area to be submerged by the reservoirs is located in Coos County within SECTION 3, TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.
4. The total area proposed to be submerged by Reservoir 1, when full, is 0.5 acre; the proposed maximum depth of water is 11.0 feet. The maximum height of the dam will not exceed 9.5 feet.

The total area proposed to be submerged by Reservoir 2, when full, is 0.6 acre; the proposed maximum depth of water is 10.0 feet. The maximum height of the dam will not exceed 9.5 feet.

The total area proposed to be submerged by Reservoir 3, when full, is 1.0 acre; the proposed maximum depth of water is 12.0 feet. The maximum height of the berm of the excavated reservoir will not exceed 4.0 feet.

5. The request was made in Application R-73400 which was received by the Water Resources Department on May 17, 1993.

Affected Waters

1. TRIBUTARIES OF SEVENMILE CREEK are not within or above a State Scenic Waterway.
2. ODFW has advised that there are no fish in the immediate area of the subject appropriation. Consequently, no fish screening or passage facilities are to be required.

3. There are senior water rights on TRIBUTARIES OF SEVENMILE CREEK and on downstream waters.

Department Actions

1. The application was determined to be complete and not defective.
2. A technical review of the application was completed and a report of the results of that review was mailed to the applicant on December 30, 1993.
3. The technical review determined:
 - a. CRANBERRY OPERATIONS is allowed under the South Coast Basin Program.
 - b. The use is not prohibited by Statute.
 - c. Water is available for storage (at a 80 percent exceedance probability) for the period **January 1 through March 31.**
 - d. The use would not injure existing water rights.
4. The report of technical review listed these determinations and disclosed a number of conditions and restrictions that would likely be included in the permit if issued. These conditions and restrictions are listed in the attached draft permit.

Assessment

1. In proceeding with evaluation of Application R-73400, the following criteria were found to be relevant by the Department.
 - a. The South Coast Basin Program (OAR Chapter 690, Division 517)
 - b. The Coos County Comprehensive Plan and Zoning Ordinance
 - c. The amount of water available in TRIBUTARIES OF SEVENMILE CREEK
 - d. Pending, senior applications and existing water rights of record
 - e. Comments received

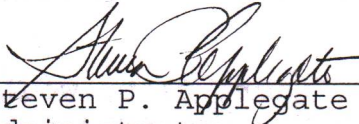
CONCLUSIONS OF LAW

1. Based upon continued evaluation, the Department finds the determinations of the technical review require modification as follows: Water availability at 50% Exceedance level allows water to be stored from December 1 through May 31.
2. Water may be appropriated for storage during the period: December 1 through May 31.
3. The Department finds that no more than 19.5 acre-feet, would be necessary for CRANBERRY USE ON 9.55 ACRES. The amount of water requested, 19.5 ACRE FEET, BEING 5 .0 ACRE FEET FROM RESERVOIR ONE, 5.0 ACRE FEET FROM RESERVOIR TWO AND 9.5 ACRE FEET FROM RESERVOIR THREE, is allowable for the proposed use.
4. Coos County Planning Department staff completed the Department's Land Use Information Form and indicated thereon that the land use associated with the proposed use is compatible with the Coos County Comprehensive Land Use Plan.
5. The proposed use would not conflict with existing water rights, and, if exercised in accordance with law, rule, and proposed conditions, would not result in injury to existing water users.
6. The proposed use complies with all other rules of the Commission.
7. Pursuant to Chapter 416, Oregon laws, 1995, enacted by the 68th Oregon Legislative Assembly, and given the findings listed above, a rebuttable presumption has been established that the use will not impair or be detrimental to the public interest if exercised in the manner described in the attached draft permit.
8. Therefore, the proposed use, as conditioned, and described in the attached draft permit, would not impair or be detrimental to the public interest.

PROPOSED ORDER

IT IS PROPOSED that Application R-73400 in the name of PEART ENTERPRISES, INC. be approved for STORAGE OF 19.5 ACRE-FEET OF WATER FOR CRANBERRY USE ON 9.55 ACRES as provided in the attached draft permit.

DATED November 7, 1995


Steven P. Applegate
Administrator
Water Rights and Adjudications Division

NOTICE:

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

To seek changes in this proposed final order, you must file a formal protest.

Formal protests to this proposed final order must be made in proper form and accompanied by the statutory fee in the amount of \$200. Note: The applicant is not subject to this fee.

For other than the applicant, if you agree with the findings in this proposed order, but wish to maintain your right to participate in any contested case proceeding or judicial review, you must file a written request for standing. Requests for standing in proceedings relating to this application must be made in the proper form and accompanied by the statutory fee in the amount of \$50.

Protests or requests for standing, along with the appropriate fees must be received by the Water Resources Department in Salem, Oregon by 5:00 pm on December 22, 1995.

Only the applicant and any persons who timely file a protest or request for standing may participate in further proceedings before the Department or the Commission which deal with this Application.

DRAFT
STATE OF OREGON
COUNTY OF Coos

DRAFT PERMIT TO STORE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

PEART ENTERPRISES, INC.
HC 84 BOX ST 76
MYRTLE POINT, OREGON 97458

(503) 572-5030

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

APPLICATION FILE NUMBER: R-73400

SOURCE OF WATER: TRIBUTARIES OF SEVENMILE CREEK

STORAGE FACILITY: THREE UN-NAMED RESERVOIRS

PURPOSE OR USE OF THE STORED WATER: To be appropriated under
Application S-73401 for
CRANBERRY USE ON 9.55 ACRES.

VOLUME OF USE: Reservoir 1 - 5.0 acre-feet
Reservoir 2 - 5.0 acre-feet
Reservoir 3 - 9.5 acre-feet

Water may be appropriated for storage during the period: December 1 through May 31

DATE OF PRIORITY: May 17, 1993

The area submerged by Reservoir 1, when full, will be 0.5 acre and the maximum depth of water will be 11.0 feet. The maximum height of the dam shall not exceed 9.5 feet.

The area submerged by Reservoir 2, when full, will be 0.6 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 9.5 feet.

The area submerged by Reservoir 3, when full, will be 1.0 acre and the maximum depth of water will be 12.0 feet. The maximum height of the berm around the excavated reservoir shall not exceed 4.0 feet.

DAM LOCATION: RESERVOIR 1 - NW 1/4 NE 1/4, SECTION 3, T 28 S, R 14 W, W.M.; 2800 FEET NORTH & 3750 FEET EAST FROM SW 1/4 SE 1/4 CORNER, SECTION 34, T 27 S R 14 W

RESERVOIR 2 - NW 1/4 NE 1/4, SECTION 3, T 28 S, R 14 W, W.M.; 2350 FEET NORTH & 3545 FEET EAST FROM NW 1/4 NE 1/4 CORNER, SECTION 3

RESERVOIR 3 - NW 1/4 NE 1/4, SECTION 3, T 28 N, R 14 W, W.M.; 1790 FEET NORTH & 3650 FEET EAST FROM NW 1/4 NE 1/4 CORNER, SECTION 3

THE AREA TO BE SUBMERGED BY THE RESERVOIRS ARE LOCATED AS FOLLOWS:

NW 1/4 NE 1/4 CRANBERRY OPERATIONS
SECTION 3
TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
- C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

Use under this permit is limited to the reservoir area. This permit does not provide for the appropriation of water for maintaining the water level or maintaining a suitable fresh water condition.

In the event of a request for a change in point of appropriation, an additional point of appropriation or alteration of the appropriation facility associated with this authorized diversion, the quantity of water allowed herein, together with any other right, shall not exceed the capacity of the facility at the time of perfection of this right.

The water user shall install and maintain, both upstream and downstream of the reservoir, a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

STANDARD CONDITIONS

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

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

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Actual construction work shall begin within one year from permit issuance and shall be completed on or before October 1, 1997. The reservoir shall be filled and complete application of the stored water to the use shall be made on or before October 1, 1998.

Issued _____, 199_

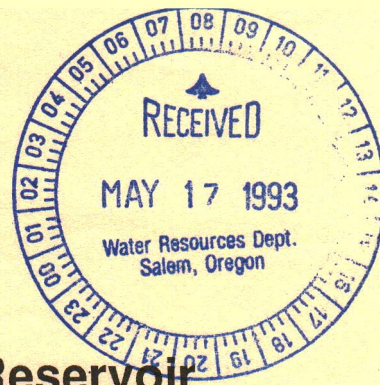
DRAFT

Water Resources Department
Martha O. Pagel
Director

Application R-73400 Water Resources Department
Basin 17 Volume 2
GH SEVENMILE CREEK & MISC.

PERMIT DRAFT
District 19

Application No. 73400



State of Oregon
WATER RESOURCES DEPARTMENT

Application for a Permit to Construct a Reservoir

Applicant(s) Pearl Enterprises, Inc.

(Please print or type - use dark ink)

Mailing Address: HC84 Box ST 76

Myrtle Point,
City

Oregon
State

97458
Zip

(503) 572-5030
Daytime Phone No.

I (We) make application for a permit to construct 3 reservoirs reservoir and store
the following described waters of the State of Oregon:

1. **SOURCE OF WATER** for the proposed use: Reservoir 1 and 2 unnamed seasonal drainage
and reservoir 3 - excavated,
a tributary of Sevenmile Creek.

