

R-88909  
Jacob C Hayes & Bailey E Hayes  
85038 Winesap Road  
Milton Freewater OR 97862

Application No. R 88909  
Permit No. R-15533  
Certificate No. \_\_\_\_\_

ALT  
FEES PAID

Date	Amount	Receipt No.
1/4/2021	\$945 -	134249

\_\_\_\_\_ Date  
DENIED \_\_\_\_\_

MISFILED \_\_\_\_\_

Volume | Page

WITHDRAWN \_\_\_\_\_

CANCELLED \_\_\_\_\_

FEES REFUNDED

Date	Amount	Receipt No.

C28

Priority 1/7/2021

County umatilla WM# 5

RELATED FILES

ASSIGNMENTS

Date	To Whom	Address

DEVELOPMENT

Date

Completion 5-19-2028

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

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

Proposed Cert. Mailed \_\_\_\_\_

REMARKS \_\_\_\_\_

MAP LOCATION \_\_\_\_\_



## Mailing List for FO Copies

Application: R-88909

Permit: R-15533

JACOB C. HAYES  
BAILEY E. HAYES  
85038 WINESAP RD  
MILTON FREEWATER OR 97862

**Sent via auto email:**

1. Applicant - bbailey11@live.com
2. WRD - Watermaster District 23, Luke Martin
3. WRD - NCR – Chris Kowitz
4. WRD - Surface Water Section

**Copies sent to:**

1. File - R-88909

Application Specialist: Lisa Graham

Copies Mailed	
by:	<u>KMWF</u>
	(STAFF)
on:	<u>MAY 19 2023</u>
	(DATE)



BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE STATE OF OREGON

Water Right Application R-88909 in the )  
name of JACOB C. HAYES and BAILEY E. )  
HAYES )

FINAL ORDER  
APPROVING THE STORAGE OF  
SURFACE WATER

**Authority**

The application is being processed in accordance with Oregon Revised Statute (ORS) 537.409, which establishes the process by which an application to store waters of the public may be submitted. This statute can be accessed here:

<https://www.oregon.gov/OWRD/programs/policylawandrules/Pages/default.aspx>

The Water Resources Department's website can be accessed here:

<https://www.oregon.gov/OWRD>

In accordance with ORS 537.409, the Department shall conduct a public interest review of an application submitted to store water in a reservoir that has a storage capacity of less than 9.2 acre-feet or a dam or impoundment structure less than 10 feet in height.

The review shall be limited to issues pertaining to:

- (a) Water availability;
- (b) Potential detrimental impact to existing fishery resources; and
- (c) Potential injury to existing water rights.

In addition, the Department will review ORS Chapter 538 to determine if the source of water has been withdrawn from further appropriation and will conduct a review consistent with ORS Chapter 390.835 – Oregon's Scenic Waterway laws – to determine whether the use is prohibited.

Following this review, the Department shall issue a final order granting or denying the permit or granting the permit with conditions.

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is a final order in other than contested case. This final order is subject to judicial review under ORS 536.075 and ORS 183.484. Any petition for judicial review of the final order must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075, ORS 183.484, and OAR 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

ORS 537.409 does not provide an opportunity to request a contested-case hearing. Appeal rights on this final order approving the application are limited to the above procedures.



### FINDINGS OF FACT

1. On January 7, 2021, Jacob C. Hayes and Bailey E. Hayes submitted an application for a permit to store water pursuant to ORS 537.409.  
**Storage Volume:** 0.9 ACRE-FOOT  
**Dam Height:** ZERO FEET  
**Source:** A SPRING, TRIBUTARY TO WEST PRONG LITTLE WALLA WALLA RIVER  
**County:** UMATILLA COUNTY  
**Reservoir Location:** SECTION 22, TOWNSHIP 6 NORTH, RANGE 35 EAST, W.M.
2. The required examination fees were paid, and the minimum application requirements were met.
3. On January 12, 2021, the Department provided public notice of the application in the Department's weekly public notice. A 60-day comment period followed.
4. The Department did not receive public comment related to the possible issuance of the attached permit.
5. Water availability using the Department's Water Availability Reporting System is not available; therefore, a site-specific determination must be made. An assessment of water availability has been completed by the local Watermaster. Water is available from November 1 through February 28/29 of each year.
6. The Department relies on the Oregon Department of Fish and Wildlife's review and recommendations in determining whether a proposed use would pose a significant detrimental impact to existing fishery resources. The Department has determined that, if limited to October 1 through April 14, and as conditioned in Permit Specific Conditions 3 through 6, the proposed use will not pose a significant detrimental impact to existing fishery resources.
7. The Department has determined that the proposed use, as conditioned, will not injure other water rights.
8. The Department has determined that the proposed source has not been withdrawn from further appropriation under ORS Chapter 538.
9. The proposed reservoir is not prohibited under ORS 390.835.

### CONCLUSIONS OF LAW

1. Application R-88909 contains the information required by ORS 537.409(1)-(3).
2. The proposed use would not impair or be detrimental to the public interest as described in ORS 537.409.



ORDER

Application R-88909 is approved and Permit R-15533 is issued as limited by the conditions contained therein.

Dated at Salem, Oregon on MAY 19 2023

*Katherine Ratcliffe*

Katherine Ratcliffe

Water Rights Section Manager, for  
Douglas E. Woodcock, Acting Director  
Oregon Water Resources Department

If you have questions about statements contained in this document, please contact Lisa Graham at Elisabeth.A.Graham@water.oregon.gov or 503-979-3130.

If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0900.



STATE OF OREGON

COUNTY OF UMATILLA

PERMIT TO STORE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

JACOB C. HAYES  
BAILEY E. HAYES  
85038 WINESAP RD  
MILTON FREEWATER OR 97862

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: R-88909

SOURCE OF WATER: A SPRING, TRIBUTARY TO WEST PRONG LITTLE WALLA WALLA RIVER

STORAGE FACILITY: A RESERVOIR

MAXIMUM DAM HEIGHT: THE RESERVOIR IS ENTIRELY BELOW GROUND SURFACE; THERE IS NO DAM

MAXIMUM VOLUME: 0.9 ACRE-FOOT

PURPOSE OR USE OF THE STORED WATER: MULTIPURPOSE USE

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: NOVEMBER 1 THROUGH  
FEBRUARY 28/29

DATE OF PRIORITY: JANUARY 7, 2021

RESERVOIR LOCATION:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	35 E	WM	22	NE SE	340 FEET NORTH AND 490 FEET WEST FROM SE CORNER, NESE, SECTION 22

THE AREA TO BE SUBMERGED BY THE RESERVOIR:

Twp	Rng	Mer	Sec	Q-Q
6 N	35 E	WM	22	NE SE



## PERMIT SPECIFIC CONDITIONS

1. Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.
2. **Water Use Measurement, Recording, and Reporting:**
  - A. Before water use may begin under this permit, the permittee shall install a valve, or other suitable measuring device as determined by the watermaster, at each point of diversion. The permittee shall maintain the device in good working order.
  - B. The permittee shall allow the watermaster access to the device; provided however, where any device is located within a private structure, the watermaster shall request access upon reasonable notice.
  - C. The Director may require the permittee to keep and maintain a record of the volume of water diverted, and may require the permittee to report water-use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water-use information, the periods of water use and the place and nature of use of water under the permit.
  - D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

3. **Water Quality:**

All water use under this permit shall comply with state and federal water quality laws. The permittee shall not violate any state and federal water quality standards, shall not cause pollution of any waters of the state, and shall not place or cause to be placed any wastes in a location where such wastes are likely to escape or be carried into the waters of the state by any means. The use may be restricted if the quality of source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards.

