

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

# Certificate of Water Right Ownership Update

## NOTICE TO SELLERS & BUYERS:

By law, all water belongs to the public (ORS 537.110). In almost every instance, a permit **or** water right certificate from the Water Resources Department is needed before using, diverting or storing water (ORS 537.130). However, most domestic wells do not require water rights. A certificate of water right stays with the land. In order to keep track of water right ownership, the Department requests that this form be submitted to the Department. *If for multiple rights, a separate form for each right will be required.*

Water that has been used for a long time in one place or that involves a water structure (like a dam) that already exists is no guarantee that there is a water right which would allow the water use to continue.

If you have any questions about this form or water right requirements, please contact your local watermaster or call the Water Resources Department at 503-986-0900.

*Note: Please type or print legibly when filling in the following information. Use additional paper if necessary.*

## PROPERTY SELLER INFORMATION

Applicant(s): John R Ocana  
Mailing Address: 18435 E Evans Creek Rd  
Rogue River OR 97537  
City State Zip  
Phone: unknown  
Home Work Other

## PROPERTY BUYER INFORMATION

Applicant(s): Sharon Crymes **RECEIVED**  
Mailing Address: PO Box 19569 **NOV 25 2009**  
Portland OR 97280 **WATER RESOURCES DEPT**  
City State Zip **SALEM, OREGON**  
Phone: 503-245-8382 503 244-1730 \*503 544-8333  
Home Work Other

## PROPERTY DESCRIPTION (attach additional pages if necessary):

County: Jackson Township: 34 S Range: 3 W Section: 26  
Tax Lot Number(s): 100 (old description 34, 3 W, D TL #102)  
Street address of water right property: 18435 E. Evans Creek Rd Rogue River  
Water Right Information (attach copy of water right permit or certificate & final proof map): OR. 97537  
Application #: P83134 Permit #: P83134 Certificate or Page #: 1  
Will all the lands associated with this water right be owned by the buyer? ☒ Yes ☐ No  
Name of individual completing this form: Sharon Crymes Phone: 503 544-8333  
Signature: Sharon Crymes Date: 11-22-09

**Please be sure to attach a copy of your property deed or legal description of the property.**

# EXHIBIT A

## INSTRUCTIONS:

Hi-lite answer to  
each question.  
Initial on line  
that follows

HB2376 PROCESSING GUIDELINES

Ap. No. P83134

PROCESS WITH 83133

(1) PULL AND ATTACH ASSOCIATE 2153 FILE IF ANY

*NO*

(2) 2153 ELIGIBLE?

*NO*

*YES*

(3) CHECK QUAD & AERIAL, STILL 2153 ELIGIBLE?

*NO*

*YES*

(4) ERRONEOUS FILING? (HAS A WATER RIGHT)

*NO*

*YES*

(5) SORT BY BASIN AND SUB-BASIN

*E. EVANS*

(6) DISTRIBUTION PAST 5 YEARS?

*YES*

*NO*

(7) FUTILE EFFORT? (NO BENEFIT FROM DENIAL)

*NO*

*YES*

(8) WATERMASTER FINAL CHECK

CONCERN?

NO CONCERN?

WATERMASTER TO OWRD, SALEM  
LETTER OF CONCERN  
8-01-97

WATERMASTER TO OWRD, SALEM  
NO CONCERN"  
8-01-97

RECEIVED

NOV 25 2009

WATER RESOURCES DEPT  
SALEM, OREGON

*HAS WR*

*NE NE*

*P83134*





AMERICAN PACIFIC  
LE & ESCROW COMPANY

estige Plaza Bldg., Suite. A  
100 Main Street-East  
Medford, Oregon 97501

MAP IS PROVIDED SOLELY FOR THE  
USE OF ASSISTING IN THE LOC.  
OF THE PROPERTY THE COMPANY  
MAKES NO LIABILITY OR VARIA-  
TION, IF ANY, IN DIMENSIONS OR  
LOCATIONS ASCERTAINED BY AN  
INDEPENDENT SURVEY