If not in channel of a stream, state how it is to be filled: Reservoir 3 filled from runoff from
cranberry fields

2. **THE DAM:** The maximum height of the structure will be See Below feet above stream bed
or ground surface at the centerline.

The dam will be (check one) earthfill, concrete, flashboard, other.

If "other" give description: _____

Reservoir 1 - 9.5 feet high - earthfill

Reservoir 2 - 9.5 feet high - earthfill

Reservoir 3 - Excavated with up to 4 foot berm

Give the location, description, and dimensions of the outlet conduit: _____

Reservoir 1 - Center of dam 12" pipe

Reservoir 2 - Center of Dam 12" pipe

Reservoir 3 - None - Excavated with small berm

NOTE: All dams across natural stream channels must be provided with an outlet conduit, minimum
diameter of 8", or be of such capacity and location as to pass the normal flow of the stream at any time.

3. **THE USE(s)** of the impounded water will be: Agricultural use (Cranberry fields)

4. **THE AMOUNT OF WATER** to be stored is: See Remarks acre-feet.
The area submerged by the reservoir, when filled, will be _____ acres,
and the maximum depth of water will be _____ feet.

5. **SPILLWAY DESCRIPTION** (location and dimensions). State whether over or around the dam. _____

Reservoir 1 and 2 will have a half round 18" Culvert with flashboards connected to outlet. An emergency 12" CMP will be on right side or small spillway on original ground on right side. Reservoirs are located within 500 feet of head of drainage.

Reservoir 3 - 8" overflow in event of heavy rains. Reservoir excavated.

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

Proposed date construction work will begin October, 1993

Proposed date construction work will be completed October, 1996

Proposed date water use will be completed October, 1998

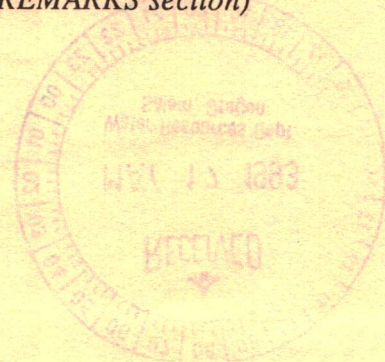
NOTE: A map prepared by a Certified Water Right Examiner (CWRE) and a complete legal description of the subject property are required under ORS 537.140 and OAR 690 as a part of your application. The legal description may be copied from your deed, title insurance policy, or land sales contract.

7. a) In the event any deficiencies are noted involving the application map enclosed herein, please return the map with instructions for correction to (check one):

 Applicant XX CWRE Other (Identify in REMARKS section)

b) In the event any deficiencies are noted involving the application, please return the application with instructions for correction to (check one):

 Applicant XX CWRE Other (Identify in REMARKS section)



8. Are all lands involved (including the proposed diversion site, place of use, and access for conveying the water) under your ownership? YES. If not, list in the REMARKS section below, or on an attached sheet, the names and mailing addresses of the legal owners of all property involved in the proposed development.

REMARKS:

Reservoir 1 - 0.5 acres 5.0 acre feet with max. depth 11'
Reservoir 2 - 0.6 acres 5.0 acre feet with max. depth 10'
Reservoir 3 - 1.0 acre 9.5 acre feet with max. depth 12' (excavated)

In no case will the hydraulic height exceed 9.0 feet.

I/We certify that the information I have provided in this application is an accurate representation of the proposed water use and is true and correct to the best of my knowledge.

NOTE: The permit, when issued, is for the beneficial use of water without waste. By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan. It is possible the land use you propose may not be allowed if it is not in keeping with the goals and acknowledged plan. Your city or county planning agency can advise you about the land-use plan in your area.

Wendy Peart - Secretary
Signature of Applicant

5-11-93
Date

Signature of Co-Applicant, if any

Date

FOR WATER RESOURCES DEPARTMENT USE ONLY

Dear Applicant:

I certify that I have examined the foregoing application, together with the accompanying information, and am returning it to you for:

In order to retain its tentative priority, this application must be returned with the requested corrections or additions on or before:

_____, 19____.

WITNESS my hand this _____ day of _____, 19____.

Water Resources Director

By: _____

This instrument was first received in the office of the Water Resources Director at SALMON, Oregon, on the 17th day of MAY, 1993, at 8 o'clock, A M.

APPLICATION NO: R-~~730400~~

R-73400

RECEIVED

MAR 10 1994

WATER RESOURCES DEPT.
SALEM, OREGON



DEPARTMENT OF
FISH AND
WILDLIFE

March 8, 1994

Water Rights Section
Water Resources Department
3850 Portland Rd., NE
Salem, OR 97310

RE: Water Right Application #R-73400 and 73401; Reports of
Technical Review

For reservoir sites: Because there are no fish in the immediate area of the subject appropriation, no fish screening or passage facilities are to be required.

For Sevenmile Creek POD: Because one or more species of game fish are present at the described POD, ODFW will require the applicant to provide fish screening pursuant to ORS 498.248. Therefore, ODFW requests WRD add the following condition to those already proposed:

The permittee shall install, maintain, and operate fish screening and by-pass devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion. The required screens and by-pass devices are to be in place, functional, inspected and approved by an ODFW representative prior to diversion of any water.

ODFW also requests the following condition relating to in-channel obstructions be included as a permit condition:

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in dark ink, appearing to read "A. Mirati Jr.", written over the typed name.

Albert H. Mirati, Jr.
Water Right Review Coordinator

c. WaterWatch of Oregon (public information request)
Reimers, Charleston

FILE: R-73400.TEC



2501 SW First Avenue
PO Box 59
Portland, OR 97207
(503) 229-5400
TDD (503) 229-5459

December 30, 1993

PEART ENTERPRISES, INC.
HC 84 BOX ST 76
MYRTLE POINT, OR 97458

Reference: File R 73400

Hello:

This letter informs you of the current status of your application for a water use permit and accompanies the Satisfactory Report of Technical Review For Water Use Permit(s). We apologize for the delay in transmitting this information and Report to you and for any inconvenience the wait may have caused you.

The enclosed Report of Technical Review is the Department's summary of a specialized analysis of various legal and scientific aspects of your application and proposed water use. We are required by the state of Oregon's administrative rules (in OAR 690-11-160) to conduct this official technical review of each application submitted to the Oregon Water Resources Department for a water use permit. This process was designed to insure that your application receives a fair evaluation and to secure protection of existing water rights and of the public at large.

AS THE RESULT OF OUR TECHNICAL EVALUATION, WE HAVE DETERMINED THAT YOUR APPLICATION SATISFIES THE REQUIREMENTS OF THE TECHNICAL REVIEW.

The Department will now move your application to the next phase of processing. This phase includes a public interest review of your proposed water use. No final action may be taken on your application until the public interest review is completed.

You should also note that the Report of Technical Review describes conditions currently anticipated which may limit the water use proposed in your application.

If you wish to object to any of the analyses contained in the Report, you must submit your objection to the Department in writing within 60 days of the date of mailing of this Report or by the date specified below. Your objection must allege that the technical review is defective and you may also submit evidence which demonstrates that your proposed water use will not impair or be detrimental to the public interest.

Copies of the Report of Technical Review will be distributed to all persons who have filed comments or otherwise expressed an interest in the water use proposed in your application. Interested parties must also submit their objections within the prescribed objection period. Those objections must allege that the technical review is defective and/or that the proposed water use may impair or be detrimental to the public interest.



If an objection contains allegations that the technical review is defective, it must be accompanied by facts which support such allegations. If an objection contains allegations that the proposed water use may impair or be detrimental to the public interest, the objection must specify the particular public interest standards which apply as set out in Oregon Revised Statutes (ORS 537.170(5)) and Oregon Administrative Rules (OAR 690-11-195) and state facts showing how such standards would be violated.

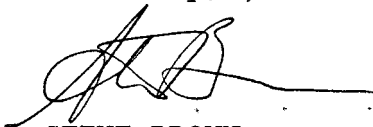
All evidence and objections must be received by our Salem office **no later than 5:00 p.m. on or before March 11, 1994** or the Department may presume there is no opposition to any of the analyses set out in the technical review report. Evidence and objections must be addressed and delivered to: Oregon Water Resources Department, Water Rights Section, 3850 Portland Road, Northeast, Salem, Oregon 97310.

If objections and evidence are submitted on or before the above time and date, the Director of the Water Resources Department will evaluate each issue raised in the objections and either accept or deny them. Objectors are encouraged to indicate whether they would be interested in resolving their concerns through alternative dispute resolution.

If any of the objections are denied, the objector will be allowed thirty days to submit a protest to the denial. The protest must meet the standards set forth in OAR 690-02-030 through 080.

If you have any questions, please feel free to telephone me or any of the Department's Water Rights Section staff. My telephone number is 378-3739, in Salem, or you may call toll free from within the state to 1-800-624-3199.

