

R-3

FILE#: R 81903

TOM MAC KERNS
KERNS, JOYCE ART 1 BOX 10 45296 Pocahontas Rd
HAJNES, OR 97833Application No. R-81903Permit No. ~~R-135616~~ R-13606

Certificate No. _____

Stream Index, Page No. _____

Date filed _____

Priority _____

Action suspended until C07

Return to applicant _____

Date of approval _____

CONSTRUCTION

Date for beginning 4-10-04

Date for completion _____

Extended to _____

Date for application of water 10-1-07

Extended to _____

PROSECUTION OF WORK

Form "A" filed _____

Form "B" filed _____

Form "C" filed _____

FINAL PROOF

Blank mailed _____

Proof received _____

Date Certificate issued _____

Dam File P-3 | Pine Creek Res.

Date

To Whom

ASSIGNMENTS

Address

Volume

Page

REMARKS

SEE FILES R-14441, S-14442, 83576

FEES PAID

Date

Amount

Receipt No.

11/22/96\$300.0009846(see 8633)

Cert. Fee

FEES REFUNDED

Date

Amount

Check No.

R-13606

IMPORTANT MESSAGE

FOR	WED HLM		DATE	11-24	TIME	1133	P.M.
M.	JERRY RODGERS						
OF	08	#24	BAKER	X	PHONED		
PHONE	<input type="checkbox"/> FAX	<input type="checkbox"/> MOBILE			RETURNED YOUR CALL		
MESSAGE	AG# R 81903				X	PLEASE CALL	
REG MAN				WILL CALL AGAIN			
STATUS				CAME TO SEE YOU			
				WANTS TO SEE YOU			
SIGNED				Tops FORM 4006			

12-81903
 5-83516
 Change of address to
 Scholhouse Rd.
 update to
 Nov 1 2018
 working Friday 10 am

NO AG RESERVATION
 FOR STORAGE ON
 PINE CREEK YET

IMPORTANT MESSAGE

FOR	WED	HLM	DATE	11-24	TIME	1133	AM
M.	JERRY RODGERS						
OF	08	#24	BAKER	X	PHONED		
PHONE	<input type="checkbox"/> FAX	<input type="checkbox"/> MOBILE				RETURNED YOUR CALL	
MESSAGE	AREA CODE					NUMBER	EXTENSION
					X	PLEASE CALL	
					WILL CALL AGAIN		
					CAME TO SEE YOU		
					WANTS TO SEE YOU		
REG MAN STATUS SIGNED							

TOPS FORM 4006

State map 1912
 ID'd des as
 Baisley Elkhorn Res
 Cap: 62 AF

NO AG RESERVATION
 FOR STORAGE ON
 PINE CRK YET

Do not issue permit until requirements listed in
letter dated 9-11-97 have been approved by Dam Safety
J

Still waiting on final plans & Specs. See letter
dated 12/13/00. J

SKAUG Jonnine L * WRD

R-81903

From: Paul Garvin <garvin.hydrogeo@gmail.com>
Sent: Wednesday, January 29, 2025 2:59 PM
To: SKAUG Jonnine L * WRD; lehmanchopping@gmail.com
Subject: 60-day letter follow-up: Permits S-53908 and R-13606

Follow Up Flag: Follow up
Flag Status: Completed

Hi Jonnine,

I was contacted by Tracy Lehman today regarding the 60-day letters sent for permits S-53908 and R-13606, I'll be contracting with Tracy to complete the claims of beneficial use for both permits.

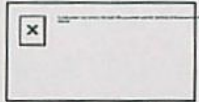
Given my current workload, the goal is to have the SW permit COBU completed within the next couple of months. The timeline for the Pine Creek Reservoir COBU is harder to determine since the snowpack needs to be melted enough to enable access and observation of the reservoir. Depending on how the winter pans out, this could be out as far as June-July.

Let me know if you have any questions or concerns with this timeline.

Thank you,

--

Paul Garvin



503-347-7188
1705 Main St. Ste. 101
Baker City, OR 97814
GarvinHydroGeo.com

we OregonTM
Water Resources Department
Water Rights Services Division
725 Summer Street NE, Suite A
Salem, OR 97301-1266

CERTIFIED MAIL®



FIRST-CLASS

7022 3330 0000 2824 8989



US POSTAGESM PITNEY BOWES



ZIP 97301 \$ 008.69⁰
02 7W
0008029482 JAN 29 2024

R-81903, Permit R-13606
Tom Mac Kerns
Joyce Kerns
44962 Schoolhouse Rd.
Haines, OR 97833

RECEIVED

FEB 05 2024

OWRD

NIXIE 971 NFE 1 24I0002/02/24

RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

BC: 97301126673 *0129-04450-30-00



INT

97833983451 > 1061

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

WR

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

R-81903, Permit R-13606
Tom Mac Kerns
Joyce Kerns
1222 Schoolhouse Rd.
Haines, OR 97833



9590 9402 4934 9063 7212 84

2. Article Number (Transfer from service label)

7022 3330 0000 2824 8980

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

TH-60 D.L.



Oregon

Tina Kotek, Governor

Water Resources Department

North Mall Office Building
725 Summer St NE, Suite A
Salem, OR 97301-1266
Phone: 503-986-0900
Fax: 503-986-0904
www.Oregon.gov / OWRD

NOTE: For water rights information and useful forms, please see our web site at
www.oregon.gov/OWRD

Certified mail number 7022 3330 0000 2824 8989
Return receipt requested

January 26, 2024

TOM MAC KERNS
JOYCE KERNS
44962 SCHOOLHOUSE RD
HAINES, OR 97833

Reference: Application R-81903, Permit R-13606

Dear Permit Holder:

This letter is in regard to your water use permit as referenced above. Your permit required you to complete the development of your water use by October 1, 2007.

In order for the Department to consider issuance of a certificate of water right, you are required by law to hire a certified water right examiner to prepare and submit a claim of beneficial use that includes a final proof survey map of the development. The map and claim of beneficial use were to have been submitted to our Department within one year of October 1, 2007. The fee for submitting a claim of beneficial use is \$230.00. Please see the enclosed 'Resource Sheet' for our current database of CWRE's.

If you are not finished with the development of your permit, you need to file an application for an extension of time to complete your development. The fee for filing an extension of time is \$780.00. Please see the enclosed 'Resource Sheet' to access the extension of time form.

In the event that you are no longer using water as allowed by this permit, you should cancel it so that we may clear our records. Please see the enclosed 'Resource Sheet' to access the cancellation form, if you are interested in this option.

If you have not submitted either a Claim of Beneficial Use or a request for an extension of time for your permit within 60 days of the date of this letter (April 5, 2024) the Department may issue a Final Order to cancel your permit without further notice. If the Department issues a Final Order to cancel your permit, and you request reconsideration of the final order and reinstatement of your permit, there is a \$610.00 reinstatement fee that is charged in addition to the claim of beneficial use or extension of time fee.

Should you have any questions, please contact me at Tonya.L.Miller@water.oregon.gov, the address above or by telephone at 503-979-9983. Email is the best way to reach me.

Sincerely,

Tonya Miller
Backlog Reduction Caseworker

Enclosures (1)

cc: File
OWRD Watermaster District 8





RESOURCE SHEET

Please visit our Department's website at www.oregon.gov/owrd to locate the following information and forms:

Voluntary Cancellation of a Permit

Whenever the owner of a permit wishes to cancel a permit due to inability to develop the permit or the permit is no longer usable for any reason, the owner may cancel the permit by submitting a form to authorize the cancellation of a permit.

Additional information and links to the forms are available at:

www.oregon.gov/owrd/programs/WaterRights/Permits/Pages/CancelPermit.aspx

- For questions related to Voluntary Cancellation of a Permit, contact Mary Bjork by phone at 503-979-9895 or by email at Mary.F.Bjork@water.oregon.gov

Application for Permit Extension of Time

An Extension of Time is a process in which the Department can approve additional time for a permit holder to perfect the beneficial use of water as authorized by the permit. An Extension of Time may be approved if the permit holder has demonstrated reasonable diligence in developing the beneficial use of water as authorized under the permit and the Department can find good cause to do so. Each Application is reviewed on a case-by-case basis. An Extension of Time may provide the ability for a permit holder to extend their completion of construction date (B-date) and complete application of water date (C-date).

Additional information and links to the forms are available at:

www.oregon.gov/owrd/programs/WaterRights/Permits/Pages/Extension.aspx

- For questions related to Extensions of Time, contact Jeffrey Pierceall by phone at 503-979-3213 or by email at Jeffrey.D.Pierceall@water.oregon.gov

Assignments

An Assignment is a formal process to change the name of the holder of an application, permit, limited license, transfer, permit amendment or groundwater registration claim (i.e., non-perfected, non-certificated rights). This process is similar to changing the name on the title of a car. An Assignment ensures that the Department knows who the water right record belongs to and who will be responsible for finalizing the right.

Additional information and links to the forms are available at:

www.oregon.gov/owrd/programs/WaterRights/Permits/Assignment/Pages/default.aspx

- For questions related to Assignments, contact Mary Bjork by phone at 503-979-9895 or by email at Mary.F.Bjork@water.oregon.gov



RESOURCE SHEET

Self-Certification Form (for qualifying Alternate Review reservoirs only)

Certain qualifying reservoir permits allow the permit holder to self-certify their reservoir permit. For a reservoir permit to qualify for this process, the reservoir must meet each of the following criteria:

- 1) The permit was issued under the authority of ORS 537.409; and
- 2) No secondary permit exists for the use of water stored in the reservoir; and
- 3) The developed capacity of the reservoir is less than 9.2 acre-feet; and
- 4) The water was stored by the date required in the permit

Additional information and links to the forms are available at:

www.oregon.gov/owrd/programs/WaterRights/Cert/Pages/default.aspx

- To locate the Claim form, follow the above link, click on "Forms", and next on "Claims of Beneficial Use for Reservoirs (storing less than 9.2 acre-feet permitted under ORS 537.409)
- For questions related to Self Certification of a qualifying reservoir, please call the staff member identified on the letter you received.

Find a Certified Water Right Examiners (CWRE)

CWREs are engineers, surveyors, and registered geologists who have passed a certification to perform water right related functions including the preparation of Claims of Beneficial Use (COBU). The COBU is both a report that describes the extent to which the use authorized under the permit has been developed and a map that identifies where the use and point of diversion or well is located. In addition, the COBU describes how conditions have been timely complied with.

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- To locate a CWRE, follow the above link and click on "Find a CWRE"
- For questions related to locating a CWRE, contact the Department at 503-986-0900; and then select 2 for Customer Service Staff

Reimbursement Authority Program For Certificates

Reimbursement Authority is a program that provides the Department the ability to enter into a voluntary agreement with an applicant for expedited the processing of the Claim of Beneficial Use. Under such an agreement, the applicant pays the cost for expedited services not otherwise available.

Additional information and links to the forms are available at:

<https://www.oregon.gov/owrd/programs/WaterRights/RA/Pages/Certificate.aspx>

For questions related to expediting the review of your Claim of Beneficial Use through the Reimbursement Authority Program, contact Kerry Kavanagh by phone at 503-979-3208 or by email at Kerry.L.Kavanagh@water.oregon.gov

Mailing List for 60-Day Letter

Application: R-81903

Permit: R-13606

Permit Holder(s):

TOM MAC KERNS
JOYCE KERNS
44962 SCHOOLHOUSE RD
HAINES, OR 97833

Copies Mailed	
by: <u>TM</u>	(STAFF)
on: <u>1.26.2024</u>	(DATE)

Is the Permit Holder(s) of record currently identified as a landowner of any tax lots involved as confirmed by the County records? YES

Copies of 60 Day Letter to be sent to Permit Holder(s) and following:

1. Watermaster District #8 (auto email)
2. File

Other persons to receive copies:

- 1.



Oregon

Tina Kotek, Governor

Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301-1266

Phone: 503-986-0900

Fax: 503-986-0904

www.Oregon.gov / OWRD

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Certified mail number 7022 3330 0000 2824 8989

Return receipt requested

January 26, 2024

TOM MAC KERNS

JOYCE KERNS

44962 SCHOOLHOUSE RD

HAINES, OR 97833

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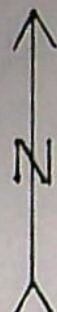
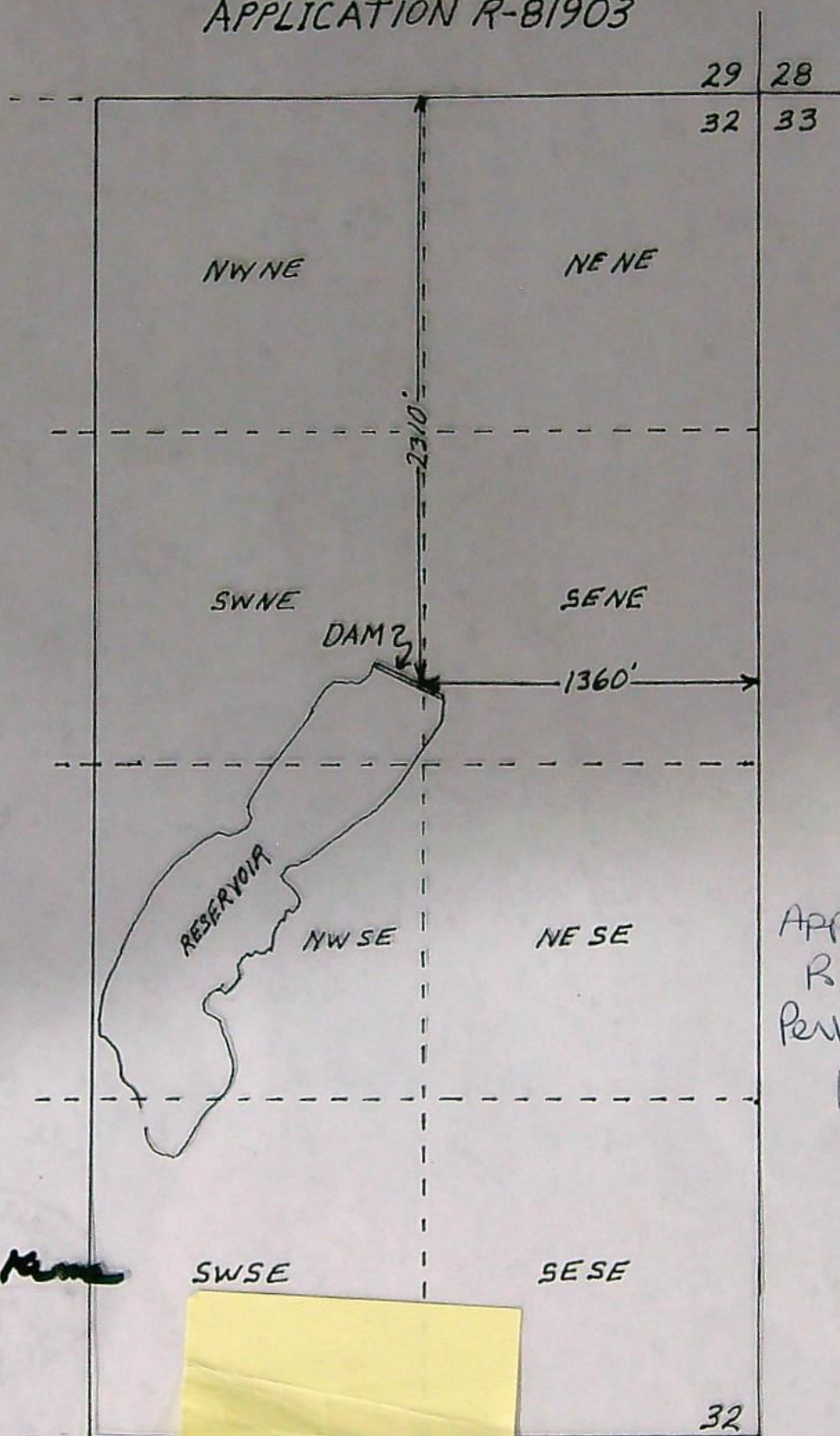
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MAP SHOWING LOCATION OF PINE
CREEK RESERVOIR
T8S; R38E; WM SECTION 32
APPLICATION R-81903

RECEIVED

FEB - 2 1998

WATER RESOURCES DEPT.
SALEM, OREGON



App #
R-81903
Permit #
R-13566

Tom MacKinnon

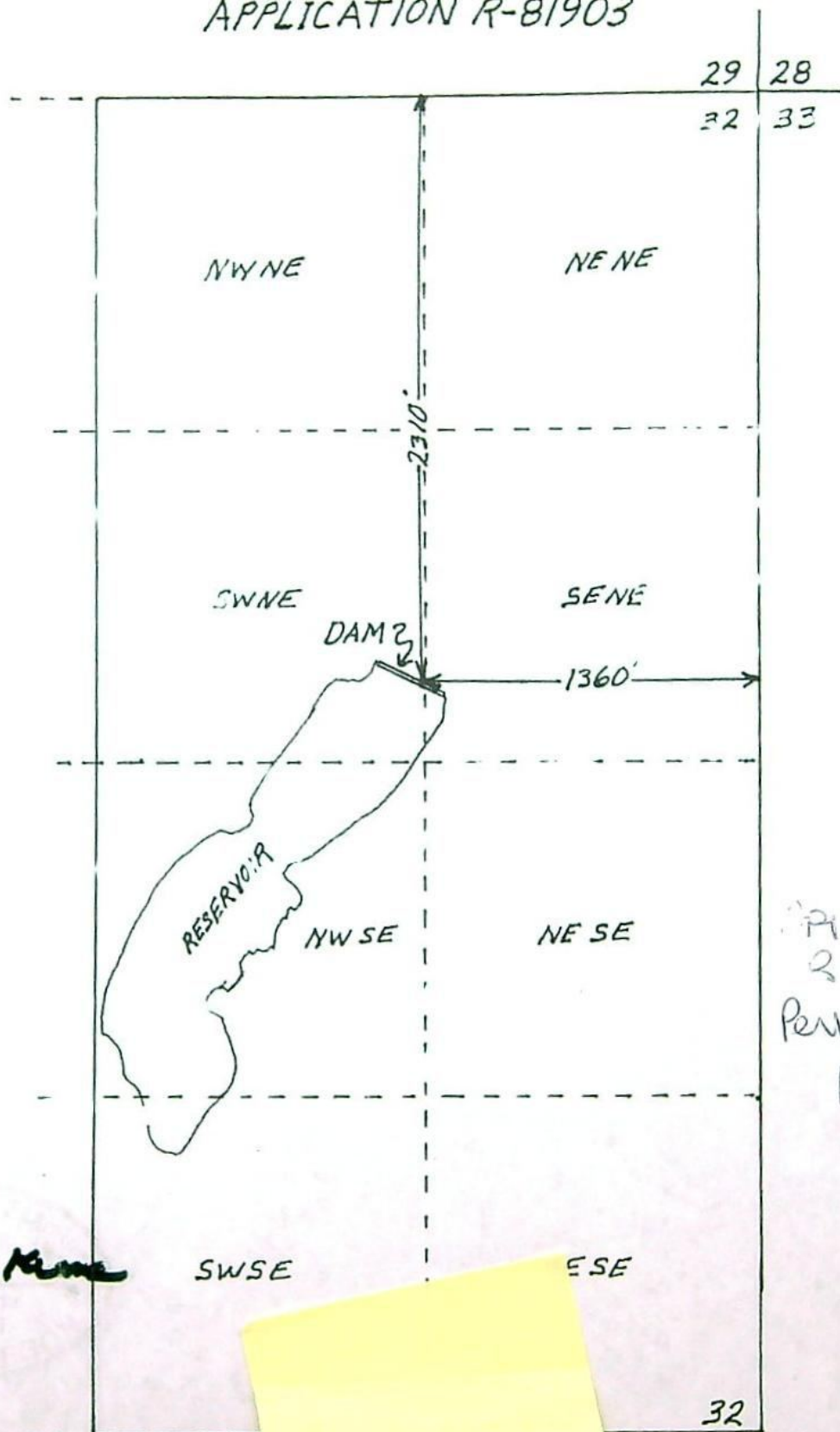
11-1-18

Scale 8" = 1 mi
Drawn 1-27-98 TMK

MAP SHOWING LOCATION OF PINE
CREEK RESERVOIR
T8S; R38E; WM SECTION 32
APPLICATION R-81903

RECEIVED

11-1-98
WATER RESOURCES DEPT.
Salem, Oregon



App #
R-81903
Permit #
R-13566

Tom MacKinnon

11-1-18

Scale 8" = 1 mi
Drawn 1-27-98 TMK

STATE OF OREGON

COUNTY OF BAKER

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

TOM MAC & JOYCE A KERNS
45296 POCAHONTAS RD
HAINES, OREGON 97833

PHONE: (541) 856-3351

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

APPLICATION FILE NUMBER: R-81903

SOURCE OF WATER: PINE CREEK RESERVOIR, TRIBUTARY OF POWDER RIVER

STORAGE FACILITY: ENLARGEMENT OF PINE CREEK RESERVOIR, ORIGINALLY
CONSTRUCTED UNDER PERMIT R-660

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER
APPLICATION S-83516, PERMIT 53908, FOR SUPPLEMENTAL IRRIGATION

MAXIMUM VOLUME: 30.0 ACRE-FEET PER YEAR

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: OCTOBER 1
THROUGH APRIL 14

DATE OF PRIORITY: NOVEMBER 22, 1996

The area submerged by the reservoir, when full, will be 20.2 acres and
the maximum depth of water will be 9.0 feet. The maximum height of
the dam shall not exceed 18.0 feet.

DAM LOCATION: SW 1/4 SE 1/4, SECTION 32, T8S, R38E, W.M.; 2310 FEET
SOUTH AND 1360 FEET WEST FROM NE CORNER, SECTION 32

THE AREA TO BE SUBMERGED BY THE RESERVOIR IS LOCATED AS FOLLOWS:

SW 1/4 NE 1/4
SE 1/4 NE 1/4
NW 1/4 SE 1/4
SW 1/4 SE 1/4
SECTION 32

TOWNSHIP 8 SOUTH, RANGE 38 EAST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The permittee may submit evidence that the Oregon Department of Fish and Wildlife (ODFW) has determined screens and/or fishways are not necessary. The required screens and fishways are to be in place, functional, and approved by ODFW before diversion of any water.

Routine maintenance of the dam, its spillway and appurtenant structures shall be performed as determined necessary by the Water Resources Dam Safety program, including but not limited to the timely removal of woody vegetation and debris, the repair of areas of erosion or to repair defective equipment.

The constructed works shall conform to the approved plans and specifications on file with the Water Resources Dam Safety program. The engineer of record shall notify the Water Resources Dam Safety program before making any significant change in the approved design prior to or during construction.

All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.

No water shall be stored until the Water Resources Department receives written certification from the engineer of record that construction has been completed in accordance with the approved plans and specifications. If final construction deviates from the approved design a set reproducible as-constructed drawings, including a revised reservoir capacity graph or table, must accompany the engineer's written certification of completion.

Except for routine repair and maintenance, design plans and specifications must be prepared by an Oregon licensed professional engineer and approved by the Water Resources Dam Safety program prior to any enlargement, modification, or alternation of the dam or any appurtenant structures.

STANDARD CONDITIONS

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

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

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

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

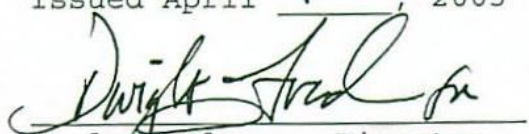
The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

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

The reservoir shall be filled and complete application of the water to the use shall be made on or before October 1, 2007. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued April 10, 2003


Paul R. Cleary, Director
Water Resources Department

REAL ESTATE TRANSACTIONS: Pursuant to ORS 537.330, in any transaction for the conveyance of real estate that includes any portion of the lands described in this permit, the seller of the real estate shall, upon accepting an offer to purchase that real estate, also inform the purchaser in writing whether any permit, transfer approval order, or certificate evidencing the water right is available and that the seller will deliver any permit, transfer approval order or certificate to the purchaser at closing, if the permit, transfer approval order or certificate is available.

CULTURAL RESOURCES PROTECTION LAWS: Permittees involved in ground-disturbing activities should be aware of federal and state cultural resources protection laws. ORS 358.920 prohibits the excavation, injury, destruction or alteration of an archeological site or object, or removal of archeological objects from public and private lands without an archeological permit issued by the State Historic Preservation Office. 16 USC 470, Section 106, National Historic Preservation Act of 1966 requires a federal agency, prior to any undertaking to take into account the effect of the undertaking that is included on or eligible for inclusion in the National Register. For further information, contact the State Historic Preservation Office at 503-378-4168, extension 232.



Oregon

Kate Brown, Governor

Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone (503) 986-0900

Fax (503) 986-0904

www.wrd.state.or.us

January 4, 2019

Tom Mac Kerns
44962 Schoolhouse Road
Haines, OR 97833

RE: Pine Creek Reservoir in Baker County

Dear Mr. Kerns,

This letter is in response to your letter of November 1, 2018. Your letter states that you consider yourself to be an employee of the Department. The Department is fortunate to have several employees who are also Certified Water Right Examiners (CWRE). Although you are a CWRE, I want to be clear that you are not an employee of the Department.

The Department does not read the language you refer to from the 1963 court decree to require the Oregon Water Resources Department to enlarge Certificate 10089. In our view, the court decree, based on the language that you provided, states that the plaintiffs are the owners and holders of the water rights for Pine Creek Reservoir.

Application R-14441, which was filed December 11, 1931, requested a permit to store 85 acre-feet in Pine Creek Reservoir. A subsequent water right permit was issued on November 10th, 1932, and a water right certificate was issued on July 28, 1933, limiting the storage to 85 acre-feet. There is no state law that authorizes a change in a water right certificate to allow an increase the amount of water stored.

Permit R-13606 was issued May 16, 2003, and authorizes the additional storage of 30 acre-feet from Pine Creek Reservoir. However, this permit will soon be cancelled for failure to provide acceptable proof of completion. I have attached letters to you from Dwight French, our Water Rights Services Division Administrator, dated January 19, 2018 and May 1, 2018, pertaining to R-13606. Please contact Dwight as soon as possible if you have questions related to R-13606.

Sincerely,

Thomas M. Byler
Director

c: **Dwight French, Water Rights Services Division Administrator**
Rick Lusk, Watermaster District 8

Attachments



Oregon

Kate Brown, Governor

Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone (503) 986-0900

Fax (503) 986-0904

www.wrd.state.or.us

May 1, 2018

Tom "Mac" Kerns
44962 Schoolhouse Rd
Haines, OR 97833

Reference: Application G-13175/Permit G-12039; Application R-81903/Permit R-13606; and
Application S83516/Permit S-53908

Mr. Kerns,

Enclosed is a copy of my letter to you dated January 19, 2018. The letter detailed deficiencies in the claims of beneficial use that had been submitted for the three permits listed above.

On February 7, 2018, Corey Courchane and I met with you in person and Brent Kerns by phone and we went over the letter. The letter gives you some limited options to prevent these three permits from being cancelled. In order for you to have plenty of time to come into compliance with the terms of the January 19, 2018 letter, we will not take action to cancel these permits until after November 1, 2018.

For the reservoir permit, it seems that a resurvey of the storage capacity is needed to determine how many acre-feet are being stored. It is possible that the existing certificate (number 10089) for 85 acre-feet is all that you need.

Sincerely,

Dwight French

Water Right Services Division Administrator

Enclosure: January 19, 2018 letter

Cc: Application G-13175 (without enclosure)
Application G-81903 (without enclosure)
Application S-83516 (without enclosure)
Rick Lusk, Watermaster District 8



Oregon
Kate Brown, Governor

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

January 19, 2018

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Tom "Mac" Kerns
45298 Pocahontas Rd
Haines, OR 97833

Certified # 7017 0530 0001 1436 2945

Reference: Application G-13175/Permit G-12039; Application R-81903/Permit R-13606; and Application S-83516/Permit S-53908

Mr. Kerns,

Application G-13175/Permit G-12039

On December 12, 2016, the Department received correspondence from you regarding Permit G-12039, which included a Claim of Beneficial Use (Claim) for review. The Department is returning your Claim because it is incomplete, and has determined the following needs to be accomplished in order for a certificate to be issued:

- (1) Annual water usage reports need to be submitted to the Department for Well 1, Well 2, and Well 3. The Department does not have any records of water usage reporting. **You need to submit at least one annual water use report for each well to the Department for the period between May 23, 1995, and October 1, 2008. The Department has denied your request for this condition to be waived, as permit conditions are permanent and cannot be removed;**
- (2) The Department has a pump test for Well 1 and Well 3, but not Well 2. **You will need to either submit a pump test for Well 2, or a request for well pump test exemption for Well 2; and**
- (3) Section 4, System Description on page 5, item B1 through B5, of the Claim does not provide the technical data required in order to determine the maximum rate of use authorized by the permit. **System information and calculations must be provided for each well used under Permit G-12039. Be sure to calculate the theoretical capacity information in Item 5 for each well.**

If you are unable to provide water use reports between May 23, 1995 to October 1, 2008, you will need to submit an Application for an Extension of Time, to come into compliance with permit conditions. Submit either the additional information or the request for the Permit Extension of Time to the Department no later than March 19, 2018, or the Department shall move forward with cancellation of Permit G-12039.

Application R-81903/ Permit R-13606 and Application S-83516/Permit S-53908

On December 23, 2016, the Department received correspondence from you regarding permits R-13606 and S-53908. As it relates to these permits, it appears Extensions of Time are necessary.

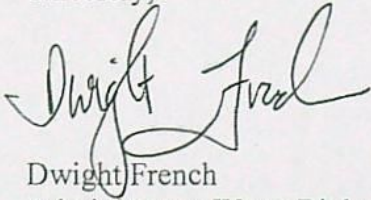
- (1) For permit R-13606, the Department did not receive written certification from the engineer of record that construction was completed in accordance with the approved plans and specifications between May 23, 1995, and October 1, 2008;
- (2) Permit R-13606 and S-53908 states, "The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The permittee may submit evidence that the Oregon Department of Fish and Wildlife (ODFW) has determined screens and/or fishways are not necessary. The required screens and fishways are to be in place, functional, and approved by ODFW before diversion of any water." In your correspondence, you indicated that ODFW implied no fish screening or fish passage was required. **The Department must have written authorization from ODFW that fish screens and fishway are not necessary;**
- (3) Annual water usage reports need to be submitted to the Department for use of water from Pine Creek Reservoir, for both Permit R-13606 and S-53908. The Department does not have any records of water usage reporting. **You need to submit at least one annual water use report for each permit to the Department for the period between May 23, 1995, and October 1, 2008. The Department has denied your request for this condition to be waived, as permit conditions are permanent and cannot be removed;**

Because written certification was not timely submitted, any water stored under permit R-13606 cannot be considered as legally stored water.

In order to claim any water stored under Permit R-13606, and the usage of the stored water under Permit S-53908, you will need to submit an Application for Extension of Time.

The correspondence that was received by the Department on December 12, 2016, and December 23, 2016, does not satisfy the requirements set forth by the permits in question. Submit the requests for the Permit Extensions of Time to the Department no later than March 19, 2018, or the Department shall move forward with cancellation of Permit R-13606, Permit S-53908, and Permit G-12039. If you need any additional information, or would like to discuss your options, please feel free to call Corey Courchane at (503) 986-0825.

Sincerely,

A handwritten signature in black ink, appearing to read "Dwight French". The signature is fluid and cursive, with the first name "Dwight" and last name "French" clearly distinguishable.

Dwight French
Administrator Water Right Services

Enclosures (1)

Cc: Application G-13175/Permit G-12039
Application R-81903/Permit R-13606
Application S-83516/Permit S-53908
Rick Lusk, Watermaster District 8

COURCHANE Corey A * WRD

From: MILLS Keith A * WRD
Sent: Thursday, February 15, 2018 10:02 AM
To: COURCHANE Corey A * WRD
Cc: FRENCH Dwight W * WRD
Subject: RE: Pine Valley Reservoir: Kerns Family

Corey,

We should meet and discuss. And just to confirm, this is the dam on Pine Creek in western Baker Co., dam safety has this as Pine Creek dam.

I do not think we have any bathymetry documentation here in dam safety, and my understanding is that the difference was how the spillway was considered.

Keith

Keith Mills, P.E., G.E., State Engineer for Water Resources
Oregon Water Resources Department
725 Summer St. NE, Suite A
Salem, OR 97301
Phone: (503) 986-0840
Cell: (541) 706-0849

From: FRENCH Dwight W * WRD
Sent: Thursday, February 08, 2018 1:06 PM
To: MILLS Keith A * WRD
Cc: COURCHANE Corey A * WRD
Subject: Pine Valley Reservoir: Kerns Family

Keith,

If I could get some documentation from you of some kind stating that the mid 1990s volume survey done by Vern Church was wrong because _____ that would be great. We want your letter to convince them that they don't need the storage right. I could attach it to a letter and maybe we could get them to voluntarily cancel their permit. (They do have a secondary that names 30 AF R right as a source so Corey and I will have to work with them to get that resolved also.) How does this sound?

Dwight

Dwight French

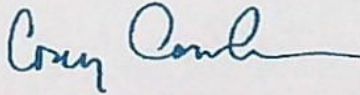
Water Right Services Division Administrator
Oregon Water Resources Department
dwight.w.french@oregon.gov
503-986-0819

February 12, 2018

Reference: Application R-81903/Permit R-13606
 Application S-83516/Permit S-53908
 Application G-13175/Permit G-12039

On Wednesday, February 7, 2018, Dwight French and I met with Mr. Tom "Mac" Kerns, and Brent Kerns through speaker phone, in regards to Department correspondence requesting additional information, and the issue of non-compliance of permit conditions (See certified letter dated January 19, 2018).

Mr. Kerns was informed of the permit conditions that are required to be complied with, in order to salvage the water use permits. In order to accommodate Mr. Kerns, the Department has determined to grant additional time to submit the requested information for certificate issuance. If the requested information is not received by **November 1, 2018**, the Department shall move forward with cancellation of Permit R-13606, Permit S-53908, and Permit G-12039.

A handwritten signature in blue ink, appearing to read "Corey Courchane", with a long horizontal flourish extending to the right.

Corey Courchane

STATE OF OREGON

COUNTY OF BAKER

C E R T I F I C A T E O F W A T E R R I G H T

THIS IS TO CERTIFY, That OTHA D. PERKINS of Baker, State of Oregon, has made proof to the satisfaction of the State Engineer of Oregon, of a right to store the waters of Pine Creek, tributary of Powder River, to be appropriated under Application No. 14442, Permit No. 10721, for the purpose of Supplemental Irrigation, under Reservoir Permit No. 660 of the State Engineer, and that said right to store said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from December 11, 1931; that the amount of water entitled to be stored each year under such right, for the purposes aforesaid, shall not exceed 85 acre-feet.

This right shall be subject to the following condition that the City of Baker's rights and priorities both as to natural flow and storage shall be preserved and shall not be affected by this subsequent filing; that should the City of Baker at any time hereafter elect to employ its said rights in this reservoir, Mrs. Perkins, or her successors in interest, will promptly recognize the City's rights to the use of such reservoir for municipal purposes as specified in the agreement between the City and her on February 16, 1932, and that Mrs. Perkins or her successors in interest, will at all times indemnify and save the City harmless of any damage which may result through her enjoyment of said facilities as specified in said agreement.

