

Application No. 78796

Permit No. \_\_\_\_\_

**Certificate No.** \_\_\_\_\_

Stream Index, Page No. \_\_\_\_\_

Date filed \_\_\_\_\_

Priority \_\_\_\_\_

Action suspended until \_\_\_\_\_

Return to applicant \_\_\_\_\_

**Date of approval** \_\_\_\_\_

## CONSTRUCTION

Date for beginning \_\_\_\_\_

Date for completion \_\_\_\_\_

Extended to \_\_\_\_\_

Date for application of water \_\_\_\_\_

Extended to \_\_\_\_\_

## PROSECUTION OF WORK

Form "A" filed \_\_\_\_\_

Form "B" filed \_\_\_\_\_

Form "C" filed \_\_\_\_\_

**FINAL PROOF**

**Blank mailed** \_\_\_\_\_

Proof received \_\_\_\_\_

Date Certificate issued \_\_\_\_\_

[illegible]

**Cert. Fee**

[illegible]

## ASSIGNMENTS

Date	To Whom	Address	Volume	Page
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## REMARKS

## MEMORANDUM

FROM: Dwight French  
Patricia McCarty  
Meghan Scott

RE: Exempt Reservoirs and Ponds

DATE: June 16, 2010

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For the majority of exempt reservoir and pond applications, the Department has discretion in deciding whether to schedule a contested case hearing when requested by an applicant who disagrees with a mitigation order.

With regard to file P-78796, a contested case hearing will not be scheduled.

The Mitigation Order requires that fish screening devices be installed and maintained. The applicant has provided the Department with information that they do have fish screens installed.

## Bridgeview

P.O. Box 609  
4210 Holland Loop Road  
(541) 592-4688



## Vineyards Inc.

Cave Junction, OR 97523  
FAX (541) 592-2127

**RECEIVED**  
FEB - 5 1998  
WATER RESOURCES DEPT.  
SALEM, OREGON

January 31, 1998

Water Resources Department  
Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210

Reference: P-78796

Dear Sir:

I am in receipt of your form letter dated January 16th stating that pond permit # P-83264 is detrimental to fish or might cause injury to other water rights. Then on January 17th I received another form letter file number P-78796 that in the second paragraph "they" added one more sentence saying the additional information that we submitted was send to the commenter indicating that they must reply if there are still concerns regarding detriment to fish or injury to other water rights and then the form letter states that "they" have determined that conditions are necessary to mitigate the harm to fish and other water rights. It strikes me that "we" did not read my response for I explained that the commenter lied when he or they stated our pond or reservoir injured fish or other water rights.

1. All the water pumped into our reservoir comes through a screen with 3/16" holes. I don't think a fish can get through that size hole as a fish egg is 5/16" or larger.
2. Our water right is for 2 cfs or 980 gallons per minute, dated 1867 on Sucker creek and adjudicated in the Oregon courts. I only know of one other set of water rights on Sucker creek older than ours and that is 1857 and they are for less than 2 cfs total.

So saying our reservoir and water rights is detrimental to fish and other water users is not true. Take this letter as our request for a CONTESTED CASE HEARING and please do not send me any more form letters. I knew when we were all given pond permit numbers that the form letters would start coming. I resent that we have to prove our innocence first to a computer.

With Regards,

Robert E. Kerivan  
President

the right of the return address

Bridgeview Vineyards  
& Winery  
4210 Holland Loop Rd.  
Cave Junction, OR 97523

CERTIFIED

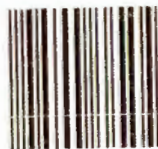
P 618 754 688

MAIL

Water Resources Dept.  
Commerce Building  
158 12<sup>th</sup> Street NE  
Salem, OR 97310-0210



0000



97310

U.S. POSTAGE  
PAID  
CAVE JUNCTION, OR  
97523  
FEB 02 '98  
AMOUNT

\$2.77

00044445-02

**RETURN RECEIPT  
REQUESTED**



# Mailing List for MO Copies

Application 78796

MO Date January/6, 1998

Original mailed to:

Applicant: \_\_\_\_\_ Is there a new address? Y \_\_\_\_\_

1. WRD - File # 78796  
2. WRD - Watermaster # 14  
3. WRD - Regional Manager (not Bob Main): SW

Other Commenters:

4. ODFW District Biologist: Y Jerry Vogt  
5. WaterWatch of Oregon: Y \_\_\_\_\_  
6. Other Commenters Y \_\_\_\_\_

Other Interested Persons (CWRE, Agent, etc.)

7. \_\_\_\_\_  
8. \_\_\_\_\_  
9. \_\_\_\_\_  
10. \_\_\_\_\_

CASEWORKER :

**Information Below This For Mitigation Team Use Only**

SMBS SMSS BPC KR1 KR2 J BSD BSD2 1A MD  
MD1 MD2 MD3 B57 B58 BYPASS B51A Basin \_\_\_\_\_



# Oregon

John A. Kitzhaber, M.D., Governor

January 17, 1998

## Water Resources Department

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

ROBERT KERIVAN; BRIDGEVIEW VINEYARD  
PO BOX 609  
CAVE JUNCTION, OR 97523

Reference: File P-78796

Dear Applicant:

Thank you for your continuing efforts in our program for authorizing exemptions for existing ponds and reservoirs. We know it has been a long and complicated process, and we appreciate your cooperation.

