

Application No. 2-81407

HB 2376

FILE#: P 81407

DAVID M HERNDON
4411 HOLLAND LOOP RD
CAVE JUNCTION, OR 97523

Permit No. _____

Certificate No. _____

Stream Index, Page No. _____

[illegible]

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 _____

ASSIGNMENTS

Date	To Whom	Address	Volume	Page

REMARKS

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

P-81407

Mitigation:

live flow passed all
year

Appear to have
no water right or
exercising other
exempt use...

Applicant:

- spring fed
- overflow goes to creek
- prob. no fish
- not used for years

If not used, why want
exemption?

Not sure about water
right

Memo to file

2/9/98 letter indicates
his understanding and our
order of mit. ~~is~~^{is}/are
consistent.



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

June 10, 2010

David M. Herndon
4411 Holland Loop Rd.
Cave Junction, OR 97523

Reference: File P-81407

Dear Applicant:

On July 29, 1996, you filed an exempt reservoir application with our office for a number of small ponds on your property. Your last communication to us was February 9, 1998. You are receiving this letter at this late date because we have only recently been able to attend to these files.

Based on the records in your file, you received a Mitigation Order requiring that live flow be by-passed from your ponds all year. From your correspondence with us, we understand that in their current state, the ponds do allow for by-pass of live flows year round. As long as the ponds are maintained to ensure flows are by-passed year round, your pond will continue its exempt status.

The Mitigation Order will remain in the record without change. This is to ensure that if the property ever changes owners, the new owners will continue to by-pass flows year round to keep the pond in compliance.

If you have any questions, please contact Meghan Scott at 503-986-0809.

Sincerely,

Dwight French, Administrator
Water Rights and Adjudications Division

Ronald E. Robertson
Carolyn J. Robertson
1100 Idlewild Drive
P.O. Box 2006
Cave Junction, Oregon 97523
(541) 592-3115

RECEIVED

FEB 12 1998

WATER RESOURCES DEPT.
SALEM, OREGON

February 9, 1998

Mr. Dwight French
Water Rights Section Manager
Oregon Water Resources Department
Commerce Building
158 12th Street, N.E.
Salem, Oregon 97310-0210

Reference: File P-81407

Dear Mr. French,

We attempted to reach you by telephone, but have not to date received a return call.

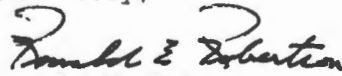
Enclosed please find a copy of correspondence which you sent to David M. Herndon on January 16, 1998. This correspondence was delivered to us several days ago. The Herndons purchased an 80 acre parcel of property located off Holland Loop Road in Cave Junction from us approximately 19 months ago. They subsequently defaulted on their promissory note and we reclaimed the property by Estoppel Deed dated September 2, 1997, a copy of which is enclosed.

There are three small spring fed ponds located on this property. These ponds have not been used for many years and to our knowledge there are no fish in these ponds. The springs that feed these ponds run year round. The old water gate at the end of these ponds is down and has been for many years, so the overflow from these ponds continually runs into Democrat creek, thus there is only a small amount of water in these ponds. To the best of our knowledge these ponds were constructed 20-30 years ago.

If appropriate please consider this letter our appeal of the order dated January 16, 1998.

Please advise as how we should proceed with respect to this matter.

Sincerely,


Ronald E. Robertson

Carolyn J. Robertson

cc: Ponds Program Appeals

RECEIVED

FEB 12 1998

Oregon

January 16, 1998

WATER RESOURCES DEPT.
SALEM, OREGON

WATER
RESOURCES
DEPARTMENT

DAVID M. HERNDON
4411 HOLLAND LOOP RD.
CAVE JUNCTION, OR 97523

Reference: File P-81407

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 were provided an opportunity to submit additional information addressing those comments.

Since then, we have reviewed all the information available to us, 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.



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

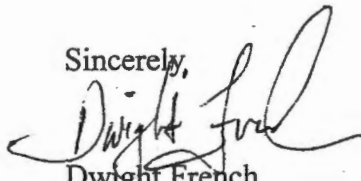
Once again, thank you for your participation in this program. If you have any questions please call one of the water rights staff listed below. My extension number is 268.

RECEIVED

FEB 1 2 1998

WATER RESOURCES DEPT.
SALEM, OREGON

Sincerely,



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

FEB 1 2 1998

Oregon Water Resources Department
Water Rights Division

WATER RESOURCES DEPT.
SALEM, OREGON

Notice of Existing Reservoir
Number P-81407

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)(b) the Department has received information demonstrating that the reservoir results in injury to an existing water right.

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."

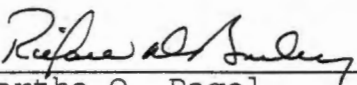
Therefore, the Department has determined that with the following additional mitigation condition(s), the injury to existing water rights and/or detrimental impact to existing fishery resources, described above, will be mitigated.

Order

Live flow must be by-passed all year.

Therefore, pursuant to ORS 537.405, the use evidenced by notice of existing reservoir number P-81407, shall be allowed to continue if the injury/negative impact of the reservoir is mitigated as described above.

DATED January 16, 1998


Martha O. Pagel
Director

FEB 12 1998

WATER RESOURCES DEF
SALEM, OREGON

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 12th ST NE
Salem OR 97310

176928

INSTRUMENT 97-15596
Date: 9/2/97 # Pages: 3

RECEIVED

FEB 12 1998

WATER RESOURCES DEPT.
SALEM, OREGON

GRANTOR:

Cold Harbor Land Co., L.L.C
David Herndon & Michele Herndon
4411 Holland Loop Road
Cave Junction, OR 97523

GRANTEE:

Ronald E. Robertson & Carolyn J.
P.O. Box 2006
Cave Junction, OR 97523

UNTIL A CHANGE IS REQUESTED, SEND TAX STATEMENTS TO:

Ronald E. and Carolyn J. Robertson
P.O. Box 2006
Cave Junction, OR 97523

ESTOPPEL DEED - TRUST DEED

This indenture between Grantor, hereinafter called "the First Party", and Grantee, hereinafter called "the Second Party",

WITNESSETH:

WHEREAS the title to the real property hereinafter described is vested in fee simple in the First Party, subject to the lien of the Trust deed recorded in the Official Records of the County hereinafter named, on July 3, 1996, as Document No. 96-12267, the reference to said record hereby being made, and the note and indebtedness secured by said Trust deed are now owned by the Second Party, on which note and indebtedness there is now owing and unpaid the sum of \$164,627.94 plus interest on the Trust deed of July 3, 1996, the same being now in default and said Trust deed being now subject to immediate foreclosure, and whereas the First Party, being unable to pay the same, has requested the Second Party to accept an absolute deed of conveyance of said property in satisfaction of the indebtedness secured by said Trust deed and the Second Party does now accede to said request;

The true and actual consideration paid for this transfer, stated in terms of dollars, is NONE. However the actual consideration consists of the cancellation of the indebtedness owed to Second Party as hereinabove described.