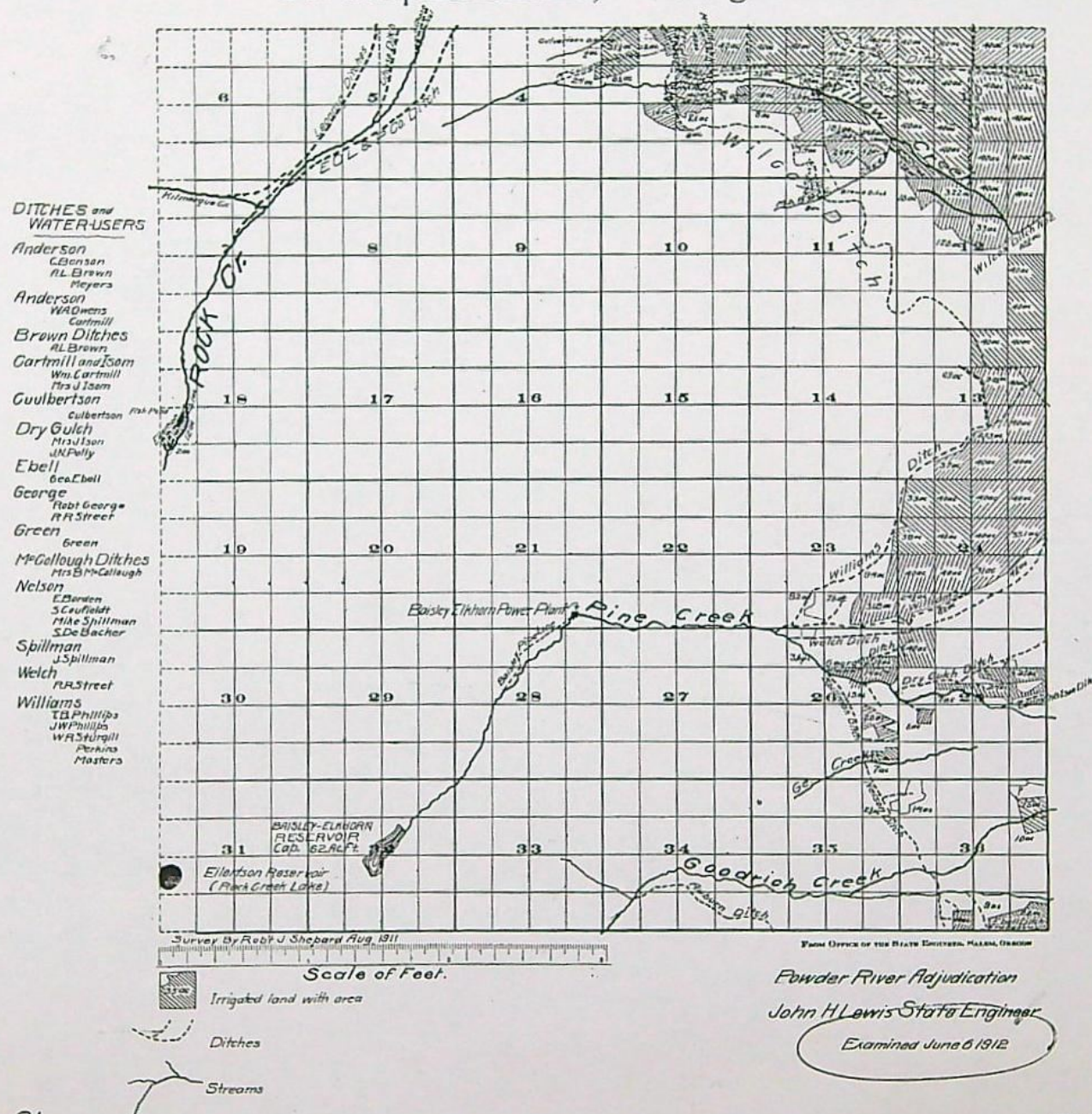
The reservoir is located in Section 32, Township 8 South, Range 58 East, W. M.

After the expiration of fifty years from the date of this certificate or on the expiration of any federal power license issued in connection with this right, and after not less than two years notice in writing to the holder hereof, the State of Oregon, or any municipality thereof, shall have the right to take over the dams, plants and other structures and all appurtenances thereto which have been constructed for the purpose of devoting to beneficial use the water rights specified herein, upon condition that before taking possession the State or municipality shall pay not to exceed the fair value of the property so taken, plus such reasonable damages, if any, to valuable, serviceable and dependable property of the holder of this certificate, not taken over, as may be caused by the severance therefrom of the property taken in accordance with the provisions of Section 47-508, Oregon Code 1930.

WITNESS the signature of the State Engineer,
affixed this 28th day of July, 1933.

State Engineer.

Township 8 South, Range 38 East.



STATE OF OREGON
COUNTY OF BAKER
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

Kerns Bros Inc.
Rural Route 1
Haines, OR 97833

confirms the right to use the waters of a reservoir on Pine Creek constructed under Permit R-660, a tributary of Powder River, for the purpose of supplemental irrigation of 280.00 acres.

This right was perfected under Permit 10721. The date of priority is December 11, 1931. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 7.0 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the point of diversion from the stream.

The point of diversion is located as follows:

NW¼ NW¼, Section 26, SW¼ NE¼, Section 32, T 8 S, R 38 E, WM.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated during the irrigation season of each year.

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

A description of the place of use to which this right is appurtenant is as follows:

¼ ¼	ACRES	LOT	Section	TWP (S)	RNG (E)	USE
NESE	40.00	2301	12	8	38	IS
SESE	40.00	2301	12	8	38	IS
NESW	39.10	2400	7	8	39	IS
NWSW	35.00	2400	7	8	39	IS
SWSW	35.80	2400	7	8	39	IS
SESW	39.10	2400	7	8	39	IS
NENW	1.80	2400	18	8	39	IS
NENW	14.40	2400	18	8	39	IS
NWNW	34.80	201	18	8	39	IS
TOTAL AC	280.00					

This right shall be subject to the following condition that the City of Baker's Rights and priorities both as to natural flow and storage shall be preserved and shall not be affected by this subsequent filing; that rights in this reservoir, Mrs. Perkins, or her successors in interest, will promptly recognize the City's rights to the use of such reservoir for municipal purposes as specific in the agreement between the City and her on February 16, 1932, and that Mrs. Perkins or her successors in interest, will at all times indemnify and save the City harmless of any damage which may result through her enjoyment of said facilities as specified in said agreement.

The rights to the use of the water for any purpose is restricted to the lands or place of use herein described.

This certificate and transfer confirms an order of the Director entered on OCT 28 1996.

and recorded in Special Order Volume 50, Page 735, approving a petition by Kerns Brothers Inc. under ORS 541.329 for mapping of water rights within a district. This certificate supersedes certificate 55731 and Transfer 6785.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in said permit. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed OCT 28 1996.


Martha O. Pagel, Director

Recorded in State Record of Water Right Certificates numbered 72618.

55731.CJ

December 12, 2016

Tom Mac Kerns

44962 Schoolhouse Rd

Haines, OR 97833

Water Resources Department

Attn: Machel A. Bamberger

725 Summer St. NE. Suite A

Salem, OR 97301

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DEC 23 2016

SALEM, OR

Reference: Machel A. Bamberger's letter of October 21, 2015 and Application S-83516/Permit S-53908 and **Application R-81903/Permit R-13606**

When Pine Creek Reservoir volume first became an issue I have questioned the need for new applications and permits. No new water has been generated since the dam was constructed in the 1860's. In the processing for a revised certificate please consider the following:

1. The dam currently certified under the constructed of Application No 14442 Reservoir Permit No 660 is not the reservoir that exists today. Existing reservoir is 37 feet lower and about half the size of the certificated reservoir.
2. The existing reservoir was constructed in the 1860's and has not been reconstructed. The work performed under Application S-83516/Permit S-53908 didn't change reservoir volume. The spillway elevation was not changed. Work was maintenance not reconstruction.
3. Re-measurement of reservoir volume used the high water mark as a base line. Hence this includes surface storage above the spillway elevation. The spillway elevation has not changed since the dam was constructed in the 1860's.
4. The original dam was not constructed with a cut off trench below the embankment indicated by considerable leakage below the embankment.

Supplemental water from the reservoir is not normally required until primary water is not available. Normally this is approximately the middle of July. By this time all surface storage doesn't exist and leakage will have dropped the reservoir elevation by approximately 1 ½ feet.

The reservoir volume between high water mark and low water mark can easily account for the 30 acre feet difference.

5. Circuit Court Decree with the same defendant and plaintiffs stated in 6 below and dated Feb 13, 1963 deals with other possible claim holders George Burr, Ed Young and the City of Baker. This Decree vested all rights to storage and water use with the Cregers. A copy attached Exhibit A-1. Cregers were past owners of property being irrigated.
Section V of this decree also states the priority date of the water right should be 1908 rather than the certificated date of 1931.
6. Circuit court decree with A.W. Creger and Ethel Creger Plaintiffs and Al Mosier and Gladys Mosier defendants. Dated Feb 26, 1963 stated: "The Plaintiffs (Creger) are the owners and holder of the sole rights to the storage of waters of Pine Creek in the Pine Creek Reservoir situated in section 32, T8S, R39E, WM in Baker County Or together with the reservoir rights appurtenant there to and are solely entitled to use the waters stored and to be stored therein for the irrigation of the plaintiffs premises." This Decree is dated February 25, 1963 with a copy attached Exhibit A-2.

Based on the above the certified volume of the reservoir of 85 acre feet should be amended to the volume of Pine Creek Reservoir with a priority date of 1908.

On June 16, 2016 the project was visited by Keith Mills and Tony Janicsek dam's section of OWRD, Tim Baily and Greg D. Apke plus one other person from the Salem Office of Dept of Fish and Wildlife Rick Lusk Water Master and Brent Kerns owner. This group stated the Dam structure met all requirements and did not require a fish screen or ladder.

In 2008 a group of people from ODF&W met at the point of diversion of the Williams ditch and state "a fish screen was not feasible" since the creek carried a large "bed load" of material hence a screen wouldn't work. We have not been able to find any written documentation of this visit.

I would recommend the reservoir permit be amended to reflect the dam and pool that has always existed plus removal of the reservation that Baker City has any right in the facility. The city sold this right as documented by the attached "Bargain and Sale Deed" dated December 9, 1947 and recorded in records volume 145 page 188. Copy attached Exhibit B.

Concerning the right to use the water, it simplifies the administration of the right if it covers all of the area covered by this application system (Ref facilities map Exhibit C). If this isn't possible we are satisfied with C72618 since it states "The use of the waters of Pine Creek Reservoir".

C-72618 should also be modified to include the NESE, NWSE, SWSE, SESE and the SENE, S7, T8S, R36E, WM as shown on the final proof.

Included for general information is a News Paper article about Goodrich Creek and Pine Creek Reservoir Exhibit D.

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DEC 23 2016

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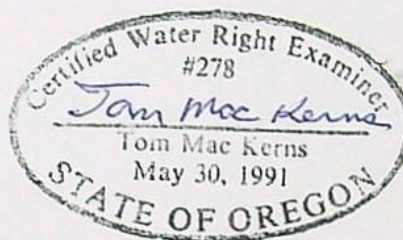
If you have questions or concerns that can't be resolved by phone I would be willing to bring my file and meet with you at your office.

Very Truly Yours,

L. Bud Kerns Owner

Tom Mac Kerns

Tom Mac Kerns



Enclosures:

1. Circuit Court Decree Exhibit A-1 and A-2
2. Bargain and Sale Agreement Exhibit B
3. Facilities Map and copy COBU Map Exhibit C
4. News Paper article Exhibit D

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DEC 23 2016

SALEM, OR

FOR BAKER COUNTY

FILED

EXHIBIT A-1

FEB 8 1963

A. W. CREGER and ETHEL CREGER,
husband and wife,

No. E 4190

Plaintiffs,

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

vs.

AL MOSER and GLADYS MOSER,
husband and wife,

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Defendants.

DEC 23 2016

SALEM, OR

The above entitled cause having come regularly on for trial on November 19th, 1962, the plaintiffs appearing personally and by David C. Silven of their attorneys of record, and the defendants appearing personally and by James A. Cox and Robert D. Lytle, of their attorneys of record, and the court having heard the testimony and evidence and the matter having been submitted to the court by written briefs submitted on behalf of the plaintiffs and defendants, which briefs are now on file herein, and the court finding generally in accordance with the contentions of the plaintiffs as to the facts and the law as set forth in the plaintiffs' brief, and the court being fully advised in the premises, now makes its findings of fact as follows:

FINDINGS OF FACT

I.

That at all times mentioned herein the plaintiffs were and now are husband and wife, and the defendants were and now are husband and wife.

II.

That the plaintiffs are the owners of the real property described in Paragraph III of the Plaintiffs' Amended Complaint on file herein.

1 That the Pine Creek Reservoir, situate in Section 32,
2 Township 8 South, Range 38, E., W.M. Baker County, Oregon, is
3 situate upon lands belonging to the United States of America,
4 within the boundaries of the National Forest, known as the
5 Wallowa-Whitman National Forest; that said reservoir was origin-
6 ally constructed and used for mining purposes, but by mesnes
7 conveyances, title thereto (subject to paramount title of the
8 United States) vested in George Burr.

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DEC 23 2016

IV.

SALEM, OR

10 That said George Burr at said time also owned the premises
11 now owned by the defendants, being described as follows:

12 SE $\frac{1}{4}$ of Section 20 and the N $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 29, in
13 Township 8 South, Range 39, E., W.M.

V.

14 Pine Creek is a natural stream in Baker County, Oregon,
15 being a tributary of Powder River; that the Powder River Decree
16 was duly made and entered in 1918 and it therein referred to and
17 purportedly adjudicated a 1908 right to a portion of the lands
18 now owned by the defendants, from the storage waters of Pine
19 Creek Reservoir.

VI.

21 In 1925 Burr conveyed the lands now owned by the defendants
22 to the City of Baker, Oregon, and by separate instrument deeded
23 the Pine Creek Reservoir and reservoir rights to the City of
24 Baker; that the City of Baker's purpose in acquiring the reser-
25 voir and reservoir rights was for possible future municipal
26 water supply.

VII.

28 In 1932 the State Engineer of the State of Oregon issued
29 to plaintiffs' predecessor in interest, appropriate permits
30 pertaining to the storage and use of the waters from Pine Creek
31 Reservoir for the irrigation of the lands described in Paragraph
32

1 III of plaintiffs' amended complaint, the same being subject only
2 to any future use of such water by the City of Baker for municipal
3 water supply purposes; plaintiffs have succeeded to the permits
4 pertaining to the irrigation of said premises, including the
5 Pine Creek Reservoir right and hold appropriate United States
6 Forest Service use permit authorizing the maintenance of the
7 reservoir on federal lands.

8 VIII.

9 The City of Baker sold the Burr lands to the defendants'
10 predecessor, Ed Young, by contract, in 1947, and ultimately
11 issued its deed to Mr. Young in 1950, the deed not mentioning
12 water rights or reservoir rights. In 1947, the City of Baker
13 issued to the plaintiffs its deed covering the Pine Creek Reser-
14 voir and reservoir rights.

15 IX.

16 There was no irrigation of the lands owned by the defend-
17 ants by the waters of Pine Creek Reservoir at any time during the
18 period of ownership by the City of Baker, nor during the ownership
19 of said lands by any subsequent owner; the plaintiffs have util-
20 ized the waters from said reservoir continuously since the issuance
21 of said permit, in accordance with said permit.

22
23 From the foregoing facts the court makes the following:

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25 DEC 23 2016

25 CONCLUSIONS OF LAW.

26 I.

27 SALEM, OR

28 That there was a legal separation or severance of the
29 Pine Creek Reservoir water rights from the lands now owned by
30 the defendants, during the period that the same were owned and
31 held by the City of Baker, so that said water rights were not in
32 fact appurtenant to said lands, and that the City of Baker held
said reservoir and said reservoir rights only for city water

supply purposes and not for the purpose of irrigating the lands
now owned by the defendants or any other lands.

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DEC 23 2016

II.

The failure of the City of Baker to use the waters of
Pine Creek Reservoir in the irrigation of the lands now owned
by the defendants, for a period of in excess of five consecutive
years, constituted an abandonment of said irrigation rights,
under the provisions of ORS 540.610. The exemption in said statute
pertaining to preserving the rights of a city has no application
to this case as to the holding of a water right for the
purposes of irrigation of said premises, as irrigation of farm
lands, as distinguished from holding water rights for city water
supply, is not a reasonable nor usual municipal purpose. The
abandonment statute therefore applies to the city as to its
irrigation right, and failure to irrigate for in excess of said
five year period is conclusively an abandonment.

III.

Even if said rights were not abandoned by the City during
its ownership, there was an abandonment of said water rights
by non-use thereof during the period of ownership of Ed Young
from 1947 to 1955. There was no demand made by Mr. Young for
the use of such water at any time during said period.

IV.

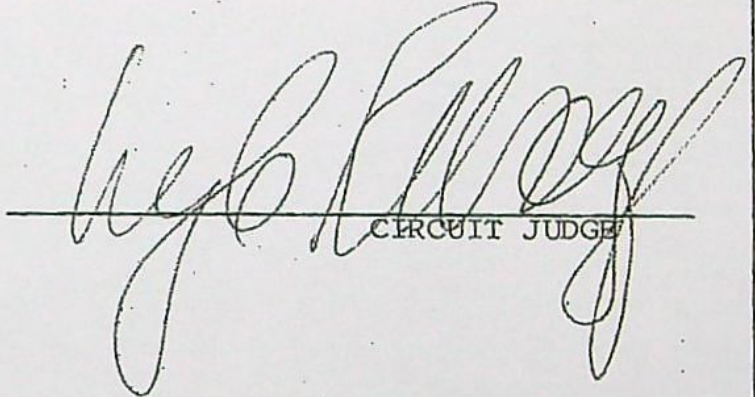
The plaintiffs have lawfully and properly used said
reservoir waters in accordance with the laws of the State of
Oregon and the provisions of the Powder River Decree/and there
has not been an abandonment by the plaintiffs of said rights and
the plaintiffs have been storing said water and irrigating their
said premises under duly authorized permits issued by the State
Engineer of the State of Oregon, and are entitled to continue
said storage and irrigation, and no other person, firm, corporation
or municipal corporation has any right, title or interest

1 in or to said Pine Creek Reservoir, the storage of water therein
2 as provided by law, nor the right to irrigate or otherwise use
3 waters stored therein. The defendants should be permanently
4 enjoined and restrained from taking or attempting to take or use
5 or attempt to use any waters of and from said Pine Creek Reservoir
6 and should be further enjoined and restrained from interfering
7 with or preventing in any manner the use of said waters by the
8 plaintiffs in the irrigation of their said lands.

9
10 Decree of this court shall be made and entered herein in
11 accordance with the foregoing and plaintiffs shall be awarded
12 judgment for their costs and disbursements herein.

13 DATED and ENTERED at Baker, Oregon, this 13 day of
14 February, 1963.

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CIRCUIT JUDGE

RECEIVED BY OWRD

DEC 23 2016

SALEM, OR

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR BAKER COUNTY

RECEIVED BY OWRL

EXHIBIT A-2

DEC 23 2016

A. W. CREGER and ETHEL CREGER,
husband and wife,

Plaintiffs,

vs.

AL MOSER and GLADYS MOSER,
husband and wife,

Defendants.

No. E 4190

SALEM, OR

DECREE

Entered

Feb 25 19 63

Circuit Court Journal
Dennis L. Fuller
County Clerk

This matter coming regularly for the making and entry of
decree herein, and the court having heretofore made and entered
its Findings of Fact and Conclusions of law, which findings are
now on file herein, and from which it appears that the plaintiffs
should prevail, and more than ten days having expired since the
filing of such findings, and more than ten days have expired after
service of a certified copy of such findings upon the attorneys
for the defendants, certificate of service being on file herein,
and there having been no objections made or filed herein to such
proposed findings or any part thereof, nor any request for other,
different or additional findings, and the court having therefore
this date signed the same, which findings of fact and conclusions
of law provide that decree shall be made and entered herein in
favor of the plaintiff, and the court being fully advised in the
premises,

NOW, THEREFORE, it is CONSIDERED, ORDERED, ADJUDGED and
DECREED, as follows:

(1) The plaintiffs are the owners and holders of the
sole rights to the storage of waters of Pine Creek in the Pine
Creek Reservoir situate in Section 32, Twp. 8 S., R. 38, E., W.M.
in Baker County, Oregon, together with the reservoir rights
thereof, and all water rights appurtenant thereto, and are solely

entitled to use the waters stored and to be stored therein in
the irrigation of the plaintiff's premises described as follows:

E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 12, N $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 13, all
in Township 8 S., R. 38, E., W.M., and the W $\frac{1}{2}$ SW $\frac{1}{4}$
of Section 7, and the W $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 18, all
in Township 8 South, Range 39, E., W.M., in
Baker County, Oregon.

(2) That the defendants have no right, title or interest
in or to said Pine Creek Reservoir, nor the right to store water
therein nor the right to irrigate or otherwise use the waters
stored or to be stored therein, and the defendants should be and
they hereby are permanently enjoined and restrained from taking
or attempting to take or using or attempting to use any of the
waters of and from said Pine Creek Reservoir, and they are further
enjoined and restrained from interfering with or preventing in
any manner the use of said waters by the plaintiffs in the irriga-
tion of their said lands.

(3) The plaintiffs should be and hereby are awarded judg-
ment against the defendants and each of them for plaintiffs' costs
and disbursements herein incurred, taxed and allowed in the sum
of \$

Dated and entered this 25th day of February, 1963.

RECEIVED BY OWRD

DEC 23 2016

SALEM, OR

CIRCUIT JUDGE

BANTA, SILVEN, HORTON & YOUNG
ATTORNEYS AT LAW
1950 THIRD STREET
BAKER, OREGON

WHEREUPON it is ordered that Court adjourn from day to day until Feb 26 1963



Oregon
Kate Brown, Governor

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

August 29, 2017

Tom "Mac" Kerns
45298 Pocahontas Rd
Haines, OR 97833

Reference: Application G-13175/Permit G-12039; Application R-81903/Permit R-13606; and
Application S-83516/Permit S-53908

Mr. Kerns,

Application G-13175/Permit G-12039

On December 12, 2016, the Department received correspondence from you regarding Permit G-12039, which included a Claim of Beneficial Use (Claim) for review. The Department is returning your Claim because it is incomplete, and has determined the following needs to be accomplished in order for a certificate to be issued:

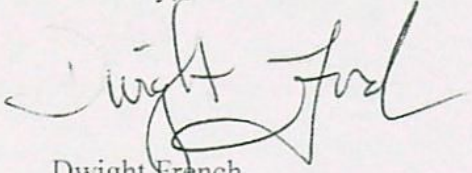
- (1) Annual water usage reports need to be submitted to the Department for Well 1, Well 2, and Well 3. The Department does not have any records of water usage reporting. **You need to submit at least one annual water use report for each well to the Department for the period between May 23, 1995, and October 1, 2008. The Department has denied your request for this condition to be waived, as permit conditions are permanent and cannot be removed;**
- (2) The Department has a pump test for Well 1 and Well 3, but not Well 2. **You will need to either submit a pump test for Well 2, or a request for well pump test exemption for Well 2; and**
- (3) Section 4, System Description on page 5, item B1 through B5, of the Claim does not provide the technical data required in order to determine the maximum rate of use authorized by the permit. **System information and calculations must be provided for each well used under Permit G-12039. Be sure to calculate the theoretical capacity information in Item 5 for each well.**

If you are unable to provide water use reports between May 23, 1995 to October 1, 2008, you will need to submit an Application for an Extension of Time, to come into compliance with permit conditions. Submit either the additional information or the request for the Permit Extension of Time to the Department no later than December, 2017, or the Department shall move forward with cancellation of Permit G-12039.

*Cancel
FTMP
12/4/17
cc*

If you need any additional information, or would like to discuss your options, please feel free to call Corey Courchane at (503) 986-0825.

Sincerely,

A handwritten signature in black ink, appearing to read "Dwight French". The signature is fluid and cursive, with the first name "Dwight" and last name "French" clearly distinguishable.

Dwight French
Administrator Water Right Services

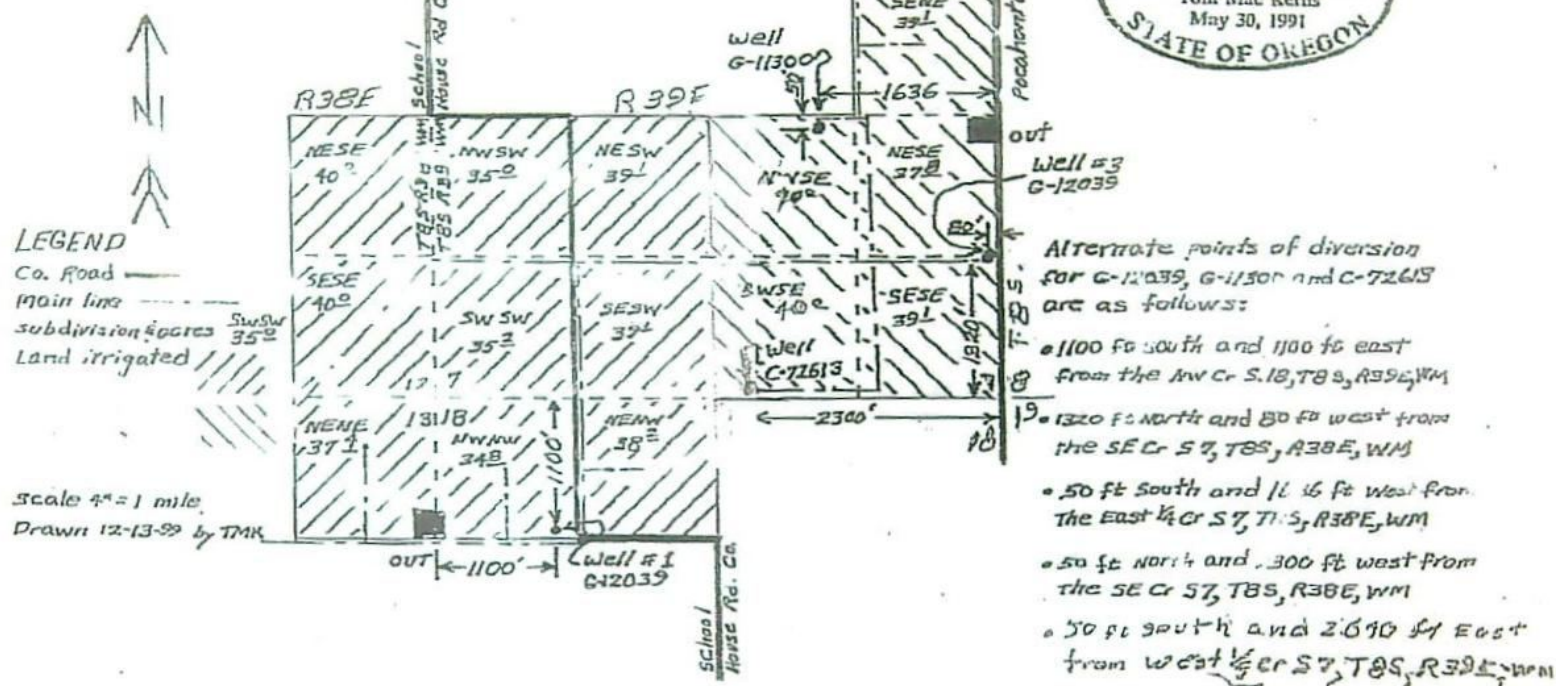
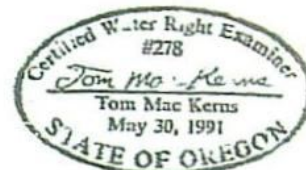
Enclosures (1)

Cc: Application G-13175/Permit G-12039
Application R-81903/Permit R-13606
Application S-83516/Permit S-53908
Rick Lusk, Watermaster District 8

EXHIBIT "C"
FINAL PROOF MAP FOR PERMIT 53908/S83576

I certify the information provided in this final proof is an accurate representation of the permitted water use and is true and correct to the best of my knowledge. This map is to be used for the purpose of identifying the location of water rights and is not intended to provide legal dimensions or location of property owner ship lines.

All land is being irrigated by center pivots with corners covered by hand lines



Revised 7-26-2016 TMR
 9-9-2016 TMR

FACILITIES MAP

current to spring 2016

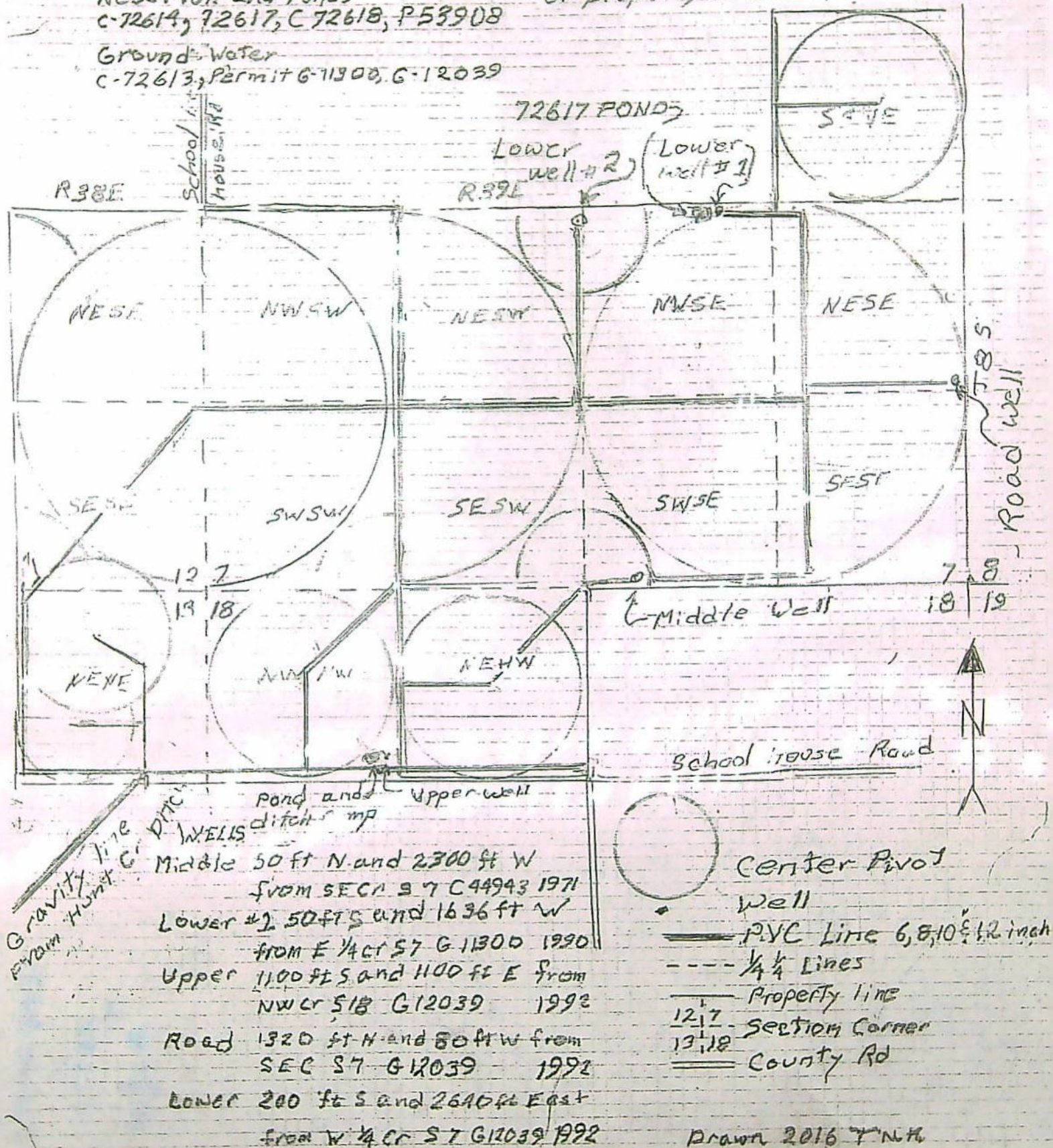
For

Surface water rights
C-4437; C-72612 & T-6186

Reservoir and Ponds
C-72614, 72617, C-72618, P-53908

Ground Water
C-72613, Permit G-71300, G-12039

This map is for the purpose of identifying the water right location only and is not intended to provide legal dimensions or location of property ownership lines



KNOW ALL MEN BY THESE PRESENTS, that the City of Baker, a municipal corporation duly organized and incorporated under the laws of the State of Oregon, in consideration of Ten and no/100 (\$10.00) Dollars, to it paid by A. W. CREGER and ETHEL CREGER, husband and wife, does hereby grant, bargain, sell and convey to the said A. W. CREGER and ETHEL CREGER, as tenants by the entirety and not in community property, their heirs and assigns forever, the following described parcel of real estate, lying and being in the County of Baker, State of Oregon, to-wit:

That certain reservoir known and called the Pine Creek Reservoir, situate on the South fork of Pine Creek, heretofore constructed and used by the Nelson Mining Company, a predecessor of the Beaver Mining Company, and for many years last past used by the Nelson Placer Mining Company, a corporation, together with the reservoir right thereof, and all water rights appurtenant thereto or thereto belonging, or in anywise appertaining, or heretofore appropriated in and by the construction of the said Pine Creek Reservoir by the Nelson Mining Company, a corporation, or any other predecessor in interest of the said Beaver Mining Company, and together with that certain ditch which was constructed and formerly used for the purpose of carrying the waters from said reservoir and from Pine Creek to a point on what is known as Auburn Canal where the same crosses what is known as Goodrich Creek. The said reservoir being situate in Section 32, Township 8 South, Range 38, East of the Willamette Meridian, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the said to the said A. W. CREGER and ETHEL CREGER, their heirs and assigns forever.

IN WITNESS WHEREOF the said City of Baker, pursuant to a motion of its Board of Commissioners, duly and legally adopted, has caused these presents to be signed by its Mayor and attested by its Clerk, and its corporate seal to be hereunto affixed this 9th day of December, 1947.

CITY OF BAKER

ATTEST:

Marcus H. Swan
Its Clerk

BY *M. McKim*
Its Mayor

RECEIVED BY OWRD

DEC 23 2016

SALEM, OR

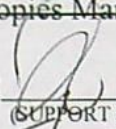
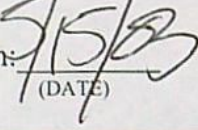
Mailing List for Permit Copies

Application # R-81903

Mailing List Print Date April 30, 2003

Original mailed to(when permit issued, include copy of permit map):

Applicant: Tom Mac and Joyce A. Kerns, 45296 Pocahontas Rd, Oregon 97833

Copies Mailed	
By:	
	(SUPPORT STAFF)
on:	
	(DATE)

For Permit only - Permit Copies sent to (Remember to reduce copy margins):

1. WRD - File # R-81903
2. WRD - Water Availability: Ken Stahr
3. WRD - John Falk
4. WRD - Data Center
5. WRD - Watermaster # District: 8
6. WRD - Regional Manager: ER

CASEWORKER: gaineyjw

Application R-81903 Water Resources Department
Basin 09 Volume 01 PINE CR
Application R-81903 Water Resources Department

PERMIT R-13606
District 8
PERMIT R-13606

STATE OF OREGON)
SS:
County of Baker)

BE IT REMEMBERED that on this 9th day of December, 1947, before me, the undersigned, a Notary Public in and for said County and State, appeared M. McKim, Mayor, and Marcus P. Swan, Clerk of said City of Baker, a municipal corporation, whose names are subscribed to the foregoing instrument, and acknowledge said instrument to be the free act and deed of the said municipal corporation.

And the said Marcus P. Swan, being duly sworn, did say that he is the Clerk of said municipal corporation, that the seal affixed to said instrument is the corporate seal of said municipal corporation, and that said instrument was signed and sealed in behalf of said municipal corporation by authority of its Board of Commissioners.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my seal this 9th day of December, 1947.