As indicated in our letters to you last November, we had previously received written comments indicating that your reservoir could be detrimental to fish or might cause injury to other water rights. You took advantage of an opportunity that was provided to address those comments. The additional information that you submitted was sent to the commenter indicating that they must reply if there are still concerns regarding detriment to fish or injury to other water rights.

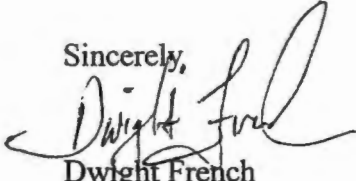
Since then, we have reviewed all the information available to us, including any reply from the commenter, and have determined that certain conditions are necessary to mitigate the potential harm to fish or other water rights. The enclosed Mitigation Order spells out the additional conditions we are proposing.

If you agree with these conditions, and comply with the Mitigation Order, the process will be complete.

If you disagree with this order, you may request a contested case hearing, and submit in writing your reasons why the order should be changed or rescinded. You may wish to submit maps or sketches to help us to better understand the particulars of your situation. Once we receive your request for a contested case hearing, we will contact you to discuss the situation and how we might be able to settle disagreements without holding a hearing. If we are unable to agree on a solution, we will schedule a contested case hearing at a time that is agreeable to both you and the Department. The appeal rights are described in more detail in the order enclosed.

Once again, thank you for your participation in this program. If you have any questions please call one of the water rights staff listed below. My extension number is 268.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dwight French".

Dwight French  
Water Rights Section Manager

Enclosures

cc: Watermaster

Russ Klassen	1-800-624-3199 Ext 266
Laura Snedaker	Ext 331
Dallas Miller	Ext 272

Oregon Water Resources Department  
Water Rights Division

Notice of Existing Reservoir  
Number P-78796

**Reservoir Mitigation Order**

*Application History*

A reservoir was constructed prior to January 1, 1995. As evidence of the right to store water, pursuant to ORS 537.405(2)(a), notice of existing reservoir was submitted.

Pursuant to ORS 537.405(4)(a) the Department has received information from Oregon Department of Fish and Wildlife demonstrating that the reservoir poses a significant detrimental impact to existing fishery resources.

ORS 537.405(7) specifies that "...the director shall require the owner of the reservoir to take appropriate action to mitigate injury to existing water rights or impact to the existing fishery resource."

Therefore, the Department has determined that with the following additional mitigation condition(s), the injury to existing water rights and/or detrimental impact to existing fishery resources, described above, will be mitigated.

**Order**

Install, maintain, and operate fish screening devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the diversion.

Therefore, pursuant to ORS 537.405, the use evidenced by notice of existing reservoir number P-78796, shall be allowed to continue if the injury/negative impact of the reservoir is mitigated as described above.

DATED January 17, 1998

  
Martha O. Pagel  
Director



## Notice of Right to Contested Case Hearing

The owner of the reservoir that is the subject of this mitigation order may request a contested case hearing if the owner disagrees with the order. Most disagreements are settled through a series of informal discussions before the hearing date arrives.

If the department does not receive a request for hearing within the time stated in this notice you have waived your right to a hearing under ORS Chapter 183, unless your failure to request a hearing was beyond your reasonable control, as provided in OAR 137-03-075.

The record of this proceeding to date, including information in Department files on the subject of this proceeding, is automatically part of the contested case record upon default for the purpose of proving a prima facie case.

In order to process your request for a contested case hearing please include the following in writing:

- The reference number (located near the top right corner of the order.);
- Your name, address, and telephone number;
- A detailed description of why the condition(s) proposed in this order is not necessary to protect existing water rights or fishery resources;
- Any citation of legal authority to support your protest, if known.

Your request for a contested case hearing must be received by the Department no later than 60 days after the date of this order.

Send your request for a contested case hearing to:

Ponds Program Appeals  
Water Rights Section  
Oregon Water Resource Department  
158 12<sup>th</sup> ST NE  
Salem OR 97310

RECEIVED

JAN - 5 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

Oregon



DEPARTMENT OF  
FISH AND  
WILDLIFE

ROGUE DISTRICT  
OFFICE

December 31, 1997

Mr. Dwight French  
Water Resources Department  
Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210

RE: Exempt Reservoir Application P-78796

Dear Dwight:

I have reviewed the comments submitted by the applicant regarding the above exempt reservoir application. After reviewing this new information, I request that my original comments on this application be modified as follows:

1. Because the applicant has an existing water right to utilize surface flow the Sucker Creek during the irrigation season, I have no objection to the removal of the April 1 – Oct. 31 bypass flow requirement.
2. Since the POD does not involve a dam or other structure that blocks fish passage, I have no objection to the removal of the requirement to provide fish passage facilities or devices at the POD.
3. Because game fish are present at the POD, ODFW believes that the original comments requiring the applicant to provide fish screening are still valid and requests that WRD include them in the final order. The applicant has indicated that he has a fish screen in place and is therefore in compliance with this mitigation requirement.

Thank you for the opportunity to comment on this application.

Sincerely,

A handwritten signature in blue ink that reads "Jerry Vogt".

