

JAN 14 2025

Application for a Permit to **Salem, OR**  
**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

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<br>Dan and Carmen Upshaw            |                      | PHONE (HM)   |  |
| PHONE (WK)                               | CELL<br>503-560-3789 | FAX          |  |
| MAILING ADDRESS<br>15480 SW Briedwell Rd |                      |              |  |
| CITY<br>McMinnville                      | STATE<br>OR          | ZIP<br>97128 | E-MAIL *<br>dupshaw@thespringsliving.com |

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Salem, OR

**Organization**

|                 |       |       |          |      |  |
|-----------------|-------|-------|----------|------|--|
| NAME            |       | PHONE |          | FAX  |  |
| MAILING 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<br>Kelly Warren Ducks Unlimited |             | PHONE        |                               | FAX                  |  |
| MAILING ADDRESS<br>11805 NE 99th Street, Suite 1300   |             |              |                               | CELL<br>360-334-2338 |  |
| CITY  | STATE<br>WA | ZIP<br>98682 | E-MAIL *<br>kwarren@ducks.org |                      |  |

Note: Attach multiple copies as needed

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

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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.

Applicant Signature

Print Name and Title if applicable

Date

Applicant Signature

Print Name and Title if applicable

Date

Alternate Reservoir Application — Page 1

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

|                        |   |   |               |                 |           |
|------------------------|---|---|---------------|-----------------|-----------|
| Reservoir name:        | South Lake                              |   |               |                 |           |
| Source*:               | South Yamhill River and runoff          | Tributary:                                  | Yamhill River |                 |           |
| County:                | Yamhill                                 |   |               |                 |           |
| Quantity:              | 13                                      | Acre-Feet [length x width x depth / 43,560] |               |                 |           |
| Reservoir Location:    | Township (N or S)                       | Range (E or W)                              | Section       | Quarter-Quarter | Tax Lot # |
|                        | 5s                                      | 5w  | 12            | SESE and SWSE   | 01601     |
| Maximum Height of Dam: | 0 feet. If excavated write "zero feet." |   |               |                 |           |

\* Provide the name of the water body or other source from which water will be diverted, and the name of the stream or lake it flows into. Indicate if source is run-off, seepage, an unnamed stream, or spring.

## SECTION 3: WATER USE

Indicate the proposed use(s) of the stored water: Multi purpose use

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

## SECTION 4: PROPERTY OWNERSHIP

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

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

☒ There are no encumbrances

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

☐ No (Please check the appropriate box below)

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

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

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

List the names and mailing addresses of all affected landowners:

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**SECTION 5: ENVIRONMENTAL IMPACT**

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**Channel:** Is the Reservoir: ☐ in-stream or ☒ off channel?**Wetland:** Is the project in a wetland? ☐ YES ☐ NO ☐ unknown**Existing:** Is this an existing reservoir? ☐ YES ☐ NO

If YES, how long has it been in place? We are 1 years.

**Fish Habitat:** Is there a fish habitat upstream of the proposed structure? ☐ YES ☒ NO ☐ unknown

If YES, how much? We are 1 miles.

**Existing:** Have you been working with other agencies? ☐ YES ☐ NO

Indicate agency, staff and phone numbers of those involved. Also indicate any agencies that are cost sharing in this project. We are we are working with ODFW fish passage.

**SECTION 6: WITHIN A DISTRICT**☐ Check here if the point of diversion or place of use are located within or served by an irrigation or other water district.

|                           |        |          |  |
|---------------------------|--------|----------|--|
| Irrigation District Name: |        | Address: |  |
| City:                     | State: | Zip:     |  |

**SECTION 7: DESCRIPTION**

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

A designed, permitted and approved project included a fish friendly water structure for holding and releasing water during approved periods in compliance with state and federal law.

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

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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>  |         |       |
| 1. Does the proposed reservoir have the potential to injure existing water rights? <input type="checkbox"/> YES <input type="checkbox"/> NO<br>Explain:  |         |       |
| 2. Can conditions be applied to mitigate the potential injury to existing water rights? <input type="checkbox"/> YES <input type="checkbox"/> NO<br>Explain:   |         |       |
| 3. Is water available for the proposed reservoir? <input type="checkbox"/> YES <input type="checkbox"/> NO   |         |       |
| 4. If yes, during what period? Beginning:                      End:<br><br>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)) |         |       |
| 5. Did you meet with staff from another agency to discuss this application? <input type="checkbox"/> YES <input type="checkbox"/> NO   |         |       |
| Who:   | Agency: | Date: |
| Who:   | Agency: | Date: |

Watermaster Name: \_\_\_\_\_ JAN 14 2025

Watermaster Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Salem, OR

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

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**Watermaster Alternate Reservoir Application Review Sheet****Salem, OR**

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.

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|  |         |       |
|--|---------|-------|
| <b>Applicant's Name</b> Dan & Carmen Upshaw 5S5WSec12 This review is for Sheet Water Pond and South Pond   |         |       |
| 1. Does the proposed reservoir have the potential to injure existing water rights? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO<br>Explain:   |         |       |
| 2. Can conditions be applied to mitigate the potential injury to existing water rights? <input type="checkbox"/> YES <input type="checkbox"/> NO<br>Explain: NA  |         |       |
| 3. Is water available for the proposed reservoir? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO  |         |       |
| 4. If yes, during what period? Beginning: Nov. 1 End: June 30<br><br>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)) |         |       |
| 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: **Joel Plahn**

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Watermaster  
Signature:

**Joel Plahn**  
 Joel Plahn Date: **12/29/22**  
 2022.12.29  
 11:15:49-08'00'

Salem, OR

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

**Joel Plahn**  
 Digitally signed by Joel Plahn  
 DN: C=US, OU=District 22  
 Watermaster, O=Water Resources  
 Department, CN=Joel Plahn,  
 E=joel.m.plahn@water.oregon.gov  
 Reason: I am the author of this  
 document  
 Location: District 22 Watermaster  
 Date: 2024.05.10 08:07:57-07'00'  
 Foxit PDF Editor Version: 11.2.9

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Salem, OR

# Land Use Information Form



**Oregon Water Resources Department**  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1266503-986-0900  
www.oregon.gov/OWRD

|                                   |                          |                  |   |
|-----------------------------------|--------------------------|------------------|---|
| NAME <b>Dan and Carmen Upshaw</b> |                          | PHONE (HM)       |   |
| PHONE (WK)                        | CELL <b>503-560-3789</b> | FAX              |   |
| ADDRESS <b>15480 Briedwell Rd</b> |                          |                  |   |
| CITY <b>McMinnville</b>           | STATE <b>OR</b>          | ZIP <b>97128</b> | E-MAIL* <b>dupshaw@thespringsliving.com</b> |

## 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<br>(e.g., Rural Residential/RR-5) | Water to be:                                 |  |  | Proposed Land Use: |
|-----------|-----------|-----------|------------------|--------------|--|--|--|--|--------------------|
| <u>5s</u> | <u>5w</u> | <u>12</u> | <u>se and sw</u> | <u>01601</u> | <u>EF-80</u>                                       | <input checked="" type="checkbox"/> Diverted | <input checked="" type="checkbox"/> Conveyed | <input checked="" 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            | _____              |
| _____     | _____     | _____     | _____            | _____        | _____  | <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:

Yamhill

## 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) South Yamhill

Estimated quantity of water needed: 13    ☐ 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 \_\_\_\_\_

Briefly describe:

A designed, permitted and approved project included a fish friendly water structure for holding and releasing water during approved periods in compliance with state and federal law.

**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.



JAN 14 2025

Salem, OR

# Land Use Information Form



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

## NOTE TO APPLICANTS

In order for your application to be processed by the Water Resources Department (WRD), this Land Use Information Form must be completed by a local government planning official in the jurisdiction(s) where your water right will be used and developed. The planning official may choose to complete the form while you wait, or return the receipt stub to you. Applications received by WRD without the Land Use Form or the receipt stub will be returned to you. Please be aware that your application will not be approved without land use approval.

**This form is NOT required if:**

- 1) Water is to be diverted, conveyed, and/or used only on federal lands; **OR**
- 2) The application is for a water right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and **all** of the following apply:
  - a) The existing and proposed water use is located entirely within lands zoned for exclusive farm-use or within an irrigation district;
  - b) The application involves a change in place of use only;
  - c) The change does not involve the placement or modification of structures, including but not limited to water diversion, impoundment, distribution facilities, water wells and well houses; **and**
  - d) The application involves irrigation water uses only.

## NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for or modifying a water right. The Water Resources Department (WRD) requires its applicants to obtain land-use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan. Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to the WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land-use form and return it to the WRD. If no land-use information is received from you within that 30-day period, the WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan. Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact the WRD's Customer Service Group at 503-986-0900.

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Land Use Information Form  
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## Land Use

Salem, OR

## Information Form



Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1266503-986-0900  
www.oregon.gov/OWRD

|                                   |                          |                  |   |
|-----------------------------------|--------------------------|------------------|---|
| NAME <b>Dan and Carmen Upshaw</b> |                          | PHONE (HM)       |   |
| PHONE (WK)                        | CELL <b>503-560-3789</b> | FAX              |   |
| ADDRESS <b>15480 Briedwell Rd</b> |                          |                  |   |
| CITY <b>McMinnville</b>           | STATE <b>OR</b>          | ZIP <b>97128</b> | E-MAIL* <b>dupshaw@thespringsliving.com</b> |

**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<br>(e.g., Rural Residential/RR-5) | Water to be:                                 |  |  | Proposed Land Use: |
|-----------|-----------|-----------|--------------------|--------------|--|--|--|--|--------------------|
| <u>5s</u> | <u>5w</u> | <u>12</u> | <u>scse and sw</u> | <u>01601</u> | <u>EF-80</u>                                       | <input checked="" type="checkbox"/> Diverted | <input checked="" type="checkbox"/> Conveyed | <input checked="" 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            | _____              |
| _____     | _____     | _____     | _____              | _____        | _____  | <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:

Yamhill

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**B. Description of Proposed Use**

Salem, OR

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) South YamhillEstimated quantity of water needed: 13    ☐ 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 \_\_\_\_\_

Briefly describe:

A designed, permitted and approved project included a fish friendly water structure for holding and releasing water during approved periods in compliance with state and federal law.

**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.

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Salem, OR

pd 928914



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**For Local Government Use Only**

Salem, OR

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): **402 of the YCZO**
- ☐ 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<br>(e.g., plan amendments, rezones, conditional-use permits, etc.) | Cite Most Significant, Applicable Plan Policies &<br>Ordinance Section References | Land-Use Approval:   |  |
|---|---|--|--|
|   |   | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being Pursued<br><input type="checkbox"/> Not Being Pursued |
|   | Received by OWRD  | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being Pursued<br><input type="checkbox"/> Not Being Pursued |
|   | JUL 23 2024   | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being Pursued<br><input type="checkbox"/> Not Being Pursued |
|   | Salem, OR   | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being Pursued<br><input type="checkbox"/> Not Being Pursued |
|   |   | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being Pursued<br><input type="checkbox"/> Not Being Pursued |

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

Name: Ken Fridley Title: PD

Signature: [Signature] Phone: 503 434-7516 Date: 2/8/24

Government Entity: Yamhill 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: \_\_\_\_\_



## ODFW Alternate Reservoir Application Review Sheet

|  |  |
|--|--|
| <b>This portion to be completed by the applicant.</b>  | Received by OWRD<br>SEP 30 2024<br>Salem, OR   |
| Applicant Name: <u>Dan &amp; Carmen Upshaw</u>   | Received by OWRD<br>JUL 23 2024<br>Salem, OR   |
| Address: <u>15480 SW Briedwell Rd, McMinnville OR. 97128</u>   | Received by OWRD<br>JAN 14 2025<br>Salem, OR   |
| Phone/Email: <u>503-560-3789 / dupshaw@thespringsliving.com</u>  | Volume (AF): <u>13</u>   |
| Reservoir Name: <u>South Pond</u>  | <input type="checkbox"/> in-channel<br><input checked="" type="checkbox"/> off-channel |
| Source: <u>South Yamhill R. &amp; Runoff</u>   |  |
| Basin Name: <u>Willamette</u>  |  |
| Twp Rng Sec QQ: <u>5S 5W 12 SESE &amp; SWSE</u>  |  |
| 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 would be withdrawing water from the S. Fork Yamhill River. 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 May.1<sup>st</sup> through October.31<sup>st</sup> 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)



Applicant Name: Dan & Carmen Upshaw

ODFW Review

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 (Spring Chinook, Winter Steelhead), sensitive species (Coho, costal cutthroat), and other game fish (Pacific Lamprey) are present in South Yamhill River during the period of impact. Instream flows to fulfill MF163 for aquatic life are not being met partially or wholly 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 June 1<sup>st</sup> – October 31<sup>st</sup>. In addition, ODFW reviewed available information regarding water quality impairment and determined that a TMDL exists for the Yamhill Watershed for phosphorus and an instream water right for pollution abatement is established. Consequently, ODFW recommends that because the proposed use, including any releases throughout the year from the reservoir to waters of the state (see “Water Quality” condition below), would impair water quality that supports existing fishery resources (e.g., habitat) at or downstream of the Point of Diversion that the water use be restricted to the period of May 1<sup>st</sup> – October 31<sup>st</sup>.