NOW, THEREFORE, for the consideration hereinabove stated which includes the cancellation of the note and indebtedness secured by said Trust deed and the surrender thereof marked "Paid in Full" to the First Party, the First Party does hereby grant, bargain, sell and convey unto the Second Party, Second Party's heirs, successors and assigns, all of the following described real property situate in Josephine County, State of Oregon, to-wit:

PARCEL 1 of PARTITION PLAT NO. 1992-104 located in D.L.C. No. 46 Section 1, Township 40 South, Range 8 West of the Willamette Meridian, Josephine County, Oregon. ALSO: An undivided 1/2 interest in and to a parcel of land 30 feet on either side of a center line described as follows: Commencing at the Northeast corner of D.L.C. No 46 in Section 1, Township 40 South, Range 8 West, of the Willamette Meridian, Josephine County, Oregon: thence North 9°16'00" West 704.70 feet to the Southerly right of way line of Holland Loop Road.

together with all of the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining;

MANSFIELD R. CLEARY
ATTORNEY AT LAW
200 WEST LISTER, D
P.O. BOX 234
CAVE JUNCTION, OREGON 97523
(541) 592-2195

Mr & Mrs R E Robertson
PO Box 2006
Cave Junction, OR 97523



Ponds Program Appeals
Water Rights Section
Oregon Water Resource Department
158 12th Street, N.E.
Salem, Oregon 97310

Ronald E. Robertson
Carolyn J. Robertson
1100 Idlewild Drive
P.O. Box 2006
Cave Junction, Oregon 97523
(541) 592-3115

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FEB 11 1998

WATER RESOURCES DEPT.
SALEM, OREGON

February 9, 1998

Mr. Dwight French
Water Rights Section Manager
Oregon Water Resources Department
Commerce Building
158 12th Street, N.E.
Salem, Oregon 97310-0210

Reference: File P-81407

Dear Mr. French,

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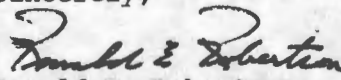
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There are three small spring fed ponds located on this property. These ponds have not been used for many years and to our knowledge there are no fish in these ponds. The springs that feed these ponds run year round. The old water gate at the end of these ponds is down and has been for many years, so the overflow from these ponds continually runs into Democrat creek, thus there is only a small amount of water in these ponds. To the best of our knowledge these ponds were constructed 20-30 years ago.

If appropriate please consider this letter our appeal of the order dated January 16, 1998.

Please advise as how we should proceed with respect to this matter.

Sincerely,


Ronald E. Robertson

Carolyn J. Robertson

cc: Ponds Program Appeals

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Oregon

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January 16, 1998

WATER RESOURCES DEPT.
SALEM, OREGON

WATER
RESOURCES
DEPARTMENT

DAVID M. HERNDON
4411 HOLLAND LOOP RD.
CAVE JUNCTION, OR 97523

Reference: File P-81407

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 were provided an opportunity to submit additional information addressing those comments.

Since then, we have reviewed all the information available to us, 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.



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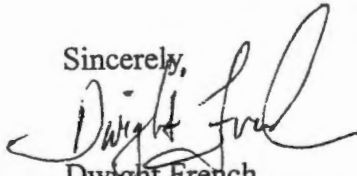
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FEB 11 1998

WATER RESOURCES DEP
SALEM, OREGON

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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

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FEB 11 1998

Oregon Water Resources Department
Water Rights Division

WATER RESOURCES DEPT.
SALEM, OREGON

Notice of Existing Reservoir
Number P-81407

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)(b) the Department has received information demonstrating that the reservoir results in injury to an existing water right.

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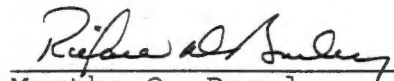
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Order

Live flow must be by-passed all year.

Therefore, pursuant to ORS 537.405, the use evidenced by notice of existing reservoir number P-81407, shall be allowed to continue if the injury/negative impact of the reservoir is mitigated as described above.

DATED January 16, 1998


Martha O. Pagel
Director

RECEIVED

FEB 11 1998

Notice of Right to Contested Case Hearing

WATER RESOURCES DEPT
SALEM, OREGON

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Water Rights Section
Oregon Water Resource Department
158 12th ST NE
Salem OR 97310

116928

INSTRUMENT

97 - 15596

Date: 9/2/97

Pages: 3

GRANTOR:

Cold Harbor Land Co., L.L.C
David Herndon & Michele Herndon
4411 Holland Loop Road
Cave Junction, OR 97523

GRANTEE:

Ronald E. Robertson & Carolyn J.
P.O. Box 2006
Cave Junction, OR 97523

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WATER RESOURCES DEPT
SALEM, OREGON**ESTOPPEL DEED - TRUST DEED**

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Mr & Mrs R E Robertson
PO Box 2006
Cave Junction, OR 97523



Oregon Water Resources Department
Commerce Building
158 12th Street, N.E.
Salem, Oregon 97310-0210

Attention: Mr. Dwight French
Water Rights Section Manager

97310=0700



Mailing List for MO Copies

Application P-81407

MO Date January 6, 1998

Original mailed to:

Applicant: ☒ Is there a new address? Y _____

1. WRD - File # P-81407
2. WRD - Watermaster # 14
3. WRD - Regional Manager (not Bob Main): SWR

Copies Mailed
By: <u>TRB</u>
(SUPPORT STAFF)
on: <u>1/26/98</u>
(DATE)

Other Commenters:

4. ODFW District Biologist: Y _____
5. WaterWatch of Oregon: Y _____
6. Other Commenters Y _____

Other Interested Persons (CWRE, Agent, etc.)

7. _____
8. _____
9. _____
10. _____

CASEWORKER: Am

Information Below This For Mitigation Team Use Only

SMBS	SMSS	BPC	KR1	KR2	J	<u>BSD</u>	BSD2	1A	MD
MD1	MD2	MD3	B57	B58	BYPASS	B51A		Basin	<u>15</u>

Rebuttal Y / N

Exempt by WM comments Y / N

COMMENTOR:

WM and/or WM Dist: _____

~~ODFW~~ Dist: Norman DAFT

Water Watch: Y / N

January 16, 1998

WATER
RESOURCES
DEPARTMENT

DAVID M. HERNDON
4411 HOLLAND LOOP RD.
CAVE JUNCTION, OR 97523

Reference: File P-81407

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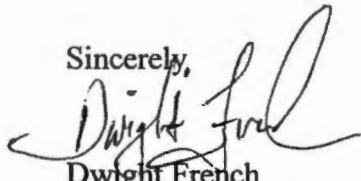
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Commerce Building
158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

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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-81407

Reservoir Mitigation Order

Application History

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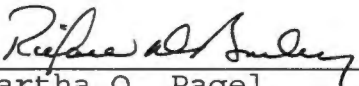
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Water Rights Section
Oregon Water Resource Department
158 12th ST NE
Salem OR 97310



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

DAVID M HERNDON
4411 HOLLAND LOOP RD
CAVE JUNCTION, OR 97523

REFERENCE: FILE#: P 81407

Dear Mr. Herndon,

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.

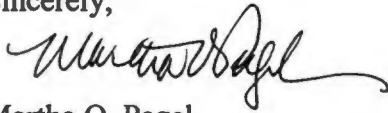
This is why you received a letter from us last week. For more than 16,000 ponds on which notices were filed under HB 2376, about 960 comments were received. From those comments, we determined that about half would appear to require mitigation measures. A total of 450 letters were sent out last week to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



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 12, 1997

FILE#: P 81407

DAVID M HERNDON
4411 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- 81407
Date 11-7-97
LKS

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 _____ through _____ (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.