Jerry Vogt  
Assistant District Fish Biologist

cc: Bruce Sund, WRD, Grants Pass  
Larry Menteer, WRD, Medford  
File



1495 E Gregory Road  
Central Point, OR 97502  
(503) 826-8774  
FAX (503) 826-8776

Date: Fri, 2 Jan 1998 09:08:11 -0800 (PST)  
X-Sender: frenchdw@mailhub.wrd.state.or.us  
To: Russell.W.KLASSEN@wrд.state.or.us  
From: Dwight W French <Dwight.W.FRENCH@wrд.state.or.us>  
Subject: Re: Exempt Reservoir Mitigation Orders  
Cc: Laura.K.SNEDAKER@wrд.state.or.us

>Date: Fri, 02 Jan 1998 09:14:18  
>To: "Jerry Vogt" <medodfw@cdsnet.net>  
>From: Dwight W French <Dwight.W.FRENCH@wrд.state.or.us>  
>Subject: Re: Exempt Reservoir Mitigation Orders  
>  
>Happy New Year!  
>  
>I'm going to have Russ Klassen of my staff look into this to see what  
happened.  
>  
>If you will confirm that you want fish screening on the file numbers listed  
below we will include that condition on the mitigation order. If the  
applicant thinks that is unreasonable, they can challenge.  
>

>Dwight  
>  
>  
>  
>  
>  
>

>At 05:42 PM 12/31/97 -0800, you wrote:

>>Dwight,  
>>As I mentioned in my phone message to you, I discovered that a number of  
>>the exempt reservoir mitigation orders that WRD sent out omitted my  
>>recommendations for fish screening and/or fish passage devices. I'm not  
>>sure what happened - the hard copy of my comments that I got back with the  
>>applicants comments doesn't show any of the boxes checked for any of the  
>>fisheries concerns, even though my original hard copies ( and my computer  
>>files for these comments) do have the boxes checked. Maybe when you  
>>printed these files the boxes were left unchecked - could you look at some  
>>of these files on the computer to see if the same is true?  
>>

>>The following is a list of applications for which I recommended both fish  
>>screening and fish passage; none of these mitigation orders sent to the  
>>applicants have screening requirements and not all of them have fish  
>>passage requirements:  
>>

>>P-78796

>>P-81681

>>P-81341

>>P-82892

>>P-82595

>>P-83066

>>P-83005

>>P-82818

>>P-82995

>>P-83142  
>>P-82939  
>>P-82040  
>>P-82993  
>>P-82006  
>>P-81832  
>>P-81781  
>>P-81442

>>

>>I'm sure there are more than those listed here because I have only looked  
>>at the mitigation orders for the people who sent in protests. There are  
>>probably mitigation orders that were sent to people who didn't protest that  
>>have omitted screening or passage conditions.

>>

>>At any rate, this may cause some problems, because these applicants should  
>>get a corrected final order that will contain these conditions, and that  
>>may give them more to complain about.

>>

>>Please look into this to see if you can tell why these conditions were  
>>omitted. Thanks for your help.

>>

>>

>>

>

Dwight French  
Water Rights Section Manager  
Oregon Water Resources Department  
158 12th ST NE, Salem Oregon 97310  
1 800 624-3199 ext. 268 or 503 378-8455 x268  
FAX: 503 378-6203

=====> In the middle of difficulty lies opportunity.



Rebuttal

Y N

Exempt by WM comments

Y / N

COMMENTOR:

WM and/or WM Dist: \_\_\_\_\_

ODFW Dist: JERRY VOGT

WaterWatch: Y / N

\_\_\_\_\_  
\_\_\_\_\_

# Mailing List for Commenter Letter

File #: 78796

Letter & copies of rebuttal, comments, certificate or notice, and map sent to:

☐ 1. Watermaster: \_\_\_\_\_

☒ 2. ODFW District Bio: Jeery VOLT

☐ 3. Waterwatch

☐ 4. Other: \_\_\_\_\_

Copies Mailed	
By: <u>[Signature]</u>	(SUPPORT STAFF)
on: <u>12/19/97</u>	(DATE)

(Note: Materials mailed only to those individuals/parties that are checked off above.)

Copy of Letter to:

☒ 1. WRD File # 78796



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

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

December 19, 1997

Jerry Vogt  
Oregon Department of Fish & Wildlife  
1495 East Gregory Rd.  
Central Point, Oregon 97502

Dear Mr. Vogt:

You submitted comments on ponds filed under ORS 537.407 (HB 2153) or under ORS 537.405 (HB 2376). These laws provided an opportunity for the Oregon Department of Fish and Wildlife to comment on how a specific reservoir(s) will cause significant detrimental impacts to an existing fishery resource and allowed members of the public to comment on how the reservoir(s) will cause an injury to an existing water right(s). Based upon review of your comments, the Department prepared notices of proposed mitigation conditions. A notice was mailed to each of the registrants along with a copy of your comments. The registrants were provided an opportunity to submit additional information to the Department explaining how your comments were in error.

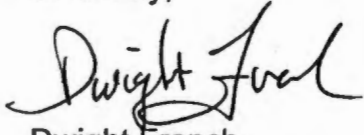
The Department received the attached rebuttals to your comments. If you do not agree with a rebuttal and believe that your comments are still valid, please send a written response to the Department identifying why you disagree with the rebuttal and affirming your position. However, if you agree with the rebuttal you need not respond, unless you determine that it is necessary. In order for us to issue a mitigation order within 180 days of receiving your comments, we need to have your response(s) received by the Department no later than January 7, 1998. If you need an additional day or two to look further at a couple of ponds, please send a request, attention to the appropriate file number.