Sincerely,

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

STEVE BROWN
Manager
Water Rights Division

Enclosures

Report Date: December 30, 1993

OREGON WATER RESOURCES DEPARTMENT

SATISFACTORY REPORT OF TECHNICAL REVIEW

FOR WATER USE PERMIT(S)

OBJECTIONS TO THE PROPOSED WATER USE AS DESCRIBED BELOW MUST BE RECEIVED IN WRITING BY THE OREGON WATER RESOURCES DEPARTMENT, 3850 PORTLAND ROAD N.E., SALEM, OREGON 97310, BY 5 P.M. ON OR BEFORE: March 11, 1994

1. APPLICATION FILE NUMBER - R 73400

2. MINIMUM APPLICATION INFORMATION

Applicant name/address/county/phone:

PEART ENTERPRISES, INC.

HC 84 BOX ST 76

MYRTLE POINT, OR 97458

COOS COUNTY 503-572-5030

Date application received for filing and/or tentative date of priority: 5/17/1993

SOURCE: SEVEN MILE CREEK TRIBUTARY TO: COQUILLE RIVER

Purpose and/or use: STORAGE FOR AGRICULTURAL USE
STORAGE FOR IRRIGATION

Volume: RESERVOIR 1 - 5.0 acre-feet
RESERVOIR 2 - 5.0 acre-feet
RESERVOIR 3 - 9.5 acre-feet

Point of Diversion Location:

RESERVOIR 1 - SW 1/4 SE 1/4 SECTION 34, T 27 S, R 14 W,
W.M.;

Place of use:

NWNE

Section 3

T 27 S, R 14 W, W.M.

SURFACE WATER AVAILABILITY

Water is likely available in excess of needs for all existing rights 80% of the time during each monthly period proposed by the technical review.

Water availability tables are available in the application file and may be reviewed in the office of the Water Resources Department in Salem.

CONFLICTS WITH OTHER WATER RIGHTS:

There are existing rights from this point of diversion.
See proposed permit conditions.

There are no existing water rights appurtenant to the lands described in the application.

REPORT CONCLUSIONS:

Based on the Department's review of water availability and Oregon Administrative Rules, water in the amount of 19.5 acre-feet is likely available for 3 months. Therefore, the Director finds that water is available in sufficient amount and during periods which will reasonably support the proposed use.

THE PROPOSED WATER USE, AS CONDITIONED, SATISFIES THE REQUIREMENTS OF THIS TECHNICAL REVIEW.

This Report of Technical Review sets out the Director's technical analysis of the application. In addition to this technical analysis, the Director will evaluate this application to determine whether the proposed water use might impair or be detrimental to the public interest under the standards set out in ORS 537.170(5) and OAR 690-11-195. Matters relating to public interest in the proposed water use which are raised in objections will be evaluated following the 60-day objection period.

PROPOSED PERMIT CONDITIONS

Application: R 73400

The following conditions will apply to water use under the permit, and will appear in the permit, if issued.

1. Use of water under this permit is subject to all prior rights.
2. Water may be appropriated for storage during the period: January 1 through March 31
3. Volume of use: Reservoir 1 - 5.0 acre-feet, Reservoir 2 - 5.0 acre-feet, Reservoir 3 - 9.5 acre-feet
4. Water use development requirements:
 - A. Begin construction by (one year from issuance of permit).
 - B. Complete construction by October 1, 1996.
 - C. Completely apply the water to beneficial use by October 1, 1997.
5. Measurement, recording and reporting conditions:
 - A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order.
 - B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
 - C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

6. Failure to comply with any of the provisions of the permit may result in action including, but not limited to, restrictions on the use, penalties, or cancellation of the permit.
7. The permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.
8. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.
9. The total area proposed to be submerged by the reservoir 1, when full is 0.5 acres; the proposed maximum depth of water in feet is 11; the maximum height of the dam is 9.5 feet. The total area proposed to be submerged by the reservoir 2, when full is 0.6 acres; the proposed maximum depth of water in feet is 10; the maximum height of the dam is 9.5 feet. The total area proposed to be submerged by the reservoir 3, when full is 1.0 acre; the proposed maximum depth of water in feet is 12; the maximum height of the dam after excavation will be 4 feet up to the berm..
10. The storage of water allowed herein is subject to the installation and maintenance of an fully functional conduit/gate assembly having a minimum diameter of 8 inches.
11. Use under this permit is limited to the reservoir area. This permit does not provide for the appropriation of water for maintaining the water level or maintaining a suitable fresh water condition.
12. The amount of water diverted for CRANBERRY OPERATIONS, together with amounts secured under any other rights existing for the same lands, is limited as follows: For temperature control, 0.15 cubic foot per second per acre; For flood harvesting or pest control, 0.05 cubic foot per second per acre; For irrigation of cranberries, ONE-FORTIETH of one cubic foot per second and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. For the irrigation of any other crop, ONE-EIGHTIETH of one cubic foot per second and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
13. In the event of a request for a change in point of appropriation, an additional point of appropriation or alteration of the appropriation facility associated with this authorized diversion, the quantity of water allowed herein, together with any other right, shall

not exceed the capacity of the facility at the time of perfection of this right.

14. A regulating device shall be installed pursuant to ORS 540.310. Plans and specifications shall be approved by the watermaster before installation. Work shall be done under the general supervision of the watermaster. Weirs will be required both upstream and downstream of the reservoirs.

**OREGON ADMINISTRATIVE RULES
WATER RESOURCES DEPARTMENT
CHAPTER 690
DIVISION 500
BASIN PROGRAMS**

Basin Programs Preamble

690-500-010

(1) The Water Resources Commission is responsible for the establishment of policy and procedures for the use and control of the state's water resources. In executing this responsibility, the Commission develops, adopts and periodically modifies programs for the state's major drainage basins as shown in Figure 1.

(2) Basin programs are administrative rules which establish water management policies and objectives and which govern the appropriation and use of the surface and ground water within each of the respective basins. The rules classify surface and ground waters according to the uses which are permitted, may establish preferences among uses, may withdraw surface and ground waters from further appropriation, may reserve waters for specified future uses, and may establish minimum perennial streamflows. These rules are in addition to rules with statewide applicability which govern the allocation and use of water.

(3) The Commission has adopted programs for the following basins:

- (a) North Coast Basin (Division 501)
- (b) Willamette Basin (Division 502)
- (c) Sandy Basin (Included in Division 502)
- (d) Hood Basin (Division 504)
- (e) Deschutes Basin (Division 505)
- (f) John Day Basin (Division 506)
- (g) Umatilla Basin (Division 507)
- (h) Grand Ronde Basin (Division 508)
- (i) Powder Basin (Division 509)
- (j) Malheur - Owyhee Basins (Division 510)
- (k) Goose and Summer Lakes Basin (Division 513)
- (l) Rogue Basin (Division 515)
- (m) Umpqua Basin (Division 516)
- (n) South Coast Basin (Division 517)
- (o) Mid Coast Basin (Division 518)
- (p) Columbia River (Division 519)
- (q) Middle Snake River Basin (Division 520)

(4) Although the Commission has not adopted a comprehensive basin program for the waters of the Malheur Lake Basin, minimum perennial streamflows have been adopted for specified streams in the basin. These minimum perennial streamflows are in Division 512. Allocation and use of the waters of the basin also are subject to administrative rules with statewide applicability.

(5) The Commission has not adopted a comprehensive basin program for the waters of the Klamath Basin. Allocation and use of the waters of the basin are subject to administrative rules with statewide applicability and to the provisions of the Klamath River Basin Compact (ORS 542.62

{adopted 9-23-88 and renumbered from 690-80-000}

Definitions

690-500-020 Unless otherwise defined in a basin program, the following definitions apply in OAR Chapter 690, Divisions 501, 504-512, and 515-520 to any classification adopted prior to January 1, 1993:

(1) "Domestic use" means the use of water for domestic water use, group domestic water use, commercial water use of less than 5,000 gallons per day, or human consumption as defined in OAR 690-11-010.

(2) "Fish culture or fish life use" means the use of water for aquatic life water uses as defined in OAR 690-11-010 and public uses related to fish culture or fish life water uses as defined in OAR 690-77-010.

(3) "Industrial use" means the use of water for commercial water use or industrial water use as defined in OAR 690-11-010.

(4) "Irrigation use" means the use of water for agricultural water use, cranberry use, irrigation, nursery operations use, or temperature control as defined in OAR 690-11-010.

(5) "Livestock use" means the use of water for stockwater use as defined in OAR 690-11-010.

(6) "Mining use" means the use of water for mining water use or placer mining as defined in OAR 690-11-010.

(7) "Municipal use" means the use of water for commercial water use, municipal water uses, or quasi-municipal water uses as defined in OAR 690-11-010.

(8) "Pollution abatement use" means the use of water for pollution abatement or prevention water use as defined in OAR 690-11-010 and public uses related to pollution abatement as defined in OAR 690-77-010.

(9) "Power or power development use" means the use of water for power development water use as defined in OAR 690-11-010.

(10) "Recreation use" means the use of water for recreation water use as defined in OAR 690-11-010 and public uses related to recreation uses as defined in OAR 690-77-010.

(11) "Wildlife use" means the use of water for wildlife use as defined in OAR 690-11-010 and public uses related to wildlife uses as defined in OAR 690-77-010.