Because of these reasons, the proposed use will diminish water quality, physical habitat, and/or 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 use would result in a significant detrimental impact to an existing fishery resource without appropriate conditions and/or mitigation.

| Impairment to Fishery Resource | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
|--------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Water Quantity                 |     |     |     |     |     |     |     |     |     |     |     |     |
| Water Quality                  |     |     |     |     |     |     |     |     |     |     |     |     |

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Salem, OR

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

Native migratory fish may become trapped or entrained in the reservoirs/impoundments during/after flooding events; therefore, the permittee shall work with ODFW regarding development of an approved fish egress (See condition fish egress) from the reservoirs/impoundments or other methods to keep fish out of the reservoirs/impoundments during flood events (e.g., berm construction around the reservoirs). ODFW recommends the storage season 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 (including impairment of water quality) from the proposed water use during May 1<sup>st</sup> – October 31<sup>st</sup> will result in a significant detrimental impact to an existing fishery resource.

Digitally signed by Janna Stevens  
Date: 2024.05.13 12:42:06  
-07'00'

Janna Stevens

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

Print Name: Janna Stevens

ODFW Title: Water Planning Coordinator

Date: 5/13/2024

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

JAN 14 2025

JUL 23 2024

Salem, OR

Salem, OR



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

Revised May 12, 2020, March 25, 2021

Received by OWRD

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

Salem, OR

- ☒ **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 November 1<sup>st</sup> through April 30<sup>th</sup>.

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

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

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

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

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

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

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

- ☒ **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.

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

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

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

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

- ☐ **fishmay:** 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.



- ☒ **Fishegress:** Native migratory fish may become trapped or entrained in the reservoirs/impoundments during/after flooding events; therefore, the permittee shall work with ODFW regarding development of an approved fish egress from the reservoirs/impoundments or other methods to keep fish out of the reservoirs/impoundments during flood events (e.g., berm construction around the reservoirs).
- ☒ **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.
- ☒ **Fish Stocking:** Per ORS 498.222 and OAR 635-007-0600, all persons transporting fish in Oregon need to have a fish transport permit issued by the Oregon Department of Fish and Wildlife (ODFW). The permittee shall not stock fish in the reservoir without a fish transport permit approved by ODFW. As part of the permitting process, the permittee must also screen the inlet and outlet of their pond to insure that fish cannot escape into public waters and/or to keep wild fish from entering the pond.
- ☐ **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 July, 15 – Sep. 30 unless an alternate time period is approved by the Oregon Department of Fish and Wildlife.
- ☒ **Live Flow:** Once the allocated volume has been stored, permittee shall pass all live flow downstream at a rate equal to inflow, using methods that protect instream water quality.
- ☒ **Off-Channel Stored Water Releases:** The permittee shall not release polluted water from this off-channel reservoir into waters of the state except when the release is directed by the State Engineer to prevent dam failure.
- ☐ **On-Channel Reservoir:** The permittee shall design and operate the water storage facility such that all waters within and below the reservoir meet water quality criteria. The permittee shall develop a reservoir operations plan that details how water quality criteria and standards will be met. A Certified Water Rights Examiner shall verify that the reservoir operations are consistent with the plan before a certificate is issued. The reservoir operator shall maintain a copy of the plan and make it available for review upon request.
- ☒ **riparian:** If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.
- ☒ **Water Quality:** All water use under this permit shall comply with state and federal water quality laws. The permittee shall not violate any state and federal water quality standards, shall not cause pollution of any waters of the state, and shall not place or cause to be placed any wastes in a location where such wastes are likely to escape or be carried into the waters of the state by any means. The use may be restricted if the quality of source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards.
- ☐ **wq:** The use may be restricted if the quality of the source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

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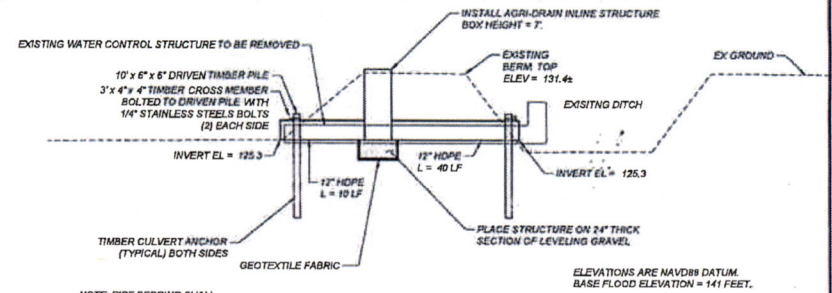
SEP 30 2024

Salem, OR

Received by OWRD

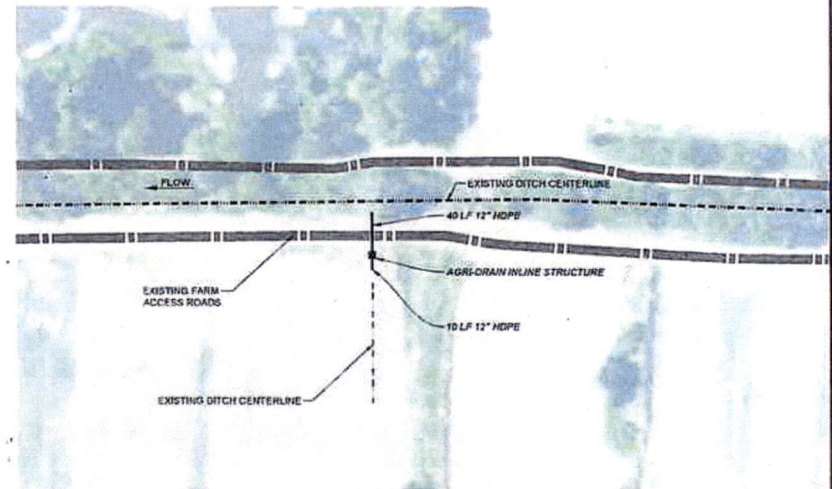
JUL 23 2024

Salem, OR



NOTE: PIPE BEDDING SHALL  
CONSIST OF SUITABLE MATERIAL  
OVER ITS ENTIRE LENGTH  
UNSUITABLE MATERIAL SHALL BE  
REMOVED AND REPLACED WITH  
SUITABLE MATERIAL

A AGRI-DRAIN SECTION  
NTS



NOTE: NEW AGRI-DRAIN STRUCTURE TO REPLACE  
EXISTING STRUCTURE OF SIMILAR SIZE AND  
FUNCTION (NOT SHOWN FOR CLARITY)

0 50 100  
HORIZONTAL SCALE

1 DETAIL VIEW

15480 BRIEDWELL RD.  
McMINNVILLE, OR 97128

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Salem, OR

# PERMITTING

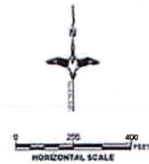
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|-----------|-------------|------|----------|
| REV. NO.  | DESCRIPTION | DATE | APPROVED |
| 1         |             |      |          |
| 2         |             |      |          |
| 3         |             |      |          |
| 4         |             |      |          |



|                               |                |                  |
|-------------------------------|----------------|------------------|
| PROJECT NO. US-OR-205-4       | DATE 6/13/2019 | DESIGNED BY SJA  |
| SOUTH YAMHILL<br>UPSHAW NAWCA |                | DRAWN BY AGA     |
|                               |                | SURVEYED BY -    |
|                               |                | CHECKED BY -     |
|                               |                | SHEET NO. 1 of 1 |

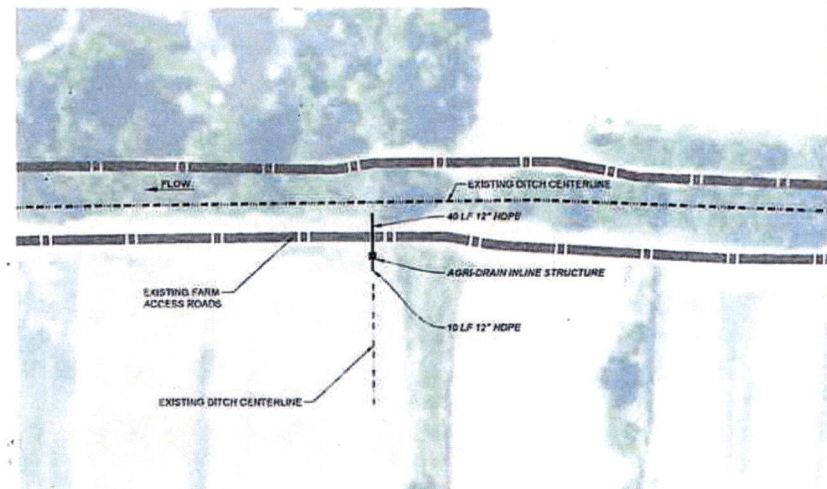
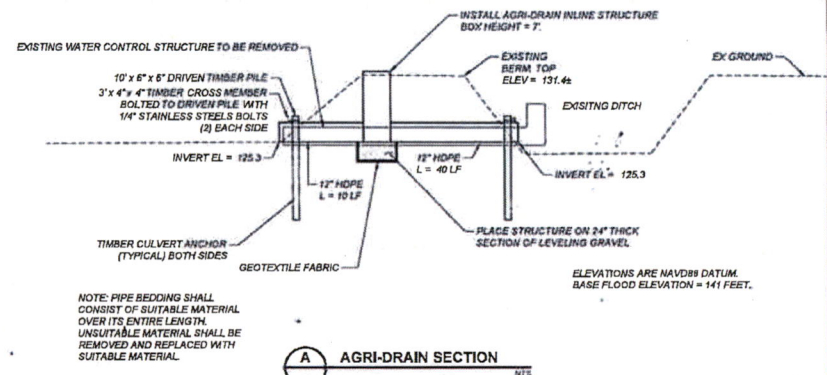
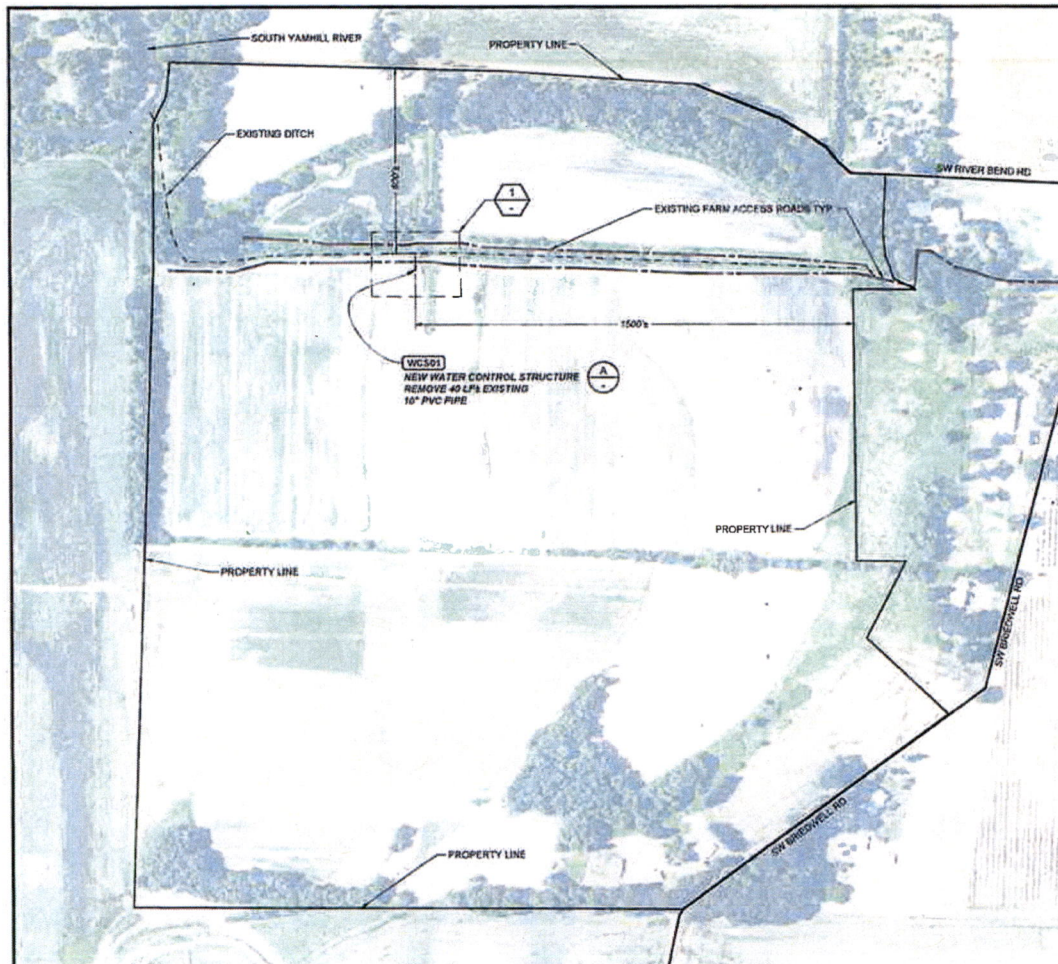
PERMITTING

1 of 1



Unauthorized Changes & Uses  
The engineer preparing these plans will not be responsible for, or liable  
for, unauthorized changes to or uses of these plans. All changes must  
be in writing and must be approved by the preparer of these plans.