If you choose to respond, the Department will determine whether a Mitigation Order is required based upon your response and the rebuttal submitted by the registrant. The Mitigation Order, if required, will identify any conditions that must be met in order to protect the fishery resource and/or existing water rights and for the reservoir to be authorized.

If no response to a rebuttal is received, the Department will conclude that you agree with the rebuttal and that a Mitigation Order is not necessary.

If you have any questions, please me at (503) 378-8455, extension 268, or toll free within Oregon at 1 (800) 624-3199.

Sincerely,

A handwritten signature in cursive script that reads "Dwight French".

Dwight French  
Water Rights Manager

Enclosures: Your Comments  
Proposed Mitigation Conditions  
Rebuttal from Registrant  
Copy of Notice of Exempt Pond or Certificate and Map





# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

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

November 20, 1997

ROBERT KERIVAN  
BRIDGEVIEW VINEYARD  
4210 HOLLAND LOOP RD  
CAVE JUNCTION, OR 97523

REFERENCE: FILE#: P 78796

Dear Mr. Kerivan,

I want to apologize for any confusion which may have resulted from the letter we sent to you about a week ago. I hope this follow-up letter will better explain our "ponds" program, and give you a clearer picture of what is happening with your pond.

In 1995, the legislature adopted a new law intended to help address a legal problem with many existing ponds throughout the state. These ponds had been developed over the years by land owners who were not aware that water rights may have been required. In order to make sure that all the ponds were "legal" the legislature approved HB 2376 in 1995, which set out a process for filing a notice of the pond with our department. Under the law, such notices could be filed until January 31, 1997. Our job was then to determine whether any of the ponds resulted in injury to other existing water rights, or created a detrimental impact on fish.

This simplified review process was intended to make it easier for the owners of existing ponds to receive final water right certificates. The 1995 law also required that we provide a comment period, which ended on August 1, 1997. During this time, we were required to accept comments as to whether a pond may in fact be resulting in injury to other water rights or creating a detrimental impact to fish. After the close of that comment period, our department was given 180 days in which to evaluate the comments, give notice to the pond owners, and identify whether mitigation measures would be required to alleviate the injury to other water rights or impacts to fish.

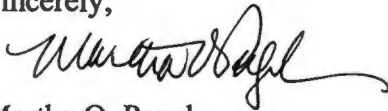
This is why you received a letter from us last week. For more than 16,000 ponds on which notices were filed under HB 2376, about 960 comments were received. From those comments, we determined that about half would appear to require mitigation measures. A total of 450 letters were sent out last week to pond owners like you.

The purpose of these letters was to advise you that the comments had been received, and to provide you with an opportunity to get back to us with any information you might have to show that the mitigation should not be required — either because you disagree with the comment that we received, or because you have a better idea of how to remedy the situation.

The letter you received included a copy of the comments we received about your pond, along with our proposed mitigation plan. We need to hear from you by December 10, 1997, as to whether you disagree with the underlying comment or with our proposed mitigation. We do encourage you to get back to us by the deadline, and we will make every effort to accommodate your suggestions.

Again, I offer my sincere apology for any confusion or irritation caused by our earlier letter. I hope this letter provides additional background information that will help you respond to the questions about your pond. If you have questions about this process, please let us know. I urge you to call our Water Rights Information staff at 1-800-624-3199 extension 499. In some circumstances they may also involve your local Watermaster for additional help. We will try our best to work through this with you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Martha O. Pagel', with a long, sweeping horizontal line extending to the right.

Martha O. Pagel  
Director

m:955

return  
to sender

fee due 50¢

PENALTY FOR PRIVATE  
USE TO AVOID PAYMENT  
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Oregon

WATER RESOURCES  
DEPARTMENT

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210

Address Service Requested

FILE#: P 78796

ROBERT KERIVAN  
BRIDGEVIEW VINEYARD  
4210 HOLLAND LOOP RD  
CAVE JUNCTION, OR

97523

KER1210 975230010 1697 11 11/14/97  
FORM 3547

KERIVAN  
PO BOX 609  
CAVE JUNCTION OR 97523-0609

97523-9758 01



U.S. POSTAL SERVICE  
PS FORM 3547



# Oregon

John A. Kitzhaber, M.D., Governor

November 12, 1997

## Water Resources Department

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

FILE#: P 78796

ROBERT KERIVAN  
BRIDGEVIEW VINEYARD  
4210 HOLLAND LOOP RD  
CAVE JUNCTION, OR 97523

Dear Reservoir Owner,

You submitted a Notice of Exempt Reservoir under *ORS 537.405 (HB 2376)*. HB 2376 provided an opportunity for the Oregon Department of Fish and Wildlife to comment on how a specific reservoir(s) caused injury to an existing fishery resource. In addition the same law allowed members of the public to comment on how the storage or use of the water caused an injury to an existing water right. This comment period ended on August 1, 1997.

The Department received the attached injury allegation(s) related to your reservoir(s), as provided for in *ORS 537.405*. If you do not agree with the allegation of injury, please submit detailed information to the Department explaining why or how the allegation is in error. Your response must be postmarked no later than *December 10, 1997*.

The Department will review any submission you may make and determine if a Mitigation Order is required. If the Department finds that the allegation is factual and verifiable, the Department will issue a Mitigation Order requiring that the attached conditions, or other conditions that prove to be necessary after reviewing any information that is submitted, be met in order for the reservoir to maintain an exempt status.