Charles K. McCall
Notary Public for Oregon

My Commission Expires: 2/18/49



GRAND DOCUMENT 80777 RECORDED Dec. 12, 1947
1:15 - P.M.

LLOYD REA, County Clerk
Agnes Hughes
deputy

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DEC 23 2016

SALEM, OR

DEC 23 2016

FACILITIES MAP
current to spring 2016

For

SALEM, OR.

SALEM, OH
Surface water rights

C-4497; C-72612 & T-6186

Reservoir and Ponds

C-72614, 72617, C 72618, P53908

Ground Water

C-72613, Permit G-11900, G-12039

This map is for the purpose of identifying the water right location only and is not intended to provide legal dimensions or location of property ownership lines

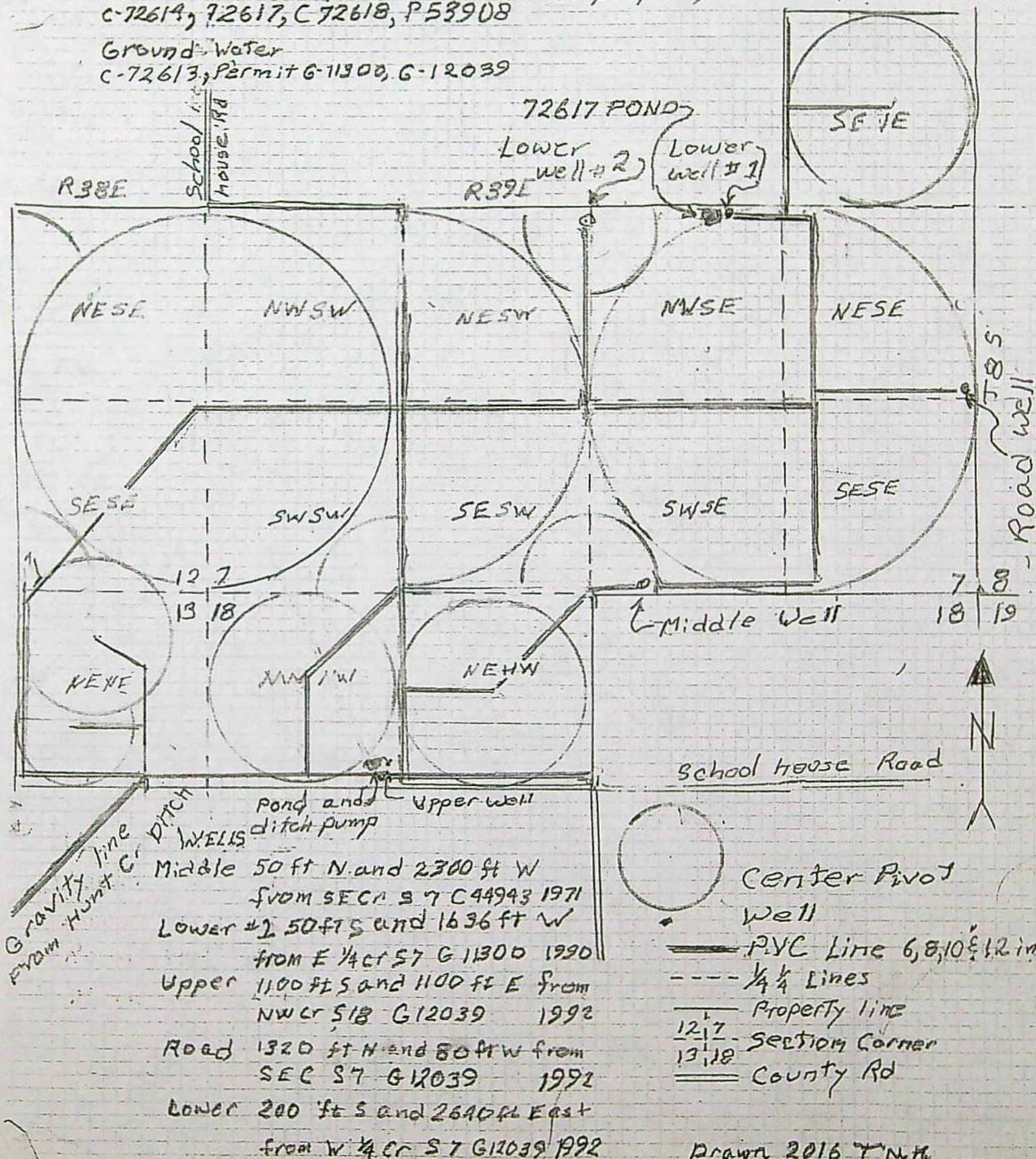
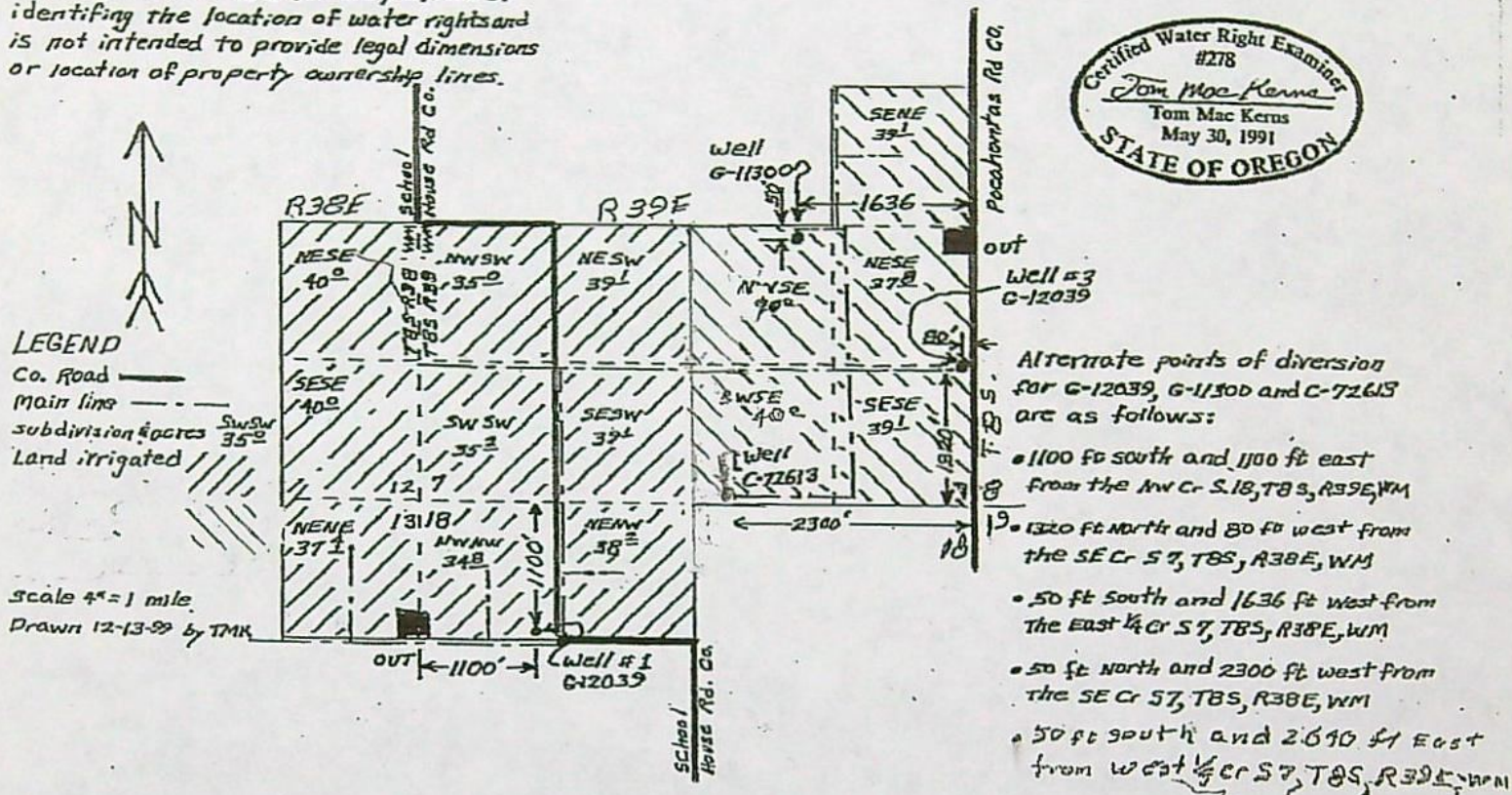


EXHIBIT "C"
FINAL PROOF MAP FOR PERMIT 53908/58356

I certify the information provided in this final proof is an accurate representation of the permitted water use and is true and correct to the best of my knowledge. This map is to be used for the purpose of identifying the location of water rights and is not intended to provide legal dimensions or location of property ownership lines.

All land is being irrigated by center pivots with corners covered by hand lines



- Alternate points of diversion for G-12039, G-11300 and C-72613 are as follows:
- 1100 ft south and 1100 ft east from the NW 1/4 S. 18, T. 8 S., R. 39 E., W. 1
 - 1320 ft north and 80 ft west from the SE 1/4 S. 7, T. 8 S., R. 38 E., W. 1
 - 50 ft south and 1636 ft west from the East 1/4 S. 7, T. 8 S., R. 38 E., W. 1
 - 50 ft north and 2300 ft west from the SE 1/4 S. 7, T. 8 S., R. 38 E., W. 1
 - 50 ft south and 2010 ft east from the West 1/4 S. 7, T. 8 S., R. 39 E., W. 1

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DEC 23 2016

SALEM, OR

Revised 7-26-2016 TMR
 9-9-2016 TMR

January 16, 2003

Pine Cr
Reservoir

Baker County's Worst Tragedy

by Gary Dielman

The funeral cortege, the largest ever seen in Baker City, stretched from the north end of downtown Main Street all the way to Mount Hope Cemetery. The seven caskets, borne on a double-decker carriage in place of a hearse, were draped with wreaths and flowers.

Immediately in front was a carriage of clergy preceded by a large contingent of the Benevolent Order of the Woodsmen of the World carrying floral tributes. And at the head of the whole procession was a carriage containing Mayor C. M. Kellogg and Circuit Court Judge M. L. Olmstead.

Behind the caskets followed carriage after carriage bearing citizens of the town and surrounding area. The flag above City Hall flew at half staff and all businesses were closed from 1:30 p.m. to 3 p.m.

Six days earlier June 15, 1896, farmer Klinefelter, who lived on Goodrich Creek, north of Pocahontas, was awakened at 11 p.m. by a distant rumble. Instinctively sensing the source of the sound, he quickly aroused his family and they fled just as rushing, churning waters inundated their house. It didn't take an investigation for Klinefelter to surmise what had happened. Goodrich Dam at the source of Goodrich Creek below Elkhorn Peak had undoubtedly burst.

Klinefelter ran to the Chambers flour mill and home a mile downstream to check on that family, which to his relief the torrent had spared. Thinking next of the French family, who lived across the creek, they rushed to the edge of the swollen creek and peered across into the darkness. They could see nothing of the house and out-buildings nor any sign of the members of the French family. Owing to darkness, a search for the family that night turned up nothing.

Clark Lee French, age 36, and his wife, Laura, age 32, had come to Baker County via Iowa, Colorado, and Wyoming. They lived on a farm on Goodrich Creek with their five children, 13-year-old Maud, 9-year-old Mary, 7-year-old Carl, 3-year-old Grace, and 1-year-old Jennie. They had no relatives in this part of the country.

During the night, word of the missing French family spread. The next morning people from all around flocked to the French farm to search for the family, of whom there was still no sign. Included among the searchers were 20 members of the Queen City Camp of the Woodmen of the World, a benevolent order to which Clark French belonged. Hundreds showed up just to view the devastation — crops wiped out, large trees uprooted, boulders strewn across fields, and bridges and fences washed away. Of the French farm the only recognizable remainder was the foundation of the chimney.

The first body found was that of infant Jennie, hung up in



driftwood not 50 yards from the house. Next, not far away, was another girl's body; then a short distance further downstream Laura French and two of her daughters lodged against a big stump. A much wider search was necessary to find the last two bodies.

Swept along by the rushing torrent, father and son were finally located almost two miles below their farm. Clark French's body, stripped clean of clothing, hung draped across a fence with the boy's body not 50 yards away. All bodies, except the infant's, were badly bruised with night clothing in tatters. The Chambers' home became a make-shift morgue, where the bodies of the seven victims, wrapped in sheets, were laid side by side. Later that day they were transported in caskets to Baker City by the McKay-Eppinger Furniture and Funeral Company.

The waters of Goodrich Reservoir, originally the site of a small natural lake, had been held back by an earthen dam constructed in the early 1860s to divert water into the Auburn Ditch. During the dry months of summer and fall, the 65 acres of reservoir water fed the sluice boxes and giants of the placer mines at Auburn, eastern Oregon's first gold-fever boomtown. And this year, due to an unusually heavy snowfall, the dam was fuller than usual. A five-hour round trip to the reservoir confirmed everyone's suspicion — the head gate and a

large portion of the dam were missing.

With the failure of Goodrich Dam, farmers living below nearby Pine Creek Reservoir feared that dam might be structurally unsound and a disaster ready to happen. Superintendent of the reservoir, Samuel B. Baisley, before heading out to inspect his reservoir, speculated that Goodrich Dam may have been blown up.

Upon returning from inspecting the Pine Creek Dam, Baisley told farmers he was confident the dam was perfectly safe, but he would have a man watch the dam as a precaution. One of the purported owners of the dam, Zera Snow, owner of the Nelson Mining Company, disavowed any ownership in the dam and any liability for damages if it should break.

With carriages lining every lane of Mount Hope Cemetery, the mourners gathered around the grave site. Following a dignified service conducted by the Woodsmen of the World and the clergy, the seven coffins were lowered into a single common grave.

Today the grave, located in the northeast corner of the cemetery, is marked by a traditional tall white marble Woodsman of the World stone. Symbolically carved in the shape of a tree trunk with cut off branches, it stands as a lasting memorial to the seven members of the French family, victims of Baker County's worst disaster.

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DEC 23 2016

SALEM, OR

January 18, 2016

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JAN 22 2016

Tom Mac Kerns

SALEM, OR

44962 Schoolhouse Rd

Haines, OR 97833

Water Resources Department

Attn: Machele A. Bamberger

725 Summer St. NE. Suite A

Salem, OR 97301

Reference: Machele A. Bamberger's letter of October 21, 2015 and phone call November 19, 2015

Application G-15172; Permit G-15115

This situation (Virtue Flat) has been taken care of by Jerry Sauter's letter of November 12, 2015. (Exhibit A)

Application S-83526/ Permit S-53908 and Application R-82903/ Permit R-13606 (Pine Creek Reservoir)
Pine Creek Reservoir was probably constructed in the late 1860's to provide water for mining and has not had the dam raised or reconstructed since. In 1931 the water right to use the water was converted from mining to irrigation.

In October 1996, Vern Church, Water Master, surveyed the drained pool and determined the reservoir when full contained 115 (Reference my letter as of October 28, 1996 Exhibit B) acre feet, 30 more acre feet than the certificate called for. Mr. Church recommended we get the certificate corrected to show the actual volume.

An Application was submitted to correct the storage certificate. At that time Mr. John Felk, OWRD Dam Engineer got involved and wanted some maintenance performed on the dam and spillway. All work required was performed under my direction and supervision (Engineer License No 5002) and a letter so stating was submitted January 21, 2005. (Exhibit C)

The permit calls the work reconstruction. It was not reconstruction but maintenance to restore the dam crest to a straight line and fix the spillway crest to an elevator both as originally constructed.

Certificate 72618 dated October 28, 1996 (Exhibit D) is a right to use the waters of Pine Creek Reservoir for irrigation of 280.00 acres. This certificate covers all of the water in the reservoir, which included the 30 acre feet. Why is OWRD requiring an additional water right?

The irrigation system of land covered by the certificates in question (Exhibit D) is very complicated. All waters enter the same system which includes several primary rights from Pine Creek, supplemental Pine Creek reservoir water, supplemental waste water, and supplemental ground water from 5 wells. To provide ease in administration we were attempting to cover all the land with supplemental reservoir water. However the work called for in the permit will be very expensive, and we can cover these lands with well water. Since only a small portion of these lands would be covered by water needing a fish screen, I would like you to take a second look to see if Pine Creek Reservoir water can't be used on all the lands without the expense for fish screens etc.

Application G-13175/ Permit G-12039

Each well has an electrical meter, well No 2 has a in line meter, well No 1 and 3 have an electrical meter. I have enough data on well No 1 and 3 to convert electrical usage to water volume.

I would like clarification on why water volume on these 2 wells is necessary and what it will be used for. Bear in mind this system has numerous primary rights, and 2 other wells that don't require water measurement hence it is a measurement that doesn't produce any usable results.

In addition to the above management of Pine Creek is complicated. It is subject to a very old rotation for 70 years. Senior rights (1863 & 1864) are below all other rights. After the creek drops to 600 CFS the senior rights get no water. The only water exists, where the creek exits the mountains, which is where our diversion point is.

All construction work on these wells and irrigation system was completed on time so no need for a time extension.

Application G-12355/ Permit G-11300

I agree pump test is required, unfortunately we are in freeze up condition and pump test must be deferred until spring of 2016.

Transfer T-6785

Transfer was completed and is covered by certificate 72618 (Exhibit D)

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JAN 22 2016

SALEM, OR

General comment:

The property covered by this issue includes several different in stream primary rights dating from the 1870's supplemental stored water rights from Pine Creek Reservoir, five different ground water rights and one waste water right. This being the case requirements for all surface water rights should be the same as the most senior right and requirements for all ground water should also be the same as the most senior right.

Since the action requested (ie fish screen, water measurement and pump tests) on the above referenced issues would apply to less than 5 percent of the total creek flow and produce no usable data, it is requested the director waive the requirements. This will leave only adding well No 2 to the previously submitted COBU.

Since the action requested on the above referenced issues would apply to less than 5 percent of the total creek flow and produce no usable data, it is requested , the director waive the requirements. This will leave only adding well No 2 to the previously submitted COBU.

If you have any questions that can't be resolved by phone I am willing to make a trip to Salem to sit down with you.

Very Truly Yours,

Tom Mac Kerns

Tom Mac Kerns

Cc Exhibits A, B, C, D, and E



RECEIVED BY OWRD

JAN 22 2016

SALEM, OR



November 12, 2015

EXHIBIT A

George and Linda Mansfeld
9775 W. Hubbard Rd.
Kuna, ID 83634

Reference: Application G-15172; Permit G-15115

The assignment by proof from Tom "Mac" Kerns to George and Linda Mansfeld has been recorded in the records of the Water Resources Department.

The Departments records will now show George and Linda Mansfeld as the permit holder of record.

Our records have been changed accordingly and the original request is enclosed. Receipt number 117886 covering the recording fee is also enclosed.

A permit is not a perfected water right, and has conditions and timelines that must be satisfied prior to a Certificate of Water Right being issued. Please review the permit to be familiar with the conditions and timelines contained in the permit.

Please note that this permit requires complete application of water to the proposed use by October 1, 2006, and within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE). As of this date, the claim of beneficial use has not been received by the Department. This places this permit at risk of cancelation proceedings being started.

Sincerely,

Jerry Sauter
Water Rights Program Analyst
Water Right Services Division

RECEIVED BY OWRD

JAN 22 2016

SALEM, OR

Enclosure:

cc: Watermaster #8
Data Center
Hydrographics
File

Tom "Mac" Kerns
Rt 1, Box 10
Haines, OR 97833

EXHIBIT 'B'

Water Rights & Adjudications Divisions
Water Resources Department
Commerce Building
158 12th Street N.E.
Salem Or 97310

RECEIVED BY OWRD

JAN 22 2016

SALEM, OR

October 28, 1996

Reference: Certificate No. 10089-Storage Pine Creek Reservoir

Dear Sir:

Pine Creek reservoir is a reservoir constructed prior to the turn of the current century with minimum survey and design. Plans or area capacity curves don't exist.

During October of 1996, the water master surveyed the impoundment area to determine the capacity. This survey shows the capacity to the high water mark to be 115 acre feet. The certificate shows 85 acre feet. Since 1931, the reservoir has been used for supplemental irrigation and completely drained each year except during extremely wet years. This was probably less than five years during the 65 years it has been used for irrigation.

The 85 acre feet shown on the certificate is undoubtedly an estimate with the control being the amount of water actually stored. We now know it to be 115 acre feet.

I request the certificate be corrected to show the actual storage of 115 acre feet.

Sincerely,

Tom MacKerns

Tom "Mac" Kerns

EXHIBIT C

Tom "Mac" Kerns
45296 Pocahontas Rd.
Haines, Oregon 97833

January 21, 2005

Mr. Phil Ward, Director
Oregon Water Resources Department
North Mall Office Building
725 Summer Street NE Suite A.
Salem, Oregon 97301-1271

Reference: Application Number 8793, and Final Order dated 8-12-98

Dear Mr. Ward:

We accomplished all work required in the above referenced "Final Order". The dam crest has been restored in accordance with plans as documented in attached report.

This project took longer than anticipated since it is at a high elevation and a window between draining of the reservoir and snowfall was needed. This window was not found until the fall of 2003.

The work had a year to season. When the final inspection was made last fall, all restoration was in the same condition as it was when completed.

Sincerely,

TOM "MAC" KERNS
PE CWRE

RECEIVED BY OWRD

JAN 22 2016

SALEM, OR



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

October 21, 2015

Tom "Mac" Kerns
45296 Pocahontas Road
Haines, Oregon 97833

Reference: Application S-83516/ Permit S-53908, Application R-81903/Permit R-13606, Application G-13175/ Permit G-12039, Application G-12355/Permit G-11300, Application G-15172/Permit G-15115, and Transfer 6785.

Mr. Kerns,

I have reviewed all the above mentioned files, and have come up with a plan for each one. Also I have enclosed copies of each permit with highlighted areas, and the application map to help you. I did not research other water rights that you may have an interest in.

Application G-15172/Permit G-15115 was cancelled on October 5, 2015. You have 60 days from the date of the letter to have it reinstated. This permit was issued July 24, 2002 and the completion date was October 1, 2006. The permit was for irrigation of 240.0 acres from a well in Ruckles Creek Basin. Permit conditions that should have been met between July 24, 2002 and October 1, 2006:

- (1) Installation of a meter on each well, and
- (2) water usage reports submitted to the Department. The Department does not have any records of water usage reporting.

Plan: if you would like to keep this permit you must ask for reinstatement and pay a fee, then you will need to apply for an extension of time, to come into compliance with permit conditions.

Application S-83516/ Permit S-53908 was issued on April 10, 2003. This permit is for supplemental irrigation of 156.9 acres using water from proposed reconstruction of Pine Creek Reservoir constructed under application R-81903, Permit R-13606. A compliance letter was sent to you on July 13, and October 12, of this year. The completion date was October 1, 2007. The Department has not received a Claim of Beneficial use. Permit conditions that should have been met between April 10, 2003 and October 1, 2007:

- (1) Installation of a meter;
- (2) Annual water usage reports submitted to the Department. The Department does not have record of any water usage reports; and
- (3) Installation of an approved fish screen and fishway or submit evidence that ODFW has determined screens and or fishway are not necessary. The Department has no record ODFW has approved fish screen and fishway or that one is not necessary.

Plan: it looks like you need to submit an application for an extension of time, to come into compliance with permit conditions.

Application R-81903/ Permit R-13606 was issued on May 16, 2003. This permit is for enlargement of Pine Creek Reservoir, originally constructed under Permit R-660, to store 30.0 AF of water to be appropriated under Application S-83516, Permit S-53908, for supplemental irrigation. The completion

date was October 1, 2007. The Department has not received a Claim of Beneficial use. Permit conditions that should have been met between May 16, 2003 and October 1, 2007:

- (1) Installation of a meter or other measuring device;
- (2) Annual water usage reports submitted to the Department. The Department does not have record of water usage reports;
- (3) Installation of an approved fish screen and fishway or submit evidence that ODFW has determined screens and or fishway are not necessary. The Department has no record ODFW has approved fish screen and fishway or that one is not necessary; and
- (4) The Department has approved written certification from the engineer of record that construction has been completed. (The Department does not have record of letter of completion certifying that all work was supervised by a licensed engineer and performed in accordance with the approved repair design OR one set of quality reproducible asbuilt drawing documenting any changes in the approved design that occurred during construction.

Plan: it looks like you need to submit an application for an extension of time, to come into compliance with permit conditions.

Application G-13175/Permit G-12039 was issued on May 23, 1995. This permit was to use Well 1, 2, and 3 in the Willow Creek Basin for supplemental irrigation of 354.9 acres. The completion date was October 1, 1998. An extension was received and a Final Order was approved with an extended completion date of October 1, 2008 and you had asked to have claim returned for modification, as Well 2 had yet to be developed. Permit conditions that should have been met between May 23, 1995 and October 1, 2008:

- (1) Installation of a meter on each well;
- (2) Annual water usage reports submitted to the Department. The Department does not have any records of water usage reporting; and
- (3) Pump test needed for Well 2. The Department has a pump test for Well 1 and Well 3, but not Well 2.

Plan: it looks like you need to submit an application for an extension of time, to come into compliance with permit conditions.

Application G-12355/Permit G-11300; You need to do pump test before a certificate can be issued. The Department has received a Claim on August 29, 1994 and I will work on getting the Claim reviewed.

Plan: you need to submit a pump test for this well.

Transfer T 6785 was a transfer to change the place of use. The transfer was issued August 9, 1995. The change was to be Completed on or before October 1, 1996. The Department has not received a Claim.

Plan: Submit a Claim.

If you have ANY questions, please feel free to contact me at 503-986-0802.

Sincerely,

Machelle A Bamberger

cc: Application S-83516, Application R-81903, Application G-13175, Application G-12355, Application G-15172, and Transfer 6785.

Watermaster #8

BAMBERGER Machelie A

From: PEDERSEN Dorothy I
Sent: Wednesday, October 21, 2015 4:43 PM
To: BAMBERGER Machelie A
Subject: RE: Water usage reporting questions

Machelie,
I do not find any water use reports for those permits.

Dorothy I. Pedersen
Water Measurement Analyst
Hydrographics Section
Oregon Water Resources Department
725 Summer St. NE
Salem, OR 97301-1266
(503) 986-0824

From: BAMBERGER Machelie A
Sent: Wednesday, October 21, 2015 16:17
To: PEDERSEN Dorothy I
Subject: Water usage reporting questions

I have a few files that I cannot find water usage reporting in the file or on line, can you tell me if the following files have reported water usage:

Permit S-53908
Permit R-13606
Permit G-12039

Thank you,
Machelie

Machelie A Bamberger | Adjudication and Extension Specialist
Water Resources Department | 725 Summer St. NE, Suite A | Salem, Oregon 97301
Ph: 503 986-0802 | Fax: 503 986-0901
Email: Machelie.A.Bamberger@wrdd.state.or.us | Web: <http://www.wrdd.state.or.us>



STATE OF OREGON

COUNTY OF BAKER

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

TOM MAC & JOYCE A KERNS
45296 POCAHONTAS RD
HAINES, OREGON 97833

PHONE: (541) 856-3351

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

APPLICATION FILE NUMBER: R-81903

SOURCE OF WATER: PINE CREEK RESERVOIR, TRIBUTARY OF POWDER RIVER

STORAGE FACILITY: ENLARGEMENT OF PINE CREEK RESERVOIR, ORIGINALLY
CONSTRUCTED UNDER PERMIT R-660

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER
APPLICATION S-83516, PERMIT 53908, FOR SUPPLEMENTAL IRRIGATION

MAXIMUM VOLUME: 30.0 ACRE-FEET PER YEAR

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: OCTOBER 1
THROUGH APRIL 14

DATE OF PRIORITY: NOVEMBER 22, 1996

The area submerged by the reservoir, when full, will be 20.2 acres and
the maximum depth of water will be 9.0 feet. The maximum height of
the dam shall not exceed 18.0 feet.

DAM LOCATION: SW 1/4 NE 1/4, SECTION 32, T8S, R38E, W.M.; 2310 FEET
SOUTH AND 1360 FEET WEST FROM NE CORNER, SECTION 32

THE AREA TO BE SUBMERGED BY THE RESERVOIR IS LOCATED AS FOLLOWS:

SW 1/4 NE 1/4
SE 1/4 NE 1/4
NW 1/4 SE 1/4
SW 1/4 SE 1/4
SECTION 32

TOWNSHIP 8 SOUTH, RANGE 38 EAST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The permittee may submit evidence that the Oregon Department of Fish and Wildlife (ODFW) has determined screens and/or fishways are not necessary. The required screens and fishways are to be in place, functional, and approved by ODFW before diversion of any water.

Routine maintenance of the dam, its spillway and appurtenant structures shall be performed as determined necessary by the Water Resources Dam Safety program, including but not limited to the timely removal of woody vegetation and debris, the repair of areas of erosion or to repair defective equipment.

The constructed works shall conform to the approved plans and specifications on file with the Water Resources Dam Safety program. The engineer of record shall notify the Water Resources Dam Safety program before making any significant change in the approved design prior to or during construction.

All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.

No water shall be stored until the Water Resources Department receives written certification from the engineer of record that construction has been completed in accordance with the approved plans and specifications. If final construction deviates from the approved design a set reproducible as-constructed drawings, including a revised reservoir capacity graph or table, must accompany the engineer's written certification of completion.

Except for routine repair and maintenance, design plans and specifications must be prepared by an Oregon licensed professional engineer and approved by the Water Resources Dam Safety program prior to any enlargement, modification, or alternation of the dam or any appurtenant structures.

STANDARD CONDITIONS

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

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

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

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

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

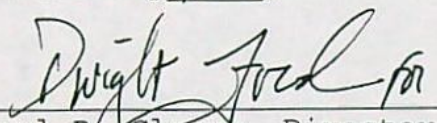
The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

The reservoir shall be filled and complete application of the water to the use shall be made on or before October 1, 2007. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

This Permit R-13606 is issued to correctly identify the dam location and supercedes Permit R-13566, which is no longer valid.

Issued May 16, 2003


 Paul R. Cleary, Director
 Water Resources Department

REAL ESTATE TRANSACTIONS: Pursuant to ORS 537.330, in any transaction for the conveyance of real estate that includes any portion of the lands described in this permit, the seller of the real estate shall, upon accepting an offer to purchase that real estate, also inform the purchaser in writing whether any permit, transfer approval order, or certificate evidencing the water right is available and that the seller will deliver any permit, transfer approval order or certificate to the purchaser at closing, if the permit, transfer approval order or certificate is available.

CULTURAL RESOURCES PROTECTION LAWS: Permittees involved in ground-disturbing activities should be aware of federal and state cultural resources protection laws. ORS 358.920 prohibits the excavation, injury, destruction or alteration of an archeological site or object, or removal of archeological objects from public and private lands without an archeological permit issued by the State Historic Preservation Office. 16 USC 470, Section 106, National Historic Preservation Act of 1966 requires a federal agency, prior to any undertaking to take into account the effect of the undertaking that is included on or eligible for inclusion in the National Register. For further information, contact the State Historic Preservation Office at 503-378-4168, extension 232.

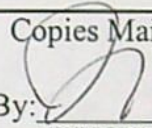
Mailing List for Permit Copies

Application # R-81903

Mailing List Print Date March 24, 2003

Original mailed to (when permit issued, include copy of permit map):

Applicant: Tom Mac and Joyce A. Kerns, 45296 Pocahontas Rd, Oregon 97833

Copies Mailed
By: 
(SUPPORT STAFF)
on: 3/10/03
(DATE)

For Permit only - Permit Copies sent to (Remember to reduce copy margins):

1. WRD - File # R-81903
2. WRD - Water Availability: Ken Stahr
3. WRD - John Falk
4. WRD - Data Center
5. WRD - Watermaster # District: 8
6. WRD - Regional Manager: ER
7. ODFW District Biologist: Jeff Zakel

CASEWORKER: gaineyjw



Oregon

Theodore R. Kulongoski, Governor

October 6, 2003

Water Resources Department

Commerce Building
158 12th Street NE
Salem, OR 97301-4172
503-378-3739
FAX 503-378-8130

Tom Mac Kerns, P.E.
75917 Quail Road
Haines, OR 97833

Re: Pine Creek Dam
Dam File P-3

Dear Mr. Kerns:

On August 28, 2003, I had opportunity to visit the referenced dam in the company of the District Watermaster who alerted me about the discovery of a sinkhole on the upstream slope during a earlier routine inspection a few weeks prior. Upon our arrival, we discovered the sinkhole (located near the normal full-pool water line, left of outlet works) had expanded significantly to resemble a large circular depression approximately five (5) feet diameter and extending more than six (6) feet deep as shown on the accompanying photograph. Portions of the surrounding slope had fallen into the hole, obscuring its maximum depth. Although the pool was nearly empty, further examination of the downstream toe of the dam revealed an area devoid of vegetation nearly perpendicular to the dam axis that suggested it to be the exit location of water and soils washed out of the sinkhole through the dam.

As you are aware, the dam was constructed on top of a glacial moraine in order to enlarge a small existing natural lake. It was constructed without benefit of an engineered design and unfortunately, there is no record of the type(s) of borrow materials used or the method of their placement. However, we suspect the dam contains locally obtained soils, gravel and cobbles that were placed without density and moisture control. We also doubt that an impermeable core or an internal filter drain was included. Based on our observations and its past history of perennial seepage, we have identified "piping" as being the mechanism responsible for creating the sinkhole. Because of its relatively large size and the sudden growth of this feature, we believe there now exists direct communication between the upstream slope of the dam and its downstream toe. It is likely the embankment will suffer a complete breach upon refilling unless proper repairs are made to the structure or unless the outlet conduit remains in a fully open position and the reservoir drained.

Generally, our program's sense of urgency for enforcing needed repairs and maintenance is based upon the perceived threat to downstream life and property should the dam fail with an uncontrolled release of water. Because of its remote location and relatively small size, we do not consider this project high priority and instead offer these recommendations as a prudent means to help you protect your investment, preserve your water right and reduce your liability. If you intend to refill the reservoir, please prepare a design for repair of the dam. Because this hydraulic structure exceeds the statutory limits for height and storage, proper repair will need to be verified by a licensed, professional engineer. As the engineer of record, it is expected that you will

R-81903

submit the design for review and approval prior to beginning construction, and once approved supervise its proper repair.

At the close of construction, please submit the following:

- **Letter of completion** certifying that all work was supervised by a licenced engineer and performed in accordance with the approved repair design
- **One set of quality reproducible asbuilt drawings** documenting any changes in the approved design that occurred during construction

Please be aware that obtaining a Certificate of Water Right is the final step in the permitting process. If you choose to ignore the conditions accompanying Reservoir Permit R-13606, you may risk not qualifying for a Certificate being issued this project.