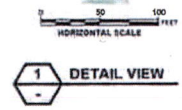


Unauthorized Changes & Uses  
The engineer preparing these plans will not be responsible for, or liable for, unauthorized changes to or uses of these plans. All changes must be in writing and must be approved by the preparer of these plans.

15480 BRIEDWELL RD.  
McMINNVILLE, OR 97128

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JAN 14 2025  
Salem, OR

NOTE: NEW AGRI-DRAIN STRUCTURE TO REPLACE  
EXISTING STRUCTURE OF SIMILAR SIZE AND  
FUNCTION (NOT SHOWN FOR CLARITY)



| REVISIONS |             |      |          |
|-----------|-------------|------|----------|
| REV. NO.  | DESCRIPTION | DATE | APPROVED |
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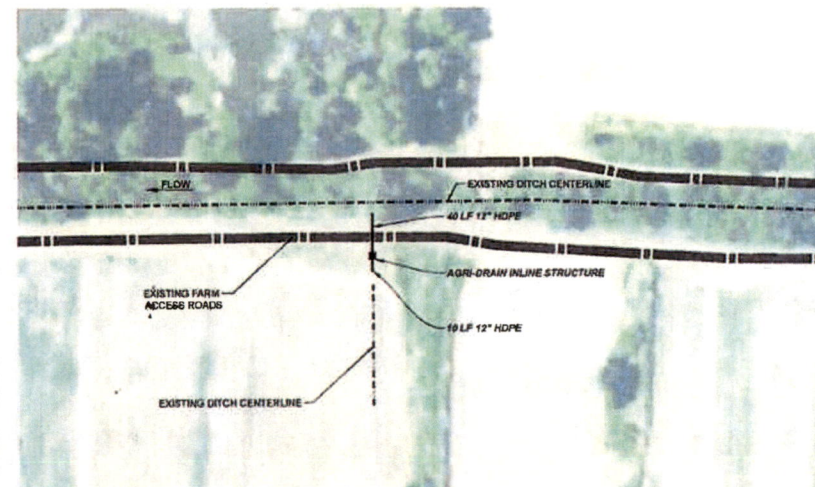
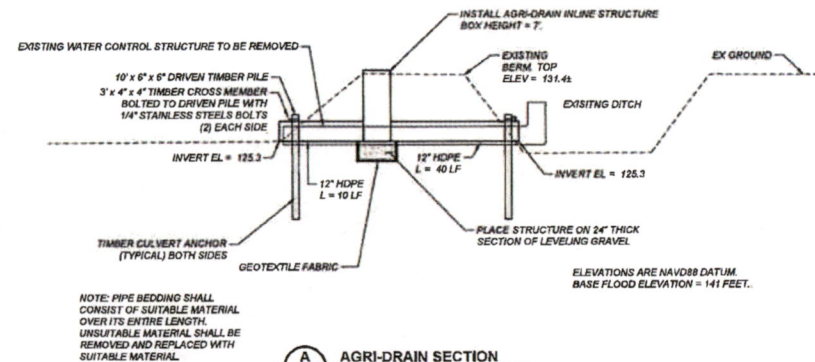
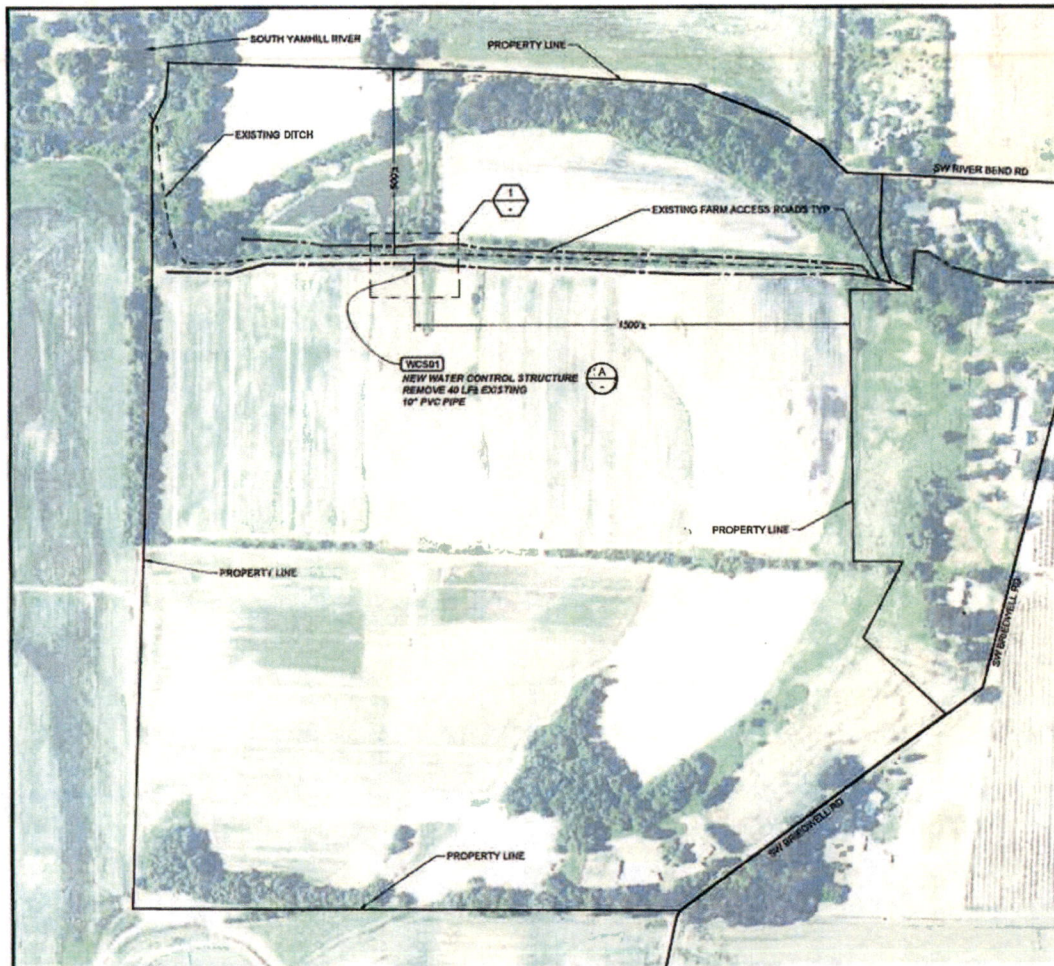


|             |             |      |           |               |        |
|-------------|-------------|------|-----------|---------------|--------|
| PROJECT NO. | US-OR-205-4 | DATE | 6/13/2019 | DESIGNED BY   | SMA    |
|             |             |      |           | DRAWN BY      | ADP    |
|             |             |      |           | SUPERVISED BY |        |
|             |             |      |           | CHECKED BY    |        |
|             |             |      |           | SHEET NO.     | 1 of 1 |

PERMITTING

PERMITTING





NOTE: NEW AGRI-DRAIN STRUCTURE TO REPLACE EXISTING STRUCTURE OF SIMILAR SIZE AND FUNCTION (NOT SHOWN FOR CLARITY)



1 DETAIL VIEW

Unauthorized Changes & Uses  
The engineer preparing these plans will not be responsible for, or liable for, unauthorized changes to or use of these plans. All changes must be in writing and must be approved by the preparer of these plans.

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| REVISIONS |             |      |          |
|-----------|-------------|------|----------|
| NO.       | DESCRIPTION | DATE | APPROVED |
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| PERMITTING  |               |            |           |
|-------------|---------------|------------|-----------|
| PROJECT NO. | US-OR-306-4   | DATE       | 8/13/2019 |
| DESIGNED BY | SOUTH YAMHILL | DRAWN BY   |           |
| CHECKED BY  | UPSHAW NAWCA  | CHECKED BY |           |
| SHEET NO.   |               | SHEET NO.  |           |
| PERMITTING  |               | 1 of 1     |           |

After recording return to:  
STEVEN E. & DIANE E. RICE  
PO BOX 1075  
McMINNVILLE OR 97128

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

STEVEN E. & DIANE E. RICE  
PO BOX 1075  
McMINNVILLE OR 97128

OFFICIAL YAMHILL COUNTY RECORDS  
JAN COLEMAN, COUNTY CLERK

200506269



\$35.00

00155071200500062690030036

DNR-DDMR Cnt=1 Stn=2 RNTR  
\$15.00 \$10.00 \$11.00

03/29/2005 03:51:51 PM

TITLE NO. 40-0058005  
ESCROW NO. 40-0058005

### STATUTORY QUITCLAIM DEED

YAMHILL COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF OREGON, Grantor,  
releases and quitclaims to STEVEN EUGENE RICE AND DIANE ELIZABETH RICE, HUSBAND  
AND WIFE, Grantee, all right, title and interest in and to the following  
described real property:

SEE EXHIBIT A WHICH IS MADE A PART HEREOF BY THIS REFERENCE,

AS DISCLOSED BY PURCHASE AND SALE AGREEMENT RECORDED MARCH 15, 2005 IN DOCUMENT  
NO. 200505064. THE PURPOSE IS TO REMOVE ANY INTEREST WHICH MIGHT HAVE BEEN  
CREATED OR REFERENCED BY RECORDATION ABOVE OF THE PURCHASE AND SALE AGREEMENT.

*See 2/2/05*

The true consideration for this conveyance is \$ -0-.

THIS INSTRUMENT WILL 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 APPROVED  
USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR  
FOREST PRACTICES AS DEFINED IN ORS 30.930.

Dated this 28 day of March, 2005.

YAMHILL COUNTY

*Mary P. Stern*  
Mary P. Stern, County Commissioner, Chair

*John M. Gray, Jr.*  
John M. Gray, Jr., Yamhill County Counsel

STATE OF OREGON, )  
County of Yamhill ) ss.

This instrument was acknowledged  
before me on March 28th, 2005;  
by Mary P. Stern, County Commissioner, Chair  
and John M. Gray, Jr., Yamhill County Counsel,  
acting on behalf of YAMHILL COUNTY, a political  
subdivision of the State of Oregon.

*Leslie Fisher*  
Notary Public for Yamhill County, Oregon

My commission expires: 7/15/05



STATE OF OREGON, )  
County of \_\_\_\_\_ ) ss.

This instrument was acknowledged  
before me on \_\_\_\_\_, 20\_\_\_\_,  
by \_\_\_\_\_

as: \_\_\_\_\_  
of \_\_\_\_\_

Notary Public for \_\_\_\_\_

My commission expires: \_\_\_\_\_

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SEP 30 2024

Salem, OR

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JAN 14 2025

Salem, OR

WESTERN TITLE & ESCROW 40-0058005



**EXHIBIT "A"**

A tract of land being part of that land described in Instrument #199607765 lying within the John Monroe DLC in Section 12, Township 5 South, Range 5 West, Willamette Meridian, being more particularly described as follows:

Beginning at the Northwest corner of Government Resettlement Survey Unit #58, said point being marked with a ¾" pipe and as being on record as bearing South 02°33'06" West from the Northwest corner of the John Monroe DLC; thence North 89°44'49" East 2361.31 feet along the Northerly boundary of land described in Instrument #199607765 to the Northeast corner of Resettlement Survey Unit #58; thence South 00°14'27" West 1029.81 feet along said Easterly boundary of said Unit #58 to an iron rod; thence North 61°59'25" West 513.67 feet along the center of a road to an iron rod; thence North 88°31'14" West 983.74 feet to an iron rod; thence South 89°44'49" West 935.76 feet more or less to the Westerly boundary of Instrument #199607765 passing irons at 744.20 feet, and 844.20 feet, respectively; thence North 00°32'00" East 756.91 feet to the point of beginning, EXCEPTING the East 40 feet of above described land.

TOGETHER WITH and SUBJECT TO a reciprocal easement for access and utilities in varying widths, for the benefit of the landowner of the lands described above and for the landowner of the land described adjacent to and South of above described land, being more particularly described as follows:

**Easement 1:**

An easement beginning 40 feet in width, being 20 feet on each side of the following centerline beginning at a point on the Westerly margin of the 40-foot exception, said point bears North 61°59'25" West 47.02 feet from an iron rod set at the intersection with an extension of the Southerly boundary of above described property with the Easterly boundary of Unit #58; thence North 61°59'25" West 468.26 feet; thence North 88°31'14" West 983.74 feet; thence reducing to 30 feet in width, being 15 feet on each side of the following centerline which bears South 89°44'49" West 729.20 feet; thence South 10°39'36" West 288.76 feet; thence South 81°16'54" West 147.69 feet; thence North 00°32'00" East 57.68 feet to the terminus of this easement.

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SEP 30 2024

Salem, OR

AND FURTHER TOGETHER WITH a utility easement

Easement 2:

Being 20 feet in width, 10 feet in each side of the following centerline:

Beginning at a point on the Westerly margin of the 40-foot-wide exception described in Instrument #199607765, said point bears South  $00^{\circ}14'27''$  East 30.10 feet from the point of beginning of above described easement; thence North  $68^{\circ}40'25''$  West 704.69 feet to the intersection point with above Easement 1.