If you receive a Mitigation Order, you may request a Contested Case Hearing to contest the findings of the Department and the allegation of injury. Information on how to request a Contested Case Hearing will be provided with the mitigation order, if issued.

If you have any questions, please call the Water Rights Information Group at (503) 378-3739 extension. 499.

Water Right Section



## MITIGATION CONDITIONS

File # P- 78796  
Date 11-12-97  
MC

### Oregon Department of Fish and Wildlife Conditions

- ☒ In accordance with ORS 498.268 and ORS 509.605, install, maintain, and operate bypass devices as required by the Oregon Department of Fish and Wildlife that will provide adequate upstream passage for fish. (SMBS)
- ☐ Install, maintain, and operate fish screening devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the diversion. (SMSS)
- ☒ The reservoir owner is required to by-pass flows from April 1 through October 31. (BPC)

### Water Right Related Conditions

- ☐ The pond may be filled one time only per year. No diversion of water to storage can occur during times all water rights are not met on the John Day river System. (KR1)
- ☐ If required by the Watermaster, the water user shall install and maintain 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 Watermaster (Department). (KR2)
- ☐ Live stream flow must be passed when required to satisfy existing water rights. In order to substantiate live flow is being passed, measuring devices may be required. (J)
- ☐ Live flow must be by-passed all year. (BSD)
- ☐ Any secondary use of stored water is limited each year to the capacity of the reservoir. (BSD2)
- ☐ The water user shall install and maintain 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.

**ODFW BIOLOGIST COMMENTS FOR  
HB 2153 CERTIFICATES  
HB 2376 NOTICES**

Date: July 30, 1997

Application # P-78796      Biologist's Name: Jerry Vogt  
Certificate #      (If applicable)      Address: 1495 East Gregory Rd., Central Point  
Phone: (541) 826-8774

**\*\*Attach additional sheets if necessary**

Please specify which reservoir(s)/ponds(s) the comments pertain to:  
*Describe by name, number or Township Range Section and 1/4 1/4 if necessary. If comments refer to all reservoir listed please specify. Please provide enough information to accurately describe which reservoir the comment(s) pertain to.*

Comments apply to all reservoirs in the application.

Does the reservoir/pond cause a detrimental impact to existing fishery resource. Specify which fishery resource and the evidence which supports that finding. *Please describe for each reservoir listed above. If the water right and the supporting evidence are the same please indicate.*

---

This reservoir negatively impacts fishery resources in Sucker Creek. Sucker Creek at the POD supports populations of coho salmon (a federally-listed threatened species), fall chinook salmon and steelhead, and this reservoir impairs both upstream and downstream migration of both adult and juvenile salmonids. Sucker Creek has been identified as a core area for coho salmon in Oregon's Coastal Salmon Restoration Initiative. Sucker Creek also appears on DEQ's 303 (d) list of water quality limited streams due to high summer water temperatures; these high water temperatures reduce salmonid habitat in this stream. In 1995, water temperatures in Sucker Creek near the mouth exceeded the DEQ temperature standard on 29 days, and this reservoir contributes to these temperature problems. In addition, withdrawals for this reservoir injure ODFW's instream water right on Sucker Creek (Certificate 62323).

**\*\*\*\*\*BACK OF PAGE FOR LIST OF CONDITIONS TO MITIGATE INJURY\*\*\*\*\***

Which of the following conditions are required to mitigate the described injury?

The reservoir owner shall: (without ODFW approval)

- (a) install, maintain, and operate fish screening devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion. \*The required screen is to be in place and functional prior to any further diversion of water.
- (b) in accordance with ORS 498.268 and ORS 509.605, install, maintain, and operate by-pass devices as required by the Oregon Department of Fish and Wildlife that will provide adequate upstream and downstream passage for fish.
- (a & b) 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 screen is to be in place and functional prior to any further diversion of water.

The reservoir owner shall: (with ODFW approval)

- (a) install, maintain, and operate fish screening device as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion. \*The required screen is to be in place, functional and approved by an ODFW representative prior to any further diversion of water.
- (b) in accordance with ORS 498.268 and ORS 509.605, install, maintain, and operate by-pass devices as required by the Oregon Department of Fish and Wildlife that will provide adequate upstream and downstream passage for fish. \*The required by-pass device is to be in place, functional and approved by an ODFW representative prior to any further diversion of water.
- (a & b) 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 and approved by an ODFW representative prior to any further diversion of water.

The reservoir owner shall by-pass flows during months when Instream Water Rights are not being met.

Other: (Please specify below)

---



**Bridgeview**

4210 Holland Loop Road  
(541) 592-4688

BRIDGEVIEW



**Vineyards**

Cave Junction, OR 97523  
FAX (541) 592-2127

78796

**RECEIVED**

DEC - 1 1997

WATER RESOURCES DEPT.  
SALEM, OREGON

November 21, 1997

Water Resources Department

158 12th Street NE

Salem OR 97310

Water Right Section

In answer to your inquiry of our six exempt reservoirs under ORS 53537.405. I disagree with the allegations filed by ODFW Biologist Jerry Vogt on our reservoirs. His allegation of no fish passage is incorrect as 95% of the water of Sucker Creek at our diversion is passable by fish if they can swim. His allegation of no screening is also incorrect as we have a stainless steel screen with 1/8" holes across our inlet at all times. His allegation regarding water warming from our reservoirs is incorrect as our excess water is returned to Sucker Creek under ground and the ground temperature is 52-56 F degrees all summer long. If the temperature at the mouth is to warm it is not due to our reservoirs for the reason stated above. His allegation of water being diverted from ODFW in stream water rights is also incorrect as our water rights of 2 cfs or 900 Gallons per minute is an 1867 right adjudicated through the Oregon State Court in 1909. The instream water right certificate Nr. 62323 was not granted until the late 1960s or later. All six of our ponds are interconnected and are used for irrigation purpose with an 1867 water right.