4. **Riparian Area Restoration:**

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

5. **In-Water Work:**

Any in-water work related to construction, development, or maintenance of the proposed use shall be conducted during the preferred work period of July 1 through September 30, unless an alternate time period is approved by Oregon Department of Fish and Wildlife.



#### **6. Off-Channel Stored Water Releases:**

The permittee shall not release polluted water from this off-channel reservoir into waters of the state except when the release is directed by the State engineer to prevent dam failure.

7. The storage of water allowed herein is subject to the installation and maintenance of an outlet pipe (with a minimum diameter of 8" for any in-channel reservoir). This requirement may be waived if the Department determines other means have been provided to evacuate water when necessary.
8. The permittee shall pass all live flow outside the storage season described above.
9. The permittee may be required in the future to install, maintain, and operate fish screening and by-pass devices to prevent fish from entering the proposed diversion and to provide adequate upstream and downstream passage for fish.
10. This permit allows an annual appropriation (not to exceed the specified volume). This permit does not provide for the appropriation of water for out-of-reservoir uses, the maintenance of the water level or maintaining a suitable freshwater condition. If any water is to be used for out-of-reservoir purposes, a secondary water right is required. If any additional live flow is to be appropriated to maintain either the water level or a suitable freshwater condition, an additional water right is required.

#### **STANDARD CONDITIONS**

1. This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.
2. By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.
3. The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

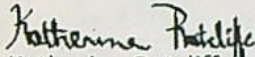
#### **DEVELOPMENT AND COMPLETION TIMELINE REQUIREMENTS**

1. Construction of the water system shall begin within five years of the date of permit issuance. The deadline to begin construction may not be extended. This permit is subject to cancellation proceedings if the begin construction deadline is missed.
2. The permitted volume of water shall be stored within five years of the date of permit issuance. If additional time is needed, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.



3. Within one year after storage of water, the permittee shall submit a claim of beneficial use to the Oregon Water Resources Department.
4. The claim of beneficial use shall be prepared by a Certified Water Right Examiner in conformance with the requirements of OAR 690-014 if an associated secondary permit exists for the use of stored water under this permit, or if the reservoir capacity is equal to or greater than 9.2 acre-feet.
5. If no secondary permit exists and the reservoir capacity is less than 9.2 acre-feet of water, the claim of beneficial use need not be prepared by a Certified Water Right Examiner. The information submitted to the Oregon Water Resources Department shall include:
  - a. the dimensions of the reservoir;
  - b. the maximum capacity of the reservoir in acre-feet; and
  - c. a map identifying the location of the reservoir prepared in compliance with Water Resources Department standards.

Issued MAY 19 2023

  
Katherine Ratcliffe

Water Rights Section Manager, for  
Douglas E. Woodcock, Acting Director  
Oregon Water Resources Department



## SURFACE WATER AVAILABILITY REPORT

Application R-88909

A WAB does not exist for the POD location proposed by the attached application. If the source is a well, it has been determined to have the potential for substantial interference with surface water, therefore surface water availability must be considered. **Based on the definitions below**, please make a determination of surface water availability by completing this form.

Determination Exceedance Level ☐ 50% ☒ 80%

Do water rights exist downstream from the proposed point of diversion? ☒ Yes ☐ No

Is there a history of regulation at/near this proposed point of diversion? ☒ Yes ☐ No

*Note: if there is no history of regulation, the Department could find water is available.*

Is there enough water available to satisfy the proposed use plus the consumption portion of all relevant rights of record during the full season requested? ☐ Yes ☒ No ☐ Unsure

What information was used to determine water availability?

- ☒ Investigation of stream flow or groundwater measurement records  
☒ Watermaster distribution records ☒ Flow requirements of existing water rights  
☐ Stream flow modeling in ungauged basins ☐ Minimum perennial streamflows  
☐ Scenic waterway flow requirements ☐ Other \_\_\_\_\_

If a permit is issued, what conditions would you recommend from the following list?

☒ The period of use has been limited to Nov through Feb.

☐ **Med**  
**MRR** Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each point of diversion/appropriation. The permittee shall maintain the device in good working order.

☐ **Lrg**  
**MRR** Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each point of diversion/appropriation. The permittee shall maintain the device in good working order; AND the permittee shall keep a complete record of the volume of water diverted each month, and shall submit a report which includes water-use measurements to the Department annually

☐ **Staff**  
**Gage** Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level and dead-pool storage shall be installed in the reservoir. If no dead-pool, the gage must measure the full depth of the reservoir. The permittee shall maintain the device in good working order.

Comments A valve must be installed and maintained to allow watermaster to control diversion to pond

Signature \_\_\_\_\_  
Watermaster Water Availability Form

Date 4/26/2023

Revised 2/16/2022



ORS 690-300-0100(58): "Water Availability Analysis" means the investigation of stream flow or groundwater measurement records, watermaster distribution records, flow requirements of existing water rights, stream flow modeling in ungauged basins, minimum perennial streamflows, or scenic waterway flow requirements to determine if water is available to support the proposed water use.

ORS 690-300-0100(57): "Water is Available," when used in OAR 690-310-0080, 690-310-0110 and 690-310-0130, means:

(a) The requested source is not over-appropriated under OAR 690-400-0010 and 690-410-0070 during any period of the proposed use; or

(b) If the requested source is already over-appropriated for any portion of the period of use proposed in a new application:

(A) The applicant can show the proposed use requires water only during the period of time in which the requested source is not already over-appropriated;

(B) The applicant has obtained or has shown the applicant can obtain authorization to use water from an alternate source to provide water needed during any period of use in which the source is over-appropriated; or

(C) If the applicant has shown they can obtain authorization to use water from an alternate source during the time water is unavailable, the department conditions the approval of the application to require that prior to diversion of water the applicant obtains authorization for use of water from the alternate source.

(c) For surface water applications received before July 17, 1992, the provisions of subsection (a) of this section shall apply except that the determination of whether a requested source is over-appropriated under OAR 690-400-0010 and 690-410-0070 shall be based upon whether the quantity of water available during a specified period is not sufficient to meet the expected demands for all water rights at least 50 percent of the time during that period.