AND FURTHER TOGETHER WITH a temporary 20-foot-wide easement to be extinguished upon the relocation of the following existing power line to fall within the easement described in Easement 1 above, and being 10 feet on each side of the following described centerline:

Easement 3:

Beginning at a point on the centerline of said Easement 1 above, said point being North  $61^{\circ}59'25''$  West 47.02 feet and North  $61^{\circ}59'25''$  West 468.26 feet; and North  $88^{\circ}31'14''$  West 955.38 feet from an iron rod set at the intersection with the extension of the Southerly boundary of above described property and the Easterly boundary of Unit #58; thence South  $54^{\circ}14'18''$  West 504.28 feet; thence North  $88^{\circ}47'48''$  West 401.86 feet.

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After recording return to:  
WESTERN TITLE & ESCROW COMPANY  
1215 NE BAKER STREET - PO BOX 628  
McMINNVILLE, OR 97128

Until a change is requested all tax statem  
shall be sent to the following address:  
STEVEN E. & DIANE E. RICE  
PO BOX 1075  
McMINNVILLE OR 97128

OFFICIAL YAMHILL COUNTY RECORDS  
JAN COLEMAN, COUNTY CLERK



00185072203500852700030033  
DNR-DDNR Cnt=1 Str=2 ANITA  
\$15.00 \$10.00 \$11.00

200506270

\$36.00

03/29/2005 03:51:51 PM

### WARRANTY DEED -- STATUTORY FORM

STEVEN EUGENE RICE and DIANE ELIZABETH RICE, husband and wife, Grantor, conveys  
and warrants to STEVEN E. RICE AND DIANE E. RICE, HUSBAND AND WIFE, Grantee,  
the following described real property, free of encumbrances except as  
specifically set forth herein, to wit:

SEE EXHIBIT A WHICH IS MADE A PART HEREOF BY THIS REFERENCE

THIS CONVEYANCE IS MADE SOLELY AS AN ADJUSTMENT OF COMMON BOUNDARY  
BETWEEN ADJOINING PERTIES, AND DOES NOT CREATE A SEPARATE PARCEL THAT CAN BE  
CONVEYED IN DEPENDENTLY OF ADJACENT LAND. L-66-04

This property is free from encumbrances, EXCEPT: All those items of record, if  
any, as of the date of this deed, including any real property taxes due, but  
not yet payable.

The true consideration for this conveyance is \$ -0-.

THIS INSTRUMENT WILL 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 APPROVED  
USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR  
FOREST PRACTICES AS DEFINED IN ORS 30.930.

Dated this 28<sup>th</sup> day of March, 2005.

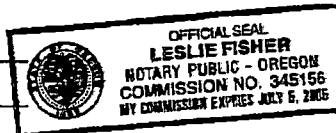
STEVEN EUGENE RICE

DIANE ELIZABETH RICE

STATE OF OREGON, COUNTY OF YAMHILL ) SS.

This instrument was acknowledged before me on March 28<sup>th</sup>, 2005 by STEVEN EUGENE  
RICE and DIANE ELIZABETH RICE.

Leslie Fisher  
(Notary Public for Oregon)  
My commission expires 4/1/05



Received by OWRD

SEP 30 2024

Salem, OR

Received by OWRD

JAN 14 2025

Salem, OR

## EXHIBIT "A"

A tract of land being part of that land described in Instrument No. 199607765 lying within the John Monroe Donation Land Claim in Section 12, Township 5 South, Range 5 West, Willamette Meridian being more particularly described as follows:

BEGINNING at the Northwest corner of Government Resettlement Survey Unit #58, said point being marked with a ¾" pipe and as being on record as bearing South 02° 33' 06" West from the Northwest corner of the John Monroe Donation Land Claim; thence South 00° 32' 00" West 756.91 feet along the Westerly boundary of land described in Instrument No. 199607765 to the TRUE POINT OF BEGINNING; thence continuing along said Westerly boundary South 00° 32' 00" West 632.80 feet more or less to the Southwest corner of said Instrument No. 199607765, said point also being the Southwest corner of Government Resettlement Survey Unit No. 58; thence South 89° 59' 34" East along the Southerly boundary of Unit No. 58, 2640.33 feet more or less to the Southeast corner of said Unit No. 58; thence North 00° 26' 34" East 323.13 feet to a ¾" iron pipe being held as a corner of said Unit No. 58; thence North 89° 53' 54" West 264.07 feet to the Southwest corner of Lot 4 of CSP-2431; thence North 00° 14' 27" West 47.02 feet to an iron rod; thence North 61° 59' 25" West 513.67 feet along the center of a road to an iron rod; thence North 88° 31' 14" West 983.74 feet to an iron rod; thence South 89° 44' 49" West 935.76 feet more or less to the Westerly boundary of Instrument No. 199607765 passing irons at 744.20 feet, and 844.20 feet respectively to the TRUE POINT OF BEGINNING.

EXCEPTING the East 40 feet of land described in instrument No. 199607765.

TOGETHER WITH AND SUBJECT TO a reciprocal easement for access and utilities in varying widths, for the benefit of the landowner of the lands described above and for the landowner of the land described adjacent to and South of above described land being more particularly described as follows:

### Easement 1:

An easement beginning 40 feet in width, being 20 feet on each side of the following centerline beginning at a point on the Westerly margin of the 40 feet exception, said point bears North 61° 59' 25" West 47.02 feet from an iron rod set at the intersection with an extension of the Southerly boundary of above described property with the Easterly boundary of Unit No. 58; thence North 61° 59' 25" West 468.26 feet; thence North 88° 31' 14" West 983.74 feet; thence reducing to 30 feet in width being 15 feet on each side of the following centerline which bears South 89° 44' 49" West 729.20 feet; thence South 10° 39' 36" West 288.76 feet; thence South 81° 16' 54" West 147.69 feet; thence North 00° 32' 00" East 57.68 feet to the terminus of this easement.

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SUBJECT TO a utility easement:

Easement 2:

Being 20 feet in width 10 feet on each side of the following centerline:

BEGINNING at a point on the Westerly margin of the 40 feet wide exception described in Instrument No. 199607765 said point bears South 00° 14' 27" East 30.10 feet from the POINT OF BEGINNING of above described easement; thence North 68° 40' 25" West 704.69 feet to the intersection point with above Easement 1.

SUBJECT TO a temporary 20 feet wide easement to be extinguished upon the relocation of the following existing power line to fall within the easement described in Easement 1 above, and being 10 feet on each side of the following described centerline:

Easement 3:

BEGINNING at a point on the centerline of said Easement 1 above said point being North 61° 59' 25" West 47.02 feet and North 61° 59' 25" West 468.26 feet; and North 88° 31' 14" West 955.38 feet from an iron rod set at the intersection with the extension of the Southerly boundary of above described property and the Easterly boundary of Unit No. 58; thence South 54° 14' 18" West 504.28 feet; thence North 88° 47' 48" West 401.86 feet.

Received by OWRD

SEP 30 2024

Salem, OR

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JAN 14 2025

Salem, OR

OFFICIAL YAMHILL COUNTY RECORDS  
JAN COLEMAN, COUNTY CLERK



\$41.00

After recording return to:  
WESTERN TITLE & ESCROW COMPANY  
1215 NE BAKER STREET - PO BOX 528  
McMINNVILLE, OR 97128

200513595 11:29:15 AM 6/30/2005  
DMR-DDMR Cnt=1 Str=3 KENTV  
\$26.00 \$10.00 \$11.00

Until a change is requested all tax statements  
shall be sent to the following address:  
DANIEL L. UPSHAW & MERCEDES C. UPSHAW  
PO BOX 188  
AMITY, OR 97101

WARRANTY DEED -- STATUTORY FORM

STEVEN EUGENE RICE and DIANE ELIZABETH RICE, and STEVEN E. RICE and DIANE E. RICE, Grantor, conveys and warrants to DANIEL L. UPSHAW and MERCEDES C. UPSHAW, husband and wife, Grantee, the following described real property, free of encumbrances except as specifically set forth herein, to wit:

SEE EXHIBIT A WHICH IS MADE A PART HEREOF BY THIS REFERENCE

This property is free from encumbrances, EXCEPT: All those items of record, if any, as of the date of this deed, including any real property taxes due, but not yet payable.

The true consideration for this conveyance is \$ 713,000.00, A PORTION OF WHICH HAS BEEN PAID BY AN ACCOMMODATOR PURSUANT TO AN IRC SECTION 1031 TAX DEFERRED EXCHANGE. *And*  
THE PROPERTY DESCRIBED HEREIN HAS BEEN ASSESSED UNDER FARM AND/OR FOREST TAX *MEU*  
DEFERRAL. DISQUALIFICATION MAY RESULT IN ADDITIONAL TAXES AND INTEREST BEING LEVIED.

THIS INSTRUMENT WILL 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 APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Dated this 29th day of June, 2005.

RE-RECORDED TO CORRECT LEGAL  
DESCRIPTION PREVIOUSLY RECORDED  
JUNE 30, 2005 IN DOCUMENT  
NO. 200513595.

STEVEN EUGENE RICE

DIANE ELIZABETH RICE

STEVEN E. RICE

DIANE E. RICE

STATE OF OREGON, COUNTY OF YAMHILL ) SS.

This instrument was acknowledged before me on June 29th, 2005 by STEVEN EUGENE RICE AND DIANE ELIZABETH RICE, AND STEVEN E. RICE AND DIANE E. RICE.

OFFICIAL YAMHILL COUNTY RECORDS  
JAN COLEMAN, COUNTY CLERK

*Leslie Fisher*  
(Notary Public for Oregon)  
My commission expires 7/5/05



\$56.00

200517784 2:54:59 PM 8/16/2005  
DMR-DDMR Cnt=1 Str=3 KENTV  
\$35.00 \$10.00 \$11.00

TITLE NO. 40-0126405  
ESCROW NO. 40-0126405



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JAN 14 2025  
Salem, OR

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SEP 30 2024  
Salem, OR

117  
1/4



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Salem, OR

## EXHIBIT "A"

~~A portion of that certain tract of land in the John Monroe donation Land Claim No. 65, in Section 12, Township 5 South, Range 5 West of the Willamette Meridian, Yamhill County, Oregon, said tract of land being described in that certain mortgage recorded in Film Volume 151, Page 278, Deed Records of Yamhill County, Oregon, said portion being more particularly described as follows:~~

~~Beginning at a 5/8 inch iron rod on the West line of said Monroe Claim being the Northwest corner of that certain tract of land described in mortgage to Richard T. Fuller and Needa Fuller, recorded in Film Volume 135, Page 849, Deed Records of Yamhill County, Oregon, thence along the West line of said Monroe Claim, North 00°30'16" East 1023.99 feet to a 5/8" iron rod at the Southwest corner of that certain tract of land described in deed to L.H. Rosenthal and Barbara C. Devine, recorded in Volume 80, Page 539, Deed Records of Yamhill County, Oregon; thence along said South line South 89°57'01" East 2640.33 feet to a 3/4" iron pipe at the Southeast corner of said Rosenthal et al tract; thence North 00°26'22" East 323.28 feet to a 3/4" iron pipe on the dividing line between the North 1/2 and the South 1/2 of said Monroe Claim; thence along said dividing line South 89°53'19" East 636.85 feet to a 5/8" iron rod on the Westerly right-of-way of Market Road No. 34; thence along said right-of-way South 12°04' West 351.16 feet to a 5/8" iron rod; thence South 86°05'52" West 567.70 feet to a 5/8" iron rod; thence North 89°57'01" West 157.71 feet to a 5/8" iron rod; thence South 02°30'40" West 966.17 feet to a 5/8" iron rod on the North line of the aforesaid Fuller tract; thence along said North line North 89°55'10" West 2448.85 feet to the point of beginning.~~

## AND TOGETHER WITH:

~~A tract of land being part of that land described in Instrument #199607765 lying within the John Monroe DLC in Section 12, Township 5 South, Range 5 West, Willamette Meridian, being more particularly described as follows:~~

~~Beginning at the Northwest corner of Government Resettlement Survey Unit #58, said point being marked with a 3/4" pipe and as being on record as bearing South 02°33'06" West from the Northwest corner of the John Monroe DLC; thence North 89°44'49" East 2361.31 feet along the Northerly boundary of land described in Instrument #199607765 to the Northeast corner of Resettlement Survey Unit #58; thence South 00°14'27" West 1029.81 feet along said Easterly boundary of said Unit #58 to an iron rod; thence North 61°59'25" West 513.67 feet along the center of a road to an iron rod; thence North 88°31'14" West 983.74 feet to an iron rod; thence South 89°44'49" West 935.76 feet more or less to the Westerly boundary of~~

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JAN 14 2025

Salem, OR

2/7  
2/4

~~Instrument #199607765 passing irons at 744.20 feet, and 844.20 feet, respectively, thence North 00°32'00" East 756.91 feet to the point of beginning, EXCEPTING the East 40 feet of above described land.~~

TOGETHER WITH and SUBJECT TO a reciprocal easement for access and utilities in varying widths, for the benefit of the landowner of the lands described above and for the landowner of the land described adjacent to and South of above described land, being more particularly described as follows:

Easement 1:

An easement beginning 40 feet in width, being 20 feet on each side of the following centerline beginning at a point on the Westerly margin of the 40-foot exception, said point bears North 61°59'25" West 47.02 feet from an iron rod set at the intersection with an extension of the Southerly boundary of above described property with the Easterly boundary of Unit #58; thence North 61°59'25" West 468.26 feet; thence North 88°31'14" West 983.74 feet; thence reducing to 30 feet in width, being 15 feet on each side of the following centerline which bears South 89°44'49" West 729.20 feet; thence South 10°39'36" West 288.76 feet; thence South 81°16'54" West 147.69 feet; thence North 00°32'00" East 57.68 feet to the terminus of this easement.