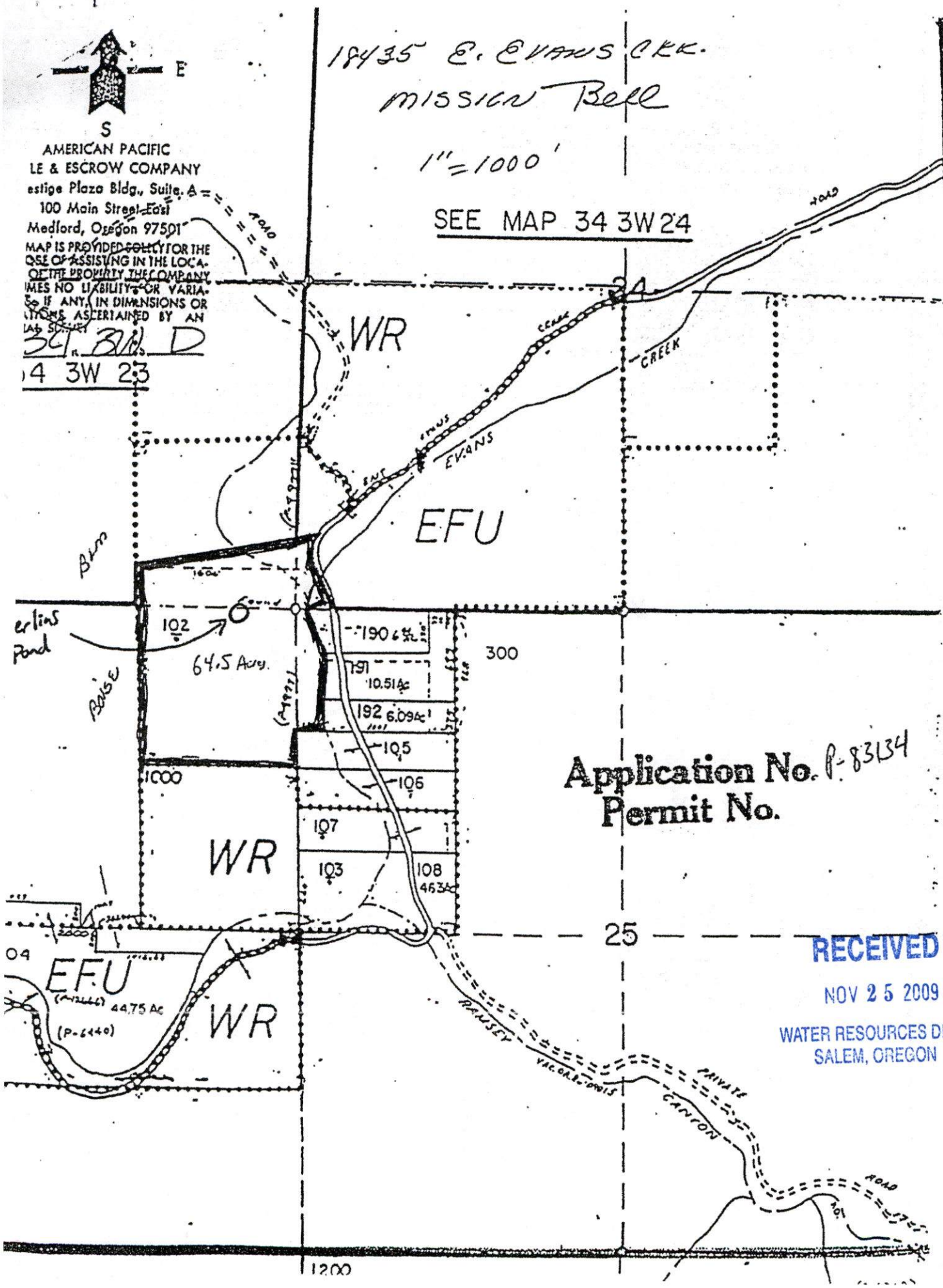
34 3W 23

4 3W 23

18435 E. EVANS CREEK.  
MISSION Bell

1"=1000'

SEE MAP 34 3W 24



Application No. P-83134  
Permit No.

RECEIVED

NOV 25 2009

WATER RESOURCES DEPT  
SALEM, OREGON





# Oregon Water Resources Department Notice of Exempt Reservoir

For reservoirs built before January 1, 1995, that:

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

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

RECEIVED

JAN 30 1997

WATER MASTER  
DISTRICT 13

Landowner: HARRIS, TIMM —

Authorized Agent: BECHTOLO, RONALD E

Address: 18435 E. EVANS CREEK RD.