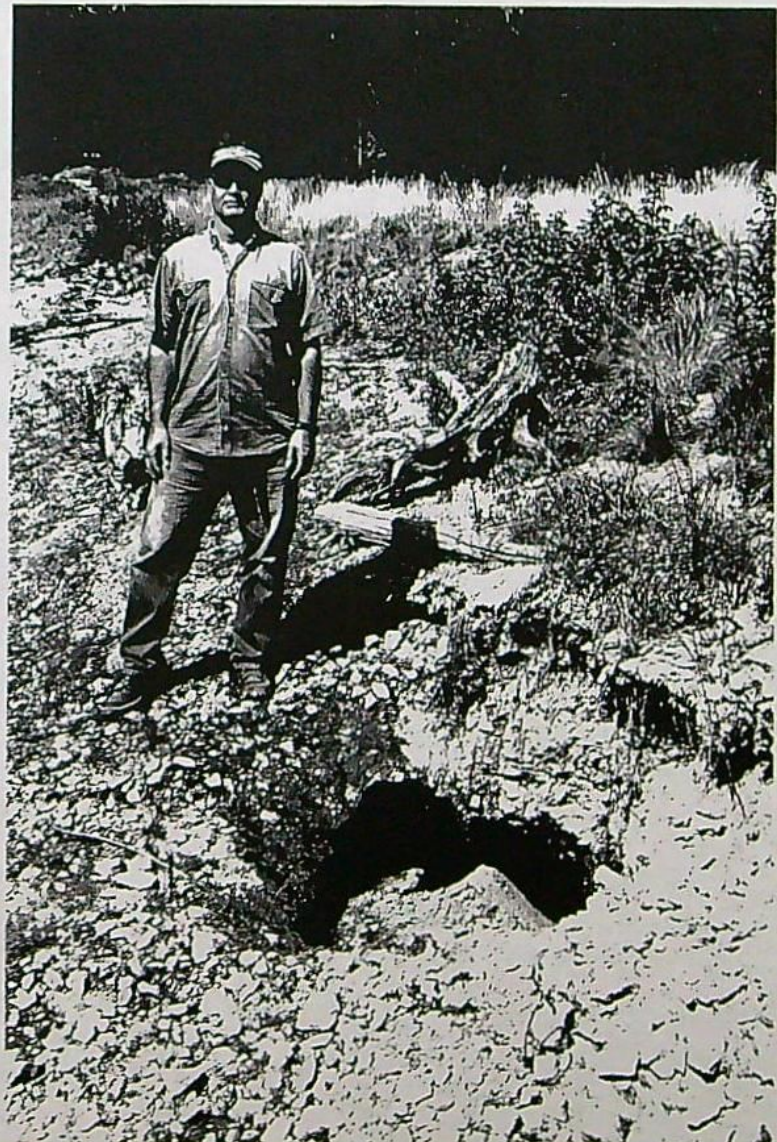
Thank you for your cooperation, and please do not hesitate to call if you have any questions.

Sincerely,

John Falk, P.E.
Safety of Dams

c: Rick Lusk - District 8
WRD Water Rights Section

Pine Creek Dam Sinkhole
8/28/2003 File P-3





Oregon

Theodore R. Kulongoski, Governor

March 24, 2003

Water Resources Department

Commerce Building
158 12th Street NE
Salem, OR 97301-4172
503-378-3739
FAX 503-378-8130

Tom M. Kerns, P.E.
Route 1, Box 10
45296 Pocahontas Road
Haines, OR 97833

Water Rights

Re: Pine Creek Dam (P-3)
Reservoir Application R-81903

Dear Mr. Kerns:

We are pleased to inform you that the design for modifying the existing dam and emergency spillway has been approved. The project is located in **Section 32, T8S, R38E, Baker County** on the headwaters of Pine Creek, a tributary to the Powder River. Enclosed is an approved copy of the design for your information and records. Please be advised that design approval for constructing the proposed modifications does not imply a water right or permission to store public waters of the State of Oregon.

At present, the emergency spillway has no permanent control. The crest elevations of the dam and emergency spillway are approximately 6583 feet and 6577.2 feet, respectively. According to your design drawings, we understand the existing rock and earth embankment will be raised to a uniform crest elevation corresponding to 6583.5 feet at centerline axis using locally obtained earth fill. In addition, a permanent control consisting of a 6.5' wide notched steel plate (weir) will be placed in the emergency spillway. The 0.25" thick steel weir will be anchored in rock with its crest at 6578.0 feet elevation, resulting in no less than 5.5 feet between top of dam and spillway crest to accommodate passage of the 100-year storm plus 2-feet of freeboard.

Based on a cursory survey performed by the District #8 Watermaster in 1996, the storage capacity of the reservoir at the spillway crest (6577.2') was estimated to be approximately 94 acre-feet. The area-capacity diagram included with your design drawings indicate the proposed improvements to the spillway will increase reservoir capacity by another 11 acre-feet, resulting in 115 acre-feet total at elevation 6578.0 feet. Certificate 10089 is valid for 85 acre-feet storage.

Enclosed is a list of conditions that will be included in the Reservoir Permit to help assure that the project is properly constructed and the finished structure is adequately maintained and operated for benefit of public safety. These conditions are requirements that must be fulfilled during construction and throughout the life of the structure, as appropriate. Other conditions unrelated to dam safety may be added during the permitting process. The failure of the permittee to abide by the terms and conditions of the permit could result in the permit being canceled or the reservoir being drained, or both.

Because this structure exceeds Oregon's statutory size limits for exempt dams and reservoirs, proper construction will need to be verified by an Oregon licensed professional engineer. Because you are the design engineer, it is assumed that you will be responsible for the necessary supervision, inspection, and testing. If this assumption is incorrect, please advise me in writing as to whom this responsibility has been assigned. If changes become necessary during construction, engineers from this office are available for consultation and are authorized to grant field approval provided the changes are consistent with existing permit conditions and adhere to standard engineering and construction practices.

At the close of construction, please submit the following:

- ▶ **Letter of completion** certifying that all work was supervised by a licensed engineer and performed in accordance with the approved plans and specifications.
- ▶ **One set of quality reproducible asbuilt drawings** documenting any changes in the approved design that occurred during construction.
- ▶ **Revised area-capacity graph or table** for each reservoir accurately reflecting asbuilt reservoir storage capacity *and* surface area versus pool elevation.

Please be advised that without proper certification the projects will not receive a Certificate Of Water Right, which is the final step in obtaining a valid water right.

Thank you for your cooperation, and please do not hesitate to call if you have any questions.

Sincerely,



John Falk, P.E.
Safety of Dams

c: Rick Lusk - Asst. Region Manager
WRD Water Rights Section
file

enclosure

This is a Final Order in other than a contested case. Pursuant to ORS 536.075 and OAR 137-004-080 and OAR 690-01-005 you may either petition the Director for reconsideration of this Order or petition for judicial review of this Order. As provided in ORS 536.075, this Order is subject to judicial review under ORS 183.484. Any petition for judicial review of the Order must be filed within the 60 day time period specified by ORS 183.484(2).

MEMORANDUM

DATE: March 24, 2003
TO: Water Rights Section
FROM: John Falk, Dam Safety (x222)
SUBJECT: Conditions of Permit for an Earthen Dam

Please include the following items as conditions of permit for construction to modify the existing **PINE CREEK DAM**, Reservoir Application R-81903:

- Routine maintenance of the dam, its spillway and all appurtenant structures shall be performed as determined necessary by the Water Resources Dam Safety program, including but not limited to the timely removal of woody vegetation and debris, the repair of areas of erosion or to repair defective equipment.
- The constructed works shall conform to the approved plans and specifications on file with the Water Resources Dam Safety program. The engineer of record shall notify the Water Resources Dam Safety program before making any significant change in the approved design prior to or during construction.
- All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.
- No water shall be stored until the Water Resources Department receives written certification from the engineer of record that construction has been completed in accordance with the approved plans and specifications. If final construction deviates from the approved design a set reproducible as-constructed drawings, including a revised reservoir capacity graph or table, must accompany the engineer's written certification of completion.
- Except for routine repair and maintenance, design plans and specifications must be prepared by an Oregon licensed professional engineer and approved by the Water Resources Dam Safety program prior to any enlargement, modification, or alteration of the dam or any appurtenant structures.

MEMORANDUM

DATE: March 24, 2003
TO: Water Rights Section
FROM: John Falk, Dam Safety (x222)
SUBJECT: Conditions of Permit for an Earthen Dam

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- All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.
- No water shall be stored until the Water Resources Department receives written certification from the engineer of record that construction has been completed in accordance with the approved plans and specifications. If final construction deviates from the approved design a set reproducible as-constructed drawings, including a revised reservoir capacity graph or table, must accompany the engineer's written certification of completion.
- Except for routine repair and maintenance, design plans and specifications must be prepared by an Oregon licensed professional engineer and approved by the Water Resources Dam Safety program prior to any enlargement, modification, or alteration of the dam or any appurtenant structures.

X-Sender: falkja@mailhub.wrd.state.or.us
X-Mailer: QUALCOMM Windows Eudora Version 5.1
Date: Mon, 24 Mar 2003 17:32:49 -0800
To: Cory.C.ENGEL@wrd.state.or.us, Anita.M.HUFFMAN@wrd.state.or.us,
Jerry.W.GAINEY@wrd.state.or.us, Kerry.A.LEFEVER@wrd.state.or.us,
Russell.W.KLASSEN@wrd.state.or.us
From: John Falk <john.a.falk@wrd.state.or.us>
Subject: Application R-81903
X-Security: MIME headers sanitized on funnel
See <http://www.impsec.org/email-tools/sanitizer-intro.html>
for details. \$Revision: 1.133 \$Date: 2002-01-05 17:09:21-08

P&S have been approved for Pine Creek Dam (P-3). This is an enlargement of an existing dam. Hard copy letter is being routed to application file. attachment is list of conditions to be added to permit, please, thankyou. --jf--



R-81903

July 13, 2001

Tom M. Kerns
45296 Pocahontas Rd.
Haines, Oregon 97833

Water Resource Department
Commerce Building
158 12th Street NE
Salem Oregon 97301-4172

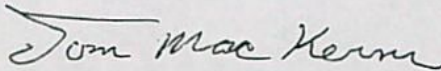
Mr. John Falk
Oregon Water Resources Department
Commerce Building
158 12th Street NE
Salem Oregon 978301-4175
Dear Mr. Falk

RE: Pine Creek Dam. File P-3 Application R-81903, your letter of January 8, 2001, and my letter to Mr. Steve Brown of May 2, 2001.

Enclosed are revised drawings for work on the dam crest of Pine Creek Reservoir.

I have not revised or added information to the area capacity curve as you requested. The proposed work does not change the inundated area, and the existing curve is based on work that Mr. Vern Church did.

Sincerely,


TOM "MAC" KERNS

Cc: Steve Brown

RECEIVED

JUL 16 2001

WATER RESOURCES DEPT.
SALEM, OREGON

MEMORANDUM

To: Files R-81903 and 83516
Tom Mac and Joyce A. Kerns

Date: May 24, 2001



From: Steve Brown

I discussed the status of the applications with Mrs. Kerns on this date. I informed her we did not receive any response to our request for additional information as requested by our letters. Since our letter of January 5, 2001, was not a final order in other than a contested case and our final order of August 12, 1998, allowed time for the submittal of information or it would result in the proposed rejection, not final rejection of Application R-81903 and final order of August 12, 1998, proposed to approve Application 83516, if Application R-81903 were approved, I advised Mrs. Kerns to provide us with a letter addressing the deficiencies with the Application R-81903 and/or describe why the items requested were not necessary within 30 days or I would prepare a final order rejecting the applications.

If no response is received from the Kerns on or before June 29, 2001, a final order may be prepared and routed to Dwight for consideration to reject the applications.

Tom "Mac" Kerns
45296 POCAHONTAS RD
HAINES, OR 97833

May 2, 2001

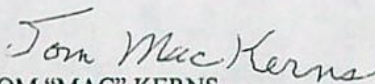
Mr. Steve Brown
Oregon Water Resources Department
158 12th Street N.E.
Salem, OR 97301-4172
Dear Mr. Brown:

Reference our Application file: R-81903 and S 8351, our telephone conversation of May 30, 2001, and Ms Laura Snedaker's letter of January 5, 2001.

I apologize for the late response and appreciate your keeping the application open. I do want to complete the project and request additional time to complete it.

If it meets with your approval, I would like to have completed plans in your office by July 15, 2001, and do the work after the reservoir is drained in late August or September.

Very truly your,


TOM "MAC" KERNS

RECEIVED

JUN 06 2001

WATER RESOURCES DEPT.
SALEM, OREGON



Oregon

John A. Kitzhaber, M.D., Governor

MEMORANDUM

Water Resources Department

Commerce Building
158 12th Street NE
Salem, OR 97301-4172
(503) 378-3739
FAX (503) 378-8130

DATE: January 8, 2001

TO: Tom Mac Kerns
45296 Pocahontas Road
Haines, OR 97833

FROM: John Falk, Safety of Dams (x222)
john.a.falk@wrdd.state.or.us

SUBJECT: Pine Creek Reservoir
Application R-81903
Dam File P-3

Thank you for sending the revised drawings for the referenced project. Unfortunately, I am unable to approve these drawings in their present condition. My intent is to not cause you undue delay or heartburn. However, I cannot approve your design unless you submit plans/specifications/instructions in sufficient detail as to enable a contractor to build and be reasonably certain that those items would be constructed in a manner consistent with accepted engineering standards and practices. For me to do otherwise could result in disciplinary action being taken against me or against my ability to use my professional license.

Because you are applying for increased storage, the work that you intend to perform on the dam is considered to be a modification and/or reconstruction of existing works.....simple maintenance cannot result in an increased water right.

I made a copy of the drawings and specifications (enclosed) on which I have marked with red pencil some suggested additions and other changes. Please be specific with instructions on how construction will proceed and be sure to provide sufficient detail that would allow you or me the ability to confirm that the work has been performed adequately. Please make the changes, and resubmit for approval.

c: Water Rights Section
Watermaster Dist. #8

enclosure



Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

Commerce Building
158 12th Street NE
Salem, OR 97301-4172
(503) 378-3739
FAX (503) 378-8130

CERTIFIED MAIL Return Receipt Requested

January 5, 2001

Tom Mac and Joyce A. Kerns
Route 1 Box 10
Haines, OR 97833

RE: Application File R-81903 & S-83516

Dear Mr. and Mrs. Kerns:

On **August 12, 1998**, Final Orders were issued by the Department requesting an additional item necessary to complete your applications for water use. On October 13, 2000, a certified letter was sent from the Department again requesting this necessary information, being plans and specifications for the reservoir. This letter identified that this information was to be submitted by December 11, 2000. The plans and specifications were received by the Department on December 8, 2000. However, based upon review of the plans and specifications by John Falk, Dam Safety, it was determined that the plans did not meet Department requirements. The plans and specifications were returned to you with a letter from John Falk, dated December 13, 2000. The following item must be received:

- ▶ Dam plans and specifications must be submitted for application R-81903. The plans and specifications should include all information/modifications identified by John Falk in his letter to you, dated December 13, 2000. I have enclosed a copy of Mr. Falk's letter. The Final Order for S-83516 was issued approving this application contingent upon the final approval of application R-81903.

Please submit this items by **March 6, 2001**. If we do not receive the item requested above by this date, your applications **will** be rejected. If your applications are rejected, any fees submitted in excess of the examination fee will be refunded; however, the examination fee is non-refundable and will not be returned. In addition, the priority date associated with your application will be lost.

If you need to request additional time to submit the dam plans and specifications, a written request must be received in the Salem office of the Department by the deadline above. The Department will evaluate timely requests and determine whether or not the request may be granted.





Oregon

John A. Kitzhaber, M.D., Governor

December 13, 2000

Water Resources Department

Commerce Building
158 12th Street NE
Salem, OR 97301-4172
(503) 378-3739
FAX (503) 378-8130

Tom "Mac" Kerns, PE, CWRE
45296 Pocahontas Road
Haines, OR 97833

Re: Pine Creek Dam, File P-3
Application R-81903

Dear Mr. Kerns:

Thank you for your letter dated 11/3/00 and the accompanying drawings submitted for our review for the existing referenced project located in **Section 32, T8S, R38E, Baker County**. I made a copy of the drawings, and have returned the originals to you, enclosed. In their present condition, they are unsatisfactory and cannot be approved.

Attached is a checklist of items that should be included by the engineer of record when preparing the design of a dam. Obviously, some of the items on this list do not apply to this particular structure. However, at a minimum it is expected that the design be "construction-ready". This simply means that the design, if given to a contractor, could be constructed in a manner consistent with accepted engineering standards and practices. Your job as the engineer of record is three-fold: 1) prepare an approved design using Dam Safety criteria, as appropriate, 2) provide construction supervision to assure that construction proceeds according to the approved design, 3) perform final inspection and prepare a letter of completion with accompanying asbuilts.

Please make the following changes before resubmitting:

- Specifications must accompany the drawings
- Include details and other specifics to illustrate what you intend with your statement "construct permanent crest in spillway"
- Provide directions for type(s) of materials, their placement and compaction, for reconstructing the top of the embankment
- Show calibration on area/capacity diagram, indicating normal reservoir level and control elevation
- Provide details for construction of a trash rack covering the entrance to the outlet conduit
- Affix your PE seal and sign your name, including expiration date.

MEMO

DATE: December 11, 2000

TO: John Falk, Dam Safety

FROM: Laura Snedaker, Water Rights

SUBJECT: Plans and Specifications for Application File R-81903 (Tom Mac Kerns)

Plans and Specifications have been submitted for the above application. Please review and route file back to me for further processing when your review is complete.

Thanks.

— No Good —
See letter dated 12/13/00
JF

Tom "Mac" & Joyce A. Kerns
45296 Pocahontas Rd
Haines, Or 97833

11-3-00

Laura K. Snedaker
Water Resource Dept
Commerce Building
158 12th Street NE
Salem, Or 97301-4172

RE Application File R-81903 & S-83516 and your letter of 10-13-00 and Mr. Faulk's
letter of 9-11-97

Dear Ms Snedaker:

Enclosed are plans and specifications for proposed reconstruction of Pine Creek Reservoir, along with an area-capacity diagram.

This dam was originally constructed prior to 1897 and has been in continuous use. I think it was originally a rock rubble fill without a core and leaked from the time it was first filled. Sometime in about the 1930s a blanket of fine material was placed on the upstream face in an effort to stop the leaks. This effort was not entirely successful.

I made an engineering inspection of the structure in October of 1960 for the U.S. Forest Service. Other than removal of trash from the reservoir and spillway it is in the same condition now as it was then with no change in the leaks. The proposed work is to even out the top of the embankment and install a permanent concrete or steel crest in the spillway.

Mr. Faulk requested a trash rack at the entrance to the outlet conduit. One was installed in 1995. It functioned well until the 1998-1999 winter when ice moved it. In the fall of 1999, we reinstalled it and the ice again moved it during the 1999-2000 winter. This summer we removed it. The trash rack can be reinstalled so ice won't move it, but construction of a valve works that is accessible to everyone at all times is almost an impossibility. Anything that sticks up above the water line or is on the adjacent shore line will be torn out by ice.

Presently the valve is in the reservoir at the upstream end of the outlet pipe, and is easily accessible by a person with a float tube, which is the way we have been operating it. We would like to reinstall the trash rack flush with the bottom of the reservoir and continue to operate the valve with a float tube.

Sincerely,

Tom Mac Kerns
TOM "MAC" KERNS, PE CWRE

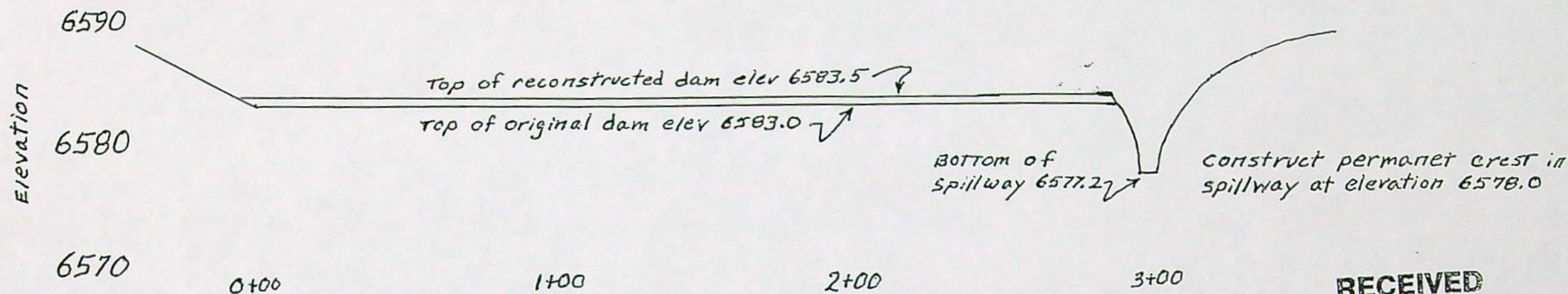
RECEIVED

DEC 08 2000

WATER RESOURCES DEPT.
SALEM, OREGON

PLAN AND SPECIFICATIONS FOR RECONSTRUCTION OF CREST OF PINE CREEK RESERVOIR

1/2



SECTION ALONG AXIS OF DAM
Scale 1 in = 10 ft vertical 2 1/2 in = 100 ft horizontal

Work consists of excavating material from bottom of reservoir and reconstructing top of dam to elev 6583.5. Top of reconstructed dam shall be compacted and level both directions.

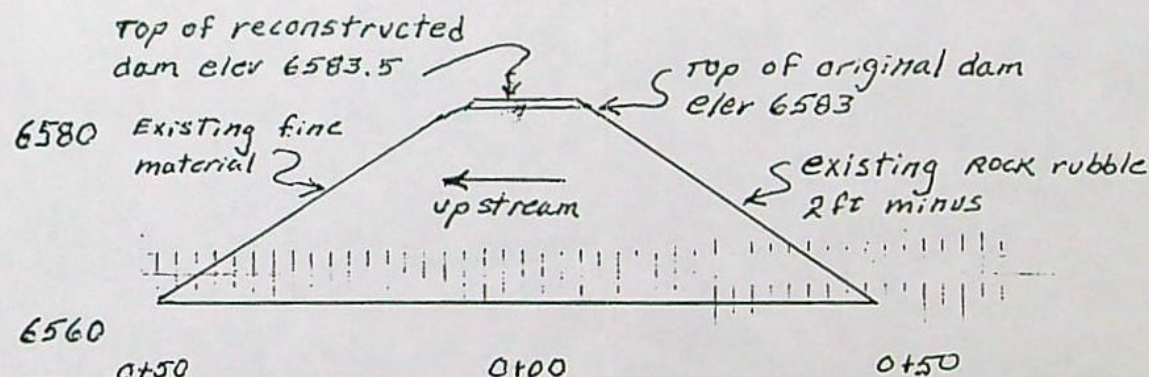
do not disturb down stream face of dam. 0-5 feet of material may be placed on upstream face of dam at operators discretion.

Fill stake shall be set prior to starting work.

RECEIVED

DEC 08 2000

WATER RESOURCES DEPT.
SALEM, OREGON

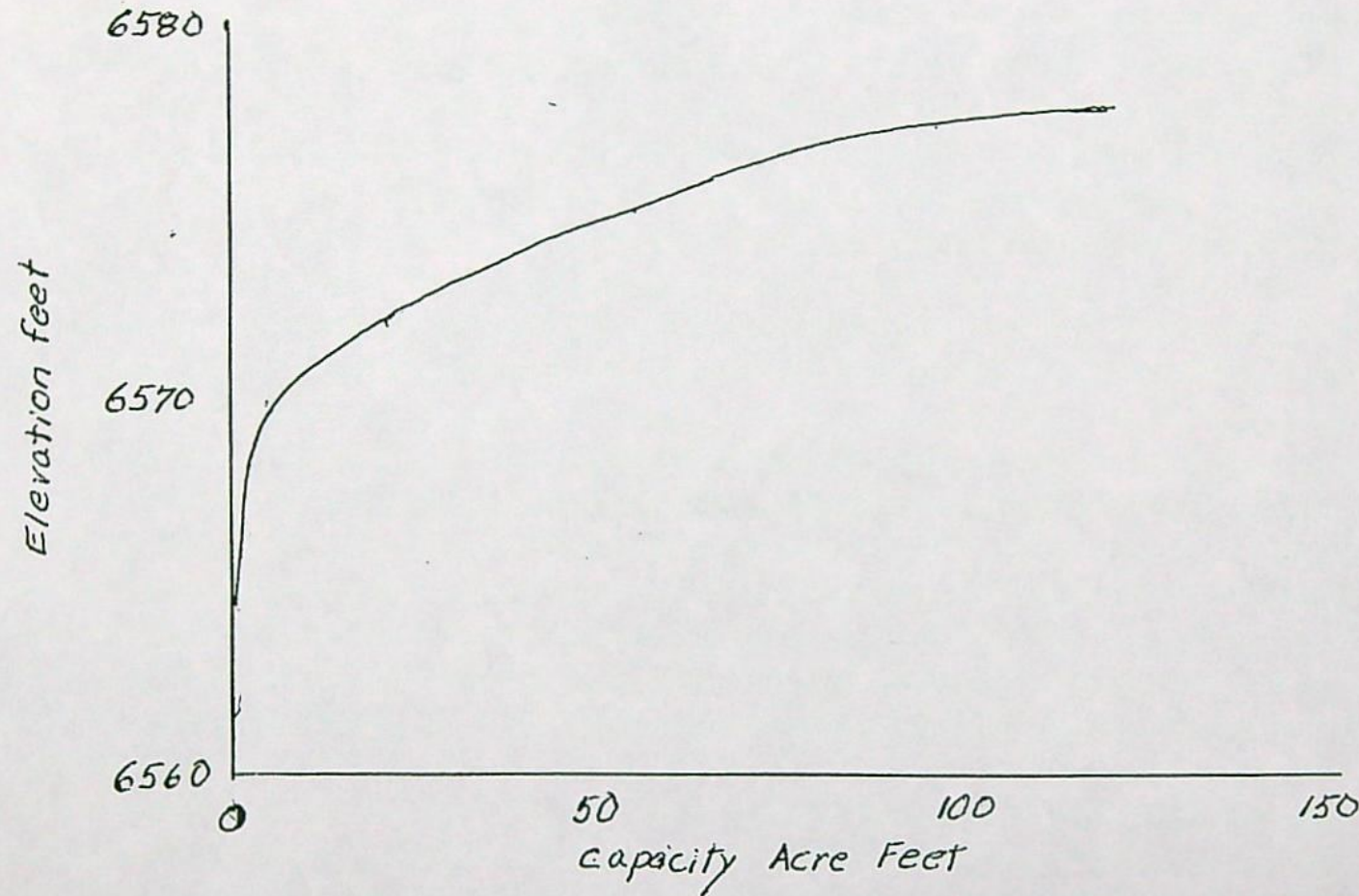


CROSS SECTION NEAR CENTER OF DAM
Scale 1 in = 20 ft vertical 1 in = 25 ft horizontal



Drawn by TMK 12-3-00

AREA CAPACTY DIAGRAM FOR PINE CREEK RESERVOIR



2/2
RECEIVED

DEC 08 2000

WATER RESOURCES DEPT.
SALEM, OREGON



Drawn by TMK 12-3-00

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr Tom Mac Kerns

Mrs Joyce Kerns

Rt 1 Box 10 45296 Poca hontas Rd

Haines OR 97833

81903 & 83516 WR

2. Article Number (Copy from service label)

3689 9745

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

10/16/00

C. Signature

X

Joyce A Kerns

☐ Agent☐ Addressee

D. Is delivery address different from item 1?

☒ Yes

If YES, enter delivery address below:

☐ No45296 Poca hontas Rd
Haines OR 97833

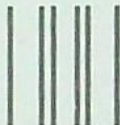
3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

WATER RESOURCES DEPARTMENT
158 12TH STREET NE
SALEM, OR 97301-4172



Oregon

John A. Kitzhaber, M.D., Governor

CERTIFIED MAIL
Return Receipt Requested

Water Resources Department

Commerce Building
158 12th Street NE
Salem, OR 97301-4172
(503) 378-3739
FAX (503) 378-8130

October 13, 2000

Tom Mac and Joyce A. Kerns
Route 1 Box 10
Haines, OR 97833

RE: Application File R-81903 & S-83516

Dear Mr. and Mrs. Kerns:

On **August 12, 1998**, Final Orders were issued by the Department requesting an additional item necessary to complete your applications for water use. The following item must be received:

- ▶ Dam plans and specifications must be submitted and approved by the Department before a permit may be issued under application R-81903. The Final Order for S-83516 was issued approving this application contingent upon the final approval of application R-81903.

Please submit this items by **December 11, 2000**. If we do not receive the item requested above by this date, your applications **will** be rejected. If your applications are rejected, any fees submitted in excess of the examination fee will be refunded; however, the examination fee is non-refundable and will not be returned. In addition, the priority date associated with your application will be lost.

If you need to request additional time to submit the dam plans and specifications, a written request must be received in the Salem office of the Department by the deadline above. The Department will evaluate timely requests and determine whether or not the request may be granted.

Should you have any questions regarding your application or the required materials listed above please call me at (503) 378-8455, extension 331, or toll free within Oregon at 1-800-624-3199.

Sincerely,

Laura K. Snedaker
Senior Water Rights Specialist

cc: Rick Lusk, Watermaster District #8
Jerry Rodgers, Eastern Region Manager





Oregon

John A. Kitzhaber, M.D., Governor

CERTIFIED MAIL
Return Receipt Requested

Water Resources Department

Commerce Building
158 12th Street NE
Salem, OR 97301-4172
(503) 378-3739
FAX (503) 378-8130

October 13, 2000

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Route 1 Box 10
Haines, OR 97833

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Sincerely,

Laura K. Snedaker
Senior Water Rights Specialist

cc: Rick Lusk, Watermaster District #8
Jerry Rodgers, Eastern Region Manager



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr Tom Mac Kerns
Mrs Joyce Kerns
Rt 1 Box 10 45296 Peacahontas Rd
Haines OR 97833

81903 & 83516 WR

2. Article Number (Copy from service label)

3689 9745

PS Form 3811, July 1999

Domestic Return Receipt

102595-99-M-1789

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

10/16/00

C. Signature

X

Joyce A Kerns

☐ Agent☐ AddresseeD. Is delivery address different from item 1? ☒ YesIf YES, enter delivery address below: ☐ No45296 Peacahontas Rd
Haines OR 97833

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number R-81903

Final Order

Application History

On November 22, 1996, TOM MAC AND JOYCE A. KERNS submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on September 9, 1997. The protest period closed October 24, 1997, and no protest was filed.

The proposed use would not impair or be detrimental to the public interest, but the Department's continuing evaluation reveals that the Proposed Final Order requires modification to correctly describe the date by which construction must begin and the date by which complete application of the water must be made. Construction must begin within one year of the issuance of this Final Order approving the application. Also, the Proposed Final Order requires modification to correctly describe the dam location the location of the reservoir.

Before a permit may be issued the Department's Dam Safety Section requires, as identified in a letter from John Falk dated September 11, 1997, the following:

Submission of dam plans and specifications for the proposed construction of a permanent control mechanism for the emergency spillway designed and prepared by an Oregon licensed professional engineer and approved by Oregon Water Resources Department Dam Safety.

Installation of a trash rack at the entrance to the outlet conduit. In addition, the valve works must be accessible and/or operable at all times the reservoir is ice-free. It is important that you are able to access and operate the valve in the event an emergency release of water becomes necessary.

Restore the crest of the dam to a uniform elevation by the placement and compaction of well graded soil and rock fill, as necessary. Assuming a base width of 6.5 feet in the bottom of the emergency spillway, the minimum crest elevation of the resproed embankment should be at least 5.5 feet above the bottom of the spillway. This height takes into account the depth of flow in the spillway during the 100- year storm (3.5'), plus two feet (2') of freeboard.

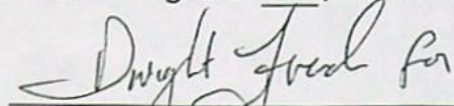
Order

Upon approval of plans and specifications for dam construction and completion of the other actions identified above and required by Dam Safety, Application R-81903 in the name of be approved for Storage as provided in the attached draft permit.

IT IS FURTHER ORDERED that the required plans and specifications are due no later than 180 days from the date of this Final Order. Failure to provide the required plans and specifications within 180

days from the date of this Final Order will result in the proposed rejection of Application R-81903.

DATED August 12, 1998



Martha O. Pagel, Director

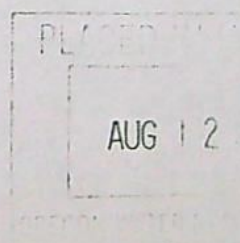
Hearing and Appeal Rights

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the above modifications to the proposed final order may be addressed.

This document was prepared by Laura Snedaker. If you have any questions about any of the statements contained in this document she is most likely the best person to answer your questions. You can reach her toll free within Oregon at 1-800-624-3199 extension 331. Outside of Oregon you can dial 1-503-378-8455.

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

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



DRAFT

This is not a permit!!!
STATE OF OREGON

DRAFT

COUNTY OF BAKER

DRAFT PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

TOM MAC & JOYCE A KERNS
ROUTE 1 BOX 10
HAINES, OREGON 97833

PHONE: (541) 856-3351

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

APPLICATION FILE NUMBER: R-81903

SOURCE OF WATER: PINE CREEK RESERVOIR, TRIBUTARY OF POWDER RIVER

STORAGE FACILITY: ENLARGEMENT OF PINE CREEK RESERVOIR, ORIGINALLY
CONSTRUCTED UNDER PERMIT R-660

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER APPLICATION
S-83516 FOR SUPPLEMENTAL IRRIGATION

MAXIMUM VOLUME: 30.0 ACRE-FEET PER YEAR

PERIOD OF ALLOWED USE: OCTOBER 1 THROUGH APRIL 14

DATE OF PRIORITY: NOVEMBER 22, 1996

The area submerged by the reservoir, when full, will be 20.2 acres and
the maximum depth of water will be 9.0 feet. The maximum height of the
dam shall not exceed 18.0 feet.

DAM LOCATION: SW 1/4 SE 1/4, SECTION 32, T8S, R38E, W.M.; 2310 FEET
SOUTH AND 1360 FEET WEST FROM NE CORNER, SECTION 32

THE AREA TO BE SUBMERGED BY THE RESERVOIR IS LOCATED AS FOLLOWS:

SW 1/4 NE 1/4
SE 1/4 NE 1/4
NW 1/4 SE 1/4
SW 1/4 SE 1/4
SECTION 32

TOWNSHIP 8 SOUTH, RANGE 38 EAST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall
install a meter or other suitable measuring device as approved by
the Director. The permittee shall maintain the meter or measuring
device in good working order, shall keep a complete record of the
amount of water used each month and shall submit a report which
includes the recorded water use measurements to the Department

annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The permittee may submit evidence that the Oregon Department of Fish and Wildlife (ODFW) has determined screens and/or fishways are not necessary. The required screens and fishways are to be in place, functional, and approved by ODFW before diversion of any water.

STANDARD CONDITIONS

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

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

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

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

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

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

SEE NEXT PAGE

Actual construction work shall begin by August 12, 1999. The reservoir(s) shall be filled and complete application of water shall be made on or before October 1, 2002. Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued _____, 199_

DRAFT - THIS IS **NOT** A PERMIT

Water Resources Department
Director

Tom "Mac" Kerns
45296 Pocahontas Rd
Haines, OR 97833

RECEIVED
FEB - 2 1998
WATER RESOURCES DEPT.
SALEM, OREGON

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

January 28, 1998

Dear Mr. Klassen:

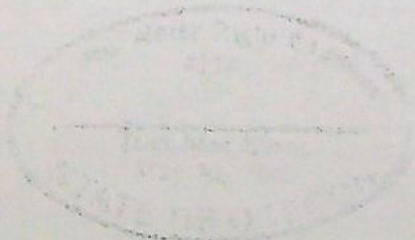
Reference: Application File #R-81903

Enclosed is the map for the above referenced water right. There is no tax lot number since the land surrounding the reservoir is all U.S. ownership..