{adopted 10-1-93}

OREGON WATER RESOURCES DEPARTMENT
ADMINISTRATIVE RULES
CHAPTER 690
DIVISION 517
SOUTH COAST BASIN PROGRAM

Classifications

690-517-001

(1) Ground water resources in sections or the portions of Sections 13, 14, 22, 23, 26, 27, 32, 33 and 34 of Township 23 South, Range 13 West; 2, 3, 4, 9, 10, 11, 14, 15, 16, 17, 20, 21, 22, 27, 28, 29, 31, 32, 33 and 34 of Township 24 South, Range 13 West; and 3, 4, 5 and 6 of Township 25 South, Range 13 West, bounded on the north by Tenmile Creek, on the west by the Pacific Ocean, on the south by Coos Bay and on the east by Highway 101 are hereby classified for single or group domestic, livestock, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and any single industrial or commercial use not exceeding 5,000 gallons per day.

(2) The waters of the following lakes are classified only for domestic, livestock, municipal, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and in-lake use for recreation, fish life and wildlife. The Director of the Water Resources Department may place specific limits on municipal appropriations from the lakes or require outlet control structures to protect recreation, fish life and wildlife uses:

(a) Bradley Lake 4900

✓(b) Eel Lake 01010

✓(c) Garrison Lake 00

(3) All other natural lakes are classified only for domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and in-lake use for recreation, fish life and wildlife.

(4) Waters of the following streams and all tributaries are classified only for domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area, fire control and instream use for recreation, fish life and wildlife.

✓(a) Glenn Creek (tributary to the East Fork Millicoma River) 070142

✓(b) Brush Creek 2500

✓(5) The waters of the Middle Fork of the Coquille River and tributaries upstream from the confluence with Holmes Creek are classified only for domestic, livestock and irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and instream use for recreation, fish life and wildlife during the period from July 1 to September 30 of every year. Water stored between October 1 and June 30 may be used at any time for purposes specified in section (8). 161123440

✓(6) The waters of the West Fork Millicoma River and tributaries above Stall Falls are classified for municipal, domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and instream use for recreation, fish life and wildlife. 0701310 to 07013123

✓ 3400

✓
1601

(9) Applications for the use of water for any purposes contrary to classifications specified in the basin program shall not be accepted or granted except as provided by law. The Director shall notify the Board and other interested individuals or agencies of the intent to accept an application for use in conflict with the adopted program in accordance with ORS 536.380 if the proposed use will not have a significant impact on any other water use as provided in sections (1) through (8) of OAR 690-517-001 and in 690-517-002 through 690-517-003.

(10) The planning, construction and operation of any structures or works for the utilization of water in accordance with the aforementioned classifications are to conform with the applicable provisions of ORS 536.310, including but not restricted to the recommendation of the multiple-purpose concept.

X

690-517-002

Water in the amounts specified is reserved in the following streams for municipal use:

- ✓ (1) Chetco River - three cfs, downstream from the confluence with the North Fork Chetco River
- ✓ (2) Winchuck River - one cfs, downstream from the confluence with Bear Creek

Minimum Perennial Streamflows

690-517-003

- (1) For the purpose of maintaining a minimum perennial streamflow sufficient to support aquatic life, no appropriations of water except for domestic or livestock uses and irrigation of noncommercial gardens not exceeding one-half acre in area shall be allowed for the waters of the streams and tributaries listed in Table 1 when flows are below the specified levels.
- (2) The Water Policy Review Board requests the opportunity to review applications for an allowed beneficial use that has traditionally been identified as nonconsumptive or take-and-put, such as fish hatcheries, hydroelectric facilities, municipal or water process industries that could potentially impact, in an adverse way, the Board's minimum flow regime or the public interest. The Water Policy Review Board intends to continue to protect, in its entirety, that portion of the stream system on which any minimum streamflow has been established. Permitting procedures and water use regulation should reflect that objective as far as possible under the law. The Board solicits the advice or complaints of any party who is aware that the objectives are not being met.
- (3) Minimum flows established in the Water Resource Program for the South Coast Basin dated May 22, 1964 (Table 3), shall remain in full force and effect except as follows:
 - (a) The minimum perennial streamflow for the Elk River above U.S. Highway 101 crossing (45 cfs) is rescinded.

Basin:

Detailed Report for Water Availability Subbasin 1602000000000000
Water Availability By Month for Exceedance Level 80
15:45 12/27/1993

MO	Gross Water Avail	Consumptive Use		Storage Rights		Net Min Flow	Instream Water Rights		Net Water Avail
		Applic	Permit	Applic	Permit		Applic	Permit	
1	17	0	0	0	0	17	0	12 0	5 17
2	23	0	0	0	0	23	0	12 0	11 23
3	17	0	0	0	0	17	0	12 0	5 17
4	11	0	0	0	0	11	0	12 0	-1 11
5	5	0	0	0	0	5	0	12 0	-7 5
6	2	0	0	0	0	2	0	7 0	-5 2
7	0	0	0	0	0	0	0	5 0	-5 0
8	0	0	0	0	0	0	0	5 0	-5 0
9	0	0	0	0	0	0	0	5 0	-5 0
10	0	0	0	0	0	0	0	5 0	-5 0
11	2	0	0	0	0	2	0	5/12 0	-3/-10 2
12	12	0	0	0	0	12	0	12 0	0 12
Stor	8080	0	0	0	0	8080	0	0	8080

Used wrong Exceedance Level.
Should use 80

WATER AVAILABILITY TABLE

Basin: SOUTH COAST

Exceedance Level: 50

Water Availability Subbasin: 1602000000000000 (and Nested Subbasins)

Time: 12:56

Date: 11/01/1995

Item #	W.A. Subbasin	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Sto
1	1600000000000000	YES	YES	YES	YES	YES	YES	YES	NO	YES	NO	YES	YES	YES
2	1602000000000000	YES	YES	YES	YES	YES	NO	NO	NO	NO	NO	NO	YES	YES

STREAM NAMES

Basin: SOUTH COAST

Water Availability Subbasin: 1602000000000000 (and Nested Subbasins)

Time: 12:56

Date: 11/01/1995

WAB #	Stream Name	Tributary to
1600000000000000	COQUILLE R	PACIFIC OCEAN
1602000000000000	SEVENMILE CR	RANDOLPH SL

LIMITING WATER AVAILABILITY SUBBASINS

Water Availability Subbasin: 1602000000000000

Basin: SOUTH COAST

Exceedance Level: 50

Time: 12:56

Date: 11/01/1995

Month	Limiting Subbasin	Stream Name	Water Available?	Net Water Available
1	1602000000000000	SEVENMILE CR	YES	27.0
2	1602000000000000	SEVENMILE CR	YES	30.2
3	1602000000000000	SEVENMILE CR	YES	19.8
4	1602000000000000	SEVENMILE CR	YES	10.9
5	1602000000000000	SEVENMILE CR	YES	1.1
6	1602000000000000	SEVENMILE CR	NO	-0.9
7	1602000000000000	SEVENMILE CR	NO	-1.3
8	1600000000000000	COQUILLE R	NO	-1.7
9	1602000000000000	SEVENMILE CR	NO	-0.4
10	1600000000000000	COQUILLE R	NO	-208.0
11	1602000000000000	SEVENMILE CR	NO	-0.3
12	1602000000000000	SEVENMILE CR	YES	20.9
Stor	1602000000000000	SEVENMILE CR	YES	6580.0

DETAILED REPORT ON WATER AVAILABILITY

Basin: SOUTH COAST

Stream: COQUILLE R

> PACIFIC OCEAN

Water Availability Subbasin: 1600000000000000

Exceedance Level: 50

Time: 12:56

Date: 11/01/1995

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Net Min. Flow 1/1/93	CU + Stor After 1/1/93	Net Min. Flow Now	Instream Water Rights	Net Water Available
1	5140.00	20.00	5120.00	3.81	5120.00	360.00	4760.00
2	5610.00	20.00	5590.00	4.05	5590.00	340.00	5250.00
3	5190.00	10.00	5180.00	3.88	5180.00	340.00	4840.00
4	2610.00	20.00	2590.00	3.05	2590.00	340.00	2250.00
5	1190.00	30.00	1160.00	3.32	1157.00	340.00	817.00
6	625.00	52.00	573.00	4.45	569.00	200.00	369.00
7	275.00	73.00	202.00	5.35	197.00	71.00	126.00
8	134.00	62.10	71.90	2.59	69.31	71.00	-1.69
9	117.00	34.80	82.20	2.15	80.05	71.00	9.05
10	187.00	15.00	172.00	0.39	172.00	380.00	-208.00
11	2290.00	10.00	2280.00	2.49	2280.00	380.00	1900.00
12	5000.00	20.00	4980.00	3.06	4980.00	360.00	4620.00
Stor	1700000	22000	1680000	2310	1670000	195000	1490000

DETAILED REPORT OF ISWRs

Basin: SOUTH COAST

Stream: COQUILLE R

> PACIFIC OCEAN

Water Availability Subbasin: 1600000000000000

Time: 12:56

Date: 11/01/1995

-----ISWRs-----							
APP # :	384A	0	0	0	0	RESULTANT	
STATUS:	Cert.						
1	360.0	0.0	0.0	0.0	0.0	360.0	C
2	340.0	0.0	0.0	0.0	0.0	340.0	C
3	340.0	0.0	0.0	0.0	0.0	340.0	C
4	340.0	0.0	0.0	0.0	0.0	340.0	C
5	340.0	0.0	0.0	0.0	0.0	340.0	C
6	200.0	0.0	0.0	0.0	0.0	200.0	C
7	71.0	0.0	0.0	0.0	0.0	71.0	C
8	71.0	0.0	0.0	0.0	0.0	71.0	C
9	71.0	0.0	0.0	0.0	0.0	71.0	C
10	380.0	0.0	0.0	0.0	0.0	380.0	C
11	380.0	0.0	0.0	0.0	0.0	380.0	C
12	360.0	0.0	0.0	0.0	0.0	360.0	C