ROGUE RIVER OR 97537

Phone: 541-830-5888 541-899-5263

FAX: 541-899-3706 E-Mail Address: —

A. County of use: JACKSON B. River basin (see reverse): ROGUE (15)

C. Legal description of reservoir location:

Township	Range	Section	Quarter/Quarter	Tax Lot #
34	3W	26	NE / NE	102

D. Name, if any, of reservoir: MERLIN'S POND E. Reservoir in existence since: 8/1/74

F. Source of water: SPRING / Unnamed seasonal creek which flows into E. EVANS CREEK

G. Maximum height of dam: 7 feet.

H. Quantity of water stored in reservoir at maximum capacity (see reverse): .34 acre-feet.

I. Water stored in reservoir is used for (see reverse): Agriculture, Land Management

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

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

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

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

[Signature]  
(Signature of Landowner/Agent)

RONALD E. BECHTOLO, AGENT 1/25/97  
(Printed name and title) (Date)

For Department Use

File #

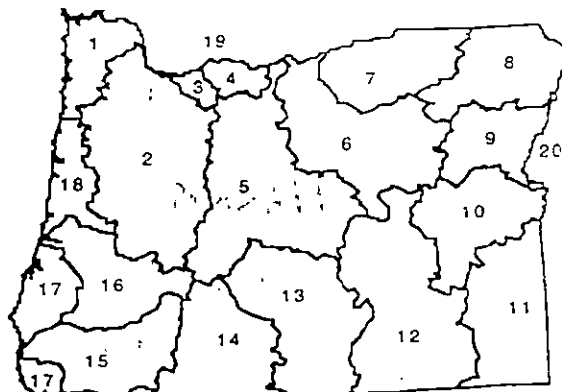
Date received

10-95

This Notice of Exempt Reservoir should be mailed directly to: Water Resources Department, Commerce Building, 158 12th Street NE, Salem, OR 97310-0210.

## Oregon's major river basins:

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



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

### Rate and Area of Use

cfs-cubic feet per second

gpm-gallons per minute

#### Agriculture, Land Management

Gen. Agriculture	cfs/gpm	# acres	5	Cranberry	cfs/gpm	# acres	
Irrigation	cfs/gpm	# acres	5	Nursery Operatn.	cfs/gpm	# acres	
Stockwater	cfs/gpm	# acres		Temp. Control	cfs/gpm	# acres	
Aquatic Life	cfs/gpm	# acres		Forest/Range Mgt	cfs/gpm	# acres	
Other:	cfs/gpm	# acres		Other:	cfs/gpm	# acres	

#### Industrial/Commercial Uses

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

#### Drinking Water Supply

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

#### Community Water Supply

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

#### Environmental Benefits

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



(P-6369)

RECEIVED

JAN - 8 1998

WATER RESOURCES DEPT.  
SALEM, OREGON



DEPARTMENT OF  
FISH AND  
WILDLIFE

ROGUE DISTRICT  
OFFICE

December 31, 1997

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

Dear Dwight:

I have reviewed the comments submitted by applicants regarding their exempt reservoir applications. Based on new information supplied by the applicant, I concur with the comments for the following exempt reservoir applications and have no objection to the removal of ODFW's previous mitigation requirements:

<u>Application Number</u>	<u>Application Number</u>	<u>Application Number</u>	<u>Application Number</u>
P-82432	P-82179	P-83099	P-83114 ✓
P-83146 ✓	P-83077 ✓	P-83119 ✓	P-83054
P-83124 ✓	P-83107 ✓	P-83109 ✓	P-83112 ✓
P-83165 ✓	P-82682 ✓	P-82751 ✓	P-82694 ✓
P-82813-1 ✓	P-83127 ✓	P-81818 ✓	P-83087 ✓
P-81152	P-83032 ✓	P-83046	P-83083 ✓
P-83093 ✓	P-83081	P-83098 ✓	P-83097 ✓
P-83096 ✓	P-83094 ✓	P-83092 ✓	P-83085 ✓
P-83082 ✓	P-83073 ✓	P-83108 ✓	P-83133 ✓
P-83134 ✓	P-83153 ✓	P-83147 ✓	P-83136
P-82935	P-74446	P-81156	P-82997 ✓
P-83001 ✓	P-83016 ✓	P-83019 ✓	P-83027 ✓