Sincerely,

Tom Mac Kerns

TOM "MAC" KERNS
Water Rights Examiner

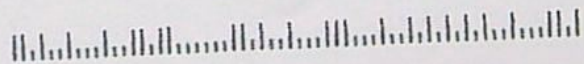


Tom Mac Kerns
45296 Pocahontas Rd
Haines, Or 97833



Mr Steve Brown
Water Resource Dept
158 12th street NE
Salem Oregon 97301-4172

97301X4172 09



R-81903

Mailing List for PROPOSED FINAL ORDER Copies

Application #R-81903 PROPOSED FINAL ORDER Date: September 9, 1997
23

Original mailed to:

Applicant: TOM MAC & JOYCE A KERNS, RT 1 BOX 10, HAINES, OREGON 97833

Copies sent to:

1. WATER RESOURCES DEPARTMENT - File # R-81903 ✓
2. WATER RESOURCES DEPARTMENT - Water Availability: Ken Stahr ✓

Copies Mailed	
By: <u>Sh</u>	(SUPPORT STAFF)
on: <u>9/26/97</u>	(DATE)

PROPOSED FINAL ORDER, Map, and Fact Sheet Copies sent to:

3. WATER RESOURCES DEPARTMENT - Watermaster # District 8 ✓
4. WATER RESOURCES DEPARTMENT - Regional Manager (not Bob Main): ER ✓
5. DIV 33 - ODFW(Tim Walters), DOA, DEQ(Russell Harding), Col Riv Int Fish Comm, USFW, NW ✓
Power, NMFS

Copies sent to Other Interested Persons (CWRE, Agent, Well Driller, Commenter, etc.)

6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____

"\$10 LETTER" sent to Interested Persons who have not protested or paid for copies

1. _____
2. _____
3. _____

CASEWORKER : RWK

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number R-81903

Proposed Final Order

Summary of Recommendation: The Department recommends that the attached draft permit be issued with conditions.

Additional Items Required:

- 1) to continue with the permitting process - A map prepared by a Certified Water Rights Examiner (CWRE) meeting the minimum requirements. 690 310 040(1)(C)(D)
- 2) prior to issuance of a permit - A secondary permit to use the proposed 30.0 acre-feet of stored water must be issued.
 - plans and specifications for the proposed construction of a permanent control mechanism for the emergency spillway designed and prepared by an Oregon licensed professional engineer and approved by Oregon Water Resources Department Dam Safety.
 - a trash rack at the entrance to the outlet conduit.
 - outlet valve works that are accessible and operable.
 - the crest of the dam must be restored to a uniform elevation by placement and compaction of well graded soil and rock fill.

Application History

On November 22, 1996, TOM MAC & JOYCE A KERNS submitted an application to the Department for the following water use permit:

- Amount of Water: 30.0 ACRE-FEET
- Use of Water: STORAGE FOR SUPPLEMENTAL IRRIGATION
- Source of Water: PINE CREEK RESERVOIR, TRIBUTARY OF PINE CREEK AND POWDER RIVER
- Area of Proposed Use: BAKER County within SECTION 32, TOWNSHIP 8 SOUTH, RANGE 38 EAST, W.M.

On 6/24/97, the Department mailed the applicant notice of its Initial Review, determining that "The diversion of 30.00 ACRE-FEET for storage in PINE CREEK RESERVOIR, A TRIBUTARY OF PINE CREEK for SUPPLEMENTAL

IRRIGATION is allowable from October 1 through April 14 of each year." The applicant did not notify the Department to stop processing the application within 14 days of that date.

On 7/15/97, the Department gave public notice of the application in its weekly notice. The public notice included a request for comments, and information for interested persons about both obtaining future notices and a copy of the proposed final order.

No written comments were received within 30 days.

In reviewing applications, the Department may consider any relevant sources of information, including the following:

- comments by or consultation with another state agency
- any applicable basin program
- any applicable comprehensive plan or zoning ordinance
- the amount of water available
- the rate and duty for the proposed use
- pending senior applications and existing water rights of record
- the Scenic Waterway requirements of ORS 390.835
- applicable statutes, administrative rules, and case law
- Additional Public Interest Standards for New Appropriations (OAR Chapter 690, Div. 33)
- any comments received

Findings of Fact

The Powder Basin Program allows the following uses: THE APPROPRIATION OF WATER FOR STORAGE FOR SUPPLEMENTAL IRRIGATION

Senior water rights exist on, TRIBUTARY OF POWDER RIVER, or on downstream waters.

PINE CREEK, TRIBUTARY OF POWDER RIVER is not within or above a State Scenic Waterway.

An assessment of water availability has been completed. This assessment compared a calculation of natural streamflow minus the consumption portion of all relevant rights of record. A copy of this assessment is in the file. This assessment determined that water is available for further appropriation (at a 50 percent exceedance probability) for the period OCTOBER 1 THROUGH MAY 31.

OAR 690 Division 33 prohibits the use of water from live flow from tributaries to the Columbia River above Bonneville Dam during the period April 15 through September 30. There are limited exemptions for domestic water use, projects that provide net benefits for fish, emergency use necessary for public health and safety, and multipurpose storage projects with measurable public benefits.

The Department finds that no more than 30.0 ACRE-FEET would be necessary for the proposed use. The amount of water requested, 30.0 ACRE-FEET, is allowable.

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The Department finds that no more than 30.0 ACRE-FEET would be necessary for the proposed use. The amount of water requested, 30.0 ACRE-FEET, is allowable.

There is no evidence in the record of the presence of game fish at the described point of diversion.

In accordance with OAR 690-33-330, an interagency team reviewed this proposed use for potential adverse impacts on sensitive, threatened and endangered fish populations. This team consisted of representatives from the Oregon Departments of Water Resources (WATER RESOURCES DEPARTMENT), Environmental Quality, Fish and Wildlife (DFW), and Agriculture. WATER RESOURCES DEPARTMENT and DFW representatives included both technical and field staff.

The interagency team did not recommend that any additional conditions of use be imposed on this application.

Conclusions of Law

Under the provisions of ORS 537.153, the Department must presume that a proposed use will not impair or be detrimental to the public interest if the proposed use is allowed in the applicable basin program established pursuant to ORS 536.300 and 536.340 or given a preference under ORS 536.310(12), if water is available, if the proposed use will not injure other water rights and if the proposed use complies with rules of the Water Resources Commission.

The proposed use requested in this application is allowed in the Powder Basin Plan.

No preference for this use is granted under the provisions of ORS 536.310(12).

Water is available for the proposed use.

The proposed use will not injure other water rights.

The proposed use complies with rules of the Water Resources Commission.

The proposed use complies with the State Agency Agreement for land use.

For these reasons, the required presumption has been established.

Once the required presumption has been established, under the provisions of ORS 537.153(2) it may be overcome by a preponderance of evidence that either:

- (a) One or more of the criteria for establishing the presumption are not satisfied; or
- (b) The proposed use will impair or be detrimental to the public interest as demonstrated in comments, in a protest . . . or in a finding of the department that shows:
 - (A) The specific public interest under ORS 537.170(8) that would be impaired or detrimentally affected; and
 - (B) Specifically how the identified public interest would be impaired or detrimentally affected.

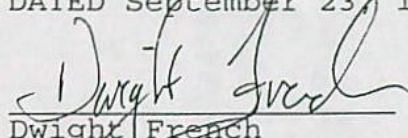
In this application, all criteria for establishing the presumption have been satisfied, as noted above. The presumption has not been overcome by a preponderance of evidence that the proposed use will impair or be detrimental to the public interest.

The Department therefore concludes that water is available in the amount of water necessary for the proposed use; the proposed use will not result in injury to existing water rights; and the proposed use will not impair or be detrimental to the public interest as provided in ORS 537.170.

Recommendation

The Department recommends that the attached draft permit be issued with conditions.

DATED September 23, 1997



Dwight French
Water Rights Section Manager

Protest Rights

Under the provisions of 537.621(7), you have the right to protest this proposed final order. Your protest must be in writing, and must include the following:

- Your name, address, and telephone number;
- A description of your interest in the proposed final order, and, if you claim to represent the public interest, a precise statement of the public interest represented;
- A detailed description of how the action proposed in this proposed final order would impair or be detrimental to your interest;
- A detailed description of how the proposed final order is in error or deficient, and how to correct the alleged error or deficiency;
- Any citation of legal authority to support your protest, if known; and
- If you are not the applicant, the \$200 protest fee required by ORS 536.050 and proof of service of the protest upon the applicant.
- If you are the applicant, a statement of whether or not you are requesting a contested case hearing. If you do not request a hearing, the Department will presume that you do not wish to contest the findings of the proposed final order.
- If you do not protest this Proposed Final Order and if no substantive changes are made in the final order, you will not have an opportunity for judicial review, protest or appeal of the final order when it is issued.

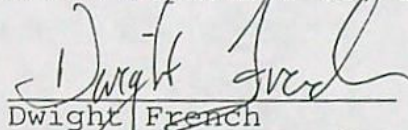
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Water Rights Section Manager

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- If you are not the applicant, the \$200 protest fee required by ORS 536.050 and proof of service of the protest upon the applicant.
- If you are the applicant, a statement of whether or not you are requesting a contested case hearing. If you do not request a hearing, the Department will presume that you do not wish to contest the findings of the proposed final order.
- If you do not protest this Proposed Final Order and if no substantive changes are made in the final order, you will not have an opportunity for judicial review, protest or appeal of the final order when it is issued.

Your protest must be received in the Water Resources Department no later than November 7, 1997.

After the protest period has ended, the Director will either issue a final order or schedule a contested case hearing. The contested case hearing will be scheduled only if a protest has been submitted and if

- upon review of the issues, the director finds that there are significant disputes related to the proposed use of water, or
- the applicant requests a contested case hearing within 30 days after the close of the protest period.

RWK-111

DRAFT

This is not a permit!!!
STATE OF OREGON

DRAFT

COUNTY OF BAKER

DRAFT PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

TOM MAC & JOYCE A KERNS
RT 1 BOX 10
HAINES, OREGON 97833

(541) 856-3351

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

APPLICATION FILE NUMBER: R-81903

SOURCE OF WATER: PINE CREEK, TRIBUTARY OF POWDER RIVER

STORAGE FACILITY: ENLARGEMENT OF PINE CREEK RESERVOIR, ORIGINALLY
CONSTRUCTED UNDER R-660

PURPOSE OR USE OF THE STORED WATER: SUPPLEMENTAL IRRIGATION

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER APPLICATION
S-XXXXX FOR SUPPLEMENTAL IRRIGATION.

MAXIMUM VOLUME: 30.0 ACRE-FEET PER YEAR

PERIOD OF ALLOWED USE: OCTOBER 1 THROUGH APRIL 14

DATE OF PRIORITY: NOVEMBER 22, 1996

The area submerged by the reservoir, when full, will be 20.2 acres and
the maximum depth of water will be 9.0 feet. The maximum height of the
dam shall not exceed 18.0 feet.

DAM LOCATION: SECTION 32, T 8S, R38E, W.M.;

THE AREA TO BE SUBMERGED BY THE RESERVOIR IS LOCATED AS FOLLOWS:

SECTION 32
TOWNSHIP 8 SOUTH, RANGE 38 EAST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall
install a meter or other suitable measuring device as approved by
the Director. The permittee shall maintain the meter or measuring
device in good working order, shall keep a complete record of the
amount of water used each month and shall submit a report which
includes the recorded water use measurements to the Department
annually or more frequently as may be required by the Director.
Further, the Director may require the permittee to report general
water use information, including the place and nature of use of
water under the permit.

Application R-81903 Water Resources Department

PERMIT DRAFT

- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The permittee may submit evidence that the Oregon Department of Fish and Wildlife (ODFW) has determined screens and/or fishways are not necessary. The required screens and fishways are to be in place, functional, and approved by ODFW before diversion of any water.

STANDARD CONDITIONS

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

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

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

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

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

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

Actual construction work shall begin within one year from permit issuance. The reservoir shall be filled and complete application of the stored water to the use shall be made on or before October 1, 2001.

Issued _____, 199_

DRAFT - THIS IS NOT A PERMIT

Water Resources Department
Director

Application R-81903 Water Resources Department
Basin 09 Volume 01 PINE CR
RWK MGMT.CODE

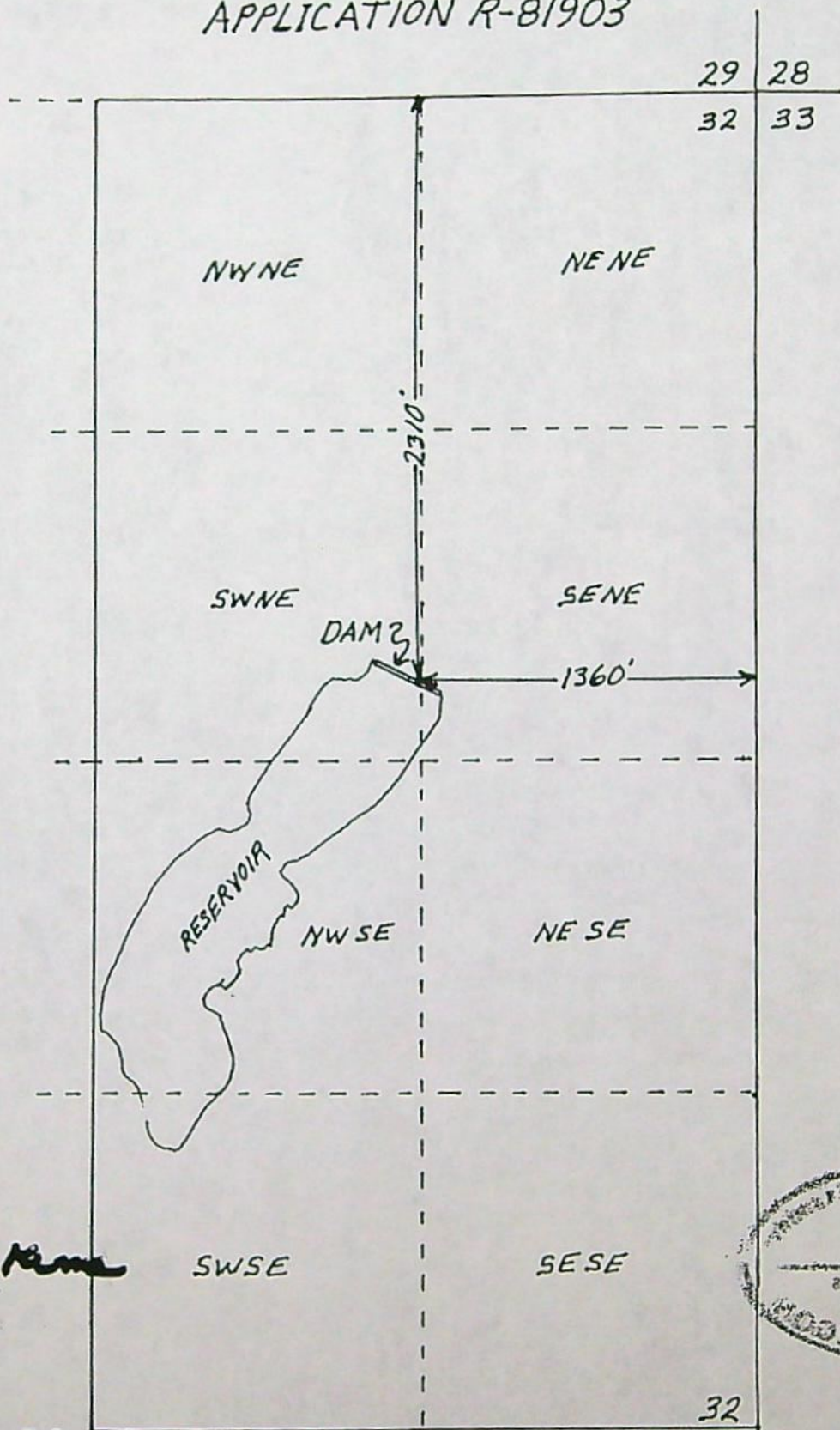
PERMIT DRAFT
District 8

RECEIVED

FEB - 2 1998

WATER RESOURCES DEPT.
SALEM, OREGON

MAP SHOWING LOCATION OF PINE
CREEK RESERVOIR
T8S; R38E; WM SECTION 32
APPLICATION R-81903



Tom MacKinnon



Scale 8" = 1 mi

Drawn 1-27-98 TM.

Oregon

February 23, 1998

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



DEPARTMENT OF
FISH AND
WILDLIFE

NORTHEAST REGION

Dear Mr. Mattick:

I recently reviewed applications R-81903 and S-83516. Both applications involve Pine Creek, a tributary to the Powder River located in the Elkhorn Mountains near Baker City. As such, they are subject to Division 33 rules.

We agree with the requirements for screening and passage at the reservoir. Those requirements should also be extended to S-83516. Under statutory requirements, if game fish are present in an area, we cannot waive passage requirements. In addition, bull trout have been collected below Pine Creek Reservoir within the last several years. As a result, a sensitive species under consideration for Federal listing may be impacted by this project.

The assessment completed by the Water Resources Department (WRD) indicates that water is available for appropriation from October 1 through May 31, but Division 33 rules limit appropriation to October 1 through April 14. Our main concern with these applications is that the reservoir is located on the stream channel. By definition, it would therefore continue to appropriate water throughout the summer, thus violating Division 33 rules. Continued appropriation coupled with summer water use under S-83516 could result in decreased instream flows on the Powder and Snake rivers.

Thanks for the opportunity to comment. We look forward to working with you in the future.

Sincerely,

Tim Walters,
Assistant District Fish Biologist

Post-it Fax Note	7671	Date	2/23/98	# of pages	1
To	Michael Mattick	From	Walters		
Co/Dept	WRD	Co.	ODFW		
Phone #	6203	Phone #			
Fax #	503-328-2426	Fax #	541-963-6670		



107 20th Street
La Grande, OR 97850
(541) 963-2138
FAX (541) 963-6670

FO CHECKLIST

FILE # R-81903
PFO WEEK # 11B

PFO TO FO CONVERSION

REVIEW DATE: 7/24/98
INITIALS: LKS

In preparing to create the FO, you should check the following:

1. Y / N Were comments or protests received? If so, from whom and when?
2. ✓ On the PFO CC list, verify names and addresses of ALL commentors (regardless of comment date), affected landowners, and those who paid the \$10 fee.
3. Y / N / NA Have affected landowners been notified?
4. Y / N Is the file lacking a signed oath of accuracy for the application?
5. Y / N / NA Has ODFW asked for self certification of screening condition? If so, write "ODFW CERT" in the permit blank on the front of the file.
6. Y / N Is water use prohibited for one or more months of the normal use period?

7. Y / N If # 6 = "Y", is short season letter on file? Note: If short season letter is lacking, see Item #10 below. Give applicant 60 days to submit required information.

8. ✓ Verify payment of recording fees (circle the appropriate option)
 - (1) Issue FO w/permit if fees are paid -- Prepare refund request for excess fees, including standing fees if no protest is filed and no modifications are being made to the PFO
 - (2) Issue FO w/o permit if fees are lacking

200 - Paid
100 - Paid

9. Y / N Is further processing possible? If not state reason: _____
10. _____ Notify applicant of additional information or fees required prior to permit issuance. (SEND CERTIFIED LETTER & use standard wording from M:\...\FO\TOOLS if possible)
11. ✓ Assign permit numbers to files with oath, fees, and no protests or other issues
12. Y / N Do the PFO conclusions requires modification? Why? A & C Dates
(If YES, circle FOMOD and one other type below)

FO Type: (circle types)	DENIAL	FO w/o PERMIT	FO & PERMIT	FOMOD
COMMENTS:		<u>Still needs Plans & Specs</u>		MGMT CODES:

Once created, modify FO as needed to:

Initials LKS

13. ✓ Respond to significant comments, issues, or disputes related to the proposed use of water (see notes, if any, listed above)
14. ✓ Include or exclude permit conditions and management codes
15. ✓ Correct PFO errors (such as POD or POU location (verify from map), Permit format)

Once FO document is completed:

16. ✓ Save WordPerfect document in M:\GROUPS\WR\FO\WEEK 149 & delete duplicates
17. ✓ Print final draft of document and submit to team leader for review
18. Y / N Team leader review completed

June 24, 1997

TOM MAC & JOYCE A KERNS
RT 1 BOX 10
HAINES, OREGON 97833

Reference: File R-81903

Dear Applicant:

**THIS IS NOT A PERMIT AND IS
SUBJECT TO CHANGE AT THE NEXT PHASE OF PROCESSING.**

This letter is to inform you of the favorable preliminary analysis of your water use permit application and to describe your options. In determining whether a water use permit application may be approved, the Department must consider the factors listed below, all of which must be favorable to the proposed use if it is to be allowed. Based on the information you have supplied, the Water Resources Department has made the following preliminary determinations:

Initial Review Determinations:

1. Your application is complete and not defective.
2. The proposed use is not prohibited by law or rule.
3. The use of water for STORAGE FOR SUPPLEMENTAL IRRIGATION is allowable under OAR 690-509-000(1), the Powder Basin Program.
4. Water in the amount of 30.00 ACRE-FEET for STORAGE FOR SUPPLEMENTAL IRRIGATION is available October 1 through May 31 of each year.
5. Use of water from direct flow is not allowed April 15 through September 30 except for domestic use (OAR-690-33).



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

6. It will be necessary to submit "as built" drawings & specifications for the reservoir prepared by a licensed Professional Engineer; these plans must be approved by the Department prior to issuance of the permit. For more information regarding this requirement, contact John Falk, Dam Safety Coordinator, at 503-378-8455, extension 222.

It will also be necessary to submit an application map prepared by a Certified Water Right Examiner (CWRE); a list of CWRE's is enclosed.

Before a permit may be issued approving this application, a secondary permit to use the additional 30.0 acre-feet of stored water for irrigation must be issued.

Summary of Initial Determinations

The diversion of 30.00 ACRE-FEET for storage in PINE CREEK RESERVOIR, A TRIBUTARY OF PINE CREEK for SUPPLEMENTAL IRRIGATION is allowable from October 1 through April 14 of each year.

Because of these favorable determinations to your application the Department can now move your application to the next phase of the water rights application review process. This phase is where public interest factors will be evaluated.

Please reference the application number when sending any correspondence regarding the conclusions of this initial review. Comments received within the comment period will be evaluated at the next phase of the process.

To Proceed With Your Application:

If you choose to proceed with your application, you do not have to notify the Department. Your application will automatically be placed on the Department's Public Notice to allow others the opportunity to comment. After the comment period the Department will complete a public interest review and issue a proposed final order.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$50 processing charge per application.) To accomplish this you must notify the Department in writing by **Tuesday, July 8, 1997**. For your convenience you may use the enclosed "STOP PROCESSING" form.

If A Permit Is Issued It Will Likely Include The Following Conditions:

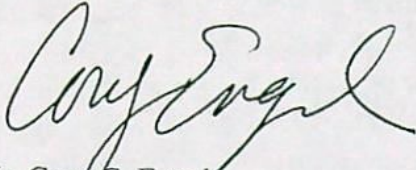
1. Measurement, recording and reporting conditions:
 - A. The Director may require the permittee to install a meter or other suitable measuring device as approved by the Director. If the Director notifies the permittee to install a meter or other measuring device, the permittee shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the permittee shall maintain the meter or measuring device in good working order and shall allow the watermaster access to the meter or measuring device. The Director may provide an opportunity for the permittee to submit alternative measuring procedures for review and approval.
 - B. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.
2. You will be required to comply with state and federal water quality standards.
3. The priority date for this application is November 22, 1996.
4. The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The permittee may submit evidence that the Oregon Department of Fish and Wildlife (ODFW) has determined screens and/or fishways are not necessary. The required screens and fishways are to be in place, functional, and approved by ODFW before diversion of any water.

WARNING: This initial review does not attempt to address various public interest issues such as sensitive, threatened, or endangered fish species. These issues will be addressed as the Department reviews public comments and prepares a proposed final order. You should be aware that, if significant public interest issues are found to exist, such a finding could have an impact on the eventual outcome of your application.

If you have any questions:

Feel free to call me at (503) 378-8455 or 1 (800) 624-3199 extension 457 if you have any questions. Please have your application number available if you call.

Sincerely,

A handwritten signature in black ink, appearing to read "Cory Engel". The signature is fluid and cursive, with the first name "Cory" and last name "Engel" clearly distinguishable.

Mr. Cory C. Engel
Water Right Processing Technician

cc: Regional Manager, Watermaster District 8, Water Availability Section
enclosures: Flow Chart of Water Right Process
Stop Processing Form

R-81903
wab 09-020222
pou 09-020222
gw

MAC & JOYCE KERNS
45296 POCAHONTAS RD.
HAINES OR 97833

CERTIFIED

P 473 808 425

MAIL



Mr. Russell W. Klassen
Water Resources Department
Commerce Bldg.
158 12TH Street NE
Salem, OR 97310-0210

September 11, 1997

Oregon

Tom "Mac" Kerns
Route 1, Box 10
Haines, OR 97833

WATER
RESOURCES
DEPARTMENT

Re: Pine Creek Dam
File No. P-3
Application R- 81903

Dear Mr. Kerns:

Thank you for accompanying me and the Assistant Watermaster, Mr. Tom Rudolf, during the inspection of the referenced project on August 28, 1997. The efforts that you have made over the past few years to clean up the debris in the reservoir are noticed and certainly appreciated.

As we discussed, the survey performed by the District Watermaster last year indicated that the storage capacity of the reservoir *at the crest elevation of the spillway* is approximately 94 acre-feet. The high water mark around the perimeter of the reservoir is 0.8' above the crest elevation of the spillway. It is this high water mark, not the invert of the spillway, that corresponds to the 115 acre-foot value. Consequently, the amount of unaccounted storage as per Certificate 10089 may be on the order of +9 acre-feet. It is not the 30 acre-feet you previously indicated in your letter dated November 18, 1996.

Should you desire to continue with your application for the entire 30 acre-feet of storage that you have requested, it will be necessary for you to address the following items:

- Submit plans and specifications for the proposed construction of a permanent control mechanism for the emergency spillway that will enable you to effectively regulate the level of water in the reservoir and thus, store up to 115 acre-feet. The design must be prepared by an Oregon licensed professional engineer and approved by Water Resources Dam Safety and shall include a revised area-capacity diagram.
- Install a trash rack at the entrance to the outlet conduit. In addition, the valve works must be accessible and/or operable at all times the reservoir is ice-free. It is important that you are able to access and operate the valve in the event an emergency release of water becomes necessary.
- Restore the crest of the dam to a uniform elevation by the placement and compaction of well graded soil and rock fill, as necessary. Assuming a base width of 6.5 feet in the bottom of the emergency spillway, the minimum crest elevation of the restored embankment should be at least 5.5 feet above the bottom of the spillway. This height takes into account the depth of flow in the spillway during the 100-year storm (3.5'), plus two feet (2') of freeboard.

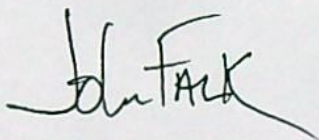


Commerce Building
158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

As you are aware, the dam has experienced continuous leakage through portions of the rock fill embankment for many years. The seepage apparently hasn't affected the integrity of the structural fill comprising the embankment, although chronic flow through the rock shell will gradually remove the fine-grained materials that act to impound water in the reservoir. Because of the type of construction, it is doubtful that the dam will fail catastrophically. However, I suspect that the long-term consequences of this uncontrolled leakage will be the increasing inability of the embankment to store water for any significant length of time. If it is your desire to maintain a secure source of stored water in this reservoir, you may wish to consider placing an impermeable liner on the upstream side of the embankment. Please include us in your decision to make any repair of, or modification to, the dam or spillway.

In the meantime, please do not hesitate to let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Falk". The signature is stylized with a large, looped "J" and "F".

John A. Falk, PE
Safety of Dams

c: Vernon Church - Watermaster Dist. #8
Water Rights Section

SENDER:

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

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

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

Consult postmaster for fee.

TOM MAC KERNS
RT 1 BOX 10
HAINES OR 97833

4a. Article Number

P- 56238

4b. Service Type

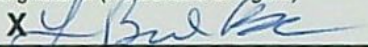
- | | |
|---|---|
| <input type="checkbox"/> Registered | <input checked="" type="checkbox"/> Certified |
| <input type="checkbox"/> Express Mail | <input type="checkbox"/> - Insured |
| <input type="checkbox"/> Return Receipt for Merchandise | <input type="checkbox"/> COD |

7. Date of Delivery

11/29/97

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)

X 

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

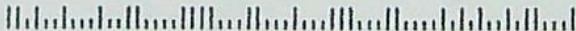
UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

WATER RESOURCES DEPT
158 12TH ST NE
SALEM OR 97310





Oregon

John A. Kitzhaber, M.D., Governor

CERTIFIED MAIL
Return Receipt Requested

Water Resources Department

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

November 26, 1997

Tom Mac Kerns
Route 1 Box 10
Haines, OR 97833

RE: Application File # R-81903

Dear Mr. Kerns:

On **November 13, 1997**, following a telephone conversation, a fax was sent from the Department requiring a map meeting the minimum requirements under OAR 690-310-050, to complete your application for water use. Following the request, a map was faxed to the Department on November 17, 1997, by the applicant. However, the map received in the Department by fax does not meet the minimum standards required under OAR 690-310-050 for the following reasons:


- ▶ insufficient clarity so as to be easily reproduced.
- ▶ not drawn to a standard scale. (the scale of the map submitted to the Department is approximately 94% of the scale indicated)
- ▶ the location of the dam is not shown and the location is not referenced to a recognized public land survey corner.
- ▶ the location of the reservoir is not identified by tax lot number, township, range, section, and 1/4 1/4 section. (it is unclear whether the reservoir is located in both the SE and the NE 1/4's or in the SE 1/4 only)

A copy of a map to be used as an example of a complete application map has been enclosed for your reference. Several of the areas that are deficient on the map faxed to the Department have been highlighted to make it more clear what is being requested.

Please submit this item by **February 11, 1997**, the completion of the time out period requested. If we do not receive the item requested above by this date, we **will** propose rejection of your application consistent with ORS 537.153. If your application is rejected, any fees submitted in excess of the examination fee will be refunded; however, the examination fee is non-refundable and will not be returned. In addition, the priority date associated with your application will be lost.

Should you have any questions regarding your application or the required materials listed above, or if you need to request an extension of time, please call me personally at 1-800-624-3199, extension 266.

Sincerely,

A handwritten signature in black ink, appearing to read "Russell W. Klassen". The signature is fluid and cursive, with a checkmark-like flourish in the middle.

Russell W. Klassen
Senior Water Rights Specialist

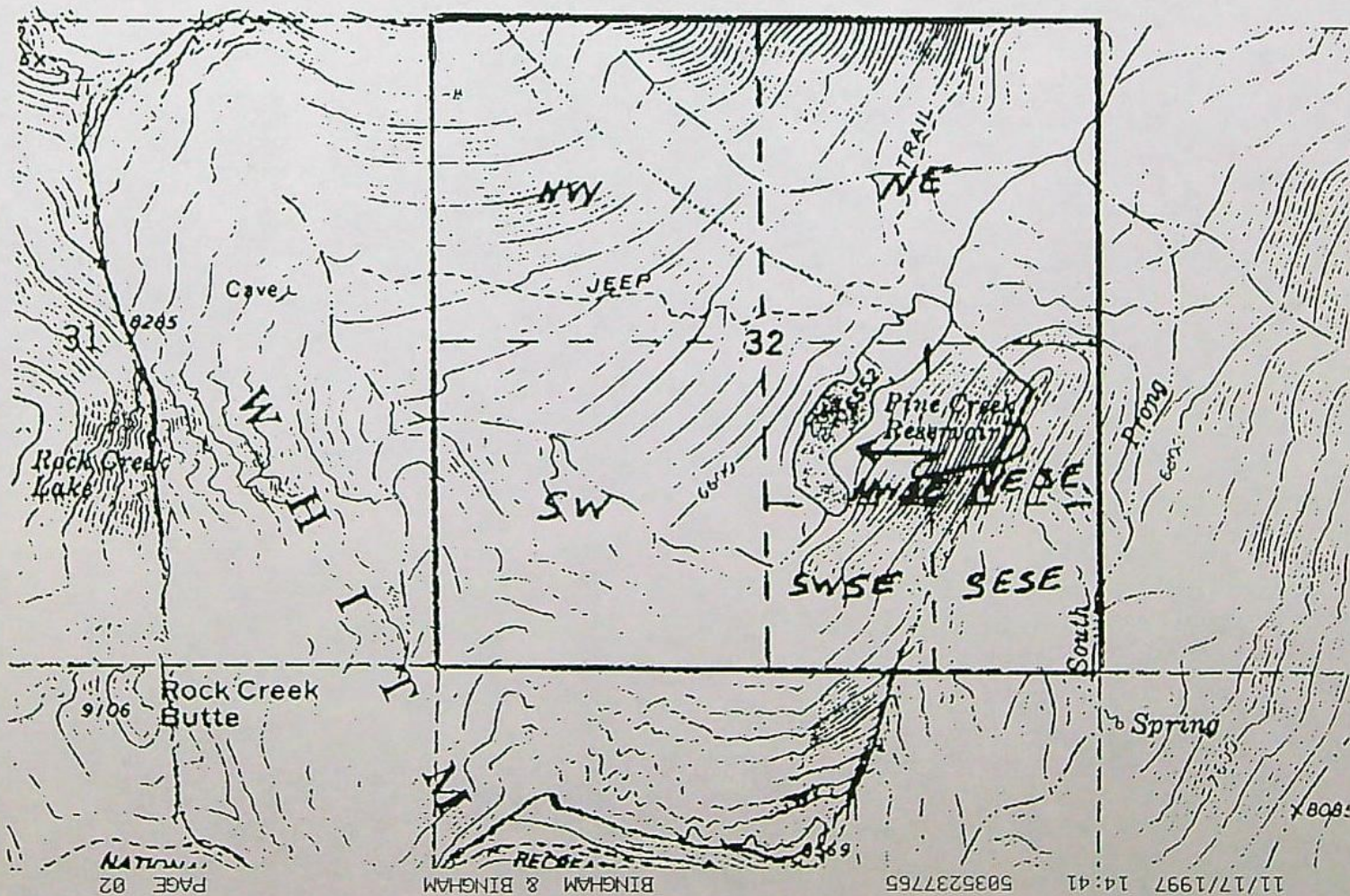
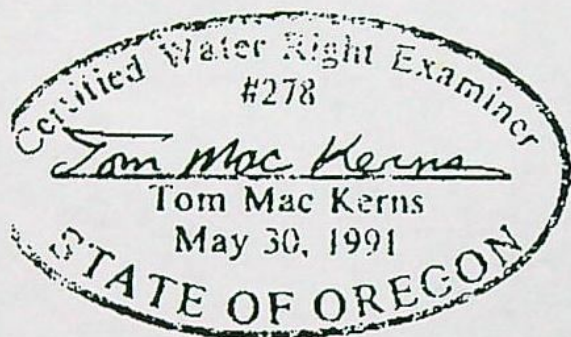
Enclosures: copy of map faxed to the Department
a map to be used as an example
copy of the "map requirement" rules

cc: Watermaster District 8

T.85.; R.38F.; W.M. Section 32

(4)(C) THE LOCATION OF THE RESERVOIR IDENTIFIED BY TAX LOT, TOWNSHIP, RANGE, SECTION, & 1/4 1/4

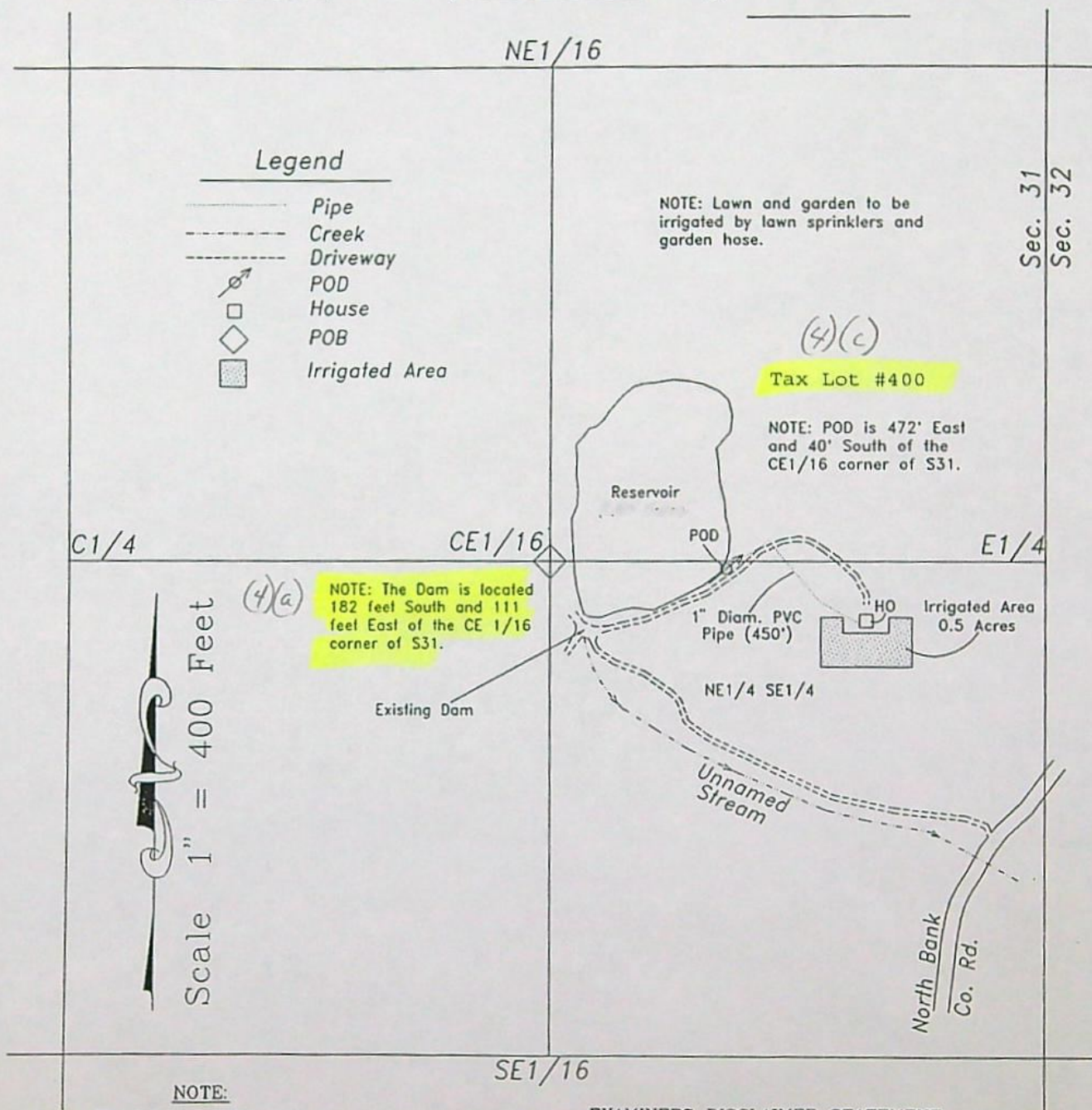
Drawn 11-17-97 :



Water Rights Application Map

Portions of the E1/2

Section 31 Township 27S Range 13W W.M.