DETAILED REPORT ON WATER AVAILABILITY

Basin: SOUTH COAST

Stream: SEVENMILE CR

> RANDOLPH SL

Water Availability Subbasin: 1602000000000000

Exceedance Level: 50

Time: 12:56

Date: 11/01/1995

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Net Min. Flow 1/1/93	CU + Stor After 1/1/93	Net Min. Flow Now	Instream Water Rights	Net Water Available
1	35.10	0.10	35.00	1.04	34.00	7.00	27.00
2	38.40	0.10	38.30	1.11	37.20	7.00	30.20
3	27.80	0.00	27.80	0.97	26.80	7.00	19.80
4	18.20	0.00	18.20	0.33	17.90	7.00	10.90
5	8.55	0.19	8.36	0.29	8.07	7.00	1.07
6	4.12	0.57	3.55	0.34	3.21	4.10	-0.89
7	1.72	0.88	0.84	0.39	0.45	1.70	-1.25
8	0.79	0.71	0.08	0.23	-0.15	0.80	-0.95
9	0.53	0.30	0.23	0.18	0.05	0.50	-0.45
10	0.59	0.04	0.55	0.00	0.55	0.60	-0.05
11	5.58	0.02	5.56	0.25	5.31	5.60	-0.29
12	28.40	0.10	28.30	0.39	27.90	7.00	20.90
Stor	10200	180	9990	331	9670	3310	6580

DETAILED REPORT OF ISWRs

Basin: SOUTH COAST

Stream: SEVENMILE CR

> RANDOLPH SL

Water Availability Subbasin: 1602000000000000

Time: 12:56

Date: 11/01/1995

-----ISWRs-----							
APP # :	70574A	0	0	0	0	0	RESULTANT
STATUS:	App.						
1	7.0	0.0	0.0	0.0	0.0	0.0	7.0 A
2	7.0	0.0	0.0	0.0	0.0	0.0	7.0 A
3	7.0	0.0	0.0	0.0	0.0	0.0	7.0 A
4	7.0	0.0	0.0	0.0	0.0	0.0	7.0 A
5	7.0	0.0	0.0	0.0	0.0	0.0	7.0 A
6	4.1	0.0	0.0	0.0	0.0	0.0	4.1 A
7	1.7	0.0	0.0	0.0	0.0	0.0	1.7 A
8	0.8	0.0	0.0	0.0	0.0	0.0	0.8 A
9	0.5	0.0	0.0	0.0	0.0	0.0	0.5 A
10	0.6	0.0	0.0	0.0	0.0	0.0	0.6 A
11	5.6	0.0	0.0	0.0	0.0	0.0	5.6 A
12	7.0	0.0	0.0	0.0	0.0	0.0	7.0 A

Card #1 SECTION 3

NE				NW				SW				SE				APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER
LOT 1	LOT 2	LOT	LOT	LOT 3	LOT 4	LOT	LOT	LOT	LOT	LOT 5, 7	LOT 6	LOT	LOT	LOT	LOT			
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
ACREAGE IN LOT OR LEGAL SUBDIVISION AS SHOWN ON GOVERNMENT PLAT IF OTHER THAN 40 ACRES																		
32.05	32.15			32.25	32.35					38.10	38.51							
																14411	10480	CANCELLED
																22725	17855	21445
																33670	26621	35817
																R-34092	R-2465	32272
																34093	26926	32273
																R-39324	R-3900	35932
																39325	29282	35933
																-suppl- G-2756	G-2561	35931
																45890	34265	39625
																40554	36440	48703
																-suppl- 56569	44930	6
																55693	42293	67077

(SEE BACK OF CARD FOR PLAT OF SECTION)

(SEE BACK OF CARD FOR PLAT OF SECTION)

Card #2 SECTION 3

NE				NW				SW				SE				APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
ACREAGE IN LOT OR LEGAL SUBDIVISION AS SHOWN ON GOVERNMENT PLAT, IF OTHER THAN 40 ACRES																		
Temp Hardy 955																63512	47254	65035
Temp. Hardy 955																6-10855 ^{Suppl.}	G-9966	64991
																G-12162 ^{Suppl.}		
																R-70462		
																70463		
																G-12333	G-11246	
																G-12359		
																T6407	36440	67637
																48554	36440	65063
																71155	51209	
																70672	51166	
																R-70671	R-11348	
																G-12497		
																71594		

card # 3

SECTION 3[illegible]

Application No. 2-73400

Permit No.

STATE OF OREGON

COUNTY OF COOS

CERTIFICATE OF WATER RIGHT

RECEIVED

MAY 17 1993

WATER RESOURCES DEPT.
SALEM, OREGON

THIS CERTIFICATE ISSUED TO

MICHAEL NELSON RUSSELL
ROUTE 2, BOX 1900
BANDON, OREGON 97411

confirms the right to use the waters of SEVENMILE CREEK, a tributary of COQUILLE RIVER, for the purpose of TEMPERATURE CONTROL, IRRIGATION, AND FLOOD HARVESTING ON 9.55 ACRES OF CRANBERRIES.

The right has been perfected under Permit 47254. The date of priority is MAY 4, 1982. The right is limited to not more than 0.70 CUBIC FOOT PER SECOND; BEING 0.70 CFS FOR TEMPERATURE CONTROL, 0.24 CFS FOR IRRIGATION, AND 0.48 CFS FOR FLOOD HARVESTING, PROVIDED THE TOTAL DIVERTED SHALL NOT EXCEED 0.70 CFS, or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

SW 1/4 SE 1/4, SECTION 34, T 27 S, R 14 W, W.M.; 2990 FEET NORTH AND 3995 FEET EAST FROM THE W 1/4 CORNER OF SECTION 3.

The amount of water used for irrigation of cranberries, together with the amount secured under any other right existing for the same lands, is limited to a diversion of one-fortieth of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year. For the irrigation of any other crop this right is limited to a diversion of one-eightieth of one cubic foot per second (or its equivalent) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

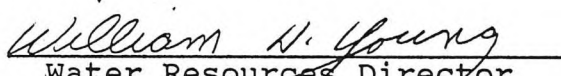
The right shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right, and to which such right is appurtenant, is as follows:

NW 1/4 NE 1/4 9.55 ACRES
SECTION 3
TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The right is subject to minimum flows established by the Water Resources Commission with an effective date prior to this right.

WITNESS the signature of the Water Resources Director, affixed this date NOVEMBER 19, 1990.


Water Resources Director

Recorded in State Record of Water Right Certificates numbered 65035.

63512.VRG

COMPLETED

MC 10-4-95

200 Exam

100 19.5 ACFT

COMPLETENESS DETERMINATION CHECKLIST

Application #	Review Date	Reviewer
R-73400	10/4/95	GERRY

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

300 Total

300 Received

& Fees OK

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

WaterWatch

O F O R E G O N

Hand Delivered

March 11, 1994

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

RECEIVED
MAR 11 1994
WATER RESOURCES DEPT
Salem, Oregon

Re: Objection to Technical Report for:
73748, Kimmet, Domestic, Coquille
72859, Cranford, Domestic, Unnamed
73349, Wheeler, Irrigation, Coquille
70313, Plaep, Irrigation, Fishtrap Creek
71769, Parrish, Domestic, Spring\MF Coquille
73593, Hoffman, Domestic, Coquille
72935, Winkelman, Domestic, Spring\MF Coquille
72485, Brock, Domestic, Big Crk/Spring
71919, Chambers, Domestic, MF Coquille
71529, Hatfield, Irrigation, Coquille
71770, Parrish, Domestic, MF Coquille
73401, R 73400, Peart Enterprises, Ag, Sevenmile
Coos Co., South Coast

WaterWatch submits the following objections pursuant to OAR 690-11-170:

◆ **The Technical Reports are Defective**

The technical reports fail to contain many of the elements and evaluations required in OAR 690-11-160(1). The areas of deficiency are the same as those identified in WaterWatch's April 5 objection to application #69165 which we hereby incorporate into this objection.

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

The analyses are defective for the following reasons:

- The technical reports fail to contain any analysis of water availability, contrary to OAR 690-11.
- The analyses fail to take into account existing water rights of record. It is unclear from the technical reports to what extent the water availability analysis takes into account upstream water rights. As we understand it, water rights are taken into account either by assuming the streamflow data reflects the amount of use or by using estimates of consumptive use. Both methods fail to

give adequate consideration to rights-of-record. Failure to account for future increases in water use pursuant to rights of record results in an over-estimation of water availability and over-allocation of the resource. This is contrary to the statewide Water Allocation Policy. OAR 690-400-010.

- The analyses fail to take into account the requested flows in the senior pending instream water right applications for the Middle Fork Coquille River, and Fishtrap Creek.