RECEIVED

AUG 29 1997

WATER RESOURCES DEPT.
SALEM, OREGON

WATERMASTER COMMENTS FOR
HB 2153 CERTIFICATES
HB 2376 NOTICES

Duty Watermaster Name NORMAN E. DAFT
Date 7-21-97

Please attach copy of HB 2153 Certificate.

HB 2376 Notice of Exempt Reservoir Application # P 81407

** 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) pertains to.

ALL PONDS

Does the reservoir/pond cause injury to an existing water right? Specify which water right 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.

YES

DEMOCRAT GULCH IS CLOSED

62325

INJURY ISWR C-62324 + OTHER RIGHTS (P-17982)
(P-1107)

SUPPORTED BY MEASUREMENTS

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

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

(1)

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.

(2)

The following provision for a measuring device shall be effective:

- (a) the pump system shall include an access port for measuring the water level;
- (b) the pump system shall include an in-line flow meter or other suitable device for measuring the water to which the user is entitled;
- (c) the type and plans of the measuring device be approved by the Watermaster before the beginning of construction work and that the measuring device be installed under the general supervision of said Watermaster.

(3)

A totalizing flow meter must be installed at each diversion point. The totalizing flow meter must be installed and maintained as identified in OAR 690-507-645.

(4)

A staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in the reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I. Additionally, if the reservoir is located in channel then weirs or other suitable measuring devices must be installed upstream and downstream of the reservoir, and, a gated valve outlet must be installed.

*Please specify whether the installation of the weir(s) will provide no public benefit.

(5)

Live stream flow must be by-passed between ALWAYS and _____.

(6)

The period of use has been limited to _____ through _____.

Other (Please specify below)

NO CONSUMPTIVE USE
(PREVIOUS OWNER [CARLSON] DENIED FISH CULTURE APPLICATION)



Oregon Water Resources Department Notice of Exempt Reservoir

For reservoirs built before January 1, 1995, that

- Store less than 9.2 acre-feet of water, or
- Have a dam less than 10 feet high.

The deadline for submitting a Notice of Exempt Reservoir is January 31, 1997.

RECEIVED

JUL 29 1996

WATER RESOURCES DEPT.
SALEM, OREGON

Landowner: HERNDON, DAVID M.
Last name First name MI
Authorized Agent: _____
Last name First name MI
Address: 4411 HOLLAND Loop Rd
CAVE JUNCTION OR 97523
City State Zip
Phone: 541-592-6688
Home Work
FAX: 541-592-2144 E-Mail Address: _____

A. County of use: Josephine B. River basin (see reverse): 17

C. Legal description of reservoir location:

Township	Range	Section	Quarter/Quarter	Tax Lot #
40 South	8 West of	1	NW SE	40 81 1500

W. H. Amette Meridian

D. Name, if any, of reservoir: FISH PONDS E. Reservoir in existence since: 01/10/70
MM DD YY

F. Source of water: NATURAL SPRINGS which flows into DEMOCRAT CREEK
Name of river or creek Name of river or creek

G. Maximum height of dam: 8 feet.

H. Quantity of water stored in reservoir at maximum capacity (see reverse): 3.3 acre-feet.

I. Water stored in reservoir is used for (see reverse): GENERAL AGRICULTURE

J. Rate and area of use—Refer to chart on the back of this form. For each type of water use listed in Item I, show the quantity of water used and, if applicable, the number of acres on which water is used.

BEFORE YOU SIGN AND SUBMIT THIS APPLICATION... HAVE YOU:

- ☐ Answered each question on this form as completely as possible?
- ☐ Attached a legible map showing township, section, range, quarter-quarter & tax lot number?

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

(Signature of Landowner/Agent)

(Printed name and title)

(Date)

For Department Use

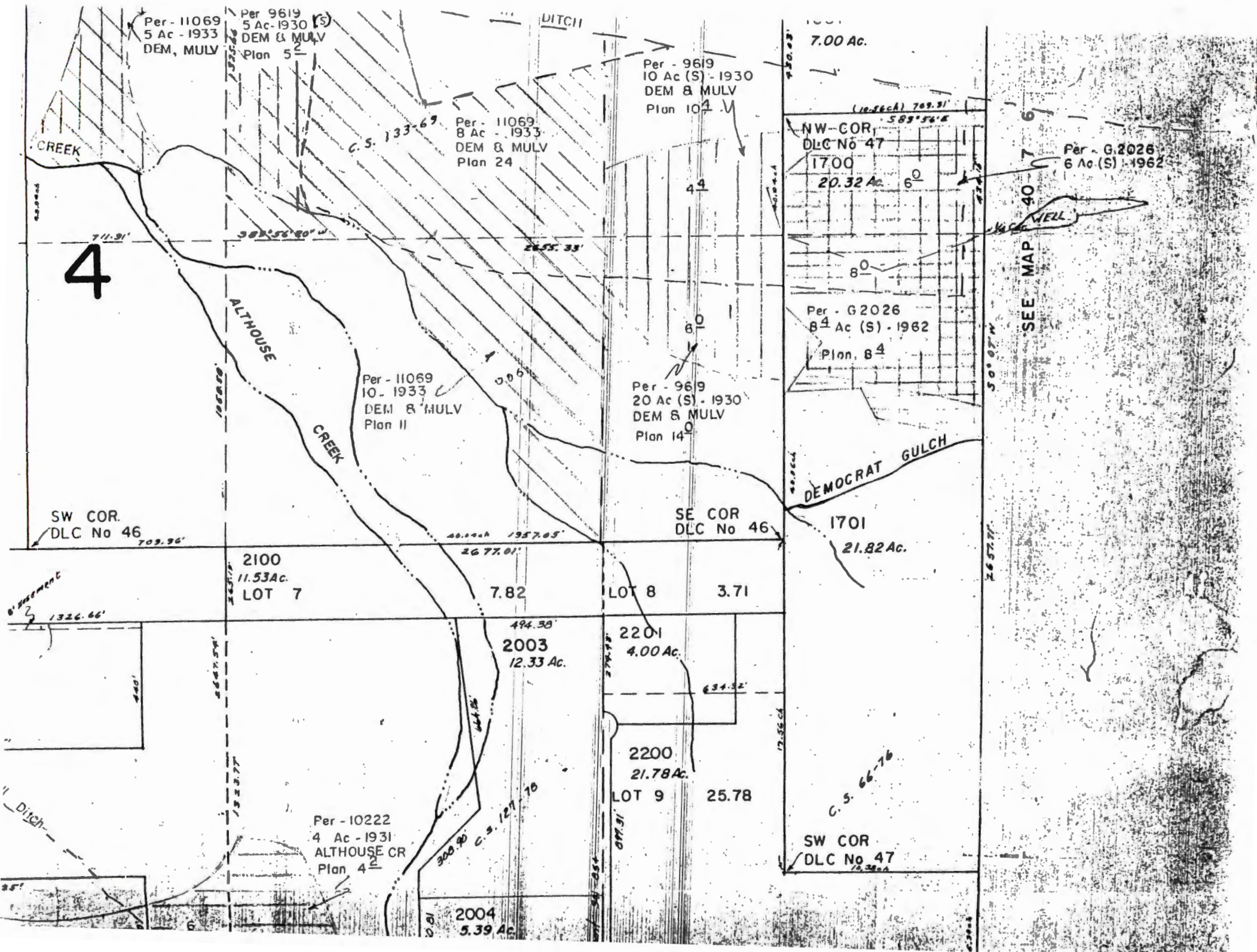
File #

Date received

10-95

81407

30



RECEIVED

JUL 29 1996

WATER RESOURCES DEPT
SALEM, OREGON

Application No. P-81467
Permit No.