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

<u>Application Number</u>	<u>Application Number</u>	<u>Application Number</u>	<u>Application Number</u>
P-83023 ✓	P-83020 ✓	P-83018 ✓	P-82999 ✓
P-83035 ✓	P-83038 ✓	P-83026 ✓	P-83033 ✓
P-82450 ✓	P-82872	P-82980	P-82933
P-82819 ✓	P-82836 ✓	P-82854 ✓	P-82783 ✓
P-82007 ✓	P-82021 ✓	P-82070 ✓	P-82214 ✓
P-82199 ✓	P-82426 ✓	P-82436 ✓	P-81848 ✓
P-81262 ✓	P-81301 ✓	P-81325 ✓	P-81259 ✓
P-81507 ✓	P-82211 ✓	P-82851 ✓	P-82920 ✓
P-82934 ✓	P-81684 ✓	P-81742 ✓	P-81819 ✓
P-81831 ✓	P-81830 ✓	P-80763 ✓	P-80764 ✓
P-80730 ✓	P-80821 ✓	P-80839 ✓	P-80860 ✓
P-80873 ✓	P-80907 ✓	P-80685 ✓	P-81562 ✓
P-81569 ✓	P-82991 ✓	P-81839	P-81812
P-81828	P-80864	P-83314	P-83313
P-83110	P-83050	P-83068	P-82591
P-82998	P-83028	P-82966	P-82930
P-82898	P-82700	P-82667	P-82466 ✓
P-82531 ✓	P-82537 ✓	P-83037 ✓	P-83116
P-82938	P-82965		



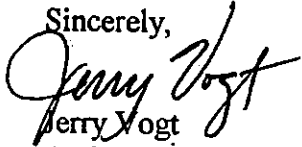
Mr. Dwight French

December 31, 1997

Page - 3

Thank you for the opportunity to respond to these comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jerry Vogt".

Jerry Vogt

Assistant District Fish Biologist

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

# Mailing List for Commenter Letter

File #: P-83134

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

☐ 1. Watermaster: \_\_\_\_\_

☒ 2. ODFW District Bio: Jerry Vogt

☐ 3. Waterwatch

☐ 4. Other: \_\_\_\_\_

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

Copy of Letter to:

☐ 1. WRD File # P-83134

Copies Mailed

By: \_\_\_\_\_  
(SUPPORT STAFF)

on: 12-19-97  
(DATE)





# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

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

December 19, 1997

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

Dear Mr. Vogt:

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

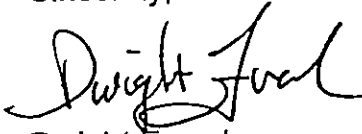
The Department received the attached rebuttals to your comments. If you do not agree with a rebuttal and believe that your comments are still valid, please send a written response to the Department identifying why you disagree with the rebuttal and affirming your position. However, if you agree with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

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

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

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

Sincerely,

A handwritten signature in 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  
Water Rights Manager

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



RECEIVED

DEC 12 1997

WATER RESOURCES DEPT.  
SALEM, OREGON

TO : WATER RESOURCES DEPARTMENT

FROM : RON BECHTOLD

18435 E. EVANS CREEK RD., ROGUE RIVER, OR 97537

RE : REFERENCE FILE : P 83133, P 83134

DATE : DEC 8, 1997

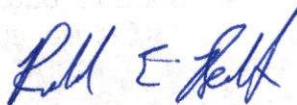
DEAR SIRs,

I am responding to your letters dated Nov 12, 1997 and Nov 20, 1997 regarding comments stated by ODFW regarding existing ponds located on property located along E. Evans Creek at 34-3W-26 tax lot 102 and the above address.

The comments for P 83133,83134 states that I need to bypass flows from April 1 thru Oct 31 due to an injury allegation resulting in potential mitigation due to water temperature problems for the fish in the creek although the presence of fish is unknown. To me, this effectively says that my existing ponds shall be rendered empty at my expense which I strongly oppose and feel to be totally un-neccessary for the following reasons :

- 1) The ODFW biologist has responded that my ponds negatively impact the fish population in Evans Creek yet during the time mentioned for bypassing flows, there is no flow to bypass. With the exception of spring seasonal runoff, which happens everywhere, there is no outflow from the ponds in question.
- 2) In addition, the biologist states that the instream water right reach ( Cert. 59705,73027) is being injured. Since there is no flow from the ponds with the exception of winter runoff an instream right can not even be an issue. Without a surface water flow during irrigation season there can be no injury.
- 3) Although I do not know if the ODFW biologist has physically inspected these ponds (no one contacted me for inspection), I feel that the ODFW allegations are incorrect and that there is not a need for mitigation measures since there is not any outflow that would either aid or impact fish population in Evans Creek. I would also state that if the ODFW alleges injury, it would be up to them to provide proof of injury prior to the WRD issueing mitigation orders.
- 4) Since the intention of HB 2153 and 2376 is to make historically used ponds legal and of record, I feel I have submitted as per the terms of the bills and do not feel that the ponds in question have any impact on fish populations and that the injury allegation should be removed and mitigation orders dropped.