AND FURTHER TOGETHER WITH a utility easement

Easement 2:

Being 20 feet in width, 10 feet in each side of the following centerline:

Beginning at a point on the Westerly margin of the 40-foot-wide exception described in Instrument #199607765, said point bears South 00°14'27" East 30.10 feet from the point of beginning of above described easement; thence North 68°40'25" West 704.69 feet to the intersection point with above Easement 1.

AND FURTHER TOGETHER WITH a temporary 20-foot-wide easement to be extinguished upon the relocation of the following existing power line to fall within the easement described in Easement 1 above, and being 10 feet on each side of the following described centerline:

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Salem, OR

3/1  
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Order No. 40-0126405

~~Easement 3:~~

~~Beginning at a point on the centerline of said Easement 1 above, said point being North 61°59'25" West 47.02 feet and North 61°59'25" West 468.26 feet; and North 88°31'14" West 955.38 feet from an iron rod set at the intersection with the extension of the Southerly boundary of above described property and the Easterly boundary of Unit #58; thence South 54°14'18" West 504.28 feet; thence North 88°47'48" West 401.86 feet.~~

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JAN 14 2025

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Salem, OR

4/7  
4/9

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**EXHIBIT "A"**

A portion of that certain tract of land in the John Monroe donation Land Claim No. 65, in Section 12, Township 5 South, Range 5 West of the Willamette Meridian, Yamhill County, Oregon, said tract of land being described in that certain mortgage recorded in Film Volume 151, Page 278, Deed Records of Yamhill County, Oregon, said portion being more particularly described as follows:

Beginning at a 5/8 inch iron rod on the West line of said Monroe Claim being the Northwest corner of that certain tract of land described in mortgage to Richard T. Fuller and Needa Fuller, recorded in Film Volume 135, Page 849, Deed Records of Yamhill County, Oregon, thence along the West line of said Monroe Claim, North 00°30'16" East 1023.99 feet to a 5/8" iron rod at the Southwest corner of that certain tract of land described in deed to L.H. Rosenthal and Barbara C. Devine, recorded in Volume 80, Page 539, Deed Records of Yamhill County, Oregon; thence along said South line South 89°57'01" East 2640.33 feet to a 3/4" iron pipe at the Southeast corner of said Rosenthal et al tract; thence North 00°26'22" East 323.28 feet to a 3/4" iron pipe on the dividing line between the North 1/2 and the South 1/2 of said Monroe Claim; thence along said dividing line South 89°53'19" East 636.85 feet to a 5/8" iron rod on the Westerly right-of-way of Market Road No. 34; thence along said right-of-way South 12°04' West 351.16 feet to a 5/8" iron rod; thence South 86°05'52" West 567.70 feet to a 5/8" iron rod; thence North 89°57'01" West 157.71 feet to a 5/8" iron rod; thence South 02°30'40" West 966.17 feet to a 5/8" iron rod on the North line of the aforesaid Fuller tract; thence along said North line North 89°55'10" West 2448.85 feet to the point of beginning.

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AND TOGETHER WITH:

JAN 14 2025

A tract of land being part of that land described in Instrument No. 199607765 lying within the John Monroe Donation Land Claim in Section 12, Township 5 South, Range 5 West, Willamette Meridian being more particularly described as follows:

Salem, OR

BEGINNING at the Northwest corner of Government Resettlement Survey Unit #58, said point being marked with a 3/4" pipe and as being on record as bearing South 02°33'06" West from the Northwest corner of the John Monroe Donation Land Claim; thence South 00°32'00" West 756.91 feet along the Westerly boundary of land described in Instrument No. 199607765 to the true point of beginning; thence continuing along said Westerly boundary South 00°32'00" West 632.80 feet more or less to the Southwest corner of said Instrument No. 199607765, said point also being the Southwest corner of Government Resettlement Survey Unit No. 58; thence South 89°59'34" East along the Southerly boundary of Unit No. 58, 2640.33 feet more or less



to the Southeast corner of said Unit No. 58; thence North 00°26'34" East 323.13 feet to a ¾" iron pipe being held as a corner of said Unit No. 58; thence North 89°53'54" West 264.07 feet to the Southwest corner of Lot 4 of CSP-2431; thence North 00°14'27" West 47.02 feet to an iron rod; thence North 61°59'25" West 513.67 feet along the center of a road to an iron rod; thence North 88°31'14" West 983.74 feet to an iron rod; thence South 89°44'49" West 935.76 feet more or less to the Westerly boundary of Instrument No. 199607765 passing irons at 744.20 feet and 844.20 feet, respectively, to the true point of beginning.

EXCEPTING the East 40 feet of land described in Instrument No. 199607765.

TOGETHER WITH and SUBJECT TO a reciprocal easement for access and utilities in varying widths, for the benefit of the landowner of the lands described above and for the landowner of the land described adjacent to and South of above described land, being more particularly described as follows:

**Easement 1:**

An easement beginning 40 feet in width, being 20 feet on each side of the following centerline beginning at a point on the Westerly margin of the 40-foot exception, said point bears North 61°59'25" West 47.02 feet from an iron rod set at the intersection with an extension of the Southerly boundary of above described property with the Easterly boundary of Unit #58; thence North 61°59'25" West 468.26 feet; thence North 88°31'14" West 983.74 feet; thence reducing to 30 feet in width, being 15 feet on each side of the following centerline which bears South 89°44'49" West 729.20 feet; thence South 10°39'36" West 288.76 feet; thence South 81°16'54" West 147.69 feet; thence North 00°32'00" East 57.68 feet to the terminus of this easement.

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SEP 30 2024

AND FURTHER TOGETHER WITH a utility easement

Salem, OR

**Easement 2:**

Being 20 feet in width, 10 feet in each side of the following centerline:

Beginning at a point on the Westerly margin of the 40-foot-wide exception described in Instrument #199607765, said point bears South 00°14'27" East 30.10 feet from the point of beginning of above described easement; thence North 68°40'25" West 704.69 feet to the intersection point with above Easement 1.

AND FURTHER TOGETHER WITH a temporary 20-foot-wide easement to be extinguished upon the relocation of the following existing power line to fall within the easement described in Easement 1 above, and being 10 feet on each side of the following described centerline:

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JAN 14 2025

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OFFICIAL YAMHILL COUNTY RECORDS  
JAN COLEMAN, COUNTY CLERK



\$41.00

After recording return to:  
WESTERN TITLE & ESCROW COMPANY  
1215 NE BAKER STREET - PO BOX 628  
McMINNVILLE, OR 97128

280513595 11:29:15 AM 6/30/2005  
DMR-DMR Cnt=1 Str=3 KENTV  
\$28.00 \$18.00 \$11.00

Until a change is requested all tax statements  
shall be sent to the following address:  
DANIEL L. UPSHAW & MERCEDES C. UPSHAW  
PO BOX 188  
AMITY, OR 97101

WARRANTY DEED -- STATUTORY FORM

STEVEN EUGENE RICE and DIANE ELIZABETH RICE, and STEVEN E. RICE and DIANE E. RICE, Grantor, conveys and warrants to DANIEL L. UPSHAW and MERCEDES C. UPSHAW, husband and wife, Grantee, the following described real property, free of encumbrances except as specifically set forth herein, to wit:

SEE EXHIBIT A WHICH IS MADE A PART HEREOF BY THIS REFERENCE

This property is free from encumbrances, EXCEPT: All those items of record, if any, as of the date of this deed, including any real property taxes due, but not yet payable.

The true consideration for this conveyance is \$ 713,000.00, A PORTION OF WHICH HAS BEEN PAID BY AN ACCOMMODATOR PURSUANT TO AN IRC SECTION 1031 TAX DEFERRED EXCHANGE. *Shelley*  
THE PROPERTY DESCRIBED HEREIN HAS BEEN ASSESSED UNDER FARM AND/OR FOREST TAX DEFERRAL. *meu* DISQUALIFICATION MAY RESULT IN ADDITIONAL TAXES AND INTEREST BEING LEVIED.

THIS INSTRUMENT WILL 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 APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Dated this 29th day of June, 2005.

*Steven Eugene Rice*  
STEVEN EUGENE RICE

*Diane Elizabeth Rice*  
DIANE ELIZABETH RICE

*Steven E. Rice*  
STEVEN E. RICE

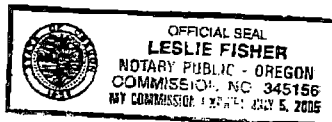
*Diane E. Rice*  
DIANE E. RICE

STATE OF OREGON, COUNTY OF YAMHILL ) SS.

This instrument was acknowledged before me on June 29th, 2005 by STEVEN EUGENE RICE AND DIANE ELIZABETH RICE, AND STEVEN E. RICE AND DIANE E. RICE.

*Leslie Fisher*  
(Notary Public for Oregon)  
My commission expires 7/6/05

TITLE NO. 40-0126405  
ESCROW NO. 40-0126405



Received by OWRD

SEP 30 2024

Salem, OR

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JAN 14 2025

Salem, OR

1/4



Order No. 40-0126405

**Easement 3:**

Beginning at a point on the centerline of said Easement 1 above, said point being North 61°59'25" West 47.02 feet and North 61°59'25" West 468.26 feet; and North 88°31'14" West 955.38 feet from an iron rod set at the intersection with the extension of the Southerly boundary of above described property and the Easterly boundary of Unit #58; thence South 54°14'18" West 504.28 feet; thence North 88°47'48" West 401.86 feet.

Received by OWRD

SEP 30 2024

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JAN 14 2025

Salem, OR 7/7

Order No. 40-0126405

Instrument #199607765 passing irons at 744.20 feet, and 844.20 feet, respectively; thence North 00°32'00" East 756.91 feet to the point of beginning, EXCEPTING the East 40 feet of above described land.

TOGETHER WITH and SUBJECT TO a reciprocal easement for access and utilities in varying widths, for the benefit of the landowner of the lands described above and for the landowner of the land described adjacent to and South of above described land, being more particularly described as follows:

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AND FURTHER TOGETHER WITH a utility easement

Easement 2:

Being 20 feet in width, 10 feet in each side of the following centerline:

Beginning at a point on the Westerly margin of the 40-foot-wide exception described in Instrument #199607765, said point bears South 00°14'27" East 30.10 feet from the point of beginning of above described easement; thence North 68°40'25" West 704.69 feet to the intersection point with above Easement 1.

AND FURTHER TOGETHER WITH a temporary 20-foot-wide easement to be extinguished upon the relocation of the following existing power line to fall within the easement described in Easement 1 above, and being 10 feet on each side of the following described centerline:

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JAN 14 2025 Salem, OR

Salem, OR

3/4



SEP 30 2024

Salem, OR

**EXHIBIT "A"**

A portion of that certain tract of land in the John Monroe donation Land Claim No. 65, in Section 12, Township 5 South, Range 5 West of the Willamette Meridian, Yamhill County, Oregon, said tract of land being described in that certain mortgage recorded in Film Volume 151, Page 278, Deed Records of Yamhill County, Oregon, said portion being more particularly described as follows:

Beginning at a 5/8 inch iron rod on the West line of said Monroe Claim being the Northwest corner of that certain tract of land described in mortgage to Richard T. Fuller and Needa Fuller, recorded in Film Volume 135, Page 849, Deed Records of Yamhill County, Oregon, thence along the West line of said Monroe Claim, North 00°30'16" East 1023.99 feet to a 5/8" iron rod at the Southwest corner of that certain tract of land described in deed to L.H. Rosenthal and Barbara C. Devine, recorded in Volume 80, Page 539, Deed Records of Yamhill County, Oregon; thence along said South line South 89°57'01" East 2640.33 feet to a ¾" iron pipe at the Southeast corner of said Rosenthal et al tract; thence North 00°26'22" East 323.28 feet to a ¾" iron pipe on the dividing line between the North ½ and the South ½ of said Monroe Claim; thence along said dividing line South 89°53'19" East 636.85 feet to a 5/8" iron rod on the Westerly right-of-way of Market Road No. 34; thence along said right-of-way South 12°04' West 351.16 feet to a 5/8" iron rod; thence South 86°05'52" West 567.70 feet to a 5/8" iron rod; thence North 89°57'01" West 157.71 feet to a 5/8" iron rod; thence South 02°30'40" West 966.17 feet to a 5/8" iron rod on the North line of the aforesaid Fuller tract; thence along said North line North 89°55'10" West 2448.85 feet to the point of beginning.