60.0' Wide access
1/2 undivided interest.
Access Easement
V. 319 P. 744

HOLLAND LOOP RD.

20.0' wide access easement
Doc No. 86-00043

2657.93
S89°43'40"E

2824.21

33.72

D. L. C. NO. 46

PARCEL 2
80.35 Ac.

N39°24'02"E
2478.58

approximate location
of three small
fish ponds

PARCEL 1
82.46 Ac.

Spillway
into creek

S86°23'04"E
1052.30

S 0°26'03"E
2656.22

S.E. COR.
D.L.C.46

N89°50'30"W
2677.01

INITIAL POINT

NOTE:

This property was not surveyed. Bearings are referred to
C. S. 133-69.

APPROVED BY THE JOSEPHINE COI
THIS 19 DAY OF August

APPROVED THIS 22 DAY OF

Verlyn Thomas
JACKSON COUNTY SURVEYOR

STATE OF OREGON

S.S

COUNTY OF JOSEPHINE

NARRATIVE:

The purpose of this survey is to partition a tract of land as
described by Josephine County Title Co. Dimensions were
used per C. S. 133-69 to compute the area. A survey would be
necessary to fix the lines as shown on the tentative plan.

I DO HEREBY CERTIFY THAT THE
RECEIVED FOR RECORDING ON THE
AT _____ O'CLOCK ____ M, AND REC
_____, JOSEPHINE COUNTY RI

COUNTY CLERK

August 23, 1996

Oregon

DAVID M HERNDON

4411 HOLLAND LOOP RD
CAVE JUNCTION, OR 97523

WATER
RESOURCES
DEPARTMENT

REFERENCE: File # P-81407;

Notice of Exempt Reservoir (Pond)

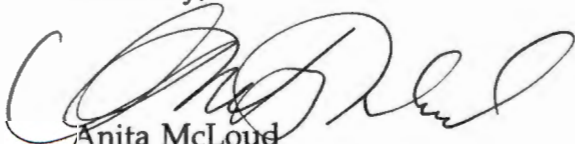
This is to let you know that we have received your Notice of Exempt Reservoir and assigned it the number listed above. Please refer to this number if you need to contact us about the notice. As required by law, your Notice of Exempt Reservoir filing will appear in our weekly public notice within 90 days from the time it was filed.

We have determined that your reservoir appears to meet the general criteria for exemption from the requirement to obtain a permit. However, we feel it is important to tell you that the Department must accept comments until August 1, 1997 on whether the reservoir poses a threat to fishery resources or existing water right holders. After the August 1, 1997 deadline, the Department has 180 days to assess comments. Any such comments will be reviewed and you will be notified only if any action on your part is necessary.

If no comments are received or the Department's assessment shows your pond does not cause injury, your pond will be considered exempt. You are advised that this exemption is limited to the amount of water that had been stored prior to January 1, 1995. Any increase in the storage or use of the stored water after that date must be authorized under a permit issued by this Department.

If you have any questions, please write to use at the address below, or call the Water Rights Information Group at (503)378-8455 ext. 499 or toll free in Oregon, 1-800-624-3199 ext. 499.

Sincerely,



Anita McLoud
Water Rights Specialist
Water Rights Division

cc: Watermaster District #14



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



Oregon Water Resources Department Notice of Exempt Reservoir

For reservoirs built before January 1, 1995, that:

- Store less than 9.2 acre-feet of water, or
- Have a dam less than 10 feet high.

The deadline for submitting a Notice of Exempt Reservoir is January 31, 1997.

RECEIVED

JUL 29 1996

WATER RESOURCES DEPT.
SALEM, OREGON

Landowner: Herndon, David M.
Last name First name MI

Authorized Agent: _____
Last name First name MI

Address: 4411 Holland Loop Rd

Cave Junction OR 97523
City State Zip

Phone: 541-592-6688

FAX: 541-592-2144 Home Work E-Mail Address: _____

A. County of use: Josephine B. River basin (see reverse): 17

C. Legal description of reservoir location:

Township	Range	Section	Quarter/Quarter	Tax Lot #
<u>40 South</u>	<u>8 West of</u>	<u>1</u>		<u>40811500</u>

D. Name, if any, of reservoir: W. Lamette Meerdian FISH PONDS E. Reservoir in existence since: 01/01/70
MM DD YY

F. Source of water: NATURAL SPRINGS which flows into DEMOCRAT CREEK
Name of river or creek Name of river or creek

G. Maximum height of dam: 8 feet.

H. Quantity of water stored in reservoir at maximum capacity (see reverse): 3.3 acre-feet.

I. Water stored in reservoir is used for (see reverse): GENERAL AGRICULTURE

J. Rate and area of use—Refer to chart on the back of this form. For each type of water use listed in Item I., show the quantity of water used and, if applicable, the number of acres on which water is used.

BEFORE YOU SIGN AND SUBMIT THIS APPLICATION... HAVE YOU:

- ☐ Answered each question on this form as completely as possible?
- ☐ Attached a legible map showing township, section, range, quarter-quarter & tax lot number?

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

D Herndon
(Signature of Landowner/Agent)

DAVID HERNDON
(Printed name and title)

7/19/96
(Date)

For Department Use

File #

Date received

10-95

Oregon's major river basins:

- | | | |
|---------------|-----------------|--------------|
| 1-North Coast | 8-Grande Ronde | 15-Rogue |
| 2-Willamette | 9-Powder | 16-Umpqua |
| 3-Sandy | 10-Malheur | 17-S. Coast |
| 4-Hood | 11-Owyhee | 18-Mid Coast |
| 5-Deschutes | 12-Malheur L. | 19-Columbia |
| 6-John Day | 13-Goose/Summer | 20-Snake |
| 7-Umatilla | 14-Klamath | |



One acre-foot is the volume of water that would cover one acre with one foot of water. To find out how much water your pond stores, multiply the surface area by the average depth. This will give you a rough estimate of cubic feet. One acre-foot equals 43,560 cubic feet. You can submit a Notice of Exempt Reservoir if your pond stores less than 400,752 cubic feet—43,560 X 9.2.