EXAMINERS DISCLAIMER STATEMENT

The preparation of this map was for the purpose of identifying the location of the Water Right only and has no intent to provide dimensions or location of property ownership lines.

Application No. _____

Permit No. _____

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

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

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

1. ☐ Addressee's Address
 2. ☐ Restricted Delivery
- Consult postmaster for fee.

TOM MAC KERNS
KERNS, JOYCE A
RT 1 BOX 10
HAINES, OR

97833

4a. Article Number

P56658

4b. Service Type

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

7. Date of Delivery

9/25/97 DM

5. Received By: (Print Name)

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

6. Signature: (Addressee or Agent)

X 

PS Form 3811, December 199. R 81903

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WATER RESOURCES DEPARTMENT
158 12th ST NE
SALEM OR 97310



Oregon CERTIFIED MAIL
Return Receipt Requested
John A. Kitzhaber, M.D., Governor

Water Resources Department

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

September 23, 1997

Tom "Mac" Kerns
Route 1, Box 10
Haines, OR 97833

RE: Application File R-81903

Dear :

On **September 23, 1997**, a Proposed Final Order was sent from the Department requesting additional information necessary to complete your application for water use. The following information must be received:

- ▶ A map prepared by a Certified Water Rights Examiner (CWRE) meeting the minimum requirements.

Please submit this item by **November 7, 1997**. If we do not receive the item requested above by this date, we **will** propose rejection of your application consistent with ORS 537.153. If your application is rejected, any fees submitted in excess of the examination fee will be refunded; however, the examination fee is non-refundable and will not be returned. In addition, the priority date associated with your application will be lost.

Should you have any questions regarding your application or the required materials listed above, or if you need to request an extension of time, please call me personally at 1-800-624-3199, extension 266.

Sincerely,

Russell W. Klassen
Senior Water Rights Specialist

Enclosures:

cc: Watermaster District 8

11/17/97

To: Water Resource Dept
Attn: Russell W Klassen

From: Tom Mac Kenna

3 pages including this cover sheet

11-17-97

To Russell W. Klassen

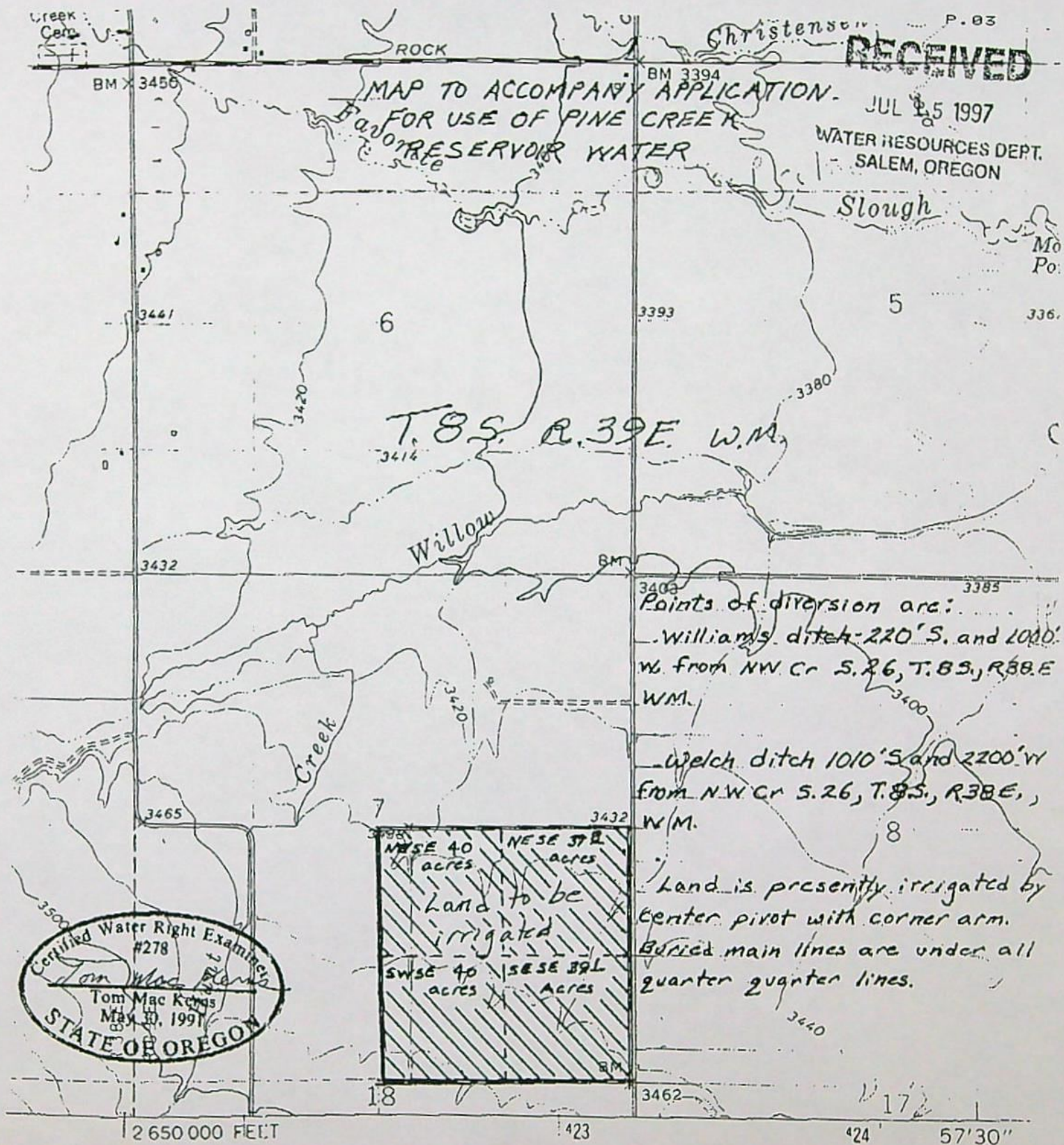
From Tom "Mac" Kerns

Reference File R-81903 & My Application to use water
from Pine Cr Reservoir Received in your office 7-15-97.

Enclosed is a copy of the map for application that
was originally sent with the above application.

Please take R-81903 off time out and proceed
with processing.

Tom Mac Kerns

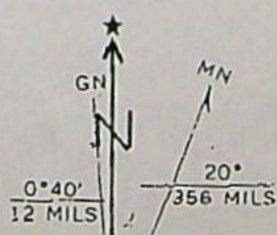


d, edited, and published by the Geological Survey

by USGS and USC&GS

phy by photogrammetric methods from aerial
aphs taken 1966. Field checked 1967

ic projection. 1927 North American datum
-foot grid based on Oregon coordinate system.



Scale 4" = 1 mile
Drawn TAC 7-9-9

Bingham & Bingham

Certified Public Accountants

Dale Bingham, CPA / Allen Bingham, CPA
2055 2nd Street / Baker City, Oregon 97814

Phone 541-523-7763 / Fax 541-523-7765

*THE INFORMATION IN THIS TELECOPIER IS INTENDED ONLY FOR THE USE OF THE ADDRESSEE AND MAY CONTAIN INFORMATION THAT IS CONFIDENTIAL, PRIVILEGED, AND/OR OTHERWISE EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THIS TRANSMITTAL TO THE INTENDED RECIPIENT, YOU ARE NOT AUTHORIZED TO READ THIS TRANSMITTAL AND ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. THIS TRANSMISSION IS NOT INTENDED TO WAIVE ANY INVESTMENT BANKER-CLIENT OR BROKER-CUSTOMER CONFIDENCE, ATTORNEY-CLIENT PRIVILEGE, OR ANY OTHER CONFIDENTIAL OR PRIVILEGED RELATIONSHIP. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE US POSTAL SERVICE. THANK YOU.

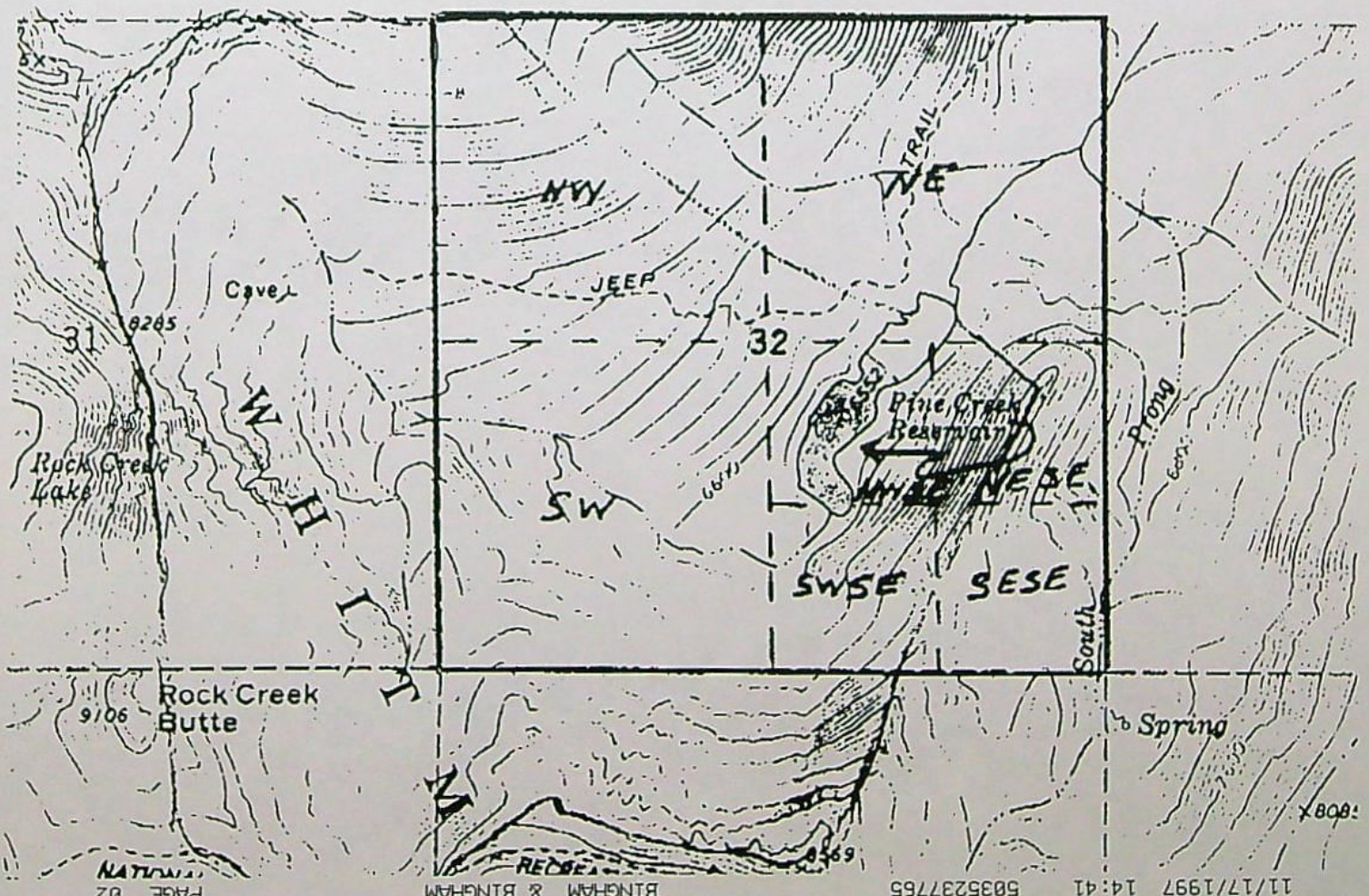
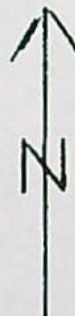
TO: Russel Klassen FAX NO: 503-378-0130
COMPANY: Or. Water Resource Dept PHONE NO: 1-800-624-3199
FROM: Tom "Mac" KERN DATE: 11-17-97 TIME: 2:30 PM
TOTAL NO. PAGES (including this cover page) 2
SUBJECT: Pine Cr. Reservoir File No. R-81903

MAP SHOWING LOCATION OF PINE CREEK RESERVOIR

T.8S.; R.38E.; W.M. Section 32

Scale 4" = 1 mi

Drawn 11-17-97





Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

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

November 14, 1997

Tom Mac and Joyce A. Kerns
Route 1 Box 10
Haines, Oregon 97833

RE: Application R-81903

Dear Mr. and Mrs. Kerns:

On November 13, 1997, the Department received your request for a 90 day time out from the application process in order to complete a revised application map. Your request for a time out been approved by the Department.

The Department will not take any action on this application until **February 11, 1998**. Please let us know if you are ready to proceed sooner.

If you have any questions, please give me a call. I can be reached at (503) 378-8455, extension 331, or toll free within Oregon at 1-800-624-3199.

Sincerely,

Laura Snedaker
Senior Water Rights Examiner

cc: File R-81903
Vern Church, Watermaster District 8

Lawrence

Please approve

w/ ltr. + set up for
40 days
for Russ.

D. J. H.

11-13-97

To Russell W. Klassen

From Tom "Mac" Kerne

Ref File R-81903, Letter of 9-23-97 and our Phone
Conversation of 11-13-97

I request a time out or extension in preparation
of the request map for 90 days

Tom Mac Kerne

FAXED
11/13/97

FILED

(P) All other data concerning the proposed project and the applicant's ability and intention to construct the project, as the Department considers necessary.

(Q) Any other information required in the application form that is necessary to evaluate the application in accordance with applicable statutory requirements.

(R) If the requested water use is supplemental to an existing water use, identification of any application for a permit, permit, certificate or adjudicated right to appropriate water made or held by the applicant that is primary to the supplemental use.

(b) If the application is for a permit to appropriate ground water, in addition to the information required under subsection (a) of this section, the application shall contain:

(A) For any well already constructed, a copy of the well constructor's log, if available. If a well log is not available, or if the well is not already constructed, the proposed total depth, depth of casing and seal, and the anticipated perforation and open intervals.

(B) The horizontal distance for each proposed point of ground water appropriation to the nearest surface water, if less than one mile, and the difference in land surface elevation between them.

(C) If the ground water is to be used for irrigation purposes, a description of the lands to be irrigated, giving the number of acres to be irrigated in each 40-acre legal subdivision.

(D) The depth to the water table, if known.

(E) The location of each well with reference to government survey corners or monuments or corners of recorded plats.

(F) The estimated capacity of each well.

(G) If the ground water does not require pumping, the rate of flow in gallons in such manner as the Commission may prescribe.

(c) If the application is to store water and to construct a reservoir, or multiple reservoirs on a single contiguous property on the same stream system, the application also shall include or be accompanied by:

(A) Preliminary plans, specifications and supporting information for the dam and impoundment area including dam height, width, crest width and surface area.

(B) Proposed dates for the beginning and completion of construction of the reservoir, the date the water will be stored and put to beneficial use and the uses to be made of the impounded water.

(C) A legal description of the property upon which the water is to be stored.

(D) A map of the proposed place of use prepared by a certified water right examiner in accordance with OAR 690-14-150 unless the application is to construct a reservoir storing less than 9.2 acre-feet of water or with a dam less than 10 feet in height, in which case the map need not be prepared by a certified water right examiner.

OREGON ADMINISTRATIVE RULES
CHAPTER 690, DIVISION 14 — WATER RESOURCES DEPARTMENT

bear the seal and signature of the water right examiner.

Stat. Auth.: ORS Ch. 536 & 542

Hist.: WRD 9-1987(Temp), f. & ef. 9-1-87; WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Revocation of Water Right Examiner's Certificate

690-14-080 Water right examiners may be decertified by OSBEE for violation of OAR Chapter 690, Division 14, rules or violation of OAR Chapter 820 rules.

(1) Any violation of these rules by a certified water right examiner and brought to the attention of the Director by Department staff, the public, or other means may be submitted to OSBEE. A material misstatement of fact shall be referred to OSBEE for disciplinary action.

(2) Revocation of the water right examiner's certificate does not in itself cause forfeiture of that person's professional land surveyor or professional engineer registration.

Stat. Auth.: ORS Ch. 536 & 542

Hist.: WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88

Site Report and Calculations for Permits and Transfers

690-14-100 (1) The water right examiner shall prepare a report which presents the status of conditions and limitations in permits and transfers such as:

- (a) Type of use;
- (b) Place of use;
- (c) Extent of use;
- (d) Location of point of diversion;
- (e) Sources of water;
- (f) Rate and duty;
- (g) Installation of measuring devices; and
- (h) Any other conditions or limitations.

(2) Permits may have three time limits: A substantial beginning of construction; completion of the construction; and the application of water to beneficial use. Transfers have one time limit: the date by which water is to be applied to beneficial use. The water right examiner shall complete the form provided by the Department with sufficient information for the Director to determine the extent of beneficial use developed within the conditions or limits of the permit or transfer.

(3) Uses partially developed by the water user shall be described. Uses or areas which were not developed shall be noted. Uses determined to exist which are not authorized by the permit or transfer being examined shall also be noted in the report but not included as part of the claim of beneficial use. If they appear on the map the report must clarify.

(4) The diversion works shall be accurately described by the map and report. A general narrative description of the distribution works shall be given. This description must trace the water from the point(s) of diversion to and including the place of use. The description shall also include the return to public waters when required by the

permit or transfer, such as fish propagation, mining and power facilities. The make, capacity, serial number and description of all pumps, or measuring devices shall be described in the report.

(5) Other water rights or other conveyance systems connected to the system being examined shall be described in the report. Any reservoir, diversion dam, headgate, well, canal, flume, pump and other related structures shall be described.

(6) The crops raised or other beneficial use made of the water shall be identified with considerable detail and include the period of use each year.

(7) The diversion rate shall be determined for each use and source when more than one use or source is involved.

(8) The maximum rate of use shall be determined by actual measurement when possible. Water measurements may be made by weir, meter, rated flume, reservoir capacity table or other method of measurement acceptable to the Department. The report shall describe the method used in making the measurement, the date made and a description of the location where the measurement was taken. It shall contain sufficient information, including current meter notes, rating tables, and/or calibration information to enable the Director to check the quantity of water measured in each case. Computations for capacity of the system shall be submitted for all claims. These computations may suffice to determine the maximum rate of application if the system was not operating when the inspection was conducted.

(9) The rate and duty of water shall be limited by the Commission to the lesser of: the authorized amount, the capacity of the delivery system, or the amount beneficially used. The certified water right examiner's report shall include sufficient information to make the determination.

(10) The rate of flow shall be determined in cfs to three significant figures. Examples are: 4,560 cfs; 456 cfs; 45.6 cfs; 4.56 cfs; 0.456 cfs; 0.046 cfs; and 0.005 cfs.

(11) Volume measurements shall be determined in acre-feet to three significant figures with accuracy necessary only to tenths. Examples are: 4,560 af; 456 af; 45.6 af; 4.6 af; and 0.5 af.

Stat. Auth.: ORS Ch. 536 & 542

Hist.: WRD 9-1987(Temp), f. & ef. 9-1-87; WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Maps for Permit or Transfer Applications

690-14-150 (1) Applications for permit or transfer shall comply with ORS Chapters 536, 537, and 540, and OAR Chapter 690, Divisions 11, 15, and 20.

(2) Application maps shall comply with the provisions of OAR Chapter 690, Division 11 rules.

(3) Under some circumstances a previously approved final proof map may be substituted for the map required by these rules when requested by the applicant. The Director may allow use of such substitution where an existing final proof map or report describes the proposed project to the standards set forth in these rules.

(d) If for agricultural purposes, in addition to any other information required, the application shall give the legal subdivisions of the land and the acreage to be irrigated, as near as may be.

(e) Except as otherwise provided in OAR 690, Division 51, if for power purposes, in addition to any other information required, the application shall give the nature of the works by means of which the power is to be developed, the head and amount of water to be utilized, and the uses to which the power is to be applied.

(f) If for municipal or quasi-municipal water supply, in addition to any other information required, the application shall give the already installed and available capacities to provide water service, present population to be served, and, as near as may be, the future requirements of the population served, and if known, the methods that may be used to meet such future requirements.

(g) If for mining purposes, in addition to any other information required, the application shall give the nature of the mines to be served, and the methods of supplying and utilizing the water.

(2) Each application for a permit to appropriate water shall be accompanied by the examination fee set forth in ORS 536.050 (1)(a).

(3) If the proposed use of the water is for operation of a chemical process mine as defined in ORS 517.953, the applicant shall provide the information required under this section as part of the consolidated application under ORS 517.952 to 517.987.

(4) If the department determines that the source of a proposed use of water is in or above a scenic waterway, in addition to any other information required, the applicant shall provide the information required under OAR 690-310-260.

Stat. Auth.: ORS 536.027

Statutes Implemented: ORS 390.835, 537.140 and 537.615

Map to Accompany Application for Water Use Permit

690-310-050 (1) Each application shall be accompanied by a map or drawing which shall be considered a part of the application.

(2) Maps submitted with water use applications shall meet the following criteria:

(a) The application map, which is made part of the record, shall be of permanent quality and drawn in ink or otherwise printed in an indelible form with sufficient clarity so as to be easily reproduced.

(b) Maps shall be drawn on good-quality paper. If the map is larger than 11 inches by 17 inches, four copies must be submitted or the map must be drawn on tracing linen, tracing vellum or mylar.

(c) All maps shall be drawn to a standard, even scale of not less than 4 inches = 1 mile. All maps must include the scale to which the map is drawn and a north directional symbol.

(3) A platted and recorded subdivision map, deed description survey map or county assessor map may be submitted as the application map if all of the required information is clearly shown.

(4) Each copy of the map shall show clearly each of the following requirements that apply to the proposed appropriation:

(a) The location of each diversion point, well, or dam by reference to a recognized public land survey corner. The locations may be shown by distance and bearing or by coordinates (distance north or south and distance east or west from the corner).

(b) The location of main canals, ditches, pipelines, or flumes.

(c) The location of the place where water is to be used identified by tax lot, township, range, section and nearest quarter-quarter section along with a notation of the acreage of the proposed place of use, if appropriate. The Department also shall accept any locational coordinate information that the applicant may wish to provide, including latitude and longitude as established by a global positioning system. If for irrigation, the area to be irrigated in each quarter-quarter of a section shall be indicated by shading or hatchuring and the number of acres in each quarter-quarter section, donation land claim, government lot or other recognized public land survey lines indicated.

Stat. Auth.: ORS 536.027

Statutes Implemented: ORS 537.140, 537.615

Hist.: WRD 6-1987, f. & ef. 6-11-87; WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88; WRD 16-1990, f. & cert. ef. 8-23-90

Permits for Reservoirs Storing Up to Five Acre-Feet of Water, or for Livestock Watering Outside of Riparian Areas (SB 150, 1989); Fees

690-310-060 (1) Applications for permits to use water for storage projects of five acre-feet or less, or for livestock watering outside of riparian areas, are subject to the following reduced fees:

(a) For examining the application, \$40;

(b) For filing and recording the permit, \$10.

(2) If the intended use of the stored water requires a secondary permit as defined by ORS 537.400(2), the secondary application shall be subject to the usual fees as described under ORS 536.050.

(3) Applications submitted under this rule shall in all other respects be subject to the usual requirements for application processing.

Stat. Auth.: ORS 536.025, 536.027

Statutes Implemented: ORS 536.050

Hist.: WRD 6-1989(Temp), f. 9-29-89, cert. ef. 10-3-89; WRD 9-1989, f. & cert. ef. 11-20-89; WRD 9-1992, f. & cert. ef. 7-1-92; Renumbered from 690-11-083

Completeness Review

690-310-070 (1) Within 15 days after receiving an application, the Department shall determine whether the application contains the information required under OAR 690-310-040 and is complete and not defective, including the payment of all required fees. If the Department determines that the application is

September 11, 1997

Tom "Mac" Kerns
Route 1, Box 10
Haines, OR 97833

WATER
RESOURCES
DEPARTMENT

Re: Pine Creek Dam
File No. P-3
Application R- 81903

Dear Mr. Kerns:

Thank you for accompanying me and the Assistant Watermaster, Mr. Tom Rudolf, during the inspection of the referenced project on August 28, 1997. The efforts that you have made over the past few years to clean up the debris in the reservoir are noticed and certainly appreciated.

As we discussed, the survey performed by the District Watermaster last year indicated that the storage capacity of the reservoir *at the crest elevation of the spillway* is approximately 94 acre-feet. The high water mark around the perimeter of the reservoir is 0.8' above the crest elevation of the spillway. It is this high water mark, not the invert of the spillway, that corresponds to the 115 acre-foot value. Consequently, the amount of unaccounted storage as per Certificate 10089 may be on the order of +9 acre-feet. It is not the 30 acre-feet you previously indicated in your letter dated November 18, 1996.

Should you desire to continue with your application for the entire 30 acre-feet of storage that you have requested, it will be necessary for you to address the following items:

- Submit plans and specifications for the proposed construction of a permanent control mechanism for the emergency spillway that will enable you to effectively regulate the level of water in the reservoir and thus, store up to 115 acre-feet. The design must be prepared by an Oregon licensed professional engineer and approved by Water Resources Dam Safety and shall include a revised area-capacity diagram.
- Install a trash rack at the entrance to the outlet conduit. In addition, the valve works must be accessible and/or operable at all times the reservoir is ice-free. It is important that you are able to access and operate the valve in the event an emergency release of water becomes necessary.
- Restore the crest of the dam to a uniform elevation by the placement and compaction of well graded soil and rock fill, as necessary. Assuming a base width of 6.5 feet in the bottom of the emergency spillway, the minimum crest elevation of the restored embankment should be at least 5.5 feet above the bottom of the spillway. This height takes into account the depth of flow in the spillway during the 100-year storm (3.5'), plus two feet (2') of freeboard.

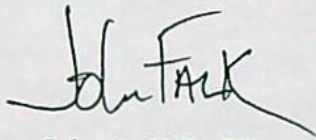


Commerce Building
158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

As you are aware, the dam has experienced continuous leakage through portions of the rock fill embankment for many years. The seepage apparently hasn't affected the integrity of the structural fill comprising the embankment, although chronic flow through the rock shell will gradually remove the fine-grained materials that act to impound water in the reservoir. Because of the type of construction, it is doubtful that the dam will fail catastrophically. However, I suspect that the long-term consequences of this uncontrolled leakage will be the increasing inability of the embankment to store water for any significant length of time. If it is your desire to maintain a secure source of stored water in this reservoir, you may wish to consider placing an impermeable liner on the upstream side of the embankment. Please include us in your decision to make any repair of, or modification to, the dam or spillway.

In the meantime, please do not hesitate to let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Falk". The signature is stylized with a large, looped "J" and a cursive "Falk".

John A. Falk, PE
Safety of Dams

c: Vernon Church - Watermaster Dist. #8
Water Rights Section

FROM:

WATER RESOURCES DEPARTMENT
158 12 th ST. N.E.
SALEM, OREGON 97310

REFERENCE:

- ☐ FIRST CLASS MAIL
- ☐ LETTER ENCLOSED
- ☐ PRINTED MATTER
- ☐ LIBRARY MATERIALS
- ☐ THIRD CLASS MATTER
- ☐ FOURTH CLASS MATTER

THIS PARCEL MAY
BE OPENED FOR
POSTAL INSPECTION
IF NECESSARY

TO:

RETURN POSTAGE GUARANTEED.

RECEIVED

NOV 22 1996

WATER RESOURCES DEPT.
SALEM, OREGON

Application No. R-81903

State of Oregon
WATER RESOURCES DEPARTMENT

Application for a Permit to Construct a Reservoir

Applicant(s) Tom Mac & Joyce A. Kern
(Please print or type - use dark ink)

Mailing Address: Rt 1, Box 10
Haines Or 97833 City State Zip 856-3351 Daytime Phone No.

I (We) make application for a permit to construct for water in existing Pine Cr reservoir and store the following described waters of the State of Oregon:

1. SOURCE OF WATER for the proposed use: Pine Cr,
a tributary of Powder River.
If not in channel of a stream, state how it is to be filled: Existing
2. THE DAM: The maximum height of the structure will be As Existing feet above stream bed or ground surface at the centerline.
The dam will be (check one) ☒ earthfill, ☐ concrete, ☐ flashboard, ☐ other.
If "other" give description: Existing reservoir holds 115 acre ft with the existing right under certificate number 10089 of 85 acre ft. This application is for the additional 30 acre ft.

Give the location, description, and dimensions of the outlet conduit: As existing

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

3. THE USE(s) of the impounded water will be: Secondary and supplemental irrigation

4. THE AMOUNT OF WATER to be stored is: 115 with 85 already certified acre-feet.
The area submerged by the reservoir, when filled, will be 20.2 acres acres,
and the maximum depth of water will be approximately 9 feet.

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

6. PROJECT SCHEDULE: (List month and year)

Proposed date construction work will begin _____

Proposed date construction work will be completed about 1895

Proposed date water use will be completed _____

NOTE: ~~Prior to issuance of a permit, it will be necessary to submit a map prepared by a Certified Water Right Examiner (CWRE) and a complete legal description of the property on which the water is to be used. The legal description may be copied from your deed, title insurance policy, or land sales contract.~~

7. a) In the event any deficiencies are noted involving the application map ¹¹ enclosed herein, please return the map with instructions for correction to (check one):

☒ Applicant ☒ CWRE _____ Other (Identify in REMARKS section)

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

☒ Applicant ☒ CWRE _____ Other (Identify in REMARKS section)

11 Not enclosed since water use is already certified

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

REMARKS: _____

9. If you answered "NO" to question #8 above, do you have written authorization or an easement permitting access to the lands you do not own?

YES _____ NO _____

I understand that if I do not own all property associated with this application, I may be required to submit a copy of my written authorization or easement for access before a permit can be issued.

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

Tom Mac Kerns
Signature
James A Kerns
Signature

10-21-96
Date
10/21/96
Date

FOR WATER RESOURCES DEPARTMENT USE ONLY

Dear Applicant:

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

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

_____, 19____.

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

Water Resources Director

By: _____

This instrument was first received in the office of the Water Resources Director at Salem, Oregon, on the 22nd day of November, 1996 at 8 o'clock, A M.

APPLICATION NO: R-81903

PERMIT NO: _____

RECEIVED

Application No.

R-81903

NOV 22 1996

WATER RESOURCES DEPT.
SALEM, OREGON

State of Oregon

WATER RESOURCES DEPARTMENT

Application for a Permit to Appropriate Surface Water

Applicant(s) Tom Mac & Joyce Kerns
(Please print or type - use dark ink)Mailing Address: R1 Box 10Haines, Or 97833

City

State

Zip

Daytime Phone No.

I (We) make application for a permit to appropriate the following described waters of the State of Oregon:

1. SOURCE OF WATER for the proposed use: Pine Cr Reservoir Storage,
a tributary of Powder River.2. TOTAL AMOUNT OF WATER to be applied to beneficial use: 30 Acre cubic feet per
second, OR _____ gallons per minute. If water is to be used from more than one source,
give the quantity of water from each: _____3. INTENDED USE(s) OF WATER: secondary & Supplemental Irrigation

If for more than one use, give the quantity of water from each source for each use; _____

If for DOMESTIC use, state the number of households to be supplied; _____

If for MUNICIPAL OR QUASI-MUNICIPAL use, state the present population to be served,
and an estimate of the future requirements; (List population projections, water needs, anticipated areas
to be provided water.) _____

If for MINING use, state the nature (gold, silver, etc.) of the mines to be served; _____

If for IRRIGATION, or other land area use, state the TOTAL number of acres to be developed
under each use;

Irrigation

160 acres

Other (describe)

SE 1/4 S 7 T 8 S R 39 E.
water is for supplemental irrigation and will remain on acres
already certified under certificate number 55731, plus a
transfer made under H23111. Lands certified are NESE 1/4 SESE
S 12 T 8 S R 38 E WM and NW 3/4 SW 1/4 SW 1/4 NESW SESE S 7 and
NW NW S 18 T 8 S R 38 E WM.

4. **DESCRIPTION OF WATER DELIVERY SYSTEM:** Include dimensions and type of construction of diversion works, length and dimensions of supply ditches or pipelines, size and type of pump and motor. If for irrigation, describe the type of system (i.e., flood, wheel line, hand line, drip, other).