**AND TOGETHER WITH:**

A tract of land being part of that land described in Instrument #199607765 lying within the John Monroe DLC in Section 12, Township 5 South, Range 5 West, Willamette Meridian, being more particularly described as follows:

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Salem, OR

Beginning at the Northwest corner of Government Resettlement Survey Unit #58, said point being marked with a ¾" pipe and as being on record as bearing South 02°33'06" West from the Northwest corner of the John Monroe DLC; thence North 89°44'49" East 2361.31 feet along the Northerly boundary of land described in Instrument #199607765 to the Northeast corner of Resettlement Survey Unit #58; thence South 00°14'27" West 1029.81 feet along said Easterly boundary of said Unit #58 to an iron rod; thence North 61°59'25" West 513.67 feet along the center of a road to an iron rod; thence North 88°31'14" West 983.74 feet to an iron rod; thence South 89°44'49" West 935.76 feet more or less to the Westerly boundary of

2/4

Order No. 40-0126405

Easement 3:

Beginning at a point on the centerline of said Easement 1 above, said point being North  $61^{\circ}59'25''$  West 47.02 feet and North  $61^{\circ}59'25''$  West 468.26 feet; and North  $88^{\circ}31'14''$  West 955.38 feet from an iron rod set at the intersection with the extension of the Southerly boundary of above described property and the Easterly boundary of Unit #58; thence South  $54^{\circ}14'18''$  West 504.28 feet; thence North  $88^{\circ}47'48''$  West 401.86 feet.

Received by OWRD

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JAN 14 2025

Salem, OR



1215 NE Baker Street  
McMinnville, OR 97128  
Office Phone: 503-472-3154  
Office Fax: 503-472-8664

**Western Title & Escrow Company**  
**Attention: Linda Freeborn**  
**1215 NE Baker Street**  
**McMinnville, OR 97128**

Date Prepared: **August 23, 2013**

**Revision #1**  
**PRELIMINARY TITLE REPORT**  
**FOR ISSUING TITLE INSURANCE**

File Number: **70005A**  
Your Reference: **PO#4495**

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Property Address:  
**15480 SW Briedwell Rd**  
**McMinnville, OR 97128**

Salem, OR

**THE PRIOR REPORT IS REVISED FOR THE FOLLOWING:**

**Add new legal description and update to current plant date**

**Western Title & Escrow Company** is prepared to issue a title insurance policy, as of the effective date and in the form and amount shown on Schedule A, subject to the conditions, stipulations and exclusions from coverage appearing in the policy form and subject to the exceptions shown on Schedule B. This report is preliminary to the issuance of a policy of title insurance issued by **Old Republic National Title Insurance Company** and shall become null and void unless a policy is issued and the full premium paid.

This report is for the exclusive use of the person to whom it is addressed. Title insurance is conditioned on recordation of satisfactory instruments that establish the interests of the parties to be insured; until such recordation, the Company may cancel or revise this report for any reason.

Any questions regarding the closing of this transaction should be directed to **Linda Freeborn**, your Escrow Officer at **503-472-3154** or email at **[lfreeborn@westerntitle.com](mailto:lfreeborn@westerntitle.com)**.

Any questions concerning the Preliminary Title Report should be directed to **[titleofficersupport@westerntitle.com](mailto:titleofficersupport@westerntitle.com)**.

**YAMHILL COUNTY RECORDING FEES (SUBJECT TO CHANGE)**

First Page \$36.00 Each Additional Page \$5.00

**For standard Deeds, Trust Deeds and other conveyance documents. For all other documents please call (503) 472-3154 for exact fees.**

Street Address for Recording Package:

**Western Title and Escrow**  
**Attention: Recording**  
**1215 NE Baker Street**  
**McMinnville OR 97128**

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Order No.: **70005A**

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**SCHEDULE B**

Except for the items properly cleared through closing, the proposed policy or policies will not insure against loss or damage which may arise by reason of the following:

**STANDARD EXCEPTIONS:**

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public record; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. 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.
4. 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.
5. Any lien, or right to lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

**SPECIAL EXCEPTIONS:**

6. Note: 2012-2013 TAXES ARE PAID IN FULL and are being shown for informational purposes only. This exception will not be shown on a title insurance policy.  
Original Amount: \$501.75  
Tax Lot No.: R5512-01600  
Account No.: 406395, Code 4.1

Note: 2012-2013 TAXES ARE PAID IN FULL and are being shown for informational purposes only. This exception will not be shown on a title insurance policy.  
Original Amount: \$890.25  
Tax Lot No.: R5512-01601  
Account No.: 484396, Code 4.1

Note: 2012-2013 TAXES ARE PAID IN FULL and are being shown for informational purposes only. This exception will not be shown on a title insurance policy.  
Original Amount: \$28.47  
Tax Lot No.: R5512-01602  
Account No.: 484399, Code 4.1

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7. 2013-2014 taxes a lien in an amount to be determined, but not yet payable.
8. As disclosed by the assessment and tax roll, the premises herein have been specially assessed for farm use. If the land becomes disqualified for this special assessment under the statutes, an additional tax, plus interest and penalty, will be levied for the number of years in which this special assessment was in effect for the land.  
Account No.: 406395 & 484396
9. Rights of way as heretofore granted by the United States of America for public utility systems, streets, roads, walks ditches and canals, as disclosed in instrument  
Recorded: April 21, 1944  
Document No.: 124 - 184, Yamhill County Records
10. An easement created by instrument, including the terms and provisions thereof,  
Dated: July 31, 1951  
Recorded: August 17, 1951  
Document No.: 162 - 530, Yamhill County Records  
In favor of: Pacific Gas and Electric Company
11. Irrigation Easement, including the terms and provisions thereof,  
Recorded: August 17, 1977  
Document No.: 122- 972, Yamhill County Records
12. Distribution Line Easement, including the terms and provisions thereof,  
Document No.: 62-23, Yamhill County Records  
Dated: August 8, 1967  
Recorded: August 8, 1967  
In favor of: PGE
13. An easement created by instrument, including the terms and provisions thereof,  
Recorded: November 20, 1975  
Document No.: 109-284, Yamhill County Records  
In favor of: Lone Fir Enterprises, Inc., an Oregon corporation
14. Agreement, including the terms and provisions thereof,  
Recorded: April 15, 1981  
Document No.: 160-472, Yamhill County Records  
Between: Yamhill County Planning Department  
And: Steve Rice
15. The conditions of Partition No. P1203-81  
Recorded: May 11, 1981  
Document No.: 160-1711, Yamhill County Records
16. Application to Exempt a Manufactured Structure from Registration and Titling, including the terms and provisions thereof,  
Recorded: August 25, 1992  
Document No.: 273-2148, Yamhill County Records  
(Affects Tax Lot 1061)
17. Easements, as disclosed in Warranty Deed  
Recorded: March 29, 2005  
Document No.: 2005-06270, Yamhill County Records

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18. Trust Deed to secure an indebtedness in the amount shown below, and any other obligations secured thereby:
- |               |   |
|---------------|---|
| Amount:       | \$400,000.00  |
| Dated:        | May 25, 2012  |
| Recorded:     | May 31, 2012  |
| Document No.: | 2012-07197, Yamhill County Records                                  |
| Grantor:      | Daniel L. Upshaw and Mercedes C. Upshaw, as tenants by the entirety |
| Trustee:      | David C. Haugeberg  |
| Beneficiary:  | First Federal Savings & Loan Association of McMinnville             |
| Loan No.:     | 6007403   |

Note: **If an ALTA Extended Lenders Policy is desired, Exceptions 1 through 5 may be modified or eliminated from the policy based upon receipt and review of the following:**

- A) A survey of the subject property. (Should a survey not be required for loan purposes, **Western Title & Escrow Company** the title company could consider other alternatives, such as an inspection or review of a site plan. Please contact your Title representative for assistance.)
- B) Proof that there are no parties in possession or claiming to the right to be in possession other than the vestees herein and that there are no existing leases or tenancies.
- C) Proof that there are no statutory liens for labor or material, including liens for contributions due to the State of Oregon for unemployment compensation and for workman's compensation which have not gained or hereafter may gain priority over the lien of the insured mortgage, which liens do not now appear of record.

Note: We find no judgment liens or tax liens against **Bonneville Power Administration**.

Note: There have been no vesting changes in the last 24 months.

Note to Lender: **Western Title & Escrow Company** is the correct name to use if you are going to use this company as the trustee for a trust deed in this transaction.

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Note: **Legal Description Notice**

Based on the information provided and our records, we believe that the legal description in this report covers the parcel(s) of land requested in the application. If the application for title insurance was placed by reference to a street address or tax assessor's identification number only, please review the legal description carefully to verify that the correct property was searched. If the legal description is incorrect, the parties to the transaction must notify **Western Title & Escrow Company** to avoid errors and to insure that the correct parcel(s) of land will appear on any documents to be recorded in connection with this transaction and on the policy(ies) of title insurance.

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**Note: Title Insurance Rate Disclosure Notice**

The title insurance charges for this order are disclosed in **Schedule A** of the Preliminary Title Report. In some circumstances, a reduced charge will apply. When it appears to us that a transaction qualifies for a reduced charge, it is our policy in Oregon to identify the reduced charge on Schedule A of the report. The reduction usually is computed as a percentage of the Company's basic rate. If a reduced charge appears on Schedule A, it is one of the following:

**Reissue Rate:** A discount of 25% of the basic rate applies when there has been title insurance on the property within the previous three years.

**Builder-Developer Rate:** A discount of 35% of the basic rate may apply when a party to the transaction is a builder or developer and the property is residential.

**Contract Fulfillment Rate:** A discount of up to 50% of the basic rate may apply to an owner's policy issued upon fulfillment of a previously insured land sale contract.

**Leasehold to Owner's Conversion Rate:** A previously insured lessee who exercises an option to purchase in the lease may obtain title insurance for the purchase with a 50% credit from the previous policy.

**Post-Construction Permanent Loan Rate:** A discount of up to 75% of the basic rate may apply to a loan policy for a permanent mortgage when it refinances a previously insured construction loan.

**Reorganization Rate:** A discount of up to 65% of the basic rate may apply for title insurance to a business entity that is affiliated with a previously insured business entity.

**Corporate Employee Transfer Rate:** When a corporation transfers an employee from one area to another and the employee's corporation or one rendering employee transfer services acquires the employee's property with title insurance, a discount of up to 50% applies to the resale.

**Simultaneous Issue Rate:** A special rate may apply when two or more policies are issued simultaneously, such as a loan policy with an owner's policy or two loan policies.

IF YOU THINK A REDUCED RATE APPLIES TO YOUR TRANSACTION BUT IT DOES NOT APPEAR ON SCHEDULE A OF THE PRELIMINARY TITLE REPORT, PLEASE INFORM YOUR ESCROW OFFICER OR TITLE OFFICER by contacting them at the phone number, email address or mailing address shown on the report.

**End of Report**

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**SCHEDULE A**

1. The effective date of this preliminary title report is **5:00 P.M. on August 19, 2013**
2. The policies and endorsements to be insured and the related charges are:

| <b><u>Policy/Endorsement Description</u></b>                                  | <b><u>Liability</u></b> | <b><u>Charge</u></b> |
|---|-------------------------|----------------------|
| <b>USA Policy</b>   | <b>\$418,400.00</b>     | <b>*\$891.00</b>     |
| <b>*Above Charge Includes</b>   |                         |                      |
| Basic Owner   | \$1,188.00              |                      |
| Reissue Owner   | \$-297.00               |                      |
| <b>PROPOSED INSURED</b> for Owner's Policy<br>Bonneville Power Administration |                         |                      |

(Agent portion of above Premiums is: \$784.08)

(Underwriter portion of above Premiums is: \$106.92)

3. Title to the land described herein is vested in:

**Daniel L. Upshaw and Mercedes C. Upshaw, as tenants by the entirety**

4. The estate or interest in land is:

**Easement**

5. The land referred to in this report is described as follows:

**SEE ATTACHED EXHIBIT "A"**

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**Exhibit "A"**

A portion of that certain tract of land in the John Monroe donation Land Claim No. 74, in Section 12, Township 5 South, Range 5 West of the Willamette Meridian, Yamhill County, Oregon, said tract of land being described in that certain mortgage recorded in Film volume 151, Page 278, Deed Records of Yamhill County, Oregon, said portion being more particularly described as follows:

Beginning at a 5/8 inch iron rod on the West line of said Monroe Claim being the Northwest corner of that certain tract of land described in mortgage to Richard T. Fuller and Needa Fuller, recorded in Film Volume 135, Page 849, Deed Records of Yamhill County, Oregon, thence along the West line of said Monroe Claim, North 00 30'16" East 1023.99 feet to a 5/8" iron rod at the Southwest corner of that certain tract of land described in deed to L.H. Rosenthal and Barbara C. Devine, recorded in Volume 80, Page 539, Deed Records of Yamhill County, Oregon; thence along said South line South 89 57'01" East 2640.33 feet to a 3/4" iron pipe at the Southeast corner of said Rosenthal et al tract; thence North 00 26'22" East 323.28 feet to a 3/4" iron pipe on the dividing line between the North 1/2 and the South 1/2 of said Monroe Claim; thence along said dividing line South 89 53'19" East 636.85 feet to a 5/8" iron rod on the Westerly right of way of Market Road No. 34; thence along said right-of-way South 12 04' West 351.16 feet to a 5/8" iron rod; thence South 86 05'52" West 567.70 feet to a 5/8" iron rod; thence North 89 57'01" West 157.71 feet to a 5/8" iron rod; thence South 02 30'40" West 966.17 feet to a 5/8" iron rod on the North line of the aforesaid Fuller tract; thence along said North line North 89 55'10" West 2448.85 feet to the point of beginning.