Sincerely,



Ron Bechtold



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

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

November 12, 1997

FILE#: P 83134

TIMM HARRIS  
BECHTOLD, RONALD E  
18435 E EVANS CREEK RD  
ROGUE RIVER, OR 97537

Dear Reservoir Owner,

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

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

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

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

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

Water Right Section



## MITIGATION CONDITIONS

File # P- 83134

Date 11/12/97

RWK

### Oregon Department of Fish and Wildlife Conditions

- \_\_\_\_\_ In accordance with ORS 498.268 and ORS 509.605, install, maintain, and operate bypass devices as required by the Oregon Department of Fish and Wildlife that will provide adequate upstream passage for fish. (SMBS)
- \_\_\_\_\_ Install, maintain, and operate fish screening devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the diversion. (SMSS)
- ✓ \_\_\_\_\_ The reservoir owner is required to by-pass flows from 41 through 10/31. (BPC)

### Water Right Related Conditions

- \_\_\_\_\_ The pond may be filled one time only per year. No diversion of water to storage can occur during times all water rights are not met on the John Day river System. (KR1)
- \_\_\_\_\_ If required by the Watermaster, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Watermaster (Department). (KR2)
- \_\_\_\_\_ Live stream flow must be passed when required to satisfy existing water rights. In order to substantiate live flow is being passed, measuring devices may be required. (J)
- \_\_\_\_\_ Live flow must be by-passed all year. (BSD)
- \_\_\_\_\_ Any secondary use of stored water is limited each year to the capacity of the reservoir. (BSD2)
- \_\_\_\_\_ The water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

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

Application # P-83134      Date: July 31, 1997  
Biologist's Name: Jerry Vogt  
Address: 1495 East Gregory Rd., Central Point  
Certificate #      (If applicable)      Phone: (541) 826-8774

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

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

Comments apply to all reservoirs in the application.

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

---

This reservoir negatively impacts populations of chinook and coho salmon, steelhead and resident trout in Evans Creek. While ODFW has not documented the presence of fish at the POD, this reservoir is above ODFW's instream water right reach on Evans Creek (Certificate 59705, 73027). Evans Creek appears on DEQ's 303 (d) list of water quality limited streams due to high summer water temperatures; these high water temperatures reduce salmonid habitat in this stream. Withdrawals of water for this reservoir contribute to existing temperature problems in Evans Creek and injure ODFW's instream water right on this stream.

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

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

The reservoir owner shall: (without ODFW approval)

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

The reservoir owner shall: (with ODFW approval)

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

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

Other: (Please specify below)

Because the presence of fish at the POD is unknown, ODFW will not require the applicant to provide fish screens or fish passage. However, to prevent further degradation of stream temperature problems on Evans Creek, and to avoid injury to ODFW's instream water right for that stream, the reservoir owner should be required to by-pass flows from April 1 through October 31.

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# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

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

November 20, 1997

TIMM HARRIS  
BECHTOLD, RONALD E  
18435 E EVANS CREEK RD  
ROGUE RIVER, OR 97537

REFERENCE: FILE#: P 83134

Dear Mr. Harris and Mr. Bechtold ,

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

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

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


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

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

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

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

Sincerely,

A handwritten signature in cursive script, appearing to read 'Martha O. Pagel', written in dark ink.

Martha O. Pagel  
Director

m:955

HB 2376 EXEMPT NOTICE  
COMPLETENESS CHECKLIST

- ☒ Landowner name and address\*
- ☒ A. County of use
- ☒ B. River basin
- ☒ C. Legal description of reservoir location\*  
(Includes quarter-quarter section and tax lot)
- ☒ D. Reservoir name
- ☒ E. Date of construction
- ☒ F. Source of water and tributary\*
- ☒ G. Dam height
- ☒ H. Quantity of water stored\*
- ☒ I. Use of water
- ☒ J. Rate and area of use (if any)
- ☒ Signature of Landowner/agent
- ☒ Map showing Township, Range, Section, Quarter-quarter section and Tax Lot\* and general location of pond.

Date Received 1-30-97

Received By Sue Walden

\* MINIMUM REQUIREMENT TO FILE

C:\wp51\pondchk