Rate and Area of Use

cfs—cubic feet per second

gpm—gallons per minute

Agriculture, Land Management

Gen. Agriculture	cfs/gpm	<u>10</u>	# acres	<u>25</u>	Cranberry	cfs/gpm	___	# acres	___
Irrigation	cfs/gpm	___	# acres	___	Nursery Operatn.	cfs/gpm	___	# acres	___
Stockwater	cfs/gpm	___	# acres	___	Temp. Control	cfs/gpm	___	# acres	___
Aquatic Life	cfs/gpm	___	# acres	___	Forest/Range Mgt	cfs/gpm	___	# acres	___
Other:	cfs/gpm	___	# acres	___	Other:	cfs/gpm	___	# acres	___

Industrial/Commercial Uses

Industrial	cfs/gpm	___	Commercial	cfs/gpm	___
Fire Protection	cfs/gpm	___	Mining	cfs/gpm	___
Power Dev.	cfs/gpm	___	Other:	cfs/gpm	___

Drinking Water Supply

Human Consumption	cfs/gpm	___	Domestic	cfs/gpm	___
Domestic	cfs/gpm	___	Other:	cfs/gpm	___
Expanded	cfs/gpm	___			

Community Water Supply

Municipal	cfs/gpm	___	Quasi-Municipal	cfs/gpm	___
Group Domestic	cfs/gpm	___	Storm Water Mgt	cfs/gpm	___
Other:	cfs/gpm	___	Other:	cfs/gpm	___

Environmental Benefits

Pollution Abatement	cfs/gpm	___	Recreation	cfs/gpm	___
Wetland Enhancement	cfs/gpm	___	Wildlife	cfs/gpm	___
Other:	cfs/gpm	___	Other:	cfs/gpm	___

RECEIVED

JUL 29 1996

WATER RESOURCES DEPT
SALEM, OREGON

Application No. P-81467
Permit No.

60.0' Wide access
1st lot 190.60
1/2 undivided interest.
Access Easement
V. 319 P. 744

HOLLAND LOOP RD. S

20.0' wide access easement
Doc No. 86-00043

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S88°43'40"E

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D. L. C. NO. 46

PARCEL 2
80.35 Ac.

N39°24'02"E
2478.58

approximate location
of three small
fish ponds

PARCEL 1
82.46 Ac.

spillway
into creek

S86°23'04"E
1052.30

S 0°26'03"E
2656.22

S.E. COR.
D.L.C.46

N89°50'30"W
2677.01

INITIAL POINT

NOTE:

This property was not surveyed. Bearings are referred to
C. S. 133-69.

APPROVED BY THE JOSEPHINE CO
THIS 19 DAY OF August

APPROVED THIS 22 DAY OF

Verlyn Thomas
JACKSON COUNTY SURVEYOR

STATE OF OREGON

S.S.

COUNTY OF JOSEPHINE

NARRATIVE

The purpose of this survey is to partition a tract of land as
described by Josephine County Title Co. Dimensions were
used per C. S. 133-69 to compute the area. A survey would be
necessary to fix the lines as shown on the tentative plan.

I DO HEREBY CERTIFY THAT THIS
RECEIVED FOR RECORDING ON THE
AT _____ O'CLOCK _____ M, AND RE
_____, JOSEPHINE COUNTY

COUNTY CLERK

////////////////////////////////////
/ ATTENTION /
/ WATER RIGHTS SECTION!!! /
////////////////////////////////////

The following point of diversions may have been filed on a restricted stream

Application	Stream	Restriction
G 14368	ROGUE R > PACIFIC OCEAN	WTHDRWN ORS 538.270
G 14368	ROGUE R > PACIFIC OCEAN	WTHDRWN ORS 538.270
P 81407	DEMOCRAT G > ALTHOUSE CR	WTHDRWN SEO V2 P372
P 81415	BIG BUTTE CR > ROGUE R	WTHDRWN ORS 538.430
P 81451	BEAR CR > ROGUE R	WTHDRWN SEO V9 P489
S 81455	ROGUE R > PACIFIC OCEAN	WTHDRWN ORS 538.270
S 81455	ROGUE R > PACIFIC OCEAN	WTHDRWN ORS 538.270

RECEIVED

JUL 29 1996
WATER RESOURCES DEPT.
SALEM, OREGON

PLEASE CONVERT

I-1134
Application No. P-81407
Permit No.

I wish to convert my filing from a HB 2153 reservoir application to a HB 2376 Notice of Exempt Reservoir.

The original application was filed under the name of :

RONALD E. ROBERTSON

☒ My new "Notice of Exempt Reservoir" is included with this notification.

☐ I will be submitting a new "Notice of Exempt Reservoir" at a later date.

D. Henderson
Signature

541-592-6688
Phone #

7/19/96
Date

Note:

If any fees have been submitted toward the original application a refund will be processed upon receipt of this form.

I see attached \$50.00

Please forward this notice to Gerry Clark

18999

96-455

CUSTOMER'S ORDER NO. I 1134		DEPARTMENT		DATE 12-29-94	
NAME Ronald E. Robertson					
ADDRESS					
CITY, STATE, ZIP					
SOLD BY		CASH	C.O.D.	CHARGE ON ACCT.	MDSE RETD
QUAN.	DESCRIPTION			PRICE	AMOUNT
1					
2					
3					
4		LB 2153		\$50. -	
5					
6					
7					
8	Application No. 8147 Permit No.			RECEIVED	
JUL 29 1996					
9				WATER RESOURCES DEPT.	
10				SALEM, OREGON	
11					
12					
13					
14					
15					
16	WATER RESOURCES DEPT.				
17	COMMERCE BUILDING				
18	158 12TH STREET NE				
19	SALEM, OR 97310				
20					
RECEIVED BY D. Bushnell					

KEEP THIS SLIP FOR REFERENCE

H1B 2153
RECEIVED

Application No. P-81407

JUL 29 1996

State of Oregon
WATER RESOURCES DEPARTMENT

WATER RESOURCES DEPT.
SALEM, OREGON

Application for a Permit to Construct a Reservoir

Applicant(s) DAVID HERNDON
Ronald E. Robertson and Carolyn J. Robertson
(Please print or type - use dark ink)
Mailing Address: 4411 Holland Loop Road
Cave Junction, Oregon 97523 (503) 592-~~311~~ 6688
City State Zip Daytime Phone No.

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

1. **SOURCE OF WATER** for the proposed use: natural springs,
a tributary of Democrat Creek.
If not in channel of a stream, state how it is to be filled: _____

2. **THE DAM:** The maximum height of the structure will be approx. two (2) feet above stream bed
or ground surface at the centerline.
The dam will be (check one) ☒ earthfill, _____ concrete, _____ flashboard, _____ other.
If "other" give description: _____

Give the location, description, and dimensions of the outlet conduit: at the end of each pond
approximately 3 feet in diameter
normal flow passes at all times

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: recreation
(fish ponds) also possibly for future livestock watering

4. **THE AMOUNT OF WATER** to be stored is: 1-2 total acre-feet.
The area submerged by the reservoir, when filled, will be approx. 1/8 acres,
and the maximum depth of water will be six (6) feet.

5. **SPILLWAY DESCRIPTION** (location and dimensions). State whether over or around the
dam. spillway into the creek is located at the end of the pond
nearest the creek. It is approximately 3' X 3' in dimension.

6. **PROJECT SCHEDULE:** (List month and year) these ponds were on our property when
Proposed date construction work will begin we purchased in 1992. As best we knew
they were constructed in the 1970's
Proposed date construction work will be completed _____
Proposed date water use will be completed _____

NOTE: Prior to issuance of a permit, it will be necessary to submit a map prepared by a Certified Water Right Examiner (CWRE) and a complete legal description of the property on which the water is to be used. 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):
X Applicant _____ 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):
X Applicant _____ 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.