EXCEPTING THEREFROM a portion of that certain tract of land in the John Monroe donation Land Claim No. 74, in Section 12, Township 5 South, Range 5 West of the Willamette Meridian, Yamhill County, Oregon, bearings and distances based on found and described monuments of CSP-11878, said portion being more particularly described as follows:

Beginning at a 3/4" iron pipe on the dividing line between the North 1/2 and the South 1/2 of said Monroe Claim; thence along said dividing line South 89 53'31" East 636.74 feet to a 5/8" iron rod on the Westerly right-of-way of Market Road No. 34; thence along said right-of-way South 12 04'00" West 351.16 feet to a 5/8" iron rod; thence South 86 05'52" West 567.70 feet to a 5/8" rebar with yellow plastic cap marked "NEWBERG LS 2838"; thence North 89 57'01" West 34.09 feet; thence North 23 59'26" West 298.09 feet; thence North 00 00'00" East 111.24 feet to the dividing line between the North 1/2 and the South 1/2 of said Monroe Claim; thence along said dividing line South 89 51'56" East 158.34 feet to the point of beginning.

**AND TOGETHER WITH:**

A tract of land being part of that land described in Instrument No. 199607765 lying within the John Monroe Donation Land Claim in Section 12, Township 5 South, Range 5 West, Willamette Meridian being more particularly described as follows:

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BEGINNING at the Northwest corner of Government Resettlement Survey Unit #58, said point being marked with a 3/4" pipe and as being on record as bearing South 02 33'06" West from the Northwest corner of the John Monroe Donation Land Claim; thence South 00 32'00" West 756.91 feet along the Westerly boundary of land described in Instrument No. 199607765 to the true point of beginning; thence continuing along said Westerly boundary South 00 32'00" West 632.80 feet more or less to the Southwest corner of said Instrument No. 199607765, said point also being the Southwest corner of Government Resettlement Survey Unit No. 58; thence South 89 59'34" East along the Southerly boundary of Unit No. 58, 2640.33 feet more or less to the Southeast corner of said Unit No. 58; thence North 00 26'34" East 323.13 feet to a 3/4" iron pipe being held as a corner of said Unit No. 58; thence North 89 53'54" West 264.07 feet to the Southwest corner of Lot 4 of CSP-2431; thence North 00 14'27" West 47.02 feet to an iron rod; thence North 61 59'25" West 513.67 feet along the center of a road to an iron rod; thence North 88 31'14" West 983.74 feet to an iron rod; thence South 89 44'49" West 935.76 feet more or less to the Westerly boundary of Instrument No. 199607765 passing irons at 744.20 feet and 844.20 feet, respectively, to the true point of beginning.

EXCEPTING the East 40 feet of land described in Instrument No. 199607765.

EXCEPTING THEREFROM a tract of land being part of that land described in Instrument No. 199607765 lying within the John Monroe Donation Land Claim in Section 12, Township 5 South, Range 5 West, Willamette Meridian, Yamhill County, Oregon, said portion being more particularly described as follows:

Beginning at a point on the Southerly edge of an Easement, being 40 feet in width, said point being North 89 53'54" West 264.07 feet; and North 00 14'27" West 47.02 feet; and North 61 59'25" West 513.67 feet; and North 88 31'14" West 983.74 feet to a 5/8" rebar with a yellow plastic cap marked "NEWBERG LS 2838"; and South 70 05'08" East 63.25 feet from a 3/4" iron pipe being held as a corner on the Easterly line of USDA Resettlement Survey Unit No. 58; thence leaving said Easement South 01 28'46" West 51.00 feet; thence South 63 24'59" West 357.22 feet; thence North 00 15'11" West 216.23 feet to the intersection of the Southerly edge of the Easement, being 30 feet in width; thence along the Southerly edge of said 30 feet in width Easement North 89 44'49" East 261.88 feet to the terminus of said 30 feet in width Easement; thence along the division line of the Easement South 01 28'46" West 5.00 feet to the Southerly edge of the Easement, being 40 feet in width; thence along the Southerly edge of said 40 feet in width Easement South 88 31'14" East 60.00 feet to the point of beginning, containing 1.00 acres, more or less.

TOGETHER WITH and SUBJECT TO a reciprocal easement for access and utilities in varying widths, for the benefit of the landowner of the lands described above and for the landowner of the land described adjacent to and South of above described land, being more particularly described as follows:

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**Easement 1:**

An easement beginning 40 feet in width, being 20 feet on each side of the following centerline beginning at a point on the Westerly margin of the 40-foot exception, said point bears North 61 59'25" West 47.02 feet from an iron rod set at the intersection with an extension of the Southerly boundary of above described property with the Easterly boundary of Unit #58; thence North 61 59'25" West 468.26 feet; thence North 88 31'14" West 983.74 feet; thence reducing to 30 feet in width, being 15 feet on each side of the following centerline which bears South 89 44'49" West 729.20 feet; thence South 10 39'36" West 288.76 feet; thence South 81 16'54" West 147.69 feet; thence North 00 32'00" East 57.68 feet to the terminus of this easement.

AND FURTHER TOGETHER WITH a utility easement

**Easement 2:**

Being 20 feet in width, 10 feet on each side of the following centerline:

Beginning at a point on the Westerly margin of the 40-foot-wide exception described in Instrument No. 199607765, said point bears South 00 14'27" East 30.10 feet from the point of beginning of above described easement; thence North 68 40'25" West 704.69 feet to the intersection point with above Easement 1.

AND FURTHER TOGETHER WITH a temporary 20-foot-wide easement to be extinguished upon the relocation of the following existing power line to fall within the easement described in Easement 1 above, and being 10 feet on each side of the following described centerline:

**Easement 3:**

Beginning at a point on the centerline of said Easement 1 above, said point being North 61 59'25" West 47.02 feet and North 61 59'25" West 468.26 feet; and North 88 31'14" West 955.38 feet from an iron rod set at the intersection with the extension of the Southerly boundary of above described property and the Easterly boundary of Unit #58; thence South 54 14'18" West 504.28 feet; thence North 88 47'48" West 401.86 feet.

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OREGON DEPARTMENT OF FISH AND WILDLIFE  
Fish Passage Plan for a Road-Stream Crossing

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• If you unlock and re-lock this Form, information already entered may be lost in certain versions of MS Word.

• If your project includes multiple crossings, please complete this form for each crossing.

APPLICANT INFORMATION

APPLICANT: Daniel and Carmen Upshaw TITLE:  
ORGANIZATION: NA  
ADDRESS: 15480 SW Briedwell Rd  
CITY: McMinnville STATE: OR ZIP: 97128  
PHONE: 503-560-3789  
FAX:  
E-MAIL ADDRESS: Dupshaw@thespringsliving.com

SIGNATURE: \_\_\_\_\_

DATE: 4/13/2023

AUTHORIZED AGENT (if any): Kelly Warren TITLE:  
ORGANIZATION: Ducks Unlimited  
ADDRESS: 11805 NE 99<sup>th</sup> St. Ste. 1300  
CITY: Vancouver STATE: WA ZIP: 98682  
PHONE: 360-334-2338  
FAX:  
E-MAIL ADDRESS: kwarren@ducks.org

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

OWNER (if different than Applicant):  
ORGANIZATION:  
ADDRESS:  
CITY:  
PHONE:  
FAX:  
E-MAIL ADDRESS:

TITLE:

STATE:

ZIP:

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

LOCATION

• COUNTY Yamhill  
• ROAD Briedwell  
• RIVER/STREAM Unnamed  
• TRIBUTARY OF South Yamhill  
• BASIN  
• COORDINATES<sup>a</sup> Longitude: 123.2482°W Latitude: 45.1481°N

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|                              |           |    |                   |
|------------------------------|-----------|----|-------------------|
| • LEGAL DESCRIPTION<br>..... | ¼ / ¼:    | SW |                   |
|                              | Section:  | 12 | Tax Map #: 5.5.12 |
|                              | Township: | 5S | Tax Lot #: 01600  |
|                              | Range:    | 5W |                   |

<sup>a</sup> *geographic projection using NAD\_83 and formatted as decimal degrees to at least 4 places*

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**STREAM CROSSING INFORMATION**

Please indicate measurement units where applicable and see footnotes for supporting descriptions of the information requested.

NEW CROSSING ☐REPLACEMENT OF EXISTING CROSSING ☐MODIFICATION OF EXISTING CROSSING ☒

|  |   |   |
|--|---|---|
| EXISTING CROSSING                            | • TYPE/SHAPE <sup>b</sup>   | Round   |
|  | • MATERIAL <sup>c</sup>   | PVC   |
|  | • LENGTH  | 50'   |
|  | • INSIDE DIAMETER (if round)  | 12"   |
|  | OR  |   |
|  | INSIDE RISE (Height) AND  |   |
|  | INSIDE SPAN (Width)   |   |
|  | • CULVERT SLOPE   | Flat  |
|  | • DOES IT CONTROL AN UPSTREAM POND, WETLAND, BACKWATER AREA, OR WATER RIGHT? <sup>d</sup> | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |
|  | STREAM  | • AVERAGE UPSTREAM ACW <sup>e,f</sup>                               |
| • AVERAGE DOWNSTREAM ACW <sup>e,f</sup>      |   | N/A   |
| • UPSTREAM SLOPE <sup>g</sup>                |   | N/A   |
| • DOWNSTREAM SLOPE <sup>g</sup>              |   | N/A   |
| • DESCRIBE STREAMBED MATERIAL                |   | N/A   |
| • SIZE OF D <sub>100</sub> ROCK <sup>h</sup> |   | N/A   |
| PROPOSED CROSSING                            |   | • TYPE/SHAPE <sup>b</sup>   |
|  | • MATERIAL <sup>c</sup>   | HDPE  |
|  | • LENGTH  | 50'   |
|  | • INSIDE DIAMETER (if round)  | 12"   |
|  | OR  |   |
|  | INSIDE RISE (Height) AND  |   |
|  | INSIDE SPAN (Width)   |   |

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|              |  |
|--------------|--|
|              | <ul style="list-style-type: none"> <li>• <b>CULVERT SLOPE</b> ..... Flat</li> <li>• <b>BED HEIGHT – INLET</b> <sup>ij</sup> ..... N/A</li> <li>• <b>BED HEIGHT – OUTLET</b> <sup>i,k</sup> ..... N/A</li> <li>• <b>BED SLOPE</b> <sup>i</sup> ..... N/A</li> <li>• <b>BED MATERIAL</b> <sup>i</sup> (describe and/or fill in %s) <ul style="list-style-type: none"> <li>% FINES (dirt, silt, sand) ..... N/A</li> <li>% SMALL ROCK (½-6" diameter) ..... N/A</li> <li>% LARGE ROCK (6"-D<sub>100</sub>) <sup>h</sup> ..... N/A</li> <li>% OVER-SIZED ROCK (D<sub>150</sub>-D<sub>200</sub>) <sup>h</sup> .....</li> </ul> </li> <li>• <b>BED PLACEMENT METHOD</b> <sup>i</sup> ..... N/A</li> <li>• <b>BED RETENTION MEASURES</b> <sup>i</sup> ..... N/A</li> <li>• <b>GRADE CONTROL MEASURES</b> <sup>l</sup> ..... N/A</li> <li>• <b>ADDITIONAL STRUCTURES</b> <sup>m</sup> ..... N/A</li> </ul> |
| CONSTRUCTION | <ul style="list-style-type: none"> <li>• <b>DATE WORK WILL BEGIN</b> ..... 09/2019</li> <li>• <b>DATE WORK WILL BE COMPLETED</b> ..... 09/2019</li> <li>• <b>DETAILS</b> <sup>n</sup> ..... All work was done in the dry. No water or fish present.</li> </ul>   |
| MAINTENANCE  | <ul style="list-style-type: none"> <li>• <b>WILL THE CROSSING BE INSPECTED FOR DEBRIS AND BED RETENTION (WITHIN, BELOW, AND ABOVE THE CROSSING) AT LEAST ANNUALLY AND AFTER STORM EVENTS?</b> <br/>..... Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> </li> <li>• <b>IF NEEDED, WILL REMEDIAL MEASURES BE TAKEN AS SOON AS POSSIBLE?</b> <br/>..... Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> </li> </ul>   |