I do not like to answer these nonsense allegation by a state biologist that we tax payer have to pay. If the ODFW did not make nonsense rules such as not enhancing fish (rainbow trout & salmon) in the Illinois River water shed for the last 43 years (their reason was we did not pass the dam project an Sucker Creek) but still allowing the taking of fish all those years is no wonder that the species is now threatened. I put most of the blame on the ODFW fish biologist that make up these rules.

By the way why don't you people in Salem clean up Mill Creek and the Willamette River in your own town before you come down to the Illinois Valley and try to regulate our crystal clear water of Sucker Creek and our pristine rural farms.

If you need any further information feel free to call me at 541-592-4688. I'm inclosing a diagram and picture of our property including the above mentioned ponds.

Sincerely Yours,

Robert E. Kerivan



March 16, 1995

Oregon

ROBERT KERIVAN  
BRIDGEVIEW VINEYARD  
4210 HOLLAND LOOP RD  
CAVE JUNCTION, OR 97523

WATER  
RESOURCES  
DEPARTMENT

REFERENCE: File # P-78796;  
Notice of Exempt Reservoir (Pond)

Your exempt reservoir notice has been received by the Department and has been assigned the above-referenced file number. We would like to ask you to refer to this number if you should need to contact us about the notice, your pond, or ponds if you have more than one.

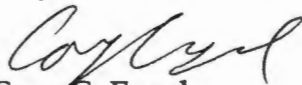
To avoid any misunderstanding, we feel it is important to tell you that although we have received and filed your notice, we have not yet determined whether you are exempt from water right requirements. The watermaster responsible for the area in which the pond(s) is (are) located will help us apply the Water Resources Commission's administrative rules to your situation. These rules set the standards that determine which ponds require water rights and which are exempt. We will let you know the results as soon as we are able to complete our review of your pond(s)'s nature.

Since the department must rely initially on the information you submit to us, it is very important that the information be complete and accurate. If inspections show that your pond(s) does (do) not qualify as exempt, you could be asked to drain the pond(s) or submit a water right application or both. If you submit your application after January 1, 1995, it will be processed like any other application, since that is the deadline for filing water rights under the pond amnesty program.

The department will process your information as quickly as possible. However, because water right processing staff members are working hard to reduce a backlog of applications, it may be some weeks before you hear from us.

If you have questions, you may contact your watermaster. The enclosed brochure lists watermaster names, telephone numbers and addresses by county.

Sincerely,



Mr. Cory C. Engel  
Water Rights Research Assistant  
Water Rights/Adjudication Division

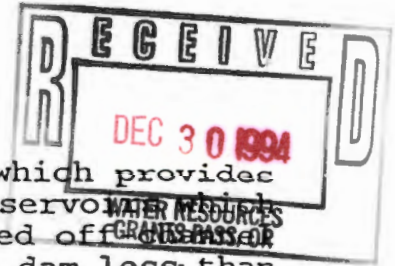
Enclosure: New Water Right Law for Pond Owners Brochure



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

STATE OF OREGON  
WATER RESOURCES DEPARTMENT

NOTICE OF EXEMPT RESERVOIR



This notice is submitted pursuant to ORS 537.141, which provides that a water right is not needed for certain ponds/reservoirs which were in existence before January 1, 1993, are located off-channel and store less than 9.2 acre-feet of water or have a dam less than 10 feet in height.

Landowner: BRIDGEVIEW VINEYARD

Authorized Agent: (if applicable) ROBERT KIERULAN

Address: 4210 HOLLAND LOOP RD

CAVE Junction ORE 97523 5924688  
City State Zip Telephone No.

RECEIVED

JAN - 5 1995

WATER RESOURCES DEPARTMENT  
SALEM, OREGON

I/WE SUBMIT NOTICE OF THE FOLLOWING RESERVOIR(S):

NOTE: Multiple reservoirs may be included in a single notification. For items 1-6 below, attach extra sheets for additional reservoir descriptions.

1. The reservoir is located in Section 36, Township 39, Range 8, in Josephine County. (Enclose a US Geological Survey topographical map or a tax lot map showing the location of the reservoir(s). Copies of portions of the maps are acceptable, provided information on the copy verifies the correct legal description.)

2. Source of water: SUCKER CREEK

3. Maximum height of the dam: 3 ft 2 ft 2 ft

4. Maximum water depth in the reservoir: 3 ft 2 ft 2 ft

5. Maximum storage capacity of reservoir: 1.5 ACRE FT.

6. Size, description and location of any outlet pipe: 12" Pipe

7. Enclose evidence that the reservoir(s) existed before January 1, 1993, such as one or more of the following:

7.1 A dated aerial photograph which shows the immediate area above, below and surrounding the reservoir(s);

7.2 An affidavit signed by the landowner or other knowledgeable person (signature must be notarized);

7.3 A dated map prepared by a local, state or federal agency showing the location of the reservoir; or

7.4 Construction receipts or other forms of documentation.

Application No. P-78794  
Permit No.