OAR 690-400-0010(11)(a) "Over-Appropriated" means a condition of water allocation in which:

(A) The quantity of surface water available during a specified period is not sufficient to meet the expected demands from all water rights at least 80 percent of the time during that period; or

(B) The appropriation of groundwater resources by all water rights exceeds the average annual recharge to a groundwater source over the period of record or results in the further depletion of already over-appropriated surface waters.

(b) The standards for determining over-appropriation described in paragraph (A) of this subsection shall apply to water availability determination for permit applications submitted after July 17, 1992.



## Attachment 1

### W Prong Flow Data

Date	Actual Flow (CFS)	Ford Flow	W Prong Flow	W Crockett
8/25/2021	1.52	0.81	2.97	0.64
11/2/2021	-0.85	7.18	6.33	
2/9/2022	0.718	0	0.718	0
5/17/2022	2.48	7.42	11.92	2.02
8/3/2022	6.62	4.2	12.2	1.38
11/1/2022	8.88	7.32	16.2	0
2/14/2023	1.11	0	1.11	

### West Prong Irrigation rights:

12 CFS

Date	Water Available	% WR met	Full WR available?
8/25/2021	-10.48	12.67	No
11/2/2021	-12.85	-7.08	No
2/9/2022	-11.282	5.98	No
5/17/2022	-9.52	20.67	No
8/3/2022	-5.38	55.17	No
11/1/2022	-3.12	74.00	No
2/14/2023	-10.89	9.25	No

Note: irrigation is not usually needed from Nov - Feb, but most West Prong water rights do not have a season of use



# Alternate Reservoir Application Completeness Checklist

Minimum Requirements (ORS 537.409)

For use by WRD staff only

Application #:	R-88909	Receipt #:	134249
Applicant Name:	Jacob C Hayes & Bailey E Hayes	Amount Requested:	0.9 AF
Priority Date:	01/07/2021	Proposed Use:	Multipurpose
County:	Umatilla	POD's TRS &TL:	6N 35E 22D tax lot 202
WM #:	05	Caseworker:	<input type="checkbox"/> KF <input checked="" type="checkbox"/> LG
Reviewed by:	Judy	Reviewed Date:	01/06/2021

- ☒ Landowner name, mailing address and telephone number provided.
- ☐ Source and tributary listed. Notes: NO WELLS-MUST HAVE GW APP TO USE A WELL AS A SOURCE. Cannot accept an E2 application and a storage application at the same time.
- ☒ Reservoir Location. TRSQQ and tax lot provided.
- ☒ Dam height, if applicable: Zero
- ☒ Property ownership indicated?
- ☐ If applicant does not own all the land is the affected landowner's name and mailing address listed?
  - ☐ YES ☐ NO (Note: this includes lands not owned by applicant, upon which the source is located OR that are crossed by the diversion works, and any roads or rights-of-way.)
- ☒ Application signed by the landowner(s)? All parties noted as applicants must sign the application.
- ☒ **Completed Watermaster review sheet**, signed and dated. Note: Must be completed within last 6 months.
  - Will the reservoir injure an existing water right? ☒ YES ☐ NO
  - If YES, can conditions be applied to mitigate injury? ☒ YES ☐ NO If NO, return application.
- ☒ **Completed ODFW review sheet**, signed and dated. Note: Must be completed within last 6 months.
  - Will reservoir pose a significant detrimental impact to an existing fishery resource? ☒ YES ☐ NO
  - If YES, can conditions be applied to mitigate the impact? ☒ YES ☐ NO ☐ N/A If NO, return application.
- ☒ **Completed Land-Use Form** or receipt signed by the appropriate planning department official enclosed?
 

Note: Does the use on land-use form match the proposed use on the application? Must be signed within the last 12 months.
- ☒ **Provide a Legal Description** of all the property involved with this application. A copy of a deed, land sales contract, or title insurance meets this requirement.



☒ **Acceptable Map.** Note: Requirements set forth by the Commission; causes fatal flaw if not provided by the applicant.

- ☒ Reservoir Location - noting Township, Range, Section, 1/4 1/4 and Tax Lot number(s)
- ☒ Scale of the Map, even scale such as 1" = 400', 1" = 1000', or 1" = 1320'
- ☒ Reference corner on map
- ☒ North directional symbol
- ☒ 1/4 1/4's clearly identified
- ☒ Reservoir clearly identified \*\*
- ☒ Dam, or POD (if off-channel), coordinates referenced to a government land survey corner

Note: If no dam, use coordinates to the center of reservoir.

☒ **Fees:** Amount of Water Requested: 0.9 AF Name on check: Bailey Elise Humbert

Exam Fee Due:	\$ 445.00
Exam Fee Submitted:	\$ 445.00
Difference:	\$ 0.00
Recording Fee Paid?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No \$ 520.00
Total:	\$ 965.00





Oregon  
Kate Brown, Governor

Water Resources Department  
725 Summer St NE, Suite A  
Salem, OR 97301  
(503) 986-0900  
Fax (503) 986-0904

January 6, 2021

Jacob C Hayes & Bailey E Hayes  
85038 Winesap Road  
Milton Freewater OR 97862

Dear Applicants:

The Oregon Water Resources Department has received your application to store water in a reservoir under the Alternate Review process. Your application has been assigned file number **R-88909**. Please refer to this number when contacting the Department. Should you have any questions about your application, please contact the following Water Rights Specialist assigned to your application:

Lisa Graham, Water Rights Specialist	Phone: 503-986-0808
	Email: <a href="mailto:elisabeth.a.graham@oregon.gov">elisabeth.a.graham@oregon.gov</a>

A description of the steps that are used for processing an application to stored water in a reservoir are shown on the reverse side of this letter.

Included with this letter is a Wetland Determination Request form provided by the Department of State Lands (DSL) Wetland Program to determine if wetlands or other regulated water bodies (such as creeks) are in the project area. Please complete and return the form to DSL.

Please note that your application is subject to review and comment from other state agencies and interested parties.

Sincerely,

Judy Ferrell  
Customer Service Representative  
Oregon Water Resources Department

cc:  
File R-88909

Encl. - DSL Wetland Offsite Form



## **Water-Use Permit Application Processing Steps**

### **Oregon Water Resources Department**

#### **Alternate Review Process for a Reservoir Applications:**

After a completed application has been received by the Department, the Department must make public notice of the application within 60 days. Applications are noticed to the public every Tuesday and can be accessed from the Department's website: <https://www.oregon.gov/owrd>.

The Department does not notify individual, neighboring landowners of an application, unless they are identified in the application as affected landowners. The public notice is to ensure that any person may submit detailed information requesting the Department deny an application based upon whether the proposed use causes injury to existing water rights or poses a significant detrimental impact to an existing fishery resource. All comments must be submitted within 60 days of the public notice.