RECEIVED

JUL 29 1996

REMARKS:

WATER RESOURCES DEPT
SALEM, OREGON

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:

Ronald E. Robertson
Signature Ronald E. Robertson

December 28, 1994
Date

Carolyn J. Robertson
Signature Carolyn J. Robertson

December 28, 1994
Date

D Hendon

7/19/96

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 _____,
Oregon, on the _____ day of _____, 19____, at _____ o'clock, ____ M.

APPLICATION NO: _____

Ronald E. Robertson and Carolyn J. Robertson
4411 Holland Loop Road
P.O. Box 2006
Cave Junction, Oregon 97523
(503) 592-3115

December 28, 1994

Water Rights and Adjudications Division
Water Resources Department
Commerce Building
158 12th Street NE
Salem, Oregon 97310

Gentlemen:

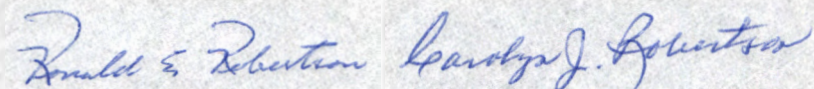
We have three small fish ponds on our property that were constructed many years before we purchased. These ponds are spring fed and the over flow goes into Democrat Creek.

Pursuant to instructions from our local Water Master enclosed please find

- a) "Application for a Permit to Construct a Reservoir" which we are filing pursuant to H.B. 2153
- b) Total fees in the amount of \$50.00
- c) A plot map of our property which sets forth the legal description and the location of the ponds and
- d) Copy of our warranty deed.

If you have any questions regarding this matter please contact us at (503) 592-3115.

Sincerely,


Ronald E. and Carolyn J. Robertson

Application No. 81407
Permit No.

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DEC 29 1994
WATER RESOURCES DEPT.
SALEM, OREGON

RECEIVED
JUL 29 1996
WATER RESOURCES DEPT.
SALEM, OREGON

RECEIVED

JUL 29 1996

WATER RESOURCES DEPT.
SALEM, OREGON

1992 104

RECEIVED

DEC 29 1994

WATER RESOURCES DEPT.
SALEM, OREGON

Application No. 4-81467
Permit No.

1992 104

1992 104

PARTITION PLAT NO. 1992-104

SURVEYOR'S CERTIFICATE

STATE OF OREGON) S.S.
COUNTY OF JOSEPHINE)

I, ROGER T. REECE, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 864, HEREBY CERTIFY THAT I HAVE NOT SURVEYED OR MARKED THE PARCEL OF LAND DESIGNATED AND REPRESENTED ON THIS PARTITION PLAT, THE BOUNDARIES BEING DESCRIBED AS FOLLOWS:

Beginning at the Initial Point, being the Southeast Corner of P. Hall Donation Land Claim No. 46, situated in Section 1, Township 40 South, Range 8 West of the Willamette Meridian, Josephine County, Oregon; thence North 89°50'30" West, 2677.01 feet to the southwest corner of said D.L.C.; thence North 00°01'20" West, 2661.38 feet to the northwest corner of said D. L. C. No. 46; thence South 89°43'40" East, 2657.93 feet to the northeast corner of said D.L.C.; thence South 00°26'03" East, 2656.22 feet to the initial point.

Roger T. Reece
Roger T. Reece L. S. 864

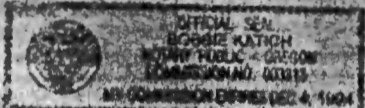
DECLARATION

KNOW ALL MEN BY THESE PRESENTS, THAT CLIFFORD BERT HALBERT AND PAMELA EILEEN HALBERT ARE THE OWNERS OF THE REAL PROPERTY REPRESENTED ON THE ANNEXED MAP, AND BEING MORE PARTICULARLY DESCRIBED IN THE SURVEYORS' CERTIFICATE, AND HAVE CAUSED THE SAME TO BE PARTITIONED AND SURVEYED INTO PARCELS AS SHOWN ON THE ANNEXED MAP. THERE ARE WATER RIGHTS APPURTENANT TO THIS PROPERTY, CERTIFICATES 14801 AND 101070.

Clifford B. Halbert Pamela E. Halbert
by Clifford B. Halbert
the attorney in fact

STATE OF OREGON)
COUNTY OF JOSEPHINE)

THIS IS TO CERTIFY THAT ON THIS 29th DAY OF July, 1992 A.D. BEFORE ME PERSONALLY CAME CLIFFORD BERT HALBERT TO ME KNOWN TO BE THE IDENTICAL PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING DECLARATION AND THAT HE EXECUTED THE SAME FOR THE PURPOSE THEREIN SET FORTH. MY COMMISSION EXPIRES ON THE 4th DAY OF December, 1994 A.D.



Rabbie Kotick
NOTARY PUBLIC OF OREGON

I, ROGER T. REECE, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 864 CERTIFY THAT THIS IS AN EXACT COPY OF THE FINAL PLAT.

Roger T. Reece

JOSEPHINE COUNTY
SURVEYORS' OFFICE AUG 11 1992



ROGER T. REECE
P.L.S. 864
321 NW "A" Street 476-4502 Grants Pass, Ore.
PARTITION PLAT
TAX LOT 1500
LOCATED IN
D. L. C. NO. 46, SECTION 1, T. 40 S., R. 8 W., W. M.
JOSEPHINE COUNTY, OREGON
SURVEYED FOR: Mr. Ronald Robertson Acquired CA

92-22428

#923 1500

WARRANTY DEED

DL 1994

SEASIDE, OREGON

Application No. P-81407
Permit No.

92-22428

State of Oregon,)
County of Josephine,)
I, County Clerk and ex-officio Recorder of)
Conveyances, in and for said County, do hereby
certify that the within instrument was
received for record and Recorded

At Page 186 of Vol. 130

Book of Records, Josephine County, Oregon,
GEORGE W. BROWN, COUNTY CLERK
By G. Brown Deputy
Fee \$ 25.00
Hand Returned ☒ Mailed ☐ Hold ☐

Ronald E. Robertson
Carolyn J. Robertson
4411 Holland Loop Road
P.O. Box 2006
Cave Junction, Oregon 97523
(503) 592-3115

RECEIVED

JUL 31 1995
WATER RESOURCES DEPT.
SALEM, OREGON

RECEIVED

JUL 29 1996
WATER RESOURCES DEPT.
SALEM, OREGON

July 26, 1995

Mr. Russell W. Klassen
Senior Water Rights Examiner
Oregon Water Resources Department
Commerce Building
158 12th Street N.E.
Salem, Oregon 97310-0210

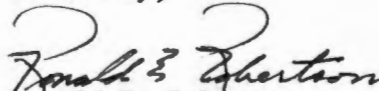
RE: Reference Number I-1134

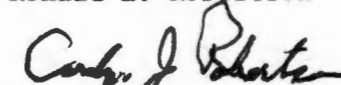
Dear Mr. Klassen,

In response to your letter dated June 5, 1995
(a copy of which is enclosed) we herewith enclose the
completed Additional Information Sheet that you
submitted.

If you have any further questions, please contact
us at the above address.