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<sup>b</sup> e.g., bridge, open-bottomed arch, pipe arch/squashed, round, rectangular<sup>c</sup> e.g., reinforced concrete, concrete, wood, plastic, corrugated metal, metal<sup>d</sup> if "Yes", explain how these will be addressed in a separate attachment<sup>e</sup> "ACW" is the active channel width, which is the stream width between the ordinary high water lines, or at the channel bankfull elevation if the ordinary high water lines are indeterminate; ordinary high water lines are not the same as the wetted width and are typically determined by changes on the bank in vegetation, changes in sediment size and/or color, water lines on the bank, trees, or leaves, or the point where debris (e.g., needles, leaves, twigs, cones) accumulation begins<sup>f</sup> 3 measurements 20 feet apart should be averaged; begin measurements approximately 10 ACWs from the inlet (upstream) or outlet (downstream) of the crossing if this distance is outside of the influence of existing artificial



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- obstructions and prior to adjoining tributaries as you move away from the crossing (if not, take measures at locations which fulfill these requirements); indicate measurement locations on the **Profile Design Drawing**
- g take measurements away from the crossing and at the point where ACW measurement begins
- h  $D_{100}$  is the average diameter of the 10 largest, naturally-occurring rocks in the stream reach;  $D_{150} = D_{100} \times 1.5$ ;  $D_{200} = D_{100} \times 2$
- i "bed" refers to the stream bed within or under the crossing structure
- j depth of fill material or countersinking/embedding (excluding protruding over-sized rock) at the crossing's inlet
- k depth of fill material or countersinking/embedding (excluding protruding over-sized rock) at the crossing's outlet
- l these are measures outside of the crossing structure intended to prevent up- or downstream channel degradation, especially important to consider in locations where an existing smaller culvert is being replaced and there is the potential for upstream channel degradation (i.e., a "headcut") and associated off-site property or passage problems
- m e.g., bed retention measures, weirs, baffles, trash racks, aprons, retaining walls, overflow pipes, channel restoration/scour remediation measures
- n unless already described in an accompanying Department of State Lands Removal-Fill Application, include a description of a) temporary downstream passage, upstream passage, screening, and bypass measures, b) worksite isolation measures, c) fish salvage (note: an ODFW Fish Take Permit may be necessary), d) sediment and erosion control measures, and e) site restoration measures. For more details on Oregon Fill Removal Law see the Oregon Division of State Lands Removal-Fill Guide at <http://oregonstatelands.us/DSL/PERMITS/rfg.shtml>.

### ADDITIONAL INFORMATION

Provide this information **only if the bed within the proposed crossing is not as wide as the active channel width or will not be embedded.** Not applicable, as the project is located off-channel, and work was done in the dry.

|  | High Design Flow <sup>o</sup> | Low Design Flow <sup>p</sup> |
|--|-------------------------------|------------------------------|
| Flow <sup>q</sup> (cfs)                            |                               |                              |
| Water Depth in Crossing (in.)                      |                               |                              |
| Water Velocity in Crossing (fps)                   |                               |                              |
| Water Drop <sup>r</sup> at Inlet (in.)             |                               |                              |
| Water Drop <sup>r</sup> at Outlet (in.)            |                               |                              |
| Pool Depth Below Outlet (in.)                      |                               |                              |
| Water Drop <sup>r</sup> at Weirs/Baffles (in.)     |                               |                              |
| Pool Depth Below Weirs/Baffles (in.)               |                               |                              |
| Depth of Nappe <sup>s</sup> at Weirs/Baffles (in.) |                               |                              |

<sup>o</sup> High Design Flow is the mean daily average stream discharge that is exceeded 5 percent of the time during the period when ODFW determines that native migratory fish require fish passage

<sup>p</sup> Low Design Flow is the mean daily average stream discharge that is exceeded 95 percent of the time, excluding days with no flow, during the period when ODFW determines that native migratory fish require fish passage

<sup>q</sup> attach a description of the methodology, calculations, and assumptions used to determine the high and low design flows

<sup>r</sup> drop should be measured from the upstream water surface elevation to the downstream water surface elevation

<sup>s</sup> the nappe is the water flowing over weirs/baffles

### DESIGN DRAWINGS

Please attach the following design drawings with the specified information on them. Most are not applicable, as the project is located off-channel. Drawings for the project will be provided.

☐ -- PLAN, including:

- active channel (i.e., ordinary high water or bankfull lines)
- existing crossing and additional structures
- proposed crossing and additional structures
- dimensions

☐ -- PROFILE, including:

- existing grade (measured at the deepest part of the stream channel from 10 ACWs downstream of the outlet [i.e., downstream end of crossing] to 10 ACWs upstream of the inlet [i.e., upstream end of crossing], at 5-foot intervals), including road
- existing crossing and additional structures

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- proposed grade (measured at the deepest part of the stream channel from 10 ACWs downstream of the outlet to 10 ACWs upstream of the inlet, at 5-foot intervals), including road
- proposed crossing, bed, and additional structures
- dimensions
- location of **STREAM CHANNEL CROSS-SECTIONS** (see below), *ACW* measurements, and *Slope* measurements
- water surface elevations at high and low design flows for the proposed crossing, if the proposed crossing will not be as wide as the active channel width or will not be embedded

- ☐ -- **CROSS-SECTION OF PROPOSED CROSSING**, including bed details
- ☐ -- **STREAM CHANNEL CROSS-SECTIONS** (*2 cross-sections total, with one located downstream where the ACW measurements begin and one located upstream where the ACW measurements begin; measurements should be taken at 1-foot intervals perpendicular to the flow of the stream and should encompass the entire active channel plus 0.5 ACW on each side of the stream [for a total cross-section measurement of 2 x ACW]; measurements may be taken with survey equipment or by measuring the distance from a level line to the bottom of the streambed or ground*)
- ☐ -- **DETAILS OF ADDITIONAL STRUCTURES** (*e.g., grade control measures, bed retention measures, weirs/baffles, trash racks, aprons, retaining walls, overflow pipes, channel restoration/scour remediation measures*)

Please submit this application along with project design plans to the appropriate ODFW District Fish Biologist for the crossing's location. The complete application can also be sent electronically to the ODFW Fish Passage Coordinator at [greg.d.apke@state.or.us](mailto:greg.d.apke@state.or.us) and send one signed original paper copy of the application to the ODFW Fish Passage Coordinator at 4034 Fairview Industrial Dr. SE, Salem, OR 97302.

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## ODFW FISH PASSAGE APPROVAL #PA-00-0000

(insert name of project)

• ODFW will use the following criteria to determine the level of review required.

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|   | YES                      | NO                       | N/A                      |
|---|--------------------------|--------------------------|--------------------------|
| 1. Is the bed within the crossing as wide as the active channel:<br>.....   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Is the bed within the culvert at the same slope, and at grades continuous with,<br>the surrounding stream:<br>.....  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3a. If the crossing is open-bottomed, is there 3 feet of vertical clearance between<br>the active channel width elevation and the inside top of the crossing:<br>.....                            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| OR  |                          |                          |                          |
| 3b. If the crossing is closed-bottomed, will bed depth within the culvert be 20-<br>50% of the crossing height:<br>.....  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Is the bed material that will be used sufficient to assure water depth will be<br>similar to that in the surrounding stream (i.e., will not go sub-surface<br>prematurely):<br>.....           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Are the bed material or retention measures that will be used sufficient to assure<br>that the bed will be maintained through time:<br>.....  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. If the crossing is longer than 40 feet, will partially-buried, over-sized rock be<br>placed within the crossing's bed:<br>.....  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Will the bed within the crossing be placed during construction:<br>.....   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. If trash racks are present, are they above the active channel width elevation and<br>do vertical bars have at least 9 inches of clear space between them:<br>.....                             | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. If there is an upstream pond, wetland, or backwater area, has its desired state<br>after construction been determined, and have these considerations been addressed<br>in the design:<br>..... | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. Are upstream grade control measures satisfactory:<br>.....  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. Are the construction timing and measures adequate based on the location:<br>.....   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. Are there plans to maintain the crossing:<br>.....  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

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- If all answers are "Yes" or "Not Applicable", this plan is eligible for approval by an ODFW biologist.
- If any answer is "No" or there are other concerns, consult with the Fish Passage Coordinator.

|  |                         |                    |
|--|-------------------------|--------------------|
| <b>APPLICATION IDENTIFIER:</b> (insert name of project & applicant) <b>ODFW # PA-00-0000</b> |                         |                    |
| <b>DATE RECEIVED:</b> (insert date)  |                         |                    |
| <b>APPROVED</b> <input type="checkbox"/>   | <b>SIGNATURE:</b> _____ | <b>DATE:</b> _____ |
| <b>DENIED</b> <input type="checkbox"/>   | <b>TITLE:</b> _____     |                    |
| <b>CONDITIONS:</b>   |                         |                    |

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Salem, OR **ODFW Alternate Reservoir Application Review Sheet**

| This portion to be completed by the Applicant |                   |         |                     |              | Salem, OR   |  |
|---|-------------------|---------|---------------------|--------------|---|--|
| Applicant                                     |                   |         | Phone No.           |              | Email.  |  |
| Address                                       |                   |         | City                | State        | Zip   |  |
| Reservoir Name:                               |                   | Source: |                     | Volume (AF): |   |  |
| Township<br>(N or S)                          | Range<br>(E or W) | Section | Quarter/<br>Quarter | Basin Name:  | <input type="checkbox"/> in-channel<br><input type="checkbox"/> off-channel |  |
|   |                   |         |                     |              |   |  |

| This portion to be completed by Oregon Department of Fish and Wildlife (ODFW) District Staff  |  |
|---|--|
| 1) Is the proposed project and AO <sup>1</sup> off channel? <input type="checkbox"/> YES <input type="checkbox"/> NO<br>(If yes then proceed to #4; if no then proceed to #2)   |  |
| 2) Is the proposed project or AO located where NMF <sup>2</sup> are or were historically present? <input type="checkbox"/> YES <input type="checkbox"/> NO<br>(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?   | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| b. Is there an ODFW-approved fish-passage waiver or exemption?  | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| <b>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.</b>   |  |
| 4) Would the proposed project pose any other significant detrimental impact to an existing fishery resource locally or downstream? <input type="checkbox"/> YES <input type="checkbox"/> NO<br><i>Explain below (for example, list STE species or other existing fishery resources that would be impacted negatively.)</i>  |  |
| <input type="checkbox"/> Any diversion or appropriation of water for storage during the period _____ through _____ poses a significant detrimental impact to existing fishery resources. (For example, if diversion of water for storage during a certain time period would cause a significant detrimental impact to an existing fishery resource, then ODFW should recommend conditions or limitations.) If NMF fish are present at the project site or point of water diversion then the applicant should be advised that a fish screen consistent with screening criteria will be required. |  |
| <input type="checkbox"/> This proposed pond or reservoir contemplates impounding water in the Columbia Basin above Bonneville Dam. ODFW has determined that additional diversions of water in this area pose a significant detrimental impact to existing fishery resources during the period April 15 through September 30.  |  |
| If YES, can conditions be applied to mitigate the significant detrimental impact to an existing fishery resource?<br><input type="checkbox"/> YES (Select from Menu of Conditions on next page) <input type="checkbox"/> NO (explain)   |  |

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

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

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

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

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

Use this menu to identify appropriate conditions to be included in the permit, and indicate the abbreviations on the review form:

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

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

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

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

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

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

**fishmay:** The permittee may be required in the future to install, maintain, and operate fish screening and by-pass devices to prevent fish from entering the proposed diversion and to provide adequate upstream and downstream passage for fish.

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

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

b51a The period of use has been limited to through .

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

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

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

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

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

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

**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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## OWRD Over-the-Counter Submission Receipt

Applicant Name(s) & Address: Dan & Cermen Upshaw  
15480 SW Briedwell Rd McMinnville OR 97128

Transaction Type: Reservoir App

Fees Received: \$ 3615

☐ Cash ☒ Check: Check No. 49330

Name(s) on Check: Duke Unlimited

Thank you for your submission. Oregon Water Resources Department (Department) staff will review your submittal as soon as possible.

If your submission is determined to be complete, you will receive a receipt for the fees paid and an acknowledgement letter stating your submittal is complete.

If determined to be incomplete, your submission and the accompanying fees will be returned with an explanation of deficiencies that must be addressed in order for the submittal to be accepted.

If you have any questions, please feel free to contact the Department's Customer Service staff at 503-986-0801 or 503-986-0810.

Sincerely,

OWRD Customer Service Staff

Submission received by: Nick Reece  
(Name of OWRD staff)

### Instructions for OWRD staff:

- Complete this Submission Receipt and make two (2) copies. Place one copy with the check/cash; and place the other copy with the submission (i.e., the application or other document).
- Date-stamp all pages. (NOTE: Do not stamp check.)
- Give this original Submission Receipt to the applicant.
- Record Submission Receipt Information on the "RECEIVED OVER THE COUNTER" log sheet.
- Fold and put one copy of the Submission Receipt with check/cash into the Safe slot. Place the other copy of the Submission Receipt with submission (application/other document) in the top drawer of filing cabinet.