Following the 60-day public comment period, the Department can issue a Final Order. Alternate Reservoir applications typically take between 3-5 months to process, depending upon the number of pending applications in the queue.

The Department recommends applicants not schedule excavation work or otherwise expend financial resources until an ODFW fish passage plan and the alternate reservoir application have been approved. Also note that other permits may be required for any construction activities in waterways, wetlands, or riparian areas.



**Wetland Determination Request**  
**Wetlands Program**  
Oregon Department of State Lands  
775 Summer Street, NE, Suite 100, Salem, OR 97301-1279

**BATCH**  
**WD#:** \_\_\_\_\_

The Department of State Lands (DSL) conducts *offsite* wetland determinations upon request. There is no fee for this service. An offsite determination consists of reviewing wetlands and soils maps, aerial photos and other information to determine if wetlands or other regulated water bodies (such as creeks) are present, likely to be present, or unlikely to be present. Only an *onsite* check can verify whether or not there are regulated wetlands on a site. As time allows, DSL staff may be able to conduct a site visit to verify an offsite determination. Please allow 2-3 weeks for an initial response.

If wetlands are present or likely to be present on a parcel or near a project area, a wetland delineation by a qualified wetland consultant may be needed. Wetland delineation reports and the required fee should then be submitted to DSL for review and agency approval.

**Please provide the following information:**

1. Vicinity map (like a city map) with the precise parcel location indicated.
2. Large scale map (1" = 100' if possible) of the parcel showing existing buildings, property boundaries, any creeks and other features. An annotated tax assessor's map is fine, and a hand-drawn map is acceptable.
3. City, County, and site address. Please fill in below.  
City \_\_\_\_\_ (or nearest town if outside City limits)  
County \_\_\_\_\_  
Site address \_\_\_\_\_ (or nearest cross streets if no address)
4. Township, Range, Section, Quarter/Quarter Section and Tax Lot number(s) (Tax Map number is equivalent). Please fill in below.  
Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_ QQ \_\_\_\_\_ Tax Lot (s) \_\_\_\_\_

☐ Property owner   ☐ Legal representative   ☐ Other (specify): \_\_\_\_\_

Name: \_\_\_\_\_

Firm: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-Mail \_\_\_\_\_

I either own or have legal authority to allow access to the property for which this request is made. My signature below authorizes DSL staff to conduct a wetland determination and to access the property to confirm the wetland determination, as needed. *(DSL will phone prior to conducting a site visit.)*

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

Print Name: \_\_\_\_\_





# Oregon Water Resources Department Alternate Reservoir Application

- [Main](#)
- [Return](#)
- [Help](#)
- [Contact Us](#)

For impoundments less than 10 feet in height or storing less than 9.2 acre feet of water.

Today's Date: Wednesday, January 6, 2021

Base Application Fee.		\$410.00
Proposed Dam Height in feet.	0	
Proposed Reservoir volume in Acre Feet.	0.9	\$35.00
Subtotal:		\$445.00
Permit Recording Fee. ***		\$520.00
*** the Permit Recording Fee is not required when the application is submitted but, must be paid before a permit will be issued. It is fully refundable if a permit is not issued. If the recording fee is not paid prior to issuance of the Final Order, permit issuance will be delayed.	Recalculate	
Estimated cost of Permit Application		\$965.00



6N 35 22D



**STATE OF OREGON  
WATER RESOURCES DEPARTMENT**

725 Summer St. N.E. Ste. A  
SALEM, OR 97301-4172  
(503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # **134249**

INVOICE # \_\_\_\_\_

RECEIVED FROM: Bailey Elisc Humbert  
BY: \_\_\_\_\_

APPLICATION	<u>R-88909</u>
PERMIT	
TRANSFER	

CASH: ☐ CHECK: # 1082 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 965.00

**1083 TREASURY 4170 WRD MISC CASH ACCT**

0407 COPIES	\$
OTHER: (IDENTIFY)	\$

0243 I/S Lease \_\_\_\_\_ 0244 Muni Water Mgmt. Plan \_\_\_\_\_ 0245 Cons. Water \_\_\_\_\_

**4270 WRD OPERATING ACCT**

**MISCELLANEOUS**

0407 COPY & TAPE FEES	\$
0410 RESEARCH FEES	\$
0408 MISC REVENUE: (IDENTIFY)	\$
TC162 DEPOSIT LIAB. (IDENTIFY)	\$
0240 EXTENSION OF TIME	\$

**WATER RIGHTS:**

0201 SURFACE WATER	EXAM FEE \$ <u>445.00</u>	0202 RECORD FEE \$ <u>520.00</u>
0203 GROUND WATER	\$	0204 \$

0205 TRANSFER	\$
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**WELL CONSTRUCTION**

0218 WELL DRILL CONSTRUCTOR	EXAM FEE \$	0219 LICENSE FEE \$
LANDOWNER'S PERMIT		0220 \$

OTHER (IDENTIFY) \_\_\_\_\_

**0536 TREASURY 0437 WELL CONST. START FEE**

0211 WELL CONST START FEE	\$	CARD #
0210 MONITORING WELLS	\$	CARD #

OTHER (IDENTIFY) \_\_\_\_\_

**0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER**

0233 POWER LICENSE FEE (FW/WRD)		\$
0231 HYDRO LICENSE FEE (FW/WRD)		\$
HYDRO APPLICATION		\$

**TREASURY OTHER / RDX**

FUND \_\_\_\_\_ TITLE \_\_\_\_\_

OBJ. CODE \_\_\_\_\_ VENDOR # \_\_\_\_\_

DESCRIPTION \_\_\_\_\_ \$

RECEIPT: **134249**

DATED: 1-4-2021 BY: Mindy Com



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January 7, 2021

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



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

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

Use a separate form for each reservoir

## SECTION 1: APPLICANT INFORMATION AND SIGNATURE

### Applicant

NAME Jacob C Hayes & Bailey E Hayes			PHONE (HM) 541-861-8859
PHONE (WK)	CELL 509-540-6358		FAX
ADDRESS 85038 Winesap Road			
CITY Milton Freewater	STATE OR	ZIP 97862	E-MAIL * bbailey11@live.com

### Organization

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

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

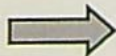
AGENT / BUSINESS NAME		PHONE	FAX
ADDRESS			CELL
CITY	STATE	ZIP	E-MAIL *

Note: Attach multiple copies as needed

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

By my signature below I confirm that I understand:

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



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

	Jacob Hayes	1/7/2021
Applicant Signature	Print Name and Title if applicable	Date
	Bailey Hayes	1/7/2021
Applicant Signature	Print Name and Title if applicable	Date



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Alternate Reservoir Application for:

Jacob C Hayes & Bailey E Hayes

85038 Winesap Rd

Milton Freewater, OR 97862

Ph: 541.861.8859

Ph: 509.540.6358

Fax: 541.938.7739

Email: [bbailey11@live.com](mailto:bbailey11@live.com)



## Alternate Reservoir Application Completeness Checklist

This is the checklist used by WRD staff

Application Jacob Hayes County Umatilla  
Priority Date \_\_\_\_\_ Township 6N Range 35E Section 22D Taxlot 202  
Use Multipurpose Caseworker \_\_\_\_\_  
Amount (AF) .9 Watermaster Greg Silbernagel

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### Minimum Requirements (ORS 537.409)

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- ☒ Landowner Name, Mailing Address and Telephone Number.
- ☒ Source and tributary listed. **NO WELLS-MUST HAVE GW APP TO USE A WELL AS A SOURCE**
- ☒ Reservoir Location- Township, Range, Section, Quarter Quarter, Taxlot
- ☒ Dam height, if applicable
- ☒ Total Quantity of Storage Requested: .9
- ☒ Proposed Use of the water. Cannot accept application for use of this stored water at the same time (E2)
- ☒ Property ownership indicated? If applicant does not own all the land is the affected landowner's name and mailing address listed? (Including: lands not owned by applicant, upon which the source is located OR that are crossed by the diversion works. This includes any roads or rights-of-way.)
- ☒ Environmental Impact section completed?
- ☐ Application signed by the landowner(s)? All parties noted as applicants must sign the application.  
*Must be an original "wet" signature.*
- ☒ Acceptable map \*\* Indicates requirements of standards set forth by the Commission and causes fatal flaw if not provided by the applicant.
  - ☐ Reservoir Location - noting Township, Range, Section, 1/4 1/4 and Tax Lot number(s)\*
  - ☐ Scale of the Map, even scale such as 1" = 400', 1" = 1000', or 1" = 1320' \*\*
  - ☐ Reference corner on map
  - ☐ North Directional Symbol \*\*
  - ☐ 1/4's clearly identified
  - ☐ Reservoir clearly identified \*\*
  - ☐ Dam or POD (If off channel) Location coordinates referenced to a government landsurvey corner\*  
If no dam, use coordinates to center of reservoir.\*\*
- ☒ Completed Watermaster review sheet signed and dated by Watermaster.
  - Will the reservoir injure an existing water right? ☐ YES ☐ NO
  - If YES, can conditions be applied to mitigate the injury? ☐ YES ☐ NO **If NO, return the application.**
  - Did the watermaster determine when water is available for the proposed use? ☐ YES ☐ NO
  - The Watermaster review sheet must have been completed within the last 6 months.*
  - If the watermaster determined that water is NOT available, return the application.**
- ☒ Completed ODFW review sheet signed and dated by ODFW representative.
  - Will the reservoir pose a significant detrimental impact to an existing fishery resource? ☐ YES ☐ NO
  - If YES, can conditions be applied to mitigate the impact? ☐ YES ☐ NO **If NO, return the application.**
  - The ODFW review sheet must have been completed within the last 6 months.*
- ☒ Completed Land-Use Form or receipt signed by the appropriate planning department official enclosed?  
*Does the use on land-use form match the proposed use on the application? Must be an original "wet" signature within the last 12 months.*
- ☒ Provide a Legal Description of all the property involved with this application. You may include a copy of your deed land sales contract or title insurance to meet this requirement.

☒ Fees enclosed? Print page from fee calculator

Total Paid \$ 965.00

Total Fees \$ \_\_\_\_\_

Completeness Check by: \_\_\_\_\_ Date: \_\_\_\_\_

Revised 2017-8-4





Oregon Water Resources Department  
Alternate Reservoir Application

[Main](#)

[Help](#)

[Return](#)

[Contact Us](#)

For impoundments less than 10 feet in height or storing less than 9.2 acre feet of water.

Today's Date: Thursday, December 31, 2020

Base Application Fee.		\$410.00
Proposed Dam Height in feet.	0	
Proposed Reservoir volume in Acre Feet.	.9	\$35.00
Subtotal:		\$445.00
Permit Recording Fee. ***		\$520.00
*** the Permit Recording Fee is not required when the application is submitted but, must be paid before a permit will be issued. It is fully refundable if a permit is not issued. If the recording fee is not paid prior to issuance of the Final Order, permit issuance will be delayed.	<input type="button" value="Recalculate"/>	
Estimated cost of Permit Application		\$965.00

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#### D. Reservoir Location

Township (N or S)	Range (E or W)	Section	quarter/quarter	tax lot number
6N	35E	22D	NESE	202

E. Dam: Maximum height of dam: Zero Feet feet. If excavated, write "zero feet".

F. Quantity: Amount of water to be stored in the reservoir at maximum capacity. List volume in acre-feet: .9      Acre-feet =  $\frac{(\text{Average Length})(\text{Average Width})(\text{Average Depth})}{43,560}$

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#### 4. WATER USE

Indicate the proposed use(s) of the stored water. **NOTE: You may wish to consider filing for "Multipurpose use" for your reservoir. Multipurpose use does not limit the types of future uses for the stored water. Multipurpose covers all uses including: stockwater, fish and wildlife, aesthetics, domestic, irrigation, agriculture, fire protection and pollution abatement.** If any use will be out of reservoir use, regardless of the type of storage listed, a secondary application must be filed to appropriate the stored water.

Multipurpose use

#### 5. PROPERTY OWNERSHIP

Please provide a copy of the recorded deed(s).

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

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

☒ There are no encumbrances

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

☐ No (Please check the appropriate box below)

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

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

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

List the names and mailing addresses of all affected landowners:

Jacob & Bailey Hayes-85038 Winesap Rd/Milton Freewater



## 6. ENVIRONMENTAL IMPACT

- A. **Channel:** Is the reservoir: ☐ in-stream or ☒ off channel?
- B. **Wetland:** Is the project in a wetland? ☐ Yes ☒ No ☐ Don't know
- C. **Existing:** Is this an existing reservoir? ☒ Yes ☐ No  
If yes, how long has it been in place? 1 \_\_\_\_\_ years.
- D. **Fish Habitat:** Is there fish habitat upstream of the proposed structure? ☐ Yes ☒ No ☐ Don't know  
If yes, how much? \_\_\_\_\_ miles.
- E. **Partnerships:** Have you been working with other agencies? ☐ Yes ☒ No  
Indicate agency, staff and phone numbers of those involved. Also indicate any agencies that are cost sharing in this project.

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## 7. WITHIN A DISTRICT

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

Irrigation District Name	Address	
City	State	Zip

## 8. DESCRIPTION

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

It is appropriation of spring water that is hydraulically connected to the stream that fills the reservoir. Water will be held in the reservoir with a 3" pipe inserted in the south west corner for water overage outlet diversion into the source West Prong Little Walla Walla River.