As existing

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

Proposed date construction work will begin _____

Proposed date construction work will be completed Completed

Proposed date water use will be completed Completed

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

☒ Applicant ☒ CWRE _____ Other (Identify in REMARKS section)

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

☒ Applicant ☒ CWRE _____ Other (Identify in REMARKS section)

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

REMARKS:

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

Tom Mac Kerns
Signature of Applicant

[Signature]
Signature of Co-Applicant

10-21-96
Date

10/21/96
Date

FOR WATER RESOURCES DEPARTMENT USE ONLY

Dear Applicant:

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

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

_____, 19____.

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

Water Resources Director

By: _____

This instrument was first received in the office of the Water Resources Director at _____,
Oregon, on the _____ day of _____, 19____, at _____ o'clock, ____ M.

APPLICATION NO: _____

PERMIT NO: _____

Tom "Mac" Kerns
Rt 1, Box 10
Haines, OR 97833

RECEIVED

OCT 31 1996

WATER RESOURCES DEPT.
SALEM, OREGON

Water Rights & Adjudications Divisions
Water Resources Department
Commerce Building
158 12th Street N.E.
Salem Or 97310

October 28, 1996

File #
1441

Reference: Certificate No. 10089-Storage Pine Creek Reservoir

Dear Sir:

Pine Creek reservoir is a reservoir constructed prior to the turn of the current century with minimum survey and design. Plans or area capacity curves don't exist.

During October of 1996, the water master surveyed the impoundment area to determine the capacity. This survey shows the capacity to the high water mark to be 115 acre feet. The certificate shows 85 acre feet. Since 1931, the reservoir has been used for supplemental irrigation and completely drained each year except during extremely wet years. This was probably less than five years during the 65 years it has been used for irrigation.

The 85 acre feet shown on the certificate is undoubtedly an estimate with the control being the amount of water actually stored. We now know it to be 115 acre feet.

I request the certificate be corrected to show the actual storage of 115 acre feet.

Sincerely,

Tom Mac Kerns
Tom "Mac" Kerns

Mailing List for FO Copies

Application # R-81903

Mailing List Print Date July 29, 1998

Original mailed to (when permit issued, include copy of permit map):

Applicant: Tom Mac and Joyce A. Kerns, Route 1 Box 10, Haines, Oregon 97833

For FO w/Draft Permit - Copies sent to:

1. WRD - File # R-81903
2. WRD - John Falk (for reservoir applications only)

Copies Mailed	
By: <u>JS</u>	(SUPPORT STAFF)
on: <u>8/12/98</u>	(DATE)

For FO w/ Draft Permit - FO and Map Copies sent to:

3. WRD - Watermaster # District: 8
4. WRD - Regional Manager: ER
5. ODFW District Biologist: La Grande District
6. DEQ Headquarters - Russell Harding
7. Columbia Intertribal Fish Commission
8. US Fish and Wildlife
9. NMFS
10. NW Power Planning Council
11. Dept of Agriculture - Ves Garner

For FO w/Draft Permit, w/Permit or for Denial - Copies to Other Interested Persons (*CWRE, Agent, Well Driller, Commenter, etc.*)

1. _____
2. _____
3. _____

For FO w/Draft Permit or w/Permit - "\$10 LETTER" sent to Interested Persons who have not protested or paid for copies

1. _____
2. _____

CASEWORKER : LKS

PFO CHECKLIST

Application #: R 81903

Basin: 9 Powder

WAB: _____

County BAKER Township 85 Range 58E Section 32 1/4 1/4 _____

- ☒ 1. Is the file complete by the Completeness Checklist? Y/N
- ☐ 2. Shortcomings (items needed before a permit and/or FO can be issued) Y/N
- ☐ 3. Check file for indicators that the process should not continue until a later date (ie - protest, letter to file indicating hold, or other)
- ☐ 4. Groundwater Review A B C D River/Stream Name _____ Conditions _____
 - ☐ a. Groundwater Availability A B C
 - ☐ b. Is second groundwater review necessary? (comments) Y/N
 - ☐ c. Is HB 1033 review complete? Y/N
- ☐ 5. If source is groundwater, is the well located in a groundwater limited area? (If applicable, include map with POD) Y/N
- ☒ 6. Is use from a B.O.R. project? Y/N Contract in file? Y/N Contract # _____
- ☒ 7. Is the use allowed by the Basin Program? Y/N Limited? Y/N _____
- ☒ 8. Water Availability Data OK / REDONE / NA (50% before July 17, 1992; 80% live flow & 50% storage after July 17, 1992)
- ☒ 9. Is the source withdrawn or limited by statute or Department withdrawal order? Y/N _____
- ☒ 10. Is the Proposed Use located in or above a Scenic Waterway? Y/N _____
- ☒ 11. Division 33: Above Bonn (after July 17, 1992) Y/N/NA
 Below Bonn (after April 8, 1994; June 3, 1994) Y/N/NA
 Statewide - (in shaded areas on T, E, and S Map - after June 3, 1994) Y/N/NA
- ☒ 12. Have conflicts been identified, verified and/or addressed? Y/N _____
- ☒ 13. Rate 30 AF Duty _____ Irrigation Season _____
- ☒ 14. Period of Allowed Use 10/1 - 4/14
- ☒ 15. Allowed Rate of Use 30 AF
- ☒ 16. Is the use **Small** (≤ 0.1 cfs, ≤ 9.2 AF), **Medium** (> 0.1 or < 1.5 cfs, > 9.2 or < 100 AF) or **Large** (≥ 1.5 cfs, ≥ 100 AF)?
- ☒ 17. Conditions SEE IR FOR FISH SCREEN CONDITION
- ☒ 18. IR Public Notice Date 4/24/97; 7/5/97
- ☐ 19. Documents used in determination are attached and highlighted
- ☒ 20. Spell Check
- ☒ 21. Check for Accuracy
- ☒ 22. Final PFO report hard copy check (format, margins, etc.)
- ☐ 23. Final PFO has been saved to m:\groups\wr\pfo\done\week#\application #
- ☐ 24. Fill out PFO CC List (don't forget to check for other property owners)
 - ☐ a. Re-notify Water Availability? (Rate, Duty and Period of Allowed Use changes) Y/N

Name: RUK

Date: 7/4/97

Revised 8/13/97

NO. NEEDS
NEW SECONDARY
SUPP TO 7/2/97
CERT 68541
72618

ODEW (TIM WALTERS)

DOA

DEA (RUSSELL HARDING)

COL RIV INT FISH COMM

US FW

NW POWDR

NMFS

IR CHECKLIST

Application #: R-81903 Vol _____ Subbasin _____
 Basin: 9 WAB: 020222 POU-WAB _____
 Township 85 Range 38E Section 32 1/4 1/4 _____

- ✓ 1. Completeness checklist verified. Y / N or No Checklist
- ✓ 2. Indicators that the process should not continue (ie - protest, items missing, letter to file indicating hold, or other) Y / N
- N/A 3. Groundwater review A B C D _____
 a. Is the well located in a groundwater limited area? Y / N _____
- ✓ 4. SWW Y / N Triage Y / N conditions/restrictions Y / N _____
- ✓ 5. Basin Program limitations? Y / N _____
- ✓ 6. Withdrawn? Y / N season allowed _____
- ✓ 7. Basin Maps have been checked Y / N The River Mile is _____
- ✓ 8. Water Availability (50% < July 17, 1992 ** 80% [50% storage] > July 17, 1992) NA _____
- ✓ 9. Rate/Duty/Season 30 AF
- ✓ 10. Use STORAGE FOR IRR Period of Allowed Use year-round
- ✓ 11. Priority Date(s) 11/22/96
- ✓ 12. B.O.R. project Y / N contract # _____
- ✓ 13. TMDL Basin? Y / N (Tualatin, Yamhill, Pudding) DIVISION 33 Y / N UPPER + WARNING New or Old? Map Date _____
- ✓ 14. Conflicts Y / N _____
- ✓ 15. Conditions? (BOR, GW, other) Y / N _____
- ✓ 16. Land use approval OK'd needs approval county notified NA
- ✓ 17. Watermaster Dist: (1 2 16 18 - NWR) (3 4 5 - NCR) (6 8 9 10 - ER) (11 12 17 - SCR) (14 15 19 - SWR)
- ✓ 18. Letter will be Good Limited Bad Bad w/IRshort because _____

SECONDARY NOT NECESSARY; ALREADY EXISTING UNDER CAYET 55731

Need plans + specs

Pine Cr. > Salmon Cr. > Powder R.

Name: _____ Date: _____

save to m:\t\ir\sent\app#.w51

STATE OF OREGON

WATER DIVISION NO. 2 COUNTY OF Baker

CERTIFICATE OF WATER RIGHT

(For rights perfected under original, enlargement or secondary permits)

This is to Certify, That J. W. Phillips and Frank Ebell

of Baker, R. D. No. 2, State of Oregon 97812, has made proof
to the satisfaction of the STATE WATER BOARD of Oregon, of a right to the use of the
waters of Goodrich Creek, a tributary of Powder River
for the purpose of irrigation

under Enlargement Permit No. 1 of the State Engineer, and that said right to
the use of said waters has been perfected in accordance with the laws of Oregon and
duly confirmed by order of the STATE WATER BOARD of Oregon, made and entered

of record in the Record of Proceedings of said Board, at Salem, in Volume 1,

at page 152, on the 19th day of November, 1913; that the priority of

the right hereby confirmed dates from April 26, 1909; that the amount of
water to which such right is entitled and hereby confirmed, for the purposes aforesaid,
is limited to an amount actually beneficially used for said purposes, and shall not

exceed 2.00 cubic feet per second, or its equivalent in case of rotation. The use
hereunder shall conform to any reasonable rotation system ordered by the proper state officers.
A description of the lands under such right, and to which the water hereby
confirmed is appurtenant, or, if for other purposes, the place where such water is put
to beneficial use, is as follows:

40 acres in NE $\frac{1}{4}$ of SE $\frac{1}{4}$; 40 acres in NW $\frac{1}{4}$ of SE $\frac{1}{4}$; 35 acres in SW $\frac{1}{4}$ of SE $\frac{1}{4}$;
and 25 acres in SE $\frac{1}{4}$ of SE $\frac{1}{4}$; Section 31: 40 acres in SW $\frac{1}{4}$ of NW $\frac{1}{4}$ and 40 acres in
SE $\frac{1}{4}$ of NW $\frac{1}{4}$; Section 32: all in Township Eight South, Range Thirty-eight East of
Willamette Meridian.

The right to the use of the water aforesaid hereby confirmed in
lands or place of use herein described.

Rights to the use of water for power purposes are limited to
years from the date of priority of the right, as herein set forth, subje
right of renewal under the laws existing at the date of the expirati
power purposes, as hereby confirmed and limited.

Witness the seal and sign

(SEAL OF STATE WATER BOARD)

WATER BOARD affixed

of March, 1913

STATE WATER BOA

By JOHN H. LEWIS

Attest: M. F. MERS

Secretary

Recorded in State Record of Water Right Certificates, Volume 1, Page 398

CONFLICT
w/ cert # 398

STATE OF OREGON

WATER DIVISION NO. 2 COUNTY OF Baker

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under Enlargement Permit No. 1 of the State Engineer, and that said right to
the use of said waters has been perfected in accordance with the laws of Oregon and
duly confirmed by order of the STATE WATER BOARD of Oregon, made and entered
of record in the Record of Proceedings of said Board, at Salem, in Volume 1,

at page 152, on the 19th day of November, 1913; that the priority of
the right hereby confirmed dates from April 26, 1909; that the amount of
water to which such right is entitled and hereby confirmed, for the purposes aforesaid,
is limited to an amount actually beneficially used for said purposes, and shall not

exceed 2.00 cubic feet per second, or its equivalent in case of rotation. The use
hereunder shall conform to any reasonable rotation system ordered by the proper state officers.
A description of the lands under such right, and to which the water hereby
confirmed is appurtenant, or, if for other purposes, the place where such water is put
to beneficial use, is as follows:

40 acres in NE $\frac{1}{4}$ of SE $\frac{1}{4}$; 40 acres in NW $\frac{1}{4}$ of SE $\frac{1}{4}$; 35 acres in SW $\frac{1}{4}$ of SE $\frac{1}{4}$;
and 25 acres in SE $\frac{1}{4}$ of SE $\frac{1}{4}$; Section 31: 40 acres in SW $\frac{1}{4}$ of NW $\frac{1}{4}$ and 40 acres in
SE $\frac{1}{4}$ of NW $\frac{1}{4}$; Section 32: all in Township Eight South, Range Thirty-eight East of
Willamette Meridian.

The right to the use of the water aforesaid hereby confirmed is restricted to the
lands or place of use herein described.

Rights to the use of water for power purposes are limited to a period of forty
years from the date of priority of the right, as herein set forth, subject to a preference
right of renewal under the laws existing at the date of the expiration of the right for
power purposes, as hereby confirmed and limited.

Witness the seal and signature of the STATE

(SEAL OF STATE WATER BOARD)

WATER BOARD affixed this 10th day
of March, 1914.

STATE WATER BOARD

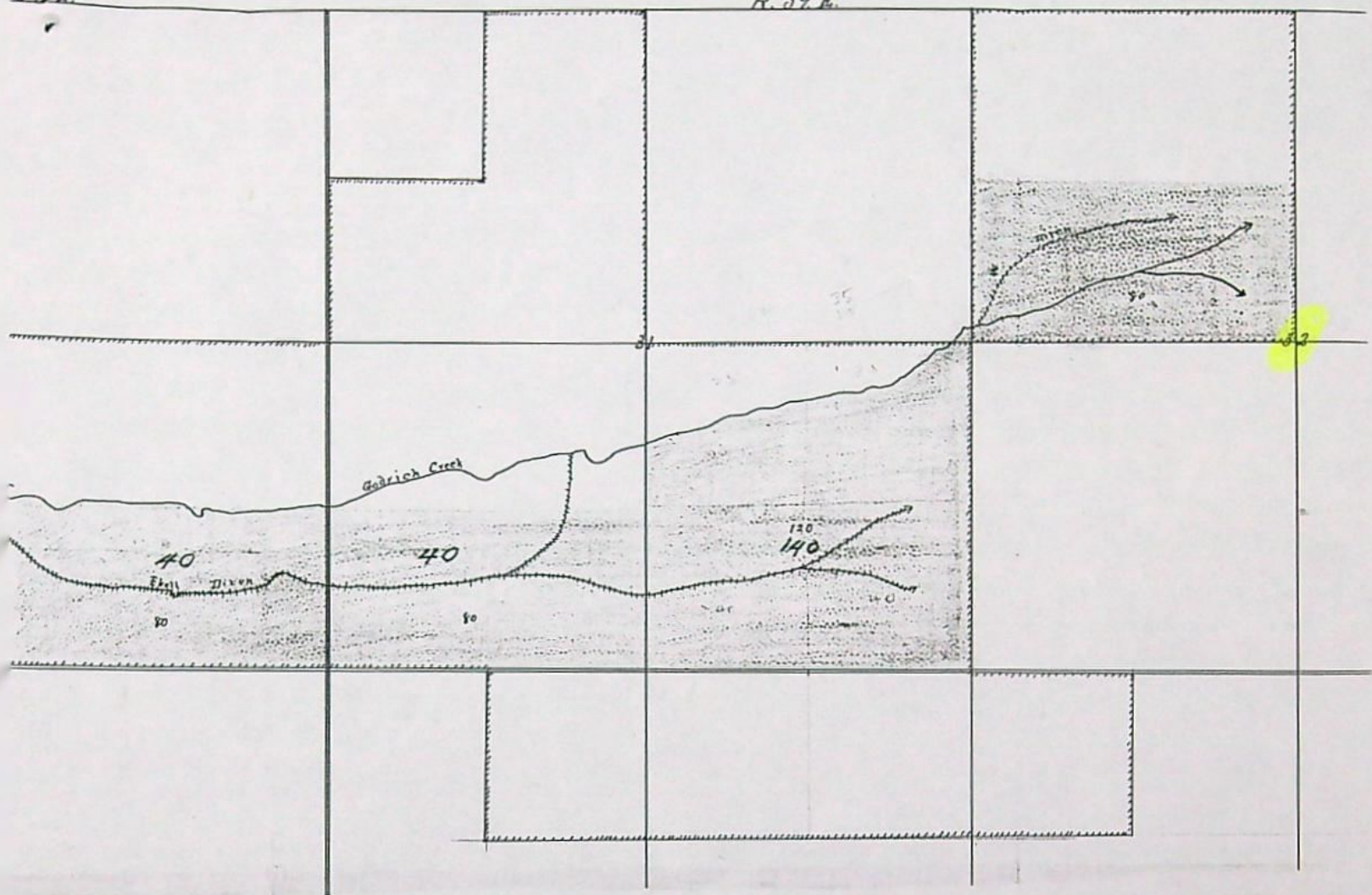
By JOHN H. LEWIS
State Engineer, President

Attest: M. F. MERS
Secretary

Recorded in State Record of Water Right Certificates, Volume 1, Page 398

38E

R. 39E



CONFLICT

APP. NO. / PERMIT NO.	CERT NO.	GOV'T LOT DLC	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
E 45	398	V							40.00 (IR)	40.00 (IR)								
E 1																		
R 14441	10089	V	(IR)	-->														
R 660			(S)															

CONFLICTING RIGHT

OREGON WATER RESOURCES DEPARTMENT
ADMINISTRATIVE RULES
CHAPTER 690
DIVISION 509

POWDER BASIN PROGRAM

Classifications

690-509-000 (1) The maximum economic development of this state, the attainment of the highest and best use of the waters of the Powder Basin, and attainment of an integrated and coordinated program for the benefit of the state as a whole will be furthered through utilization of the aforementioned waters only for domestic, livestock, municipal, irrigation, power development, industrial, mining, recreation, wildlife, and fish life uses, and the waters of the Powder Basin are hereby so classified with the following exceptions:

(a) That 65,000 acre-feet annually of unappropriated water of Eagle Creek and its tributaries at or above stream mile 21 be classified for domestic, livestock, municipal, irrigation, recreation, wildlife, and fish life purposes.

(b) That 265,000 acre-feet annually of natural flows of Snake River water at or near stream mile 9 of Powder River (arm of Brownlee Reservoir) lying within Section 25, Township 9 South, Range 45 East, Willamette Meridian, be classified for domestic, livestock, municipal, irrigation and industrial purposes.

(c) That 87,000 acre-feet annually of natural flows of Snake River water at or near stream mile 327 of Snake River lying within Section 8, Township 14 South, Range 45 East, Willamette Meridian, be classified for domestic, livestock, municipal, irrigation, and industrial purposes.

(d) The maximum economic development of this state, the attainment of the highest and best use of the unappropriated waters of the natural lakes of the Powder Basin, and the attainment of an integrated and coordinated program for the benefit of the state as a whole will be furthered through utilization of the aforementioned waters only for domestic, livestock, irrigation of lawn or noncommercial garden not to exceed one-half acre in area, power development not to exceed 7 1/2 theoretical horsepower, recreation, wildlife, and fish life uses, and the waters of the natural lakes of the Powder Basin are hereby so classified.

(2) Application for the use of these specified waters of the Powder Basin shall not be accepted by any state agency for any other use and the granting of applications for such other use is declared to be prejudicial to the public interest and the granting of applications for such other uses would be contrary to the integrated and coordinated program for the use and control of the water resources of the state.

(3) Structures or works for the utilization of the waters in accordance with the aforementioned classifications are also declared to be prejudicial to the public interest unless planned, constructed, and operated in conformity

STATE OF OREGON
COUNTY OF BAKER
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

TOM "MAC" KERNS
ROUTE 1 BOX 10
HAINES, OREGON 97837

confirms the right to use the waters of A RESERVOIR ON PINE CREEK, CONSTRUCTED UNDER PERMIT R-660, a tributary of the POWDER RIVER, for SUPPLEMENTAL IRRIGATION OF 200.0 ACRES, DOMESTIC AND STOCK.

This right was perfected under Permit 10721. The date of priority is DECEMBER 11, 1931. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 5.00 CUBIC FOOT PER SECOND or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

NW¼ NW¼, SECTION 26; SW¼ NE¼, SECTION 32, T 8 S, R 38 E, WM.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated during the irrigation season of each year.

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

A description of the place of use to which this right is appurtenant is as follows:

NE¼ SE¼	40.0 ACRES	NW¼ SW¼	40.0 ACRES
SE¼ SE¼	40.0 ACRES	SW¼ SW¼	40.0 ACRES
SECTION 12		SECTION 7	
TOWNSHIP 8 SOUTH, RANGE 38 EAST, W.M.		NW¼ NW¼ 40.0 ACRES SECTION 18 TOWNSHIP 8 SOUTH, RANGE 39 EAST, W.M.	


This right shall be subject to the following condition that the City of Baker's right and priorities both as to natural flow and storage shall be preserved and shall not be affected by this subsequent filing; that should the City of Baker at any time hereafter elect to employ its said rights in this reservoir, Mrs. Perkins, or her successors in interest, will promptly recognize the City's right to the use of such reservoir for municipal purposes as specified in the agreement between the City and her on February 16, 1932, and that Mrs. Perkins or her successors in interest, will at all time indemnify and save the City harmless of any damage which may result through her enjoyment of said facilities as specified in said agreement.

This certificate describes that portion of the water right confirmed by Certificate 55731, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered AUG 9 1995, approving Transfer Application 6785.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director,
affixed AUG 9 1995.

 MARTHA O. PAGEL

Martha O. Pagel, Director

Recorded in State Record of Water Right Certificates numbered 68541.

T-6785.LHN

STATE OF OREGON

COUNTY OF

BAKER

CERTIFICATE OF WATER RIGHT

This Is to Certify, That

OTHA D. PERKINS

of Baker, State of Oregon, has made proof to the satisfaction of the Water Resources Director, of a right to the use of the waters of a reservoir on Pine Creek, constructed under Permit R-660

a tributary of Powder River for the purpose of irrigation, domestic and stock

under Permit No. 10721 and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from December 11, 1931

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 7.0 cubic feet per second

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the NW 1/4 NW 1/4, Section 26, SW 1/4 NE 1/4, Section 32, T8S, R38E, W.M.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-fortieth of one cubic foot per second per acre,

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

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

40.0 acres NE 1/4 SE 1/4
40.0 acres SE 1/4 SE 1/4
Section 12

40.0 acres NW 1/4 SW 1/4
40.0 acres SW 1/4 SW 1/4
Section 7

40.0 acres NW 1/4 NE 1/4
Section 13
Township 8 South, Range 38 East, WM

40.0 acres NW 1/4 NW 1/4
40.0 acres SW 1/4 NW 1/4
Section 18
Township 8 South, Range 39 East, WM

SEE NEXT PAGE

Cancelled - op. or Rec. Vol. 49 p. 267

Registered by 68541
Ord. No.

T-6785

This right shall be subject to the following condition that the City of Baker's rights and priorities both as to natural flow and storage shall be preserved and shall not be affected by this subsequent filing; that should the City of Baker at any time hereafter elect to employ its said rights in this reservoir, Mrs. Perkins, or her successors in interest, will promptly recognize the City's rights to the use of such reservoir for municipal purposes as specified in the agreement between the City and her on February 16, 1932, and that Mrs. Perkins or her successors in interest, will at all times indemnify and save the City harmless of any damage which may result through her enjoyment of said facilities as specified in said agreement.

The right to the use of the water for any purpose is restricted to the lands or place of use herein described.

This certificate describes that portion of the water right confirmed by the prior certificate recorded at page 10135, Volume 9, State Record of Water Right Certificates, NOT canceled by the provisions of an order of the Water Resources Director entered on February 13, 1987.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described. and is subject to minimum flows established by the Water Resources Commission with an effective date prior to this right.

WITNESS the signature of the Water Resources Director, affixed

this date. March 6, 1987

/s/ William H. Young

Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 51 , page 55731

8887D/SRA
14442

T-6785

STATE OF OREGON

COUNTY OF BAKER

CERTIFICATE OF WATER RIGHT

97814
JUL 10 1935
THIS IS TO CERTIFY, That OTHA D. PERKINS of Baker, State of Oregon, has made proof to the satisfaction of the State Engineer of Oregon, of a right to store the waters of Pine Creek, tributary of Powder River, to be appropriated under Application No. 14442, Permit No. 10721, for the purpose of Supplemental Irrigation, under Reservoir Permit No. 660 of the State Engineer, and that said right to store said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from December 11, 1931; that the amount of water entitled to be stored each year under such right, for the purposes aforesaid, shall not exceed 85 acre-feet.

This right shall be subject to the following condition that the City of Baker's rights and priorities both as to natural flow and storage shall be preserved and shall not be affected by this subsequent filing; that should the City of Baker at any time hereafter elect to employ its said rights in this reservoir, Mrs. Perkins, or her successors in interest, will promptly recognize the City's rights to the use of such reservoir for municipal purposes as specified in the agreement between the City and her on February 16, 1932, and that Mrs. Perkins or her successors in interest, will at all times indemnify and save the City harmless of any damage which may result through her enjoyment of said facilities as specified in said agreement.

The reservoir is located in Section 32, Township 8 South, Range 38 East, W. M.

After the expiration of fifty years from the date of this certificate or on the expiration of any federal power license issued in connection with this right, and after not less than two years notice in writing to the holder hereof, the State of Oregon, or any municipality thereof, shall have the right to take over the dams, plants and other structures and all appurtenances thereto which have been constructed for the purpose of devoting to beneficial use the water rights specified herein, upon condition that before taking possession the State or municipality shall pay not to exceed the fair value of the property so taken, plus such reasonable damages, if any, to valuable, serviceable and dependable property of the holder of this certificate, not taken over, as may be caused by the severance therefrom of the property taken in accordance with the provisions of Section 47-508, Oregon Code 1930.

WITNESS the signature of the State Engineer,
affixed this 28th day of July, 1933.

State Engineer.

WATER AVAILABILITY TABLE

Basin: POWDER Exceedance Level: 50
 Water Availability Subbasin: 0202220000000000 (and Nested Subbasins)
 Time: 12:46 Date: 05/21/1997

Item #	W.A. Subbasin	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Sto
1	0200000000000000	YES	YES	YES	YES	YES	YES	YES	NO	YES	YES	YES	YES	YES
2	0202000000000000	YES	YES	YES	YES	YES	YES	NO	NO	NO	YES	YES	YES	YES
3	0202200000000000	YES	YES	YES	YES	YES	YES	NO	NO	NO	YES	YES	YES	YES
4	0202220000000000	YES	YES	YES	YES	YES	NO	NO	NO	NO	YES	YES	YES	YES

STREAM NAMES

Basin: POWDER
 Water Availability Subbasin: 0202220000000000 (and Nested Subbasins)
 Time: 12:46 Date: 05/21/1997

WAB #	Stream Name	Tributary to
0200000000000000	POWDER R @ 13289500	SNAKE R
0202000000000000	POWDER R ab EAGLE CR	SNAKE R
0202200000000000	POWDER R ab GOOSE CR	SNAKE R
0202220000000000	POWDER R ab UNN STR	SNAKE R

LIMITING WATER AVAILABILITY SUBBASINS

Water Availability Subbasin: 0202220000000000
 Basin: POWDER
 Exceedance Level: 50
 Time: 12:46

Date: 05/21/1997

Month	Limiting Subbasin	Stream Name	Water Available?	Net Water Available
1	0202220000000000	POWDER R ab UNN STR	YES	76.2
2	0202220000000000	POWDER R ab UNN STR	YES	115.0
3	0202220000000000	POWDER R ab UNN STR	YES	187.0
4	0202220000000000	POWDER R ab UNN STR	YES	442.0
5	0202200000000000	POWDER R ab GOOSE CR	YES	346.0
6	0202220000000000	POWDER R ab UNN STR	NO	-137.0
7	0202220000000000	POWDER R ab UNN STR	NO	-259.0
8	0202000000000000	POWDER R ab EAGLE CR	NO	-299.0
9	0202220000000000	POWDER R ab UNN STR	NO	-177.0
10	0202000000000000	POWDER R ab EAGLE CR	YES	23.0
11	0202220000000000	POWDER R ab UNN STR	YES	37.1
12	0202000000000000	POWDER R ab EAGLE CR	YES	28.2
Stor	0202220000000000	POWDER R ab UNN STR	YES	75100.0

DETAILED REPORT ON WATER AVAILABILITY

Basin: POWDER

Stream: POWDER R @ 13289500

Water Availability Subbasin: 0200000000000000

ID Number: 13289500

Exceedance Level: 50

Time: 12:46

Date: 05/21/1997

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Net Min. Flow 1/1/93	CU + Stor After 1/1/93	Net Min. Flow Now	Instream Water Rights	Net Water Available
1	412.00	94.00	318.00	2.43	316.00	0.00	316.00
2	605.00	118.00	487.00	2.62	484.00	0.00	484.00
3	921.00	185.00	736.00	3.25	733.00	0.00	733.00
4	1450.00	360.00	1090.00	8.00	1080.00	0.00	1080.00
5	2310.00	1070.00	1240.00	9.60	1230.00	0.00	1230.00
6	2330.00	970.00	1360.00	8.23	1350.00	0.00	1350.00
7	689.00	542.00	147.00	6.81	140.00	0.00	140.00
8	424.00	530.00	-106.00	3.09	-109.00	0.00	-109.00
9	254.00	176.00	78.30	4.34	74.00	0.00	74.00
10	213.00	22.00	191.00	4.28	187.00	0.00	187.00
11	270.00	46.00	224.00	2.33	222.00	0.00	222.00
12	311.00	105.00	206.00	2.31	204.00	0.00	204.00
Stor	610000	253000	364000	3430	361000	0	361000

DETAILED REPORT OF ISWRs

Basin: POWDER

Stream: POWDER R @ 13289500

Water Availability Subbasin: 0200000000000000

Time: 12:46

Date: 05/21/1997

-----ISWRs-----							
APP # :	0	0	0	0	0	0	RESULTANT

1	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2	0.0	0.0	0.0	0.0	0.0	0.0	0.0
3	0.0	0.0	0.0	0.0	0.0	0.0	0.0
4	0.0	0.0	0.0	0.0	0.0	0.0	0.0
5	0.0	0.0	0.0	0.0	0.0	0.0	0.0
6	0.0	0.0	0.0	0.0	0.0	0.0	0.0
7	0.0	0.0	0.0	0.0	0.0	0.0	0.0
8	0.0	0.0	0.0	0.0	0.0	0.0	0.0
9	0.0	0.0	0.0	0.0	0.0	0.0	0.0
10	0.0	0.0	0.0	0.0	0.0	0.0	0.0
11	0.0	0.0	0.0	0.0	0.0	0.0	0.0
12	0.0	0.0	0.0	0.0	0.0	0.0	0.0

DETAILED REPORT ON WATER AVAILABILITY

Basin: POWDER

Stream: POWDER R ab EAGLE CR

Water Availability Subbasin: 0202000000000000

ID Number: 72193

Exceedance Level: 50

Time: 12:46

Date: 05/21/1997

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Net Min. Flow 1/1/93	CU + Stor After 1/1/93	Net Min. Flow Now	Instream Water Rights	Net Water Available
1	283.00	91.80	191.00	2.40	189.00	60.00	129.00
2	444.00	118.00	326.00	2.58	323.00	70.00	253.00
3	715.00	187.00	528.00	3.21	525.00	80.00	445.00
4	1030.00	354.00	676.00	7.89	668.00	80.00	588.00
5	1440.00	1000.00	440.00	9.27	431.00	80.00	351.00
6	1290.00	894.00	396.00	7.96	388.00	80.00	308.00
7	328.00	501.00	-173.00	6.78	-180.00	60.00	-240.00
8	260.00	496.00	-236.00	3.06	-239.00	60.00	-299.00
9	133.00	162.00	-29.20	4.31	-33.50	60.00	-93.50
10	105.00	17.80	87.20	4.24	83.00	60.00	23.00
11	151.00	41.80	109.00	2.29	106.70	60.00	46.70
12	193.00	102.00	90.50	2.27	88.20	60.00	28.20
Stor	382000	237000	170000	3370	168000	48500	130000

DETAILED REPORT OF ISWRs

Basin: POWDER

Stream: POWDER R ab EAGLE CR

Water Availability Subbasin: 0202000000000000

Time: 12:46

Date: 05/21/1997

-----ISWRs-----							
APP # :	72193A	0	0	0	0	RESULTANT	
STATUS:	App.						
1	60.0	0.0	0.0	0.0	0.0	60.0	A
2	70.0	0.0	0.0	0.0	0.0	70.0	A
3	80.0	0.0	0.0	0.0	0.0	80.0	A
4	80.0	0.0	0.0	0.0	0.0	80.0	A
5	80.0	0.0	0.0	0.0	0.0	80.0	A
6	80.0	0.0	0.0	0.0	0.0	80.0	A
7	60.0	0.0	0.0	0.0	0.0	60.0	A
8	60.0	0.0	0.0	0.0	0.0	60.0	A
9	60.0	0.0	0.0	0.0	0.0	60.0	A
10	60.0	0.0	0.0	0.0	0.0	60.0	A
11	60.0	0.0	0.0	0.0	0.0	60.0	A
12	60.0	0.0	0.0	0.0	0.0	60.0	A

DETAILED REPORT ON WATER AVAILABILITY

Basin: POWDER

Stream: POWDER R ab GOOSE CR

Water Availability Subbasin: 0202200000000000

ID Number: 72192

Exceedance Level: 50

Time: 12:46

Date: 05/21/1997

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Net Min. Flow 1/1/93	CU + Stor After 1/1/93	Net Min. Flow Now	Instream Water Rights	Net Water Available
1	269.00	92.10	177.00	1.98	175.00	50.00	125.00
2	416.00	118.00	298.00	2.14	296.00	60.00	236.00
3	681.00	188.00	493.00	2.55	490.00	70.00	420.00
4	969.00	349.00	620.00	5.29	615.00	70.00	545.00
5	1390.00	968.00	422.00	6.23	416.00	70.00	346.00
6	1280.00	865.00	415.00	5.23	410.00	70.00	340.00
7	326.00	482.00	-156.00	3.33	-159.00	50.00	-209.00
8	259.00	477.00	-218.00	2.95	-221.00	50.00	-271.00
9	132.00	157.00	-24.60	2.55	-27.20	50.00	-77.20
10	104.00	18.20	85.80	2.97	82.80	50.00	32.80
11	149.00	42.30	107.00	1.89	105.10	50.00	55.10
12	186.00	103.00	83.20	1.87	81.30	50.00	31.30
Stor	369000	231000	162000	2330	160000	41300	128000

DETAILED REPORT OF ISWRs

Basin: POWDER

Stream: POWDER R ab GOOSE CR

Water Availability Subbasin: 0202200000000000

Time: 12:46

Date: 05/21/1997

-----ISWRs-----							
APP # :	72192A	0	0	0	0	RESULTANT	
STATUS:	App.						
1	50.0	0.0	0.0	0.0	0.0	50.0	A
2	60.0	0.0	0.0	0.0	0.0	60.0	A
3	70.0	0.0	0.0	0.0	0.0	70.0	A
4	70.0	0.0	0.0	0.0	0.0	70.0	A
5	70.0	0.0	0.0	0.0	0.0	70.0	A
6	70.0	0.0	0.0	0.0	0.0	70.0	A
7	50.0	0.0	0.0	0.0	0.0	50.0	A
8	50.0	0.0	0.0	0.0	0.0	50.0	A
9	50.0	0.0	0.0	0.0	0.0	50.0	A
10	50.0	0.0	0.0	0.0	0.0	50.0	A
11	50.0	0.0	0.0	0.0	0.0	50.0	A
12	50.0	0.0	0.0	0.0	0.0	50.0	A

DETAILED REPORT ON WATER AVAILABILITY

Basin: POWDER

Stream: POWDER R ab UNN STR

Water Availability Subbasin: 0202220000000000

ID Number: 72191

Exceedance Level: 50

Time: 12:46

Date: 05/21/1997

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Net Min. Flow 1/1/93	CU + Stor After 1/1/93	Net Min. Flow Now	Instream Water Rights	Net Water Available
1	163.00	60.50	103.00	1.84	101.20	25.00	76.20
2	230.00	82.60	147.00	1.91	145.00	30.00	115.00
3	393.00	164.00	229.00	2.18	227.00	40.00	187.00
4	740.00	254.00	486.00	4.36	482.00	40.00	442.00
5	1100.00	651.00	449.00	5.05	444.00	40.00	404.00
6	845.00	937.00	-92.30	4.64	-97.00	40.00	-137.00
7	212.00	443.00	-231.00	2.92	-234.00	25.00	-259.00
8	146.00	368.00	-222.00	2.64	-225.00	25.00	-250.00
9	82.50	232.00	-150.00	2.33	-152.00	25.00	-177.00
10	76.90	16.80	60.10	2.79	57.30	25.00	32.30
11	103.00	39.10	63.90	1.78	62.10	25.00	37.10
12	122.00	52.10	69.90	1.77	68.10	25.00	43.10
Stor	252000	198000	96300	2050	95000	21900	80000

DETAILED REPORT OF ISWRs

Basin: POWDER

Stream: POWDER R ab UNN STR

Water Availability Subbasin: 0202220000000000

Time: 12:46

Date: 05/21/1997

-----ISWRs-----							
APP # :	72191A	0	0	0	0	RESULTANT	
STATUS:	App.						
1	25.0	0.0	0.0	0.0	0.0	25.0	A
2	30.0	0.0	0.0	0.0	0.0	30.0	A
3	40.0	0.0	0.0	0.0	0.0	40.0	A
4	40.0	0.0	0.0	0.0	0.0	40.0	A
5	40.0	0.0	0.0	0.0	0.0	40.0	A
6	40.0	0.0	0.0	0.0	0.0	40.0	A
7	25.0	0.0	0.0	0.0	0.0	25.0	A
8	25.0	0.0	0.0	0.0	0.0	25.0	A
9	25.0	0.0	0.0	0.0	0.0	25.0	A
10	25.0	0.0	0.0	0.0	0.0	25.0	A
11	25.0	0.0	0.0	0.0	0.0	25.0	A
12	25.0	0.0	0.0	0.0	0.0	25.0	A

Mailing List for IR Copies

Application #R-81903

IR Date : June 24, 1997

Original mailed to:

Applicant: CARL D BARRON , PO BOX 940, ROSEBURG, OREGON 97470

Copies sent to:

1. WRD - File # R-81903
2. WRD - Water Availability: Ken Stahr

IR, Map, and Fact Sheet Copies sent to:

3. WRD - Watermaster # District 8
4. WRD - Regional Manager (not Bob Main): ER
5. ODFW District Biologist: JOHN GERMOND.

Copies sent to Other Interested Persons (CWRE, Agent, Well Driller, Commenter, etc.)