◆ **The Uses As Proposed are Not in the Public Interest**

The proposed uses fail to pass the public interest considerations in ORS 537.170 and are contrary to the South Coast basin program. *See also*, OAR 690-11-195(3)(d), (4)(a), (4)(c)(A), (4)(d)(A), (4)(f).

The South Coast Basin plan states:

Income from water-related recreation is a major contributor to the economy of the South Coast Basin. Finding 39.

The natural lakes, storage reservoirs and free-flowing streams support part of the water-based recreation use. Finding 40.

The water resources, wetlands and associated habitat are critical to the subsistence and propagation of wildlife in the Basin. Finding 42.

The coastal streams support resident and anadromous species of fish. Finding 43.

The fish resources of the South coast Basin are significant to the State of Oregon. Finding 44.

Adequate streamflow throughout the year is necessary for the maintenance of aquatic life in the coastal streams. Finding 45.

Low summer streamflow in many Basin streams is one factor limiting production of salmonids. Finding 46.

Summer flows in some streams will no support recommended minimum flows. Finding 47.

The Coquille River has water quality problems caused by point and non-point sources of pollution and low flows. Finding 56.

Coquille River and its surrounding tributaries and wetlands support a variety wildlife and fish life. Coho and Chinook salmon and winter steelhead rely on flows in the Coquille River for different stages of their life cycles.

- 1. The proposed uses are not in the public interest because they will interfere with flows needed to support public instream uses of water.**

The proposed uses will deplete flows needed for numerous public instream uses of the the Coquille River. This river system supports a variety of fish life including cutthroat trout, winter steelhead and coho salmon. Petitions have been filed requesting listing of coastal coho and steelhead under the Federal Endangered Species Act. Low flows during summer months impair fish survival by among other things raising water temperatures and decreasing aquatic habitat and fish rearing areas. Low flows in the winter adversely affect fish habitat by among other things exposing spawning gravel and reducing feeding and rearing areas in the river. In addition, water diversions create problems for fish passage and survival in the basin.

Currently there are pending instream water right applications for the Coquille system. These pending applications request flows needed for fish life in the system. The dams used to stored water will create passage problems. Both the storage and diversion of stored water change the hydrology of the stream system - eliminating flood events needed for habitat maintenance, blocking passage, and storing water during times of low flows. In addition, the use of water to irrigate cranberry bogs will result in additions of pesticides and fertilizers to the river system which will, unless regulated, will degrade stream quality. Thus, the proposed uses are not in the public interest because they will preclude flows needed for the pending instream water right application.

The public use reflected in the instream water right applications (protection and conservation of fish life) has a "reasonable expectation of being developed" as evidenced by the pending instream water right application. This instream use provides greater benefit to the public at large than the proposed use. These fish populations have statewide and even national significance and streamflows are essential for maintenance of these fish. These proposed uses will divert water needed for these streamflows and will create passage problems they should be denied.

2. Measurement and reporting.

These conditions should allow the Director to require measurement and reporting of both **rate and duty** of water stored and used. The proposed permit conditions restrict use based upon a specific rate. Measurement and reporting of water use is to be a useful informational and regulatory tool for the Department, it should provide the information needed to ensure that water use is within the terms of the permit.

The surface waters of the Coquille River system are overallocated several months of the year. The information generated by these proposed conditions are essential to the management and control of the water resource. If these uses were to be permitted, water use measurement and reporting should be a mandatory condition of use. This information is essential for protection of the public interest in the resource. However, we question the Department's ability to control these uses, **even** with these requirements.

The technical reports propose to limit the months of storage and water use. The technical reports also propose to limit the type of use during several months of the year. The Department's enforcement staff is already incapable of control existing rights to use water in the basin. These proposed uses add yet another enforcement responsibility on top of an already unmanageable load. Under these circumstances, it is difficult if not impossible for the state to ensure that these applicants will, **at all times**, use water in compliance with the permit conditions. Given the critical state of the water resource in the basin and the Department's inability to control this use, even with measurement and reporting, these uses are not in the public interest.

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

Given the critical status of fish populations and the water quality problems in this river system and the adverse effects diversions and storage projects have on fish habitat, screening and passage should clearly be required to be in place **before** any diversion of water. In addition, failure to maintain screening and passage facilities must be grounds for shutting off water use. There should be a condition in any permit issued which **clearly** states these requirements.

4. The proposed uses are contrary to Oregon policy.

ORS 537.170(5)(a) and (c) require the Department to ensure that waters in the basin will be used and controlled for all purposes, not just consumptive purposes. The Statewide Instream Flow Protection Policy states that "(w)here streamflows have been depleted to the point that public uses have been impaired, methods to restore the flows are to be developed and implemented." OAR 690-410-030(1). When considering applications for new water

The exceptions in the instream water right certificates are narrowly worded and should not be applied unless there is absolutely no other alternative sources of water. It is bad public policy to automatically apply this exemption without looking for other possible sources that can accommodate this water use. Human beings can go elsewhere for water, fish can not.

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

There are many small domestic uses in the basin consuming both ground and surface waters, all vital sources for instream flow. Individually, the quantity of water consumed may not be large, but cumulatively these uses adversely effect instream flows and water quality. Ignoring this problem is bad public policy. The state should be looking for alternate sources for these uses and ways to provide regional water supplies for these uses in a way that will result in the least amount of impact for the resource.

Conservation

Oregon statutes and rules also call for the state to "aggressively promote" water conservation and places a high priority on eliminating waste and improving the efficiency of water use. ORS 537.460(2)(a) and OAR 690-410-060(1). The proposed conditions do little to further these policies. Given the presence of potentially listed species, the water quality problems and the fact water diversions are one of the causes of anadromous fish declines it is imperative that the water use be as efficient as possible. The proposed uses should be held to a high efficiency standard **prior to** any permit issuance.

Sincerely,

A handwritten signature in cursive script, appearing to read "Karen Russell".

Karen A. Russell
Assistant Director

TECHNICAL REVIEW CHECKLIST

FORM-71393

(1) Application: R 73400

(2) Review Date: 12/23/93

S Indicates information was completed or adequately addressed.
 U Indicates information is needed, or incomplete, or inadequately addressed
 N/A Indicates Not Applicable

SUMMARY

U Completeness *map reference per*
S Land Use
N/A GW Interference (if potential interference with surface water, see results of water availability analysis)
S Conflicts
S Water Availability *1/1-3/31*

(3) S The applicant has certified that the information provided in the application is an accurate representation of the proposed use and is true and correct to the best of their knowledge.

(4) N/A No oath is required because application was filed before June 5, 1992.

(5) S Application fees:

Examination fee:	\$	<u>200</u>
Recording fee:	\$	<u>100</u>
TOTAL REQUIRED	\$	<u>300</u>
TOTAL SUBMITTED	\$	<u>300</u>
AMOUNT DUE prior to issuance of permit	\$	<u>0</u>
AMOUNT OVERPAID		
refund due applicant	\$	<u>0</u>

(6) S Proposed dates of beginning and completion of construction, and complete application of water.

(7) S MAP: X Prepared by a CWRE
 ___ Exempt under OAR 690-11-150(3)
 ___ A map or drawing included (non-CWRE)
 ___ No map or drawing in file

- (8) N/A A CWRE map is not required for applications filed before November 9, 1987.
- (9) S A written copy of the legal description of the property on which the water is to be used.
- (10) N/A A copy of written authorization, contract or easement permitting access to the land or reservoir not owned by the applicant.
- (11) S The proposed use is not restricted or prohibited by statute.
- (12) S The source of water is not withdrawn from appropriation by order of the State Engineer or Water Resources Commission, or legislatively withdrawn under ORS Chapter 538.
- (13) S STORAGE use(s) is/are classified uses(s) under the S. Coast Basin Program, OAR 690 -517-009(1)
- (14) S The application, map and supporting data are complete and free of defects.

Land Use Compatibility:

- (15) As expressed by the Planning Department of COOS
- (16) S The land uses to be served by proposed water uses (including proposed construction) are allowed or are not regulated by the local comprehensive plan (ordinance section _____).
- (17) N/A The land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals which have been obtained.
- (18) N/A The local government was notified, and sent no comment pursuant to the rules at the time; land use was presumed in compliance per such statement printed on the application.

For ground water applications:

- (20) N/A A copy of the constructor's log, if available, for any well already constructed, or required information regarding actual or anticipated construction.
- (21) N/A The report from groundwater section has been received.

For reservoir applications:

- (22) N/A Plans, specifications and supporting information for the dam and impoundment area.

8

COPY CHECK-OFF SHEET FOR TECHNICAL REVIEWS

CC: FILE # R 7 3 4 0 0

WATERWATCH

ODF&W - ¹2 copies

WATERMASTER # 19

REGIONAL MANAGER - SW

CWRE - James F Booson

DEQ

KEN STAHR

OTHER ADDRESSES:

CASEWORKER

39

ORIGINAL TO APPLICANT 11/15/93

RECEIVED

MAY 17 1993

SCHEDULE A

**WATER RESOURCES DEPT.
SALEM, OREGON
At 12:01**

Amount \$135,000.00

Date: July 16, 1991

Premium: \$537.50

INSURED

-----PEART ENTERPRISES, INC.-----

The estate or interest referred to herein is, at the date hereof, vested in

-----MICHAEL NELSON RUSSELL-----

The land referred to in this policy is described as

Government Lot 2 of Section 3, Township 28 South, Range 14 West of the
Willamette Meridian, Coos County, Oregon.