If the diversion involves a dam, use this space for sketches of the diversion (e.g. cross-section of the dam with  
6 North 35 East Section 22D NESE

See attached  
larger map view  
on following  
page

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NESE

Tax Lot 202

Pond located 490 feet West  
and 340 feet North from the SE  
corner of the NESE quarter quarter  
Dam Height - 0 feet  
Quantity of water stored - 0.9 acre-feet

**Legend**

- Pond
- Townships
- Sections
- Quarter quarters
- Umatilla Co. Tax Lot

1 inch = 200 feet

#### 9. SIGNATURE

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

*Joshua Bailey Hayes*  
Applicant Signature

12-31-2020  
Date

- Before you submit your application be sure you have:
- Answered each question completely.
  - Included a legible map that includes Township, Range, Section, quarter-quarter and tax lot number.
  - The map must meet map requirements to be accepted.
  - Included a land use form or receipt stub signed by a local planning official.
  - Included a check payable to Oregon Water Resources Department for the appropriate amount.



6 North 35 East Section 22D NESE

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West Branch West Crockett Branch






NESE

**Tax Lot 202**

Pond located 490 feet West  
and 340 feet North from the SE  
corner of the NESE quarter quarter

Dam Height - 0 feet  
Quantity of water stored - 0.9 acre-feet

**Legend**

-  Pond
-  Townships
-  Sections
-  Quarter quarters
-  Umatilla Co. Tax Lot



1 inch = 200 feet



## ODFW Alternate Reservoir Application Review Sheet

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

Applicant Name: Jacob &amp; Bailey Hayes

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Address: 85038 Winesap Rd/Milton Freewater, OR 97862

JAN 04 2021

Phone/Email: 509.540.6358~bbailey11@live.com

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Reservoir Name: N/AVolume (AF): 0.9

Source: W Prong Little WW River

Basin Name: Walla Walla

☐ in-channel

Twp Rng Sec QQ: 6N, 35E, 22D, NESE

☒ off-channel

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

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

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

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

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

- 3) If NMF are or were historically present:

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

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

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

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

- ☐ Any diversion or appropriation of water for storage during the period type here through type here poses a significant detrimental impact to existing fishery resources. (For example, if diversion of water for storage during a certain time period would cause a significant detrimental impact to an existing fishery resource, then ODFW should recommend conditions or limitations.) If NMF fish are present at the project site or point

<sup>1</sup> AO = Artificial Obstruction means any dam, diversion, culvert or other human-made device placed in waters of this state that precludes or prevents the migration of native migratory fish. ORS 509.580 (1)

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



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

Revised May 12, 2020

JAN 04 2021

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

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☐ **Agricultural Water Quality Management Area Rules:** The permittee shall comply with basin-specific Agricultural Water Quality Management Area Rules described in Oregon Administrative Rule Chapter 603-095. The permittee shall protect riparian areas, including through irrigation practices and the management of any livestock, allowing site capable vegetation to establish and grow along streams, while providing the following functions: shade (on perennial and some intermittent streams), bank stability, and infiltration or filtration of overland runoff.

☐ **b52** Water may be diverted only when Department of Environmental Quality sediment standards are being met.

☐ **b5** The water user shall install and maintain adequate treatment facilities meeting current DEQ requirements to remove sediment before returning the water to the stream.

☒ **b51a** The period of use has been limited to October through April 14.

☐ **b57** Before water use may begin under this permit, a totalizing flow meter must be installed at each diversion point.

☐ **b58** Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level and dead-pool storage must be installed in the reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.

☐ **Bypass Flows:** Per 690-410-0070 (2)(c), the following flows shall be bypassed or passed through the reservoir during the filling season:

- 1) When the biologically necessary flows identified below are not available immediately upstream of the impacted area, the permittee shall pass all live flow downstream at a rate equal to the inflow, minus the amount of mitigation water provided upstream, if applicable, and
- 2) When the biologically necessary flows identified below are available immediately upstream of the impacted area, the permittee shall pass flow downstream at a rate equal to or greater than the biologically necessary flows.

Once the reservoir has reached the permitted volume, all live flow shall be passed downstream at a rate equal to the inflow.

The permittee shall quantify and document inflow and outflow and maintain the bypass flows for the life of the permit and subsequent certificate per the approved Bypass Plan. The bypass flow data shall be available upon request by the Oregon Water Resources Department, Oregon Department of Fish and Wildlife, Oregon Department of Environmental Quality, or Oregon Department of Agriculture.

☒ **Construction Activities:** For construction activities (clearing, grading, excavation, staging, and stockpiling) that will disturb one or more acres and may discharge to state waters, the permittee is required to obtain from DEQ a 1200-C NPDES Stormwater Construction Permit prior to project construction.

☐ **fence:** The stream and its adjacent riparian area shall be fenced to exclude livestock.

☐ **fishpass:** As required by ORS 509.585, a person owning or operating an artificial obstruction (AO) may not construct or maintain any AO across any waters of this state that are inhabited, or historically inhabited, by native migratory fish (NMF) without providing passage for NMF. A person owning or operating an AO shall, prior to construction, fundamental change in permit status or abandonment of the AO in any waters of this state, obtain a determination from ODFW as to whether NMF are or historically have been present in the waters. If ODFW determines that NMF are or historically have been present in the waters, the person owning or operating the AO shall either submit a proposal for fish passage to ODFW or apply for a waiver or exemption. Approval of the proposed fish-passage facility, waiver, or exemption must be obtained from the department prior to construction, permit modification or abandonment of the AO. Approved fish-passage plans, waivers, and exemptions shall maintain adequate passage of NMF at all times (ORS 509.601) as per the approved plan, waiver or exemption.

☐ **fishself:** The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional prior to diversion of any water. Permittee shall obtain written approval from ODFW that the installation of the required screen and by-pass devices meets the state's criteria or the permittee shall submit documentation that ODFW has determined screens and/or by-pass devices are not necessary.

☐ **fishapprove:** The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.

☐ **fishdiv33:** If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

The use may be restricted if the quality of the source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.



Applicant Name: Jacob & Bailey Hayes

ODFW Review

The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife

(ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.

☐ **fishway:** Notwithstanding that ODFW has made a determination that fish screens and/or by-pass devices are not necessary at the time of permit issuance, the permittee may be required in the future to install, maintain, and operate fish screening and by-pass devices to prevent fish from entering the proposed diversion and to provide adequate upstream and downstream passage for fish.

☐ **futile call:** The use of water allowed herein may be made only at times when waters from the (NAME OF SURFACE WATER) would not otherwise flow into a tributary of the type here River or sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

☒ **In-Water or Riparian Construction:** For in-water or riparian construction, permittee may be required to obtain additional permits from the Oregon Department of State Lands, the U.S. Army Corps of Engineers, and the DEQ Section 401 certification program prior to construction. The applicant must contact these agencies to confirm requirements.