Sincerely,


Ronald E. Robertson


Carolyn J. Robertson

Application No. 981407
Permit No.

June 5, 1995

RECEIVED

JUL 31 1995
WATER RESOURCES DEPT.
SALEM, OREGON

Oregon
WATER
RESOURCES
DEPARTMENT

Ronald Robertson
4411 Holland Loop Road
PO Box 2006
Cave Junction OR 97523

RECEIVED

JUL 29 1996
WATER RESOURCES DEPT.
SALEM, OREGON

RE: Reference Number I-1134

Dear Applicant,

The Department has received your Application for a Permit to Construct a Reservoir. However, we need more information before we can accept, file, and review the application.

We will return your application and any supporting documentation to you if you fail to return the information requested on the "ADDITIONAL INFORMATION SHEET" within 60 days.

The application you submitted is for storage of water only. A secondary application would be required if you chose to maintain the water level during the non-storage season or to use the water outside the reservoir area.

We will begin our analysis when the reservoir application and requested information noted above is received. Please feel free to contact me at 1-800-624-3199 Ext. 266 if you have any questions.

Sincerely,



Russell W. Klassen
Senior Water Rights Examiner

enclosures

cc: general correspondence



Commerce Building
158 12th Street NE
Salem, OR 97310-02
(503) 378-3739
FAX (503) 378-8130

RECEIVED

JUL 29 1996

RECEIVED

WATER RESOURCES DEPT.
SALEM, OREGON

JUL 31 1995

WATER RESOURCES DEPT.
SALEM, OREGON

ADDITIONAL INFORMATION SHEET

Please provide the following:

Reference File # 1-1134

- ☐ Additional fees in the amount of \$_____.00
A copy of the fee schedule is enclosed.
- ☐ Item (1) on the application concerning the source of the water was not completed. Please complete the statement below.
Source of Water for the proposed use:_____
a tributary of_____
If not in channel of a stream, state how it is to be filled:_____

- ☐ Item (2) on the application concerning The Dam was not completed. Please complete the statement below.
The maximum height of the structure will be _____ feet above stream bed or ground surface at centerline.
The dam will be (check one) _____ earthfill, _____ concrete, _____ flashboard, _____ other. If "other" give description:_____

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

- ☐ Item (3) on the application concerning The Use was not completed. Please complete the statement below.
The use(s) of the impounded water will be:_____

- ☒ Item (4) on the application concerning The Amount of Water to be stored was not completed. Please complete the statement below.
The Amount of Water to be stored is: see attached acre-feet.
The area submerged by the reservoir, when filled, will be see attached acres.
and the maximum depth of the water will be _____ feet.
- A Quick Calculation For Reservoir Volumes:
- Volume= (length X width) (maximum depth) (0.4)
(cu/ft) (surface area)
 - To determine Acre Feet, divide above number by 43,560 which is the number of cubic feet in one acre foot.
(1 acre, 1 foot deep in water)
 - The "factor" of 0.4 is to be used in all cases where sufficient information is not available for use in determining a more precise reservoir volume.

FOR
EACH
RESERVOIR

- ☐ Item (8) on the application was not completed. Please complete the statement below.
Are the lands involved (including the proposed diversion site, place of use, and access for conveying the water) under your ownership?_____. If not, list below the names and mailing addresses of the legal owners of all property involved in the proposed development.
-
-

- ☐ A map showing the place where water is to be used and the place where the water will be diverted. The map must show the township and range, and section corners near the property applied for.

- ☒ Evidence that the reservoir was constructed prior to January 1, 1993. Construction receipts, dated aerial photos, or a notarized affidavit by the landowner or other knowledgeable person will meet this requirement.

- ☒ Land Use Information Form signed by a county planner (a form is enclosed).

- ☐ Enclosed you will find the correct form to complete your application.

- ☐ There can only be a maximum of 10 reservoirs per application. The excess reservoirs must be applied for on another application. Please complete the enclosed application.
(ORS 595 Sec. 4(2)(a))

- ☐ A separate application must be submitted for each reservoir that stores 9.2 acre feet or more of water or that has a dam 10 feet or more in height. (ORS 595 Sec. 4(3)(a)) Each application will require a fee. A copy of the fee schedule is enclosed.

- ☐ An oath that the information contained in the application and in this Additional Information Sheet is a true and accurate representation of the proposed water use.
Please sign the oath statement below.

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.

Donald E. Robertson
Name

July 28, 1995
Date

Spandyn J. Robertson
Name

July 28, 1995
Date

- ☐ Other: _____

Reference File # I - 1134

Exhibit "A"

RESPONSE TO ITEM 4

The three (3) ponds are nearly identical in size. Each pond is approximately 75 feet X 50 feet, each with a maximum depth of 15 feet. Each dam is less than 10 feet in height.

a) The amount of water stored in each reservoir is:

1.1 acre feet.

The total amount of water stored in the three(3) reservoirs is:

3.3 acre feet.

b) The area submerged by each reservoir is .08 acres.

The total area submerged by the three (3) reservoirs is .25 acres.

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WATER RESOURCES DEPT.
SALEM, OREGON

RECEIVED

JUL 29 1996

WATER RESOURCES DEPT.
SALEM, OREGON

Application No. P-81487
Permit No.

RECEIVED

Oregon

JUL 29 1996

WATER RESOURCES DEPT.
SALEM, OREGON

WATER
RESOURCES
DEPARTMENT

NOTE TO LOCAL GOVERNMENTS

Application No. P-81407
Permit No.

The person presenting the attached request for land use information is applying for a water right. The Water Resources Department (WRD) requires its applicants to obtain land use information to be sure water rights do not result in land uses that would violate your comprehensive plan.

WRD will not accept applications which are not accompanied by this completed land use form or the signed, dated receipt stub detached from the bottom of the land use information form.

You will receive notice once the applicant formally submits his or her request to WRD. The notice will give more detailed information about WRD's water rights process and comment opportunities. If you give the applicant the receipt stub in lieu of completing the form, you will have 30 days from the date of the notice mentioned above to complete the form and return it to WRD. If no land use information is received from you within that 30 day period, WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan.

Your attention to this request for information is greatly appreciated by both the applicant and WRD. If you have questions concerning the form, please contact WRD at 378-3739.



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

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: Ronald G. Robertson
 Address: 4411 Holland Loop Road
Gave Junction, Oregon 97523
 Phone: (503) 592-3115

RECEIVED

JUL 31 1995

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): _____

Indicate sources for the proposed water use below:	Indicate the estimated quantity of water the use will require.
<input type="checkbox"/> Surface Water Name sources: _____ _____ _____	_____ Cubic feet per second. _____ Gallons per minute. 3.33 Acre-Feet
<input type="checkbox"/> Reservoir or pond	
<input checked="" type="checkbox"/> Ground Water	

Land Use Information Form: Permits, Hydroelectric Licenses,
Water Uses in Addition to Classified Uses

RECEIVED

JUL 31 1995

WATER RESOURCES DEPT.
SALEM, OREGON

JUL 29 1996

RECEIVED

This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. The Water Resources Department will use this and other information to evaluate the water use application. DO NOT FILL OUT THIS FORM IF water is to be diverted, conveyed, and/or used only on federal lands.