Declaration by Owner/Authorized Agent:

Each of the reservoirs described herein was in existence before January 1, 1993, is located off-channel and stores less than 9.2 acre-feet of water or has a dam less than 10 feet in height.

I/We believe the reservoir(s) qualifies under ORS 537.141 and OAR 690-11-014 for exemption from Oregon's water right filing requirements.

Notice to Owners/Authorized Agent:

Reservoirs that qualify for exemption under ORS 537.141 and OAR 690-11-014 shall be subject to the following conditions:

1. The right to store or use water in the reservoir shall not have priority over any water right; and
2. The right to store and use water in the reservoir(s) shall be subordinate to all future permitted or certificated water rights.

THE UNDERSIGNED VERIFIES THAT TO THE BEST OF HIS/HER KNOWLEDGE AND BELIEF THE INFORMATION CONTAINED IN THIS NOTICE IS TRUE, CORRECT AND COMPLETE.

Landowner/agent signature: \_\_\_\_\_

(Print Name and Title) \_\_\_\_\_

Date: \_\_\_\_\_

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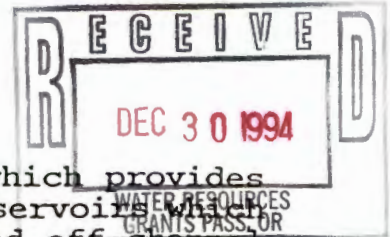
FOR WATER RESOURCES DEPARTMENT USE ONLY

The foregoing Notice and accompanying data have been examined by authorized staff of the Water Resources Department. Based on review of the information submitted, this Notice is received on \_\_\_\_\_, 1994 and assigned FILE NUMBER 978796.

cc: Watermaster District # \_\_\_\_\_

STATE OF OREGON  
WATER RESOURCES DEPARTMENT

NOTICE OF EXEMPT RESERVOIR



This notice is submitted pursuant to ORS 537.141, which provides that a water right is not needed for certain ponds/reservoirs which were in existence before January 1, 1993, are located off-channel and store less than 9.2 acre-feet of water or have a dam less than 10 feet in height.

Landowner: BRIDGEVIEW Vineyards  
Authorized Agent: (if applicable) ROBERT KERVAN  
Address: 4210 HOLLAND LOOP RD  
CAVE JUNCTION ORE 97523 503-5924688  
City State Zip Telephone No.

RECEIVED  
JAN - 5 1995

WATER RESOURCES  
SALEM, OREGON

I/WE SUBMIT NOTICE OF THE FOLLOWING RESERVOIR(S):

NOTE: Multiple reservoirs may be included in a single notification. For items 1-6 below, attach extra sheets for additional reservoir descriptions.

1. The reservoir is located in Section 36, Township 39, Range 8, in Josephine Co. County. (Enclose a US Geological Survey topographical map or a tax lot map showing the location of the reservoir(s). Copies of portions of the maps are acceptable, provided information on the copy verifies the correct legal description.)
2. Source of water: SUCKER CREEK
3. Maximum height of the dam: ① 5ft - ② 3ft - ③ 3ft
4. Maximum water depth in the reservoir: 6ft
5. Maximum storage capacity of reservoir: 1.72 ACRE FT.
6. Size, description and location of any outlet pipe: SPILLWAY - OR. 12" PIPE
7. Enclose evidence that the reservoir(s) existed before January 1, 1993, such as one or more of the following:
  - 7.1 A dated aerial photograph which shows the immediate area above, below and surrounding the reservoir(s);
  - 7.2 An affidavit signed by the landowner or other knowledgeable person (signature must be notarized);
  - 7.3 A dated map prepared by a local, state or federal agency showing the location of the reservoir; or
  - 7.4 Construction receipts or other forms of documentation.



Declaration by Owner/Authorized Agent:

Each of the reservoirs described herein was in existence before January 1, 1993, is located off-channel and stores less than 9.2 acre-feet of water or has a dam less than 10 feet in height.

I/We believe the reservoir(s) qualifies under ORS 537.141 and OAR 690-11-014 for exemption from Oregon's water right filing requirements.

Notice to Owners/Authorized Agent:

Reservoirs that qualify for exemption under ORS 537.141 and OAR 690-11-014 shall be subject to the following conditions:

1. The right to store or use water in the reservoir shall not have priority over any water right; and
2. The right to store and use water in the reservoir(s) shall be subordinate to all future permitted or certificated water rights.

THE UNDERSIGNED VERIFIES THAT TO THE BEST OF HIS/HER KNOWLEDGE AND BELIEF THE INFORMATION CONTAINED IN THIS NOTICE IS TRUE, CORRECT AND COMPLETE.