☒ **In-Water Work:** Any in-water work related to construction, development, or maintenance of the proposed use shall be conducted during the preferred work period of type here unless an alternate time period is approved by the Oregon Department of Fish and Wildlife.

☒ **Live Flow:** Once the allocated volume has been stored, permittee shall pass all live flow downstream at a rate equal to inflow, using methods that protect instream water quality.

☒ **Off-Channel Stored Water Releases:** The permittee shall not release polluted water from this off-channel reservoir into waters of the state except when the release is directed by the State Engineer to prevent dam failure.

☐ **On-Channel Reservoir:** The permittee shall design and operate the water storage facility such that all waters within and below the reservoir meet water quality criteria. The permittee shall develop a reservoir operations plan that details how water quality criteria and standards will be met. A Certified Water Rights Examiner shall verify that the reservoir operations are consistent with the plan before a certificate is issued. The reservoir operator shall maintain a copy of the plan and make it available for review upon request.

☒ **riparian:** If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

☒ **Water Quality:** All water use under this permit shall comply with state and federal water quality laws. The permittee shall not violate any state and federal water quality standards, shall not cause pollution of any waters of the state, and shall not place or cause to be placed any wastes in a location where such wastes are likely to escape or be carried into the waters of the state by any means. The use may be restricted if the quality of source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards.

☐ **wq:** The use may be restricted if the quality of the source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

☒ **wetland:** The permittee must submit an offsite determination request to the Oregon Department of State Lands (DSL) to determine the need for a wetland delineation prior to disturbance or development of the point of diversion and/or diversion of water.

☐ **blv:** Water must be diverted to a trough or tank through an enclosed water delivery system. The delivery system must be equipped with an automatic shutoff or limiting flow control mechanism or include a means for returning water to the stream source through an enclosed delivery system. The use of water shall not exceed 0.10 cubic feet per second per 1000 head of livestock.

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of water diversion then the applicant should be advised that a fish screen consistent with screening criteria will be required.

- ☒ This proposed pond or reservoir contemplates impounding water in the Columbia Basin above Bonneville Dam. ODFW has determined that additional diversions of water in this area pose a significant detrimental impact to existing fishery resources during the period April 15 through September 30.

ESA-listed fish (bull trout, summer steelhead), sensitive species (redband trout, Pacific lamprey), and other game fish are present in the Walla Walla and Columbia rivers during the period of impact. Based on parameters assessed by ODFW, instream flows are currently below those essential to support the biological needs of an existing fishery resource during April 15 – September 30. The proposed use will diminish physical habitat and alter the flow regime to which fish are naturally adapted. These changes will negatively affect their distribution, productivity, and abundance. Therefore, a further reduction in flow or alteration of habitat from the proposed water use would impair or be detrimental to an existing fishery resource and/or their habitat without appropriate conditions and/or mitigation.

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

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

☒ See applicable conditions selected from "Menu of Conditions" on next page

Water is only available to support biologically necessary flows at the POD and/or downstream during October 1 – April 14. ODFW recommends the season of use be restricted to coincide with this period or the proposed use be mitigated prior to issuance of a Proposed Final Order for any use outside of this period. Without appropriate mitigation and/or conditions, a further reduction in flow or alteration of habitat from the proposed water use outside this period will impair or be detrimental to an existing fishery resource. If the applicant is interested in pursuing mitigation, please contact ODFW for further information concerning appropriate conditions and a Mitigation Obligation consistent with the goals and standards of OAR 635-415-0025 (ODFW Habitat Mitigation Recommendations) to compensate for any potential impact from the proposed use. Mitigation is often complicated, time consuming, and expensive, and may include, but is not limited to, actions such as replacing the proposed amount of water through purchasing or transferring an existing water right.

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

*Danette L. Faucera*

Print Name: Danette Faucera

ODFW Title: Water Policy Coordinator

Date: 8/21/20

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



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# Watermaster Alternate Reservoir Application Review Sheet

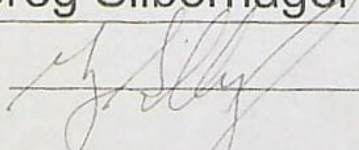
In lieu of the water right application process set forth in ORS 537.140 to 537.211, an owner of a reservoir may submit an alternate reservoir application for a reservoir that has a storage capacity less than 9.2 acre-feet or a dam or impoundment structure less than 10 feet in height. ORS 537.409 describes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

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

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

<b>Applicant's Name</b> Jacob & Bailey Hayes		
1. Does the proposed reservoir have the potential to injure existing water rights? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO Explain: <i>Reservoir is hydraulically connected to West Prong stream system. Any removal or fill during low flow/regulation would injure existing water right holders downstream.</i>		
2. Can conditions be applied to mitigate the potential injury to existing water rights? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO Explain: <i>Limit fill to winter season when irrigation demand downstream is minimal.</i>		
3. Is water available for the proposed reservoir? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
4. If yes, during what period? Beginning: Novemt End: February  Attach a WARS printout at 50% exceedance. If WARS does not cover the proposed location, make a recommendation for a storage season based upon regulation history and your knowledge of the location. (Water Availability for Reservoir Policy found under OAR 690-410-0070(2)(c)) - <i>no WARS available. Recommended storage season - Nov - Feb.</i>		
5. Did you meet with staff from another agency to discuss this application? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
Who:	Agency:	Date:
Who:	Agency:	Date:

Watermaster Name: Greg Silbernagel

Watermaster Signature:  Date: 12/14/2020

NOTE: This completed form must be returned to the applicant



# Land Use Information Form



725 Summer Street NE, Suite A  
Salem, Oregon 97301-1266  
(503) 986-0900  
www.wrd.state.or.us

RECEIVED

Applicant: Jacob & Bailey  
First Last

Hayes

Last

JAN 04 2021

Mailing Address: 85038 Winesap Rd

OWRD

Milton Freewater  
City

OR  
State

97862  
Zip

Daytime Phone: 509.540.6358

## A. Land and Location

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

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:			Proposed Land Use:
6N	35E	22D	NESE	202	<del>Rural</del> <u>EFU</u>	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	Multi Use
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	

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

Umatilla

## B. Description of Proposed Use

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

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

Source of water: ☒ Reservoir/Pond    ☐ Ground Water    ☐ Surface Water (name) \_\_\_\_\_

Estimated quantity of water needed: .9 AF    ☐ cubic feet per second    ☐ gallons per minute    ☐ acre-feet

Intended use of water: ☐ Irrigation    ☐ Commercial    ☐ Industrial    ☐ Domestic for \_\_\_\_\_ household(s)  
☐ Municipal    ☐ Quasi-Municipal    ☐ Instream    ☒ Other Pond

Briefly describe:

Personal pond

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

See bottom of Page 3. →



JAN 04 2021

## For Local Government Use Only

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

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

- ☒ Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): Umatilla County Development Code (UCDC) Section 152.056(A)
- ☐ Land uses to be served by the proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.) **If approvals have been obtained but all appeal periods have not ended, check "Being pursued."**

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

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

UCDC 152.056(A) Farm Use, as defined in ORS 215.203 and set out in UCDC Section 152.003, with exceptions. Beneficial Water Uses on lands zoned Exclusive Farm Use (EFU) may be used outright for Agricultural Uses and domestic use. Other Beneficial Water Uses such as commercial, industrial, mining and power development are regulated by land use and require additional land use approvals.