ALSO: A parcel of land situated within Government Lot 1, Section 3, Township 28
South, Range 14 West of the Willamette Meridian, Coos County, Oregon, more
particularly described as follows: Beginning at the Northwest corner of said
Government Lot 1 in Section 3; thence running Easterly along the North boundary
of said Government Lot 1, 200 feet, more or less, to a point on the Westerly
boundary of the County Road; thence running in a Southwesterly direction to the
Southwest corner of said Government Lot 1; thence running Northerly along the
West boundary of said Government Lot 1 to the point of beginning. -----

The estate or interest in the land described in this schedule is:

fee

Application No. R-73400
Permit No.

(For Local Use Continued)

b) Please provide printed name and written signature.

Name: _____

Title: _____

Date: _____

Phone: _____

Signature: _____

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

Additional Comments:

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

Description of Water Use

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

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

Applicant Name: Peart Enterprises, Inc.
 Address: HC84 Box ST 76
Myrtle Point, Oregon 97458
 Phone: (503) 572-5030

RECEIVED**MAY 17 1993**

WATER RESOURCES DEPT.

SALEM, OREGON

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

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

Indicate sources for the proposed water use below:	Indicate the estimated quantity of water the use will require.
☒ Surface Water Name sources: <u>Sevenmile Creek</u> <u>Unnamed drainage</u>	<u>1.00</u> Cubic feet per second. _____ Gallons per minute. _____ Acre-Feet
☒ Reservoir or pond	19 Acre Feet
☒ Ground Water	1.00 cubic feet per second (Supplemental

DATE	INITIALS
5-17-93	RD

MINIMUM REQUIREMENTS TO FILE

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

FIELD OPERATIONS

27 May 93	DLB

Application date stamped per money receipt date

Stream Indexed Basin 17

Stream Code _____

Scenic Waterway _____

Findings:

- 1) Concluded - Scenic-Reg Ack letter
- 2) Under Study - Scenic-Ack letter
- 3) Basin 2 - Willamette-Ack letter

Plat Carded and copy made

YESNO

Conflicts (well _____ surface _____)

Prior ISWR # _____

Within Irrigation District _____

(name)

Notified

District excerpt received

Entered in Paradox

Prepare six copies of Draft Permit

Send one copy to Data Center

27 May 93	DLB

SUPPORT SERVICES

Stamp contents with application number

Mail/Provide copies of draft permits to DEQ, ODFW, PARKS, AND WATERMASTER

Mail ack letter (provided by Data Center) with receipt to applicant, cc to CWRE and file

Place label on file and card

If dam is over 10 feet or storage exceeds 9.2 AC-FT, route file to Dam Safety Section

Notify Irrigation District

5/25/93	CAC
5/26/93	"
"	"
"	"
"	"
"	"

FIELD OPERATIONSYESNO

Ownership Statement

Name and address of all owners

Other landowners notified

Legal Description

Need Commission review

____ Requests greater than 5.0 cfs

____ Dam height greater than 20 feet

____ Storage greater than 100 acre-feet

____ Out of Basin diversion

____ Groundwater recharge project

____ Other substantial public interest

GW comments received _____ resolved _____

ODFW comments received _____ resolved _____

DEQ comments received _____ resolved _____

Interest Groups

Water availability received

Objections received _____ resolved _____

Protest received _____ resolved _____

Management Codes

EXAMINATION FEE:

RECORDING FEE:

REMARKS:

TOTAL:

REFUND:

DEFICIENT:

WaterWatch

O F O R E G O N

RECEIVED

JUN 14 1993

WATER RESOURCES DEPT.
SALEM, OREGON

June 12, 1993

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

RE: Application for Permit #R73400, 73401, Peart Enter.
7mile Cr., Coos Co., Cranberry Use

WaterWatch has reviewed the limited amount of information contained in the public notice of this water right application. Based upon that information, WaterWatch raises the following issues, questions, and concerns:

Is there unappropriated water available for this proposed use? Does the Department have adequate data to accurately determine the 80% exceedence level?

What effect will this proposed use have on instream flows necessary to protect the public's interest in fish, wildlife, recreation, and a healthy aquatic system?

This water source may suffer from water quality problems. Has the Department consulted with the Department of Environmental Quality to determine the effect this proposed withdrawal will have on water quality?

If this water source provides habitat to native fish during any phase of their life cycle, we request that the Department include conditions requiring the installation and maintenance of fish screening and bypass devices prior to any diversion of water.

Given the importance of surface water sources, and the Department's limited enforcement staff, it only makes sense to require this applicant to measure and record water use. Measurement not only helps the Department carry out its statutory mandate to promote the control of water resources for all beneficial uses, it helps the Department protect the public's interest in assuring the use is within the bounds of the permit. ORS 536.220(1)(a), 537.170(5).

Will this proposed use be compatible with Goal 5 elements of the local comprehensive plan?

It is a high priority of the state to eliminate waste and improve the efficiency of water use. OAR690-410-060(1). Statewide policy also calls upon water users to use and maintain their water systems in a manner consistent with the state's priority. OAR 690-410-060(2)(a). What conditions are proposed for this permit that will carry out and encourage compliance with state policy?

Is this an existing illegal use of water? If so, will the continued use without a permit cause harm to existing water rights and the public interest?

We request copies of the draft permit and the Department's technical review of this application.

Sincerely,

Jim Myron

bc:

WaterWatch of Oregon, Inc. 921 S.W. Morrison. Suite 438 Portland, Oregon 97205 (503) 295-4039

May 25, 1993

PEART ENTERPRISES INC.
HC 84 BOX ST 76
MYRTLE POINT, OR 97458

REFERENCE: File(s) G-13413, R-73400, S-73401

We have received your application(s) for a water use permit along with your supporting data, documentation, and fees. A receipt is enclosed here unless you were previously issued one. Your application has been assigned the above referenced file number. Please refer to this number whenever you contact us about your application.

Even though your application has been received, filed and assigned an application reference number, no authorization has been granted to develop your water use. The filing of an application does not create a water right. Water may not be used without a water right permit.

After an application has been accepted for filing, public notification of the application is made, followed by the mandatory 30-day comment period. Thereafter, applications can be considered for processing as time allows.

At present the Water Resources Department has a backlog of several thousand applications for water use permits which has delayed our application processing time. Applications are processed in the order in which they are received.

The processing of an application does not guarantee that a water right permit will be issued. Each application must undergo a specialized analysis called a technical review and a public interest review. There is no way to determine at this time whether your particular proposed water use will be recommended for a permit.



REFERENCE: File(s) - G-13413, R-73400, S-73401

When the report on the technical review is completed and sent to you, a 60-day objection period begins during which you, the applicant, or anyone who has expressed an interest in your proposed water use may communicate to us their disagreement with what we have said in our report on your application. After the 60-day objection period, the Department conducts the public interest review and considers any objections which have been made.

After any objections have been considered, there may follow time to allow parties to resolve conflicts over the proposed water use. In addition, a 30-day protest period may be required. Lastly, it may be necessary to schedule a hearing or send the application to the Water Resources Commission for their review. In most cases no objections are received and the application processing can proceed without further conflict resolution, protest, or hearing.

If your application is recommended for approval and a permit is issued, the use allowed by the permit will be subject to the Basin Program Rules of the Water Resources Commission, instream flow requirements, and the demands of prior right holders, and other conditions to conform the water use to particular standards.

Please contact the Water Rights Section of the Water Resources Department if you have any questions. You may write to us at 3850 Portland Road, Northeast, Salem, Oregon 97310 or you may call 378-3739 in Salem or toll free from within the state 1-800-624-3199.

Sincerely,

Laurie Beth English
Water Rights Program Analyst

cc:CWRE

Application No. *R-73400*
 Permit No.

APPLICATION MAP

IN THE NAME OF PEART ENTERPRISES, INC.