Applicant's Name: Ronald E. Robertson
Address: 4411 Holland Loop Road
City: Cave Junction State: OR Zip: 97523 Day Phone: (503) 592-3115

Please provide information as requested below for all tax lots on or through which water will be diverted or used. (Attach extra sheets as necessary.) Applicants for municipal use, or irrigation uses within irrigation districts, may substitute existing and proposed service area boundaries for the tax lot information requested below.

(CHECK ALL THAT APPLY)

TAX LOT LOCAL ID #	PLAN DESIGNATION/ZONING Rural Residential/RR-5)	(e.g.	WATER DIVERTED	WATER CONVEYED	WATER USE
40811500	Rural/Residential				

Please list all counties and cities within which water is proposed to be diverted, conveyed, and/or used.

Josephine County

The following section must be completed by a planning official from each county and city listed unless your project will be located entirely within the city limits. In this case, only the city planning agency must complete this form. Please request additional forms as needed.

=====

For Local Government Use Only

Local planning officials are to complete the remainder of this form. If it cannot be completed while the applicant waits, sign and detach the receipt as instructed below. You will receive notice when the applicant's water right request is filed with the Water Resources Department (WRD). You will have 30 days from the notice date to return this completed land use form to WRD. If no land use information is received from you within that period, WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan.

a) Check the appropriate box below and provide requested information.

- ☒ Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan.
Cite applicable ordinance section(s): 64.020 Josephine County Rural Devel. Code. Go to section b) on reverse side.
- ☐ Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table on the reverse of this form. Note: Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus accompanying findings is sufficient.)

=====

Receipt for Request for Land Use Information

WRD Applicant Name: _____

This receipt must be signed by a local government representative and returned to the applicant for inclusion in the WRD application IF the local government cannot provide the above requested land use information while the applicant waits.

City or County: _____
Staff Contact: _____ Phone: _____
Signature: _____ Date of Information Request: _____

(for Local Use Continued)

(CHECK THE BOX THAT APPLIES)

Type of Land Use Approval Needed (e.g. plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Already Obtained	Already Denied	Being Pursued Satisfactorily

b) Please provide printed name and written signature.

Name: John Renz Date: 7-27-95

Title: Planner II Phone: 474-5421

Signature: John Renz

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:

July 1, 1996

RECEIVED

JUL 29 1996

WATER RESOURCES DEPT.
SALEM, OREGON

Oregon

WATER
RESOURCES
DEPARTMENT

Dear Applicant,

A 1993 law (HB 2153) created a temporary process allowing the owner of existing ponds and reservoirs to apply for a water right and continue use of water while the Water Resources Department reached a decision on the application. It also exempted some existing ponds from permitting requirements. Your application was among the over 6,000 applications and notices we received in response to HB 2153.

The 1995 Legislature passed HB 2376 which extended the period for obtaining exemptions for qualifying existing ponds and reservoirs until January 31, 1997. Ponds and reservoirs constructed before January 1, 1995, which store less than 9.2 acre-feet of water or have dams of less than 10 feet high (*including those located "on-channel"*) may now qualify for exemption. Your reservoir application could not be processed because it did not meet the information requirements of the 1993 law.

We are returning any materials you submitted in filing under the earlier provisions along with a checklist for you to complete so you can determine what is missing. We are also sending you a brochure which explains how the new ponds law works, a new "Notice of Exempt Reservoir" form which meets the requirements of the new law, and a sheet titled "Please Convert".

What does this mean to you? You now have a choice to make. Either complete your 2153 application and receive a certificate or file for an exemption and have your fees refunded under the provisions of 2376.

Please submit a completed 2153 application by **July 29, 1996**. Completed applications received after this date cannot be considered for HB 2153 certificates. If you change your filing to a 2376 "Notice of Exempt Reservoir", please complete the enclosed form titled "**Please Convert**". Any fees previously received will be returned for discontinued applications or converted applications.

Please be aware, you are required by law to obtain a permit or exemption for your pond or reservoir.

Should you have any questions regarding HB 2376 or the information requested, please feel free to call the Water Rights Information Group at 1-800-624-3199, extension 499, or contact your local Watermaster office at the number listed in the brochure.

Thank you for your patience.

Water Rights and Adjudication Division
Water Resources Department

enclosures
cc general correspondence



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

Application File # P-81407

SE-81407

HB 2376

OAR 690-11-020

DATE STAMP

INITIAL
R.D.G.

Name and mailing address of applicant
Source of water
Quantity of water
Map showing location of POD & POU
Use of water
Names and addresses of legal owners
Signature of applicant
Oath
Application date stamped per money receipt date
Land use approved _____ pending _____
If reservoir < 5 AF \$ _____, if > 5 AF \$ _____
HB 2153/HB 2107 APPLICATION -- SEE REVERSE
Route to Data Center (Unless 2153/2107)

DATA CENTER

Stream Code _____
Entered into WRIS

SUPPORT SERVICES

Stamp contents with application number
Mail ack letter (provided by Data Center) with
receipt to applicant, cc to CWRE and file
Place label on file and calender card

APPLICATION SECTION

Stream Indexed Basin # _____
 Plat Carded and copy made YES NO
 If dam is over 10 feet or storage exceeds 9.2
 AC-FT, route file to Dam Safety Section

TR CASEWORKER

TR Checklist complete	<u>YES</u>	<u>NO</u>
Within Irrigation District _____		
District Notified	_____	_____
District excerpt received	_____	_____

TR Mailed DATE

Public Interest Checklist complete _____

Management Codes _____

REMARKS: _____

MINIMUM APPLICATION REQUIREMENTS TO FILE:

HB 2153 - existing, small, EXEMPT ponds

(date & initials) NOTICE OF EXEMPT RESERVOIR form (or letter
if prior to April 8, 1994).

Appropriate map (see item 1 on form).

Evidence that reservoir existed before
January 1, 1993 (one or more of the following: dated aerial
photo, NOTARIZED affidavit, dated map from agency, construction
receipts or other documentation).

Items 2, 3, 4, 5, and 6 are completed.

Signature (and title, if applicable)

HB 2153 - non-exempt existing ponds (large, on-channel)

Complete Minimum Requirements to File on reverse, except before
routing to Data Center, change priority date to 1/1/1993. Also,
confirm the following:

Receipt of evidence that reservoir existed
before January 1, 1993 (one or more of the following: dated
aerial photo, NOTARIZED affidavit, dated map from agency,
construction receipts or other documentation)

**HB 2107 - wetland, stream restoration and storm water
management**

Complete Minimum Requirements to File on reverse EXCEPT DO NOT
ROUTE TO DATA CENTER, BUT DO ROUTE TO CAROL. Also confirm the
following:

Name/address of adjacent property owner
within 1/4 mile

Map with scale not less than 2 in.=1 mi.

CWRE map if > 10 feet dam or > 9.2 AF

Description of proposed use

Condition addressed

Resulting benefits

Public notices (circle) #1 #2

FILE#: P 81407

DAVID M HERNDON
4411 HOLLAND LOOP RD
CAVE JUNCTION, OR 97523

FILE#: P 81407

DAVID M HERNDON
4411 HOLLAND LOOP RD
CAVE JUNCTION, OR 97523

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DAVID M HERNDON
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CAVE JUNCTION, OR 97523