Landowner/agent signature: \_\_\_\_\_

(Print Name and Title) \_\_\_\_\_

Date: \_\_\_\_\_

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FOR WATER RESOURCES DEPARTMENT USE ONLY

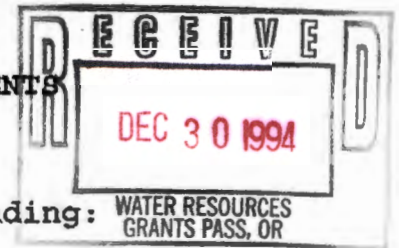
The foregoing Notice and accompanying data have been examined by authorized staff of the Water Resources Department. Based on review of the information submitted, this Notice is received on \_\_\_\_\_, 1994 and assigned FILE NUMBER \_\_\_\_\_.

cc: Watermaster District # \_\_\_\_\_



2153 MINIMUM APPLICATION REQUIREMENTS

HB 2153 NOTICES: (ORS 537.141(d))



**RECEIVED**

JAN - 5 1995

WATER RESOURCES DE  
SALEM, OREGON

1. Notice of Exempt Reservoir Form, including:
  - Source of water
  - max height of dam
  - max depth of reservoir
  - max volume of reservoir
2. Map showing the location of the reservoir and the Township, Range and Section.
3. Evidence that the reservoir existed prior to January 1, 1993; examples of evidence include:
  - notarized affidavit by landowner or other knowledgeable person
  - construction receipts
  - dated aerial photo

HB 2153 APPLICATIONS FOR PERMITS: (ORS 537.400(d))

1. Completed application for a Permit to Construct a Reservoir, with "HB 2153" written at the top
2. Fee: \$                       
                    amount
3. Map showing the location of the reservoir and township range, and section
4. Evidence that the reservoir was constructed prior to 1993. (see above)
5. Land use information form completed by a county planning official (city official if inside city limits)

I ANITA McLOUD, S.W. REGION SCRY certify that the above listed minimum  
(name) (title)  
information was submitted to me at the District # 14 Watermaster  
office on 12-30-94.  
(date)

[Signature]  
signature

12/30/94  
date

Note to applicant: Enclose this form in the mail with your materials. It must be postmarked on or before January 3, 1995. The Water Resources Department assumes no liability for the safe transfer of your materials to our Salem office via U.S. mail service.

Mail to: Applications, O.W.R.D, 158 12th Street NE, Salem OR 97310

Application No. 78796

Permit No. \_\_\_\_\_

ROBERT KERIVAN

BRIDGEVIEW VINEYARD

~~4210 HOLLAND LOOP RD~~ PO Box 609

CAVE JUNCTION, OR

97523-0609

Assigned \_\_\_\_\_

Address \_\_\_\_\_

Beginning construction \_\_\_\_\_

Completion of construction \_\_\_\_\_

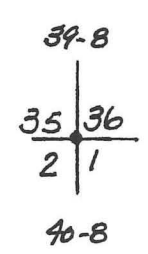
Extended to \_\_\_\_\_

Complete application of water \_\_\_\_\_

Extended to \_\_\_\_\_

DEC - 1 1997

WATER RESOURCES DEPT.  
SALEM, OREGON

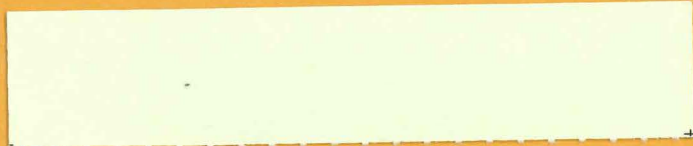


T 40 - R 8 - SECTION 1 TAX 601 ZONING RR-5 COMP Rural Res  
39 - R 8 - SECTION 36 LOT 1001 ZONING FR PLAN Farm Resource



7395

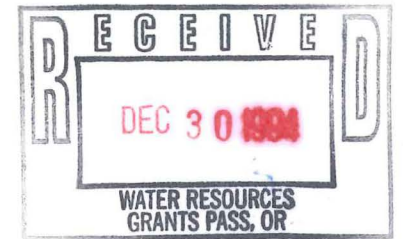




BRIDGEVIEW VINEYARD & WINERY  
4210 HOLLAND LOOP RD.  
CAVE JUNCTION, OR 97523

Water Resources Dept.  
Water Rights Section  
158 12th St. N.E.  
Salem, OR 97310





December 30, 1994

To Whom It May Concern,

I personal know the six ponds on Bridgeview Winerys property have been there since 1982 or earlier.

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JAN - 5 1995

WATER RESOURCES DEP.  
SALEM, OREGON

  
Robert E. Kerivan

STATE OF OREGON,

County of Josephine

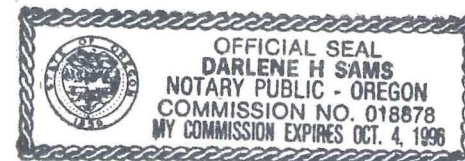
SS.

FORM No. 23—ACKNOWLEDGMENT.  
Stevens-Ness Law Publishing Co. NL  
Portland, OR 97204 © 1992

BE IT REMEMBERED, That on this 30<sup>th</sup> day of December, 1994,  
before me, the undersigned, a Notary Public in and for the State of Oregon, personally appeared the within  
named Robert E. Kerivan

known to me to be the identical individual..... described in and who executed the within instrument and  
acknowledged to me that He.....executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed  
my official seal the day and year last above written.



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JAN - 5 1995

WATER RESOURCES DEP.  
SALEM, OREGON

Darlene H. Sams

Notary Public for Oregon  
10-4-96



Application No. P-78794  
Permit No.

RECEIVED  
JAN - 5 1995  
WATER RESOURCES DEPT.  
SALEM, OREGON

RECEIVED  
DEC 30 1994  
WATER RESOURCES  
GRANTS PASS, OR

SECTION 36 T.39S. R.8W. W.M.  
JOSEPHINE COUNTY  
1" = 400'

SEE MAP 39 8 25