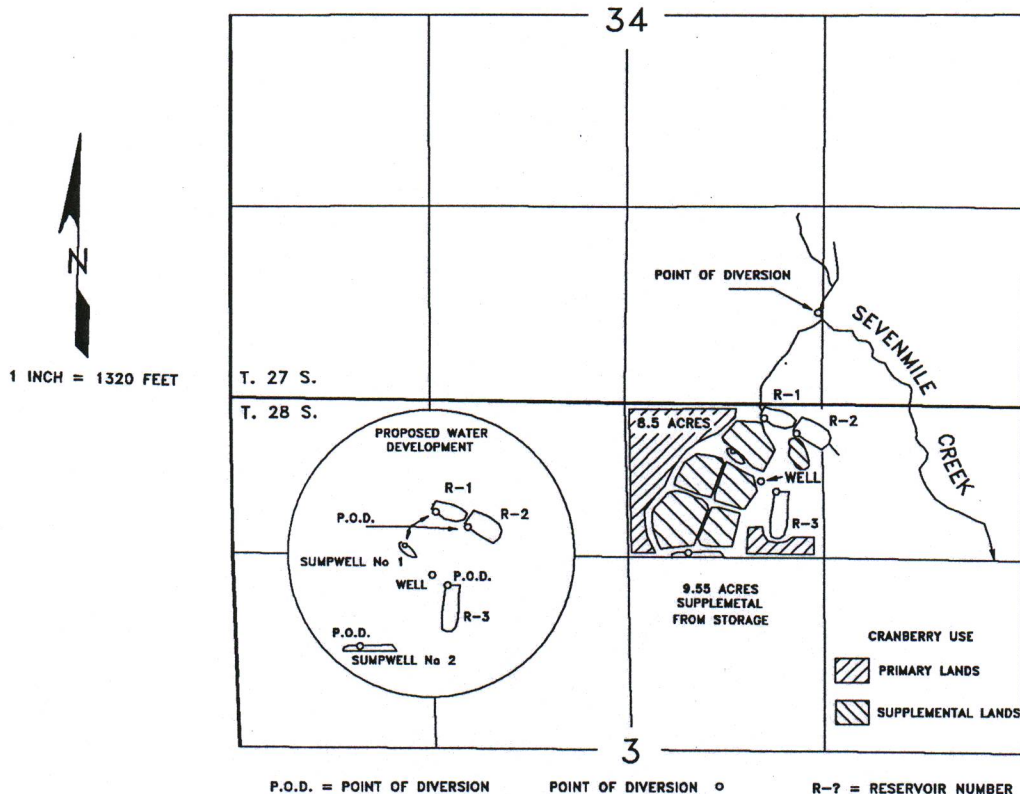
SECTION 34, T 27 S, R 14 W, W.M.
 and
 SECTION 3, T 28 S, R 14 W, W.M.

Superseded

RECEIVED

MAY 17 1993

WATER RESOURCES DEPT.
 SALEM, OREGON

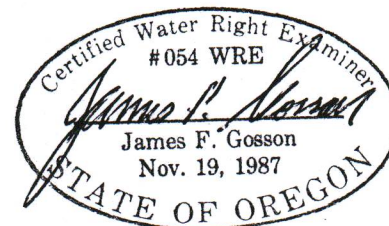


THE POINTS OF DIVERSION ARE TO BE LOCATED AS FOLLOWS:

SOURCE	NORTH	EAST	¼ ¼	Sec.	Twp.	Rng.
SEVENMILE CREEK	2990 FEET	3995 FEET	SW¼ SE¼	34	27 S	14 W
RESERVOIR No. 1	2800 FEET	3750 FEET	NW¼ NE¼ SW¼ SE¼	3 34	28 27 S	14 W
RESERVOIR No. 2	2350 FEET	3545 FEET	NW¼ NE¼	3	28 S	14 W
RESERVOIR No. 3	1790 FEET	3650 FEET	NW¼ NE¼	3	28 S	14 W
WELL	1850 FEET	3545 FEET	NW¼ NE¼	3	28 S	14 W
SUMPWELL No. 1	2045 FEET	3405 FEET	NW¼ NE¼	3	28 S	14 W
SUMPWELL No. 2	1355 FEET	3100 FEET	NW¼ NE¼	3	28 S	14 W

ALL WITHIN COOS COUNTY.

THE PURPOSE OF THIS MAP IS TO IDENTIFY THE LOCATION OF THE WATER RIGHT.
 IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION
 OF PROPERTY OWNERSHIP BOUNDARY LINES.



Application No. *R-73400*
Permit No.

APPLICATION MAP

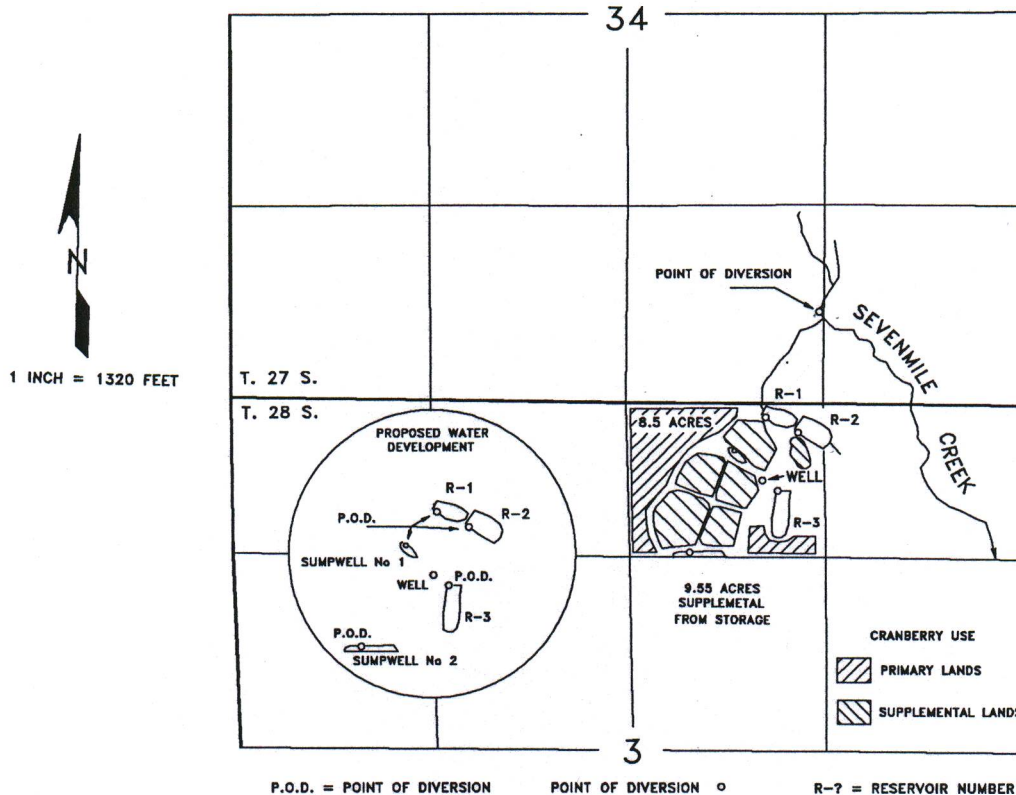
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and
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MAY 17 1993

WATER RESOURCES DEPT.
SALEM, OREGON

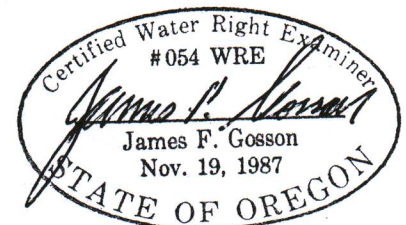


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NUMBER 90250

Check 900⁰⁰ NO Cash

- ☒ Surface Application \$ 200⁰⁰ 100⁰⁰ EXAM RECORDED
- ☒ Reservoir Application \$ 200⁰⁰ 100⁰⁰ EXAM RECORDED
- ☒ Ground Water Application \$ 200⁰⁰ 100⁰⁰ EXAM RECORDED
- Transfer Application
- Power Claim
- Hydroelectric Examination 900⁰⁰ TOT.
- Hydroelectric License
- Copying
- Assignment
- Extension of Time
- Other
- P-6
- Quadrangle
- Basin
- Protest
- Constructors Examination
- Constructors License
- Adjudication
- TO: DOUG BAER*

WATER RESOURCES DEPARTMENT

RECEIPT

100033

3850 PORTLAND ROAD NE

SALEM, OR 97310

378-8455/378-8130 (FAX)

RECEIVED FROM:

BY:

Pearl Enterprises
Inc.

APPLICATION

73400

PERMIT

TRANSFER

CASH:

☐

CHECK: #

☒

96-455

OTHER: (IDENTIFY)

☐

TOTAL REC'D

\$

900.00

01-00-0 WRD MISC CASH ACCT

842.010 ADJUDICATIONS

\$

831.087 PUBLICATIONS/MAPS

\$

830.650 PARKING FEES Name/month

\$

OTHER: (IDENTIFY)

\$

REDUCTION OF EXPENSE

CASH ACCT.

\$

COST CENTER AND OBJECT CLASS

VOUCHER #

03-00-0 WRD OPERATING ACCT

MISCELLANEOUS:

840.001 COPY FEES

\$

850.200 RESEARCH FEES

\$

880.109 MISC REVENUE: (IDENTIFY)

\$

520.000 OTHER (P-6): (IDENTIFY)

\$

WATER RIGHTS:

842.001 SURFACE WATER

EXAM FEE

\$ 200.00

842.002

RECORD FEE

\$ 100.00

842.003 GROUND WATER

\$

842.004

\$

842.005 TRANSFER

\$

842.006

\$

WELL CONSTRUCTION

EXAM FEE

842.022 WELL DRILL CONSTRUCTOR

\$

842.023

LICENSE FEE

\$

842.016 WELL DRILL OPERATOR

\$

842.019

\$

LANDOWNER'S PERMIT

842.024

\$

06-00-0 WELL CONST START FEE

842.013 WELL CONST START FEE

\$

CARD #

MONITORING WELLS

\$

CARD #

45-00-0 LOTTERY PROCEEDS

864.000 LOTTERY PROCEEDS

\$

07-00-0 HYDRO ACTIVITY

LIC NUMBER

842.011 POWER LICENSE FEE(FW/WRD)

\$

842.115 HYDRO LICENSE FEE(FW/WRD)

\$

HYDRO APPLICATION

\$

RECEIPT

100033

DATED:

5-17-93

BY:

Ruske