6. RUSSELL HARDING, DEQ

7. JOHN FALK, DAM SAFETY COORDINATOR

8. _____

9. _____

10. _____

11. _____

12. _____

13. _____

ID# CE

Copies Mailed

By: <u>Carl</u>
(SUPPORT STAFF)
On: <u>6/24/97</u>
(DATE)

Div. 33 Statewide Rules
USE SALMON PAPER

APPLICATION FACT SHEET

Mail to: Applicant, Watermaster, District Biologist (ODFW)

If necessary, also mail to : Regional Water quality manager (DEQ), and DOA

Application File Number: R-81903

Applicant: TOM MAC KERNS KERNS, JOYCE A

County: BAKER

Watermaster: District 8

Priority Date: November 22, 1996

Source: PINE CREEK RESERVOIR, TRIBUTARY OF PINE CREEK AND POWDER RIVER

Use: SUPPLEMENTAL IRRIGATION

Quantity: 30.00 ACRE-FEET

Basin Name & Number: Powder, #09

Stream Index Reference: Volume 01 PINE CR

Point of Diversion Location: , SECTION 32, T 8, R38, W.M.;

Place of Use: , SECTION 32, TOWNSHIP 8 SOUTH, RANGE 38 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Tuesday, July 8, 1997

PUBLIC NOTICE DATE: Tuesday, July 15, 1997

30 DAY COMMENT DEADLINE DATE: Thursday, August 14, 1997

February 7, 1997

TOM MAC KERNS
KERNS, JOYCE A
RT 1 BOX 10
HAINES, OR 97833

REFERENCE: File(s) R-81903

This is to let you know we have received your water use permit application, supporting documentation and fees. A receipt is enclosed here unless you were previously issued one. Your application has been assigned the number listed above.

As you may know, we have a backlog of several thousand applications. Senate Bill 674, passed in the 1995 Legislature, gives the Department staffing and administrative tools to work through that backlog. The bill also sets up an expedited application review process for both pending and new applications. We have until October 31, 1996, to complete work on applications filed through June 30, 1995.

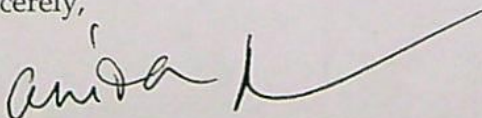
This application, and all applications filed between July 1, 1995, and October 31, 1996, must be processed by April 29, 1997. By that date, the Department must have reached a decision on your request or have scheduled a contested case hearing to settle any unresolved dispute related to your application.

If a permit is approved, the use allowed will be subject to existing Basin Program Rules, instream flow requirements, the demands of prior right holders and other limitations as needed to protect the resource. It may also be subject to new criteria or restrictions deemed necessary by the Oregon Water Resources Commission (a citizen body which oversees the agency's activities) to respond to water resource issues, including current and future Endangered Species Act fish listings.

The filing of an application does not allow you to use water. By law, an applicant may not legally store, divert or use water until the Department issues a final order approving a water right permit. Please bear in mind that the issuance of a permit is not guaranteed; therefore, the Department advises against investments in storage or delivery systems until you receive a permit.

If you have questions about your application, write to us at 158 12th St. NE, Salem, OR 97310 or call the Water Rights Information Group--Ext. 499 at 503-378-8455 or toll-free 800-624-3199. Please refer to your application file number in your inquiry.

Sincerely,



Ms. Anita McLoud
Water Rights Specialist
Water Rights Division



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

Application No. **E-81903**
Permit No.

RECEIVED

NOV 22 1996

WATER RESOURCES DEPT.
SALEM, OREGON

0 - High water
0.3 - SW
5.7 - Top of grate
6.7 - water level

OUTSIDE: 20.17 AC

INSIDE: 9.81 AC

Area 1: 1.00 AC

Area 2: 1.00 AC

Area 3: 1.00 AC

Area 4: 1.00 AC

Area 5: 1.00 AC

Area 6: 1.00 AC

Area 7: 1.00 AC

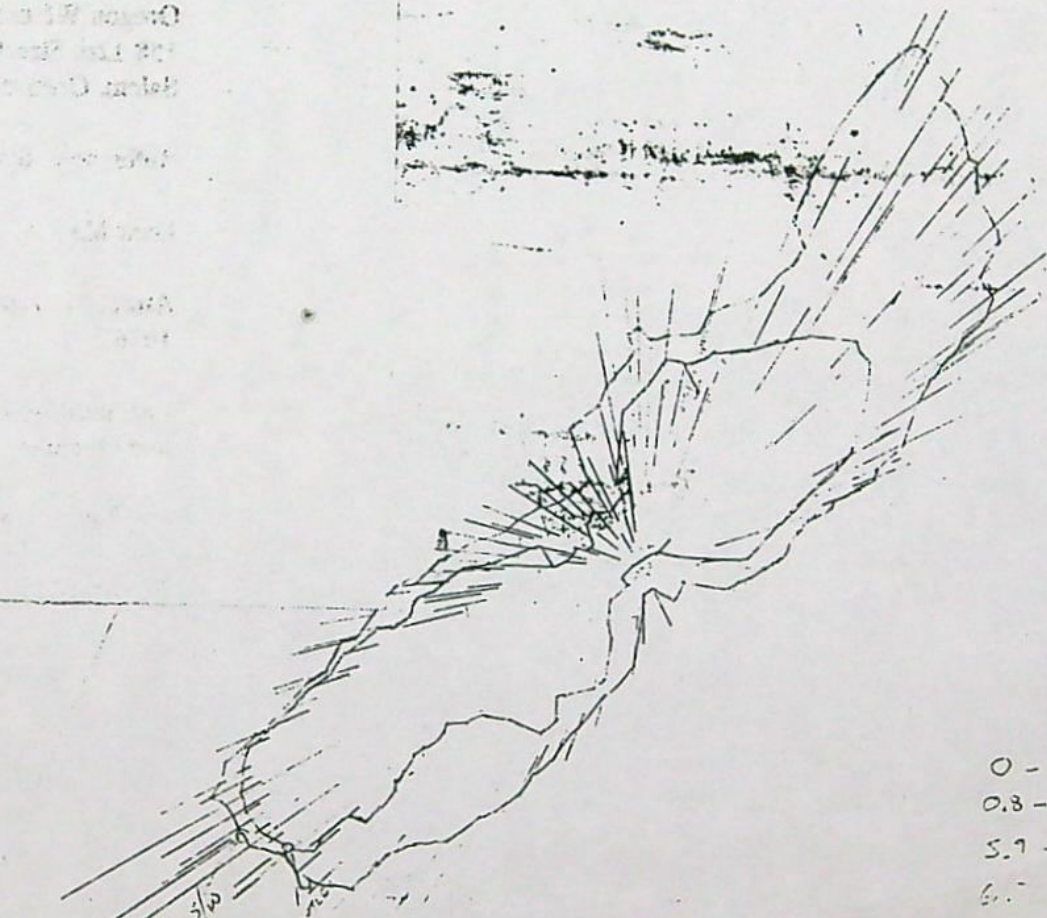
Area 8: 1.00 AC

Area 9: 1.00 AC

Area 10: 1.00 AC

1.5 SW
1.1 SW
1.1 SW

1.2 SW



Tom "Mac" Kerns
Rt 1, Box 10
Haines, OR 97833

RECEIVED

NOV 22 1996

WATER RESOURCES DEPT.
SALEM, OREGON

Mr. Don Knaver
Water Rights & Adjudication Divisions
Water Resources Department
Commerce Building
158 12th Street N.E.
Salem, OR 97310

November 18, 1996

Reference your letter of November 12, 1996

Dear Mr. Knaver:

Enclosed are the fee, permit, map and land use forms for the additional 30 acre feet that Pine Creek reservoir actually holds.

I still feel there should be some way for the additional 30 acre feet to be granted the same priority date as other water stored in this reservoir, as explained in my letter of October 28, 1996. However, if this isn't possible it should be granted the 1992 priority date as requested by Oregon Department of Agriculture's request for Reserved Water. Reference my letter to the Oregon Water Resources Commission of November 7, 1996.

I am not sure if "Application for a Permit to Appropriate Surface Water" is needed, but have enclosed one anyway. We aren't asking for additional acres or volume over that shown under Certificate 55731. For this reason, I haven't included a map or check for fees. If these items are needed, please notify me by phone and I will submit them. My phone number is (541) 856-3351.

Sincerely,

Tom Mac Kerns

TOM "MAC" KERNS

14142

RECEIVED

NOV 22 1996

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

WATER RESOURCES DEPT.
SALEM, OREGON

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

Applicant's Name: Tom "Mac" & Joyce A. Kern
Address: Rt 1 Box 10
City: Haines State: OR Zip: 97833 Day Phone: 541-856-3351

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

(CHECK ALL THAT APPLY)

TAX LOT LOCAL ID #	PLAN DESIGNATION/ZONING Rural Residential/RR-5)	(e.g.	WATER DIVERTED	WATER CONVEYED	WATER USE
<u>83800</u>	<u>EFU</u>				
<u>83900</u>	<u>TL2400</u>				<u>X</u>

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

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

For Local Government Use Only

Application No. R-81903

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

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

- ☒ Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan.
Cite applicable ordinance section(s); 301 EFU. Go to section b) on reverse side.
- ☐ Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table on the reverse of this form. **Note:** Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus accompanying findings is sufficient.)

Receipt for Request for Land Use Information

WRD Applicant Name: _____

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

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

1/ This is a reservoir permit to correct original right and is for an additional 30 acre feet. Original right is for 85 acre feet but reservoir holds 115 acre feet and has since it was originally constructed which was prior to 1900.

(CHECK THE BOX THAT APPLIES)

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

Name: Barbara Stanley Date: 11-14-96
Title: Office Mgr. Phone: 541-523-8219
Signature: Barbara Stanley

Additional Comments:

1. The first part of the document is a list of names and titles, including "The Hon. Mr. Justice" and "The Hon. Mr. Justice".

2. The second part of the document is a list of names and titles, including "The Hon. Mr. Justice" and "The Hon. Mr. Justice".

3. The third part of the document is a list of names and titles, including "The Hon. Mr. Justice" and "The Hon. Mr. Justice".

4. The fourth part of the document is a list of names and titles, including "The Hon. Mr. Justice" and "The Hon. Mr. Justice".

5. The fifth part of the document is a list of names and titles, including "The Hon. Mr. Justice" and "The Hon. Mr. Justice".

6. The sixth part of the document is a list of names and titles, including "The Hon. Mr. Justice" and "The Hon. Mr. Justice".

7. The seventh part of the document is a list of names and titles, including "The Hon. Mr. Justice" and "The Hon. Mr. Justice".

8. The eighth part of the document is a list of names and titles, including "The Hon. Mr. Justice" and "The Hon. Mr. Justice".

9. The ninth part of the document is a list of names and titles, including "The Hon. Mr. Justice" and "The Hon. Mr. Justice".

10. The tenth part of the document is a list of names and titles, including "The Hon. Mr. Justice" and "The Hon. Mr. Justice".

8/94

RECEIVED

NOV 22 1996

Oregon

WATER RESOURCES DEPT.
SALEM, OREGON

NOTE TO LOCAL GOVERNMENTS

WATER
RESOURCES
DEPARTMENT

Application No. *R-81903*
Permit No.

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

WRD will not accept applications which are not accompanied by this completed Land Use Information Form or the signed and dated receipt stub detached from the bottom of the Land Use Information Form.

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

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



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

Planning Official Initials: BS

Description of Water Use

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

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

Applicant Name: Tom & Mac E. Joyce A. Kerns
 Address: RT 1 Box 10
Haines Or 97833
 Phone: 541-856-3351

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

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

Indicate sources for the proposed water use below:

Indicate the estimated quantity of water the use will require.

☐ Surface Water
 Name sources: _____

7 Cubic feet per second.

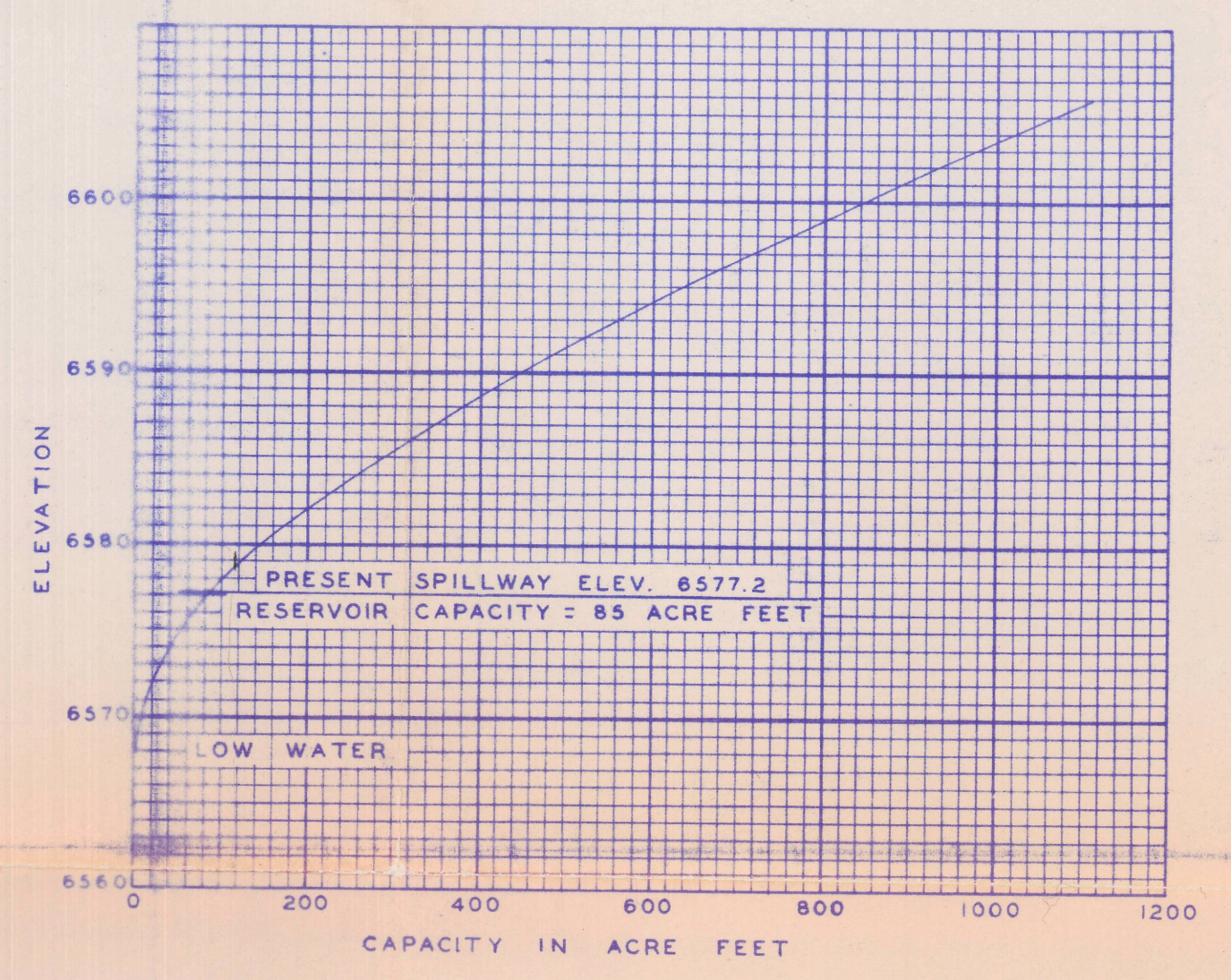
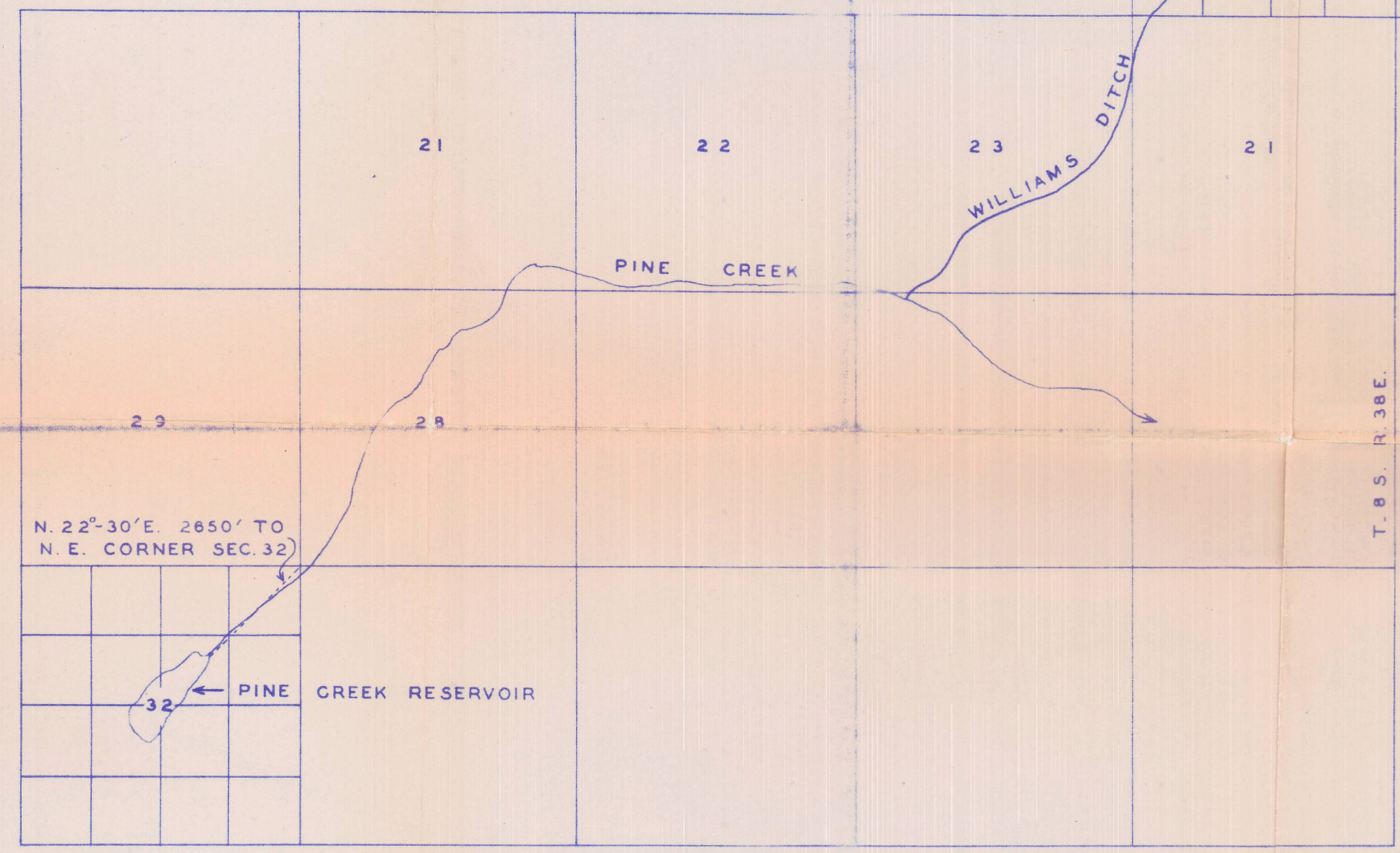
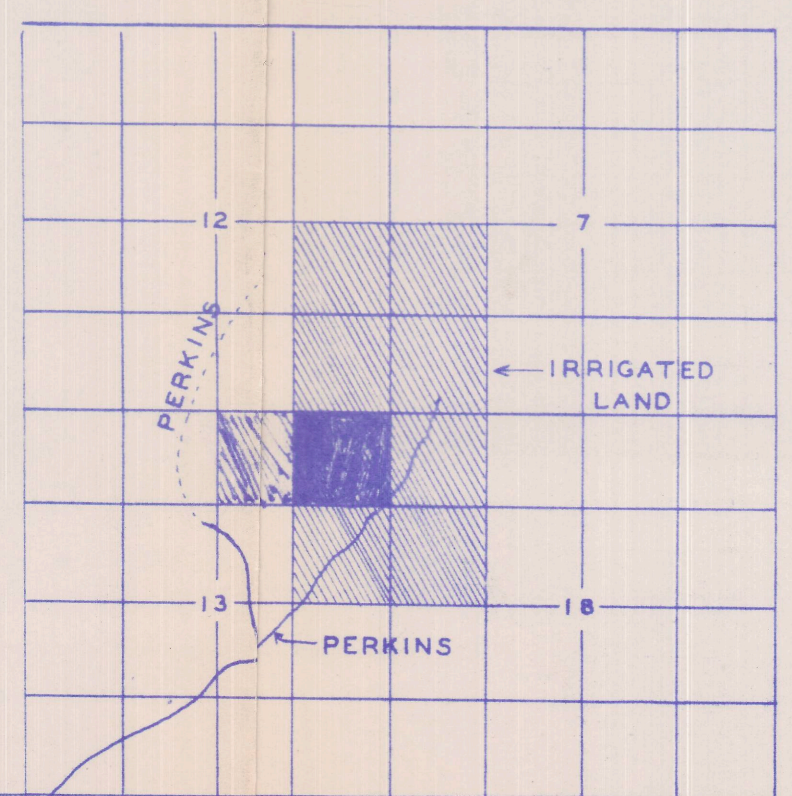
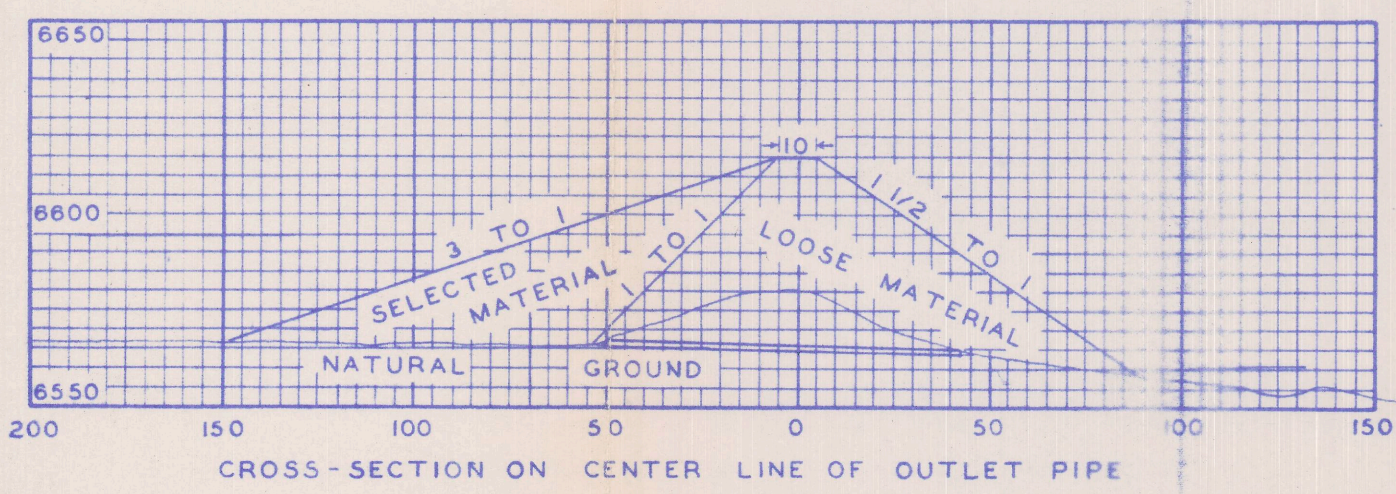
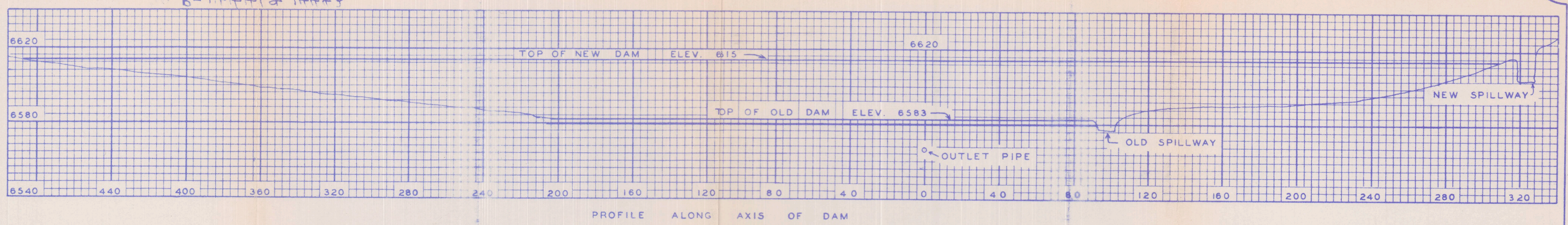
7 Gallons per minute.

____ Acre-Feet

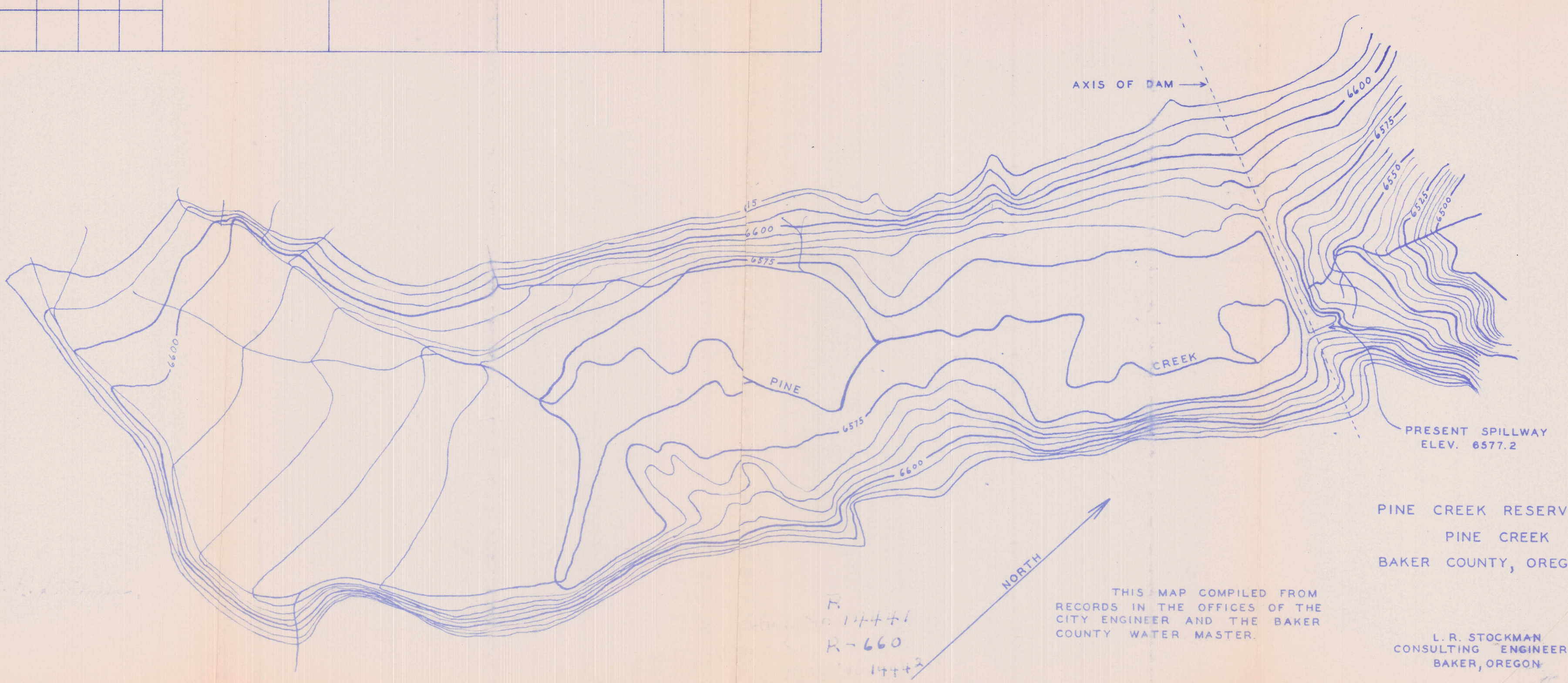
☒ Reservoir or pond
Pine Cr Reservoir as existing

☐ Ground Water

K-pp0 + 10Jx1
 K-1++1 + 1++1y



Application No. R-81903
 Permit No.



PINE CREEK RESERVOIR
 PINE CREEK
 BAKER COUNTY, OREGON

THIS MAP COMPILED FROM
 RECORDS IN THE OFFICES OF THE
 CITY ENGINEER AND THE BAKER
 COUNTY WATER MASTER.

L. R. STOCKMAN
 CONSULTING ENGINEER
 BAKER, OREGON

R-660
 1++1
 1++2

9/2/01 SB

Application No. R81903

TOM MAC KERNS
KERNS, JOYCE A
RT 1 BOX 10
HAINES, OR

Permit No.

97833

Assigned

Address

Beginning construction

Completion of construction

Extended to

Complete application of water

Extended to

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **09846**

158 12TH ST. N.E.
SALEM, OR 97310-0210
378-8455 / 378-8130 (FAX)

INVOICE # _____

RECEIVED FROM: K - Diamond Inc.
BY: _____

APPLICATION	R 81903
PERMIT	
TRANSFER	

CASH: ☐ CHECK: # 96-455 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 300.00

0417 WRD MISC CASH ACCT

ADJUDICATIONS

PUBLICATIONS / MAPS

OTHER: (IDENTIFY)

OTHER: (IDENTIFY)

*Priority date established
as 11/22/96 by receipt
8633 dated 11/22/96
which was voided &
replaced by this receipt*

REDUCTION OF EXPENSE

PCA AND OBJECT CLASS

CASH ACCT

VOUCHER #

0427 WRD OPERATING ACCT

PCA 66111

MISCELLANEOUS

0407 COPY & TAPE FEES

0410 RESEARCH FEES

0408 MISC REVENUE: (IDENTIFY)

TC165 DEPOSIT LIAB. (IDENTIFY)

WATER RIGHTS:

0201 SURFACE WATER

0203 GROUND WATER

0205 TRANSFER

WELL CONSTRUCTION

0218 WELL DRILL CONSTRUCTOR

LANDOWNER'S PERMIT

OTHER (IDENTIFY)

EXAM FEE

\$ 200.00

\$

\$

EXAM FEE

\$

0202

0204

0206

0219

0220

RECORD FEE

\$ 100.00

\$

\$

LICENSE FEE

\$

\$

0437 WELL CONST. START FEE

0211 WELL CONST START FEE

0210 MONITORING WELLS

OTHER (IDENTIFY)

\$

\$

CARD #

CARD #

0539 LOTTERY PROCEEDS

1302 LOTTERY PROCEEDS

\$

0467 HYDRO ACTIVITY

LIC NUMBER

0233 POWER LICENSE FEE (FW/WRD)

0231 HYDRO LICENSE FEE (FW/WRD)

HYDRO APPLICATION

\$

\$

\$

RECEIPT # **09846**

DATED: 1-31-97

BY: Melrose Inc.

Distribution-White Copy-Customer, Yellow Copy-Fiscal, Blue Copy-File, Buff Copy-Fiscal

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **8633**

158 12TH ST. N.E.
SALEM, OR 97310-0210
378-8455 / 378-8130 (FAX)

INVOICE # _____

RECEIVED FROM: K-Diamond INC
BY: _____

APPLICATION	
PERMIT	
TRANSFER	

CASH: ☐ CHECK: # 96-455 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 300.00

0417 WRD MISC CASH ACCT

ADJUDICATIONS

\$

PUBLICATIONS / MAPS

\$

OTHER: (IDENTIFY) _____

\$

OTHER: (IDENTIFY) _____

\$

REDUCTION OF EXPENSE

CASH ACCT.

\$

PCA AND OBJECT CLASS

VOUCHER #

0427 WRD OPERATING ACCT

MISCELLANEOUS

0407

COPY & TAPE FEES

\$

0410

RESEARCH FEES

\$

0408

MISC REVENUE: (IDENTIFY) _____

\$

TC165

DEPOSIT LIAB. (IDENTIFY) _____

\$

WATER RIGHTS:

0201

SURFACE WATER

EXAM FEE

\$

0202

RECORD FEE

\$

0203

GROUND WATER

\$

0204

\$

0205

TRANSFER

\$

0206

\$

WELL CONSTRUCTION

EXAM FEE

\$

0219

LICENSE FEE

\$

0218

WELL DRILL CONSTRUCTOR

0220

\$

LANDOWNER'S PERMIT

OTHER (IDENTIFY) _____

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WELL CONST START FEE

\$

CARD #

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MONITORING WELLS

\$

CARD #

OTHER (IDENTIFY) _____

0539 LOTTERY PROCEEDS

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POWER LICENSE FEE (FW/WRD)

\$

0231

HYDRO LICENSE FEE (FW/WRD)

\$

HYDRO APPLICATION

\$

RECEIPT #

8633

DATED: 11-22-96 BY: _____