Name: CAROL JOHNSON Title: Planner  
 Signature: Carol Johnson Phone: 541-278-6252 Date: 12/14/2020  
 Government Entity: Umatilla County

**Note to local government representative:** Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.

## Receipt for Request for Land Use Information

Applicant name: \_\_\_\_\_  
 City or County: \_\_\_\_\_ Staff contact: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Phone: \_\_\_\_\_ Date: \_\_\_\_\_



# **SPECIAL WARRANTY DEED**

Grantors Name: Samuel E. Humbert, also known as Sam Humbert and Rosella I. Humbert, also known as Rosella Humbert

Grantees Name: Jacob C. Hayes and Bailey E. Hayes, husband and wife

After recording return to:  
Monahan, Grove & Tucker  
105 North Main  
Milton-Freewater, OR 97862

Until a change is requested, all tax statements shall be sent to the following address:

Mr. and Mrs. Jacob Hayes  
85038 Winesap Road  
Milton-Freewater, OR 97862-7362

#60620

State of Oregon  
County of Umatilla

Instrument received  
and recorded on

12/23/2020 10:32:13 AM

in the record of instrument  
code type DE

Instrument number 2020-7130111

\$106.00

Office of County Records

*John Churchill*

Records Officer

P3

**RECEIVED**

**JAN 04 2021**

**OWRD**

Samuel E. Humbert, also known as Sam Humbert and Rosella I. Humbert, also known as Rosella Humbert, Grantors, convey and specially warrant to Jacob C. Hayes and Bailey E. Hayes, husband and wife, the following described real property free of encumbrances created or suffered by the Grantors except as specifically set forth herein:

See Exhibit A attached which is hereby referred to and made a part hereof.

The true consideration for this conveyance is \$160,000.00.

"BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930,

1 - Special Warranty Deed: HUMBERT / HAYES

C:\Dropbox (MGT Office)\MGT Office Team Folder\Clients\H\Humbert, Sam & Rosella\Winesap Sale\Landa and Hayes\1514-special warranty deed Humbert-Hayes 12-07-17.doc

PIONEER TITLE CO. *CL-845*  
109 SW COURT, PEND. OR 97801



SPECIAL WARRANTY DEED

RECEIVED

JAN 04 2021

OWRD

Grantors Name: Samuel E. Humbert, also known as Sam Humbert and Rosella I. Humbert, also known as Rosella Humbert

Grantees Name: Jacob C. Hayes and Bailey E. Hayes, husband and wife

After recording return to:  
Monahan, Grove & Tucker  
105 North Main  
Milton-Freewater, OR 97862

Until a change is requested, all tax statements shall be sent to the following address:

Mr. and Mrs. Jacob Hayes  
85038 Winesap Road  
Milton-Freewater, OR 97862-7362

#60620

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See Exhibit A attached which is hereby referred to and made a part hereof.

The true consideration for this conveyance is \$160,000.00.

"BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930,

1 - Special Warranty Deed: HUMBERT / HAYES

C:\Dropbox (MGT Office)\MGT Office Team Folder\Clients\H\Humbert, Sam & Rosella\Winesap Sale\Landa and Hayes\1514-special warranty deed Humbert-Hayes 12-07-17.doc

PIONEER TITLE CO. *CL-845*  
109 SW COURT, PEND. OR 97801



AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010."

Dated this 14 day of Dec., 2017.

RECEIVED

JAN 04 2021

OWRD

Samuel E. Humbert

Samuel E. Humbert, also known as Sam Humbert, Grantor

Rosella I. Humbert

Rosella I. Humbert, also known as Rosella Humbert, Grantor

STATE OF OREGON,       )  
                                      ) ss.  
County of Umatilla.       )

Dec. 14, 2017.

Personally appeared before me the above-named Samuel E. Humbert, also known as Sam Humbert and Rosella I. Humbert, also known as Rosella Humbert and acknowledged to me that they signed the same freely and voluntarily. Before me:



[Signature]  
NOTARY PUBLIC FOR OREGON



JAN 04 2021

Exhibit A

Exhibit A

OWRD

A parcel of land in the Northeast Quarter of the Southeast Quarter of Section 22, Township 6 North, Range 35, East of the Willamette Meridian, Umatilla County, Oregon and being more particularly described as follows:

Beginning at the Southeast corner of the said Northeast Quarter of the Southeast Quarter of Section 22; thence along the Southerly line of said Northeast Quarter of the Southeast Quarter North 89°53'58" West, 20 feet to a point on the Westerly right of way of Umatilla County Road Number 625, also known as Winesap Road; thence continuing along said Southerly line North 89°53'58" West, 386.20 feet to the True Point of Beginning for said parcel; thence the following five courses: North 89°53'58" West, 440.72 feet; thence North 07°34'57" West, 333.42 feet; thence North 89°51'46" West, 29.00 feet; thence North 04°19'42" East, 331.30 feet; thence South 89°49'33" East, 865.59 feet to a point on the Westerly right of way of said Winesap Road; thence continuing along said North line South 89°49'33" East 20.00 feet to the Easterly line of said Section 22; thence along said Easterly line of Section 22 South 00°48'33" East, 324.13 feet; thence departing said Easterly line of Section 22 North 89°08'08" West, 20.01 feet to a point on the Westerly right of way of Winesap Road; thence departing said right of way North 89°08'08" West, 386.31 feet; thence South 00°48'33" East, 341.08 feet to the true point of beginning.

SUBJECT TO:

1. Facts, rights, interests or claims which are not shown by the Public Records but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession thereof.
2. Easements, or claims of easement, not shown by the Public Records; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
3. Any encroachment (of existing improvements located on the subject Land onto adjoining Land or of existing improvements located on adjoining Land onto the subject Land) encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the subject Land.
4. Taxes deferred, as disclosed by the tax roll, the premises herein described have been zoned or classified for farm use. At any time that said land is disqualified for such use the property will be subject to additional taxes or penalties and interest.
5. The rights of the public in and to that portion of the herein described property lying within the limits of public roads, streets or highways.
6. Easement or easements, including the terms and provisions thereof, as contained in instrument,  
Recorded: March 5, 1909  
Book: 53, Page: 509
7. Covenant not to Sue, including the terms and provisions thereof,  
Recorded: April 5, 2016  
Instrument No.: 2016-6410657