

GARRY B HUNT
251 W SAVAGE CREEK RD
GRANTS PASS, OR 97527

Permit No. _____

Certificate No. _____

Stream Index, Page No. _____

Date filed _____

Priority _____

Action suspended until _____

Return to applicant _____

Date of approval _____

CONSTRUCTION

Date for beginning _____

Date for completion _____

Extended to _____

Date for application of water _____

Extended to _____

PROSECUTION OF WORK

Form "A" filed _____

Form "B" filed _____

Form "C" filed _____

FINAL PROOF

Blank mailed _____

Proof received _____

Date Certificate issued _____

ASSIGNMENTS

REMARKS

FEES PAID

Date _____

Amount

Receipt No.

Cert. Fee

FEES REFUNDED

Date _____

Amount

Check No.

Date _____

To Whom

Address

Volume

Page

Mailing List for MO Copies

Application P-53102

MO Date January 6, 1998

Original mailed to:

Applicant: ☒ Is there a new address? Y _____

1. WRD - File # P-53102
2. WRD - Watermaster # 13
3. WRD - Regional Manager (not Bob Main): SWR

Copies Mailed	
By: <u>CAK</u>	(SUPPORT STAFF)
on: <u>1/30/98</u>	(DATE)

Other Commenters:

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

Other Interested Persons (CWRE, Agent, etc.)

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

CASEWORKER :

Information Below This For Mitigation Team Use Only

SMBS	SMSS	(BPC)	KR1	KR2	J	BSD	BSD2	1A	MD
MD1	MD2	MD3	B57	B58	BYPASS	B51A			Basin / ^c

up 1/21



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

January 16, 1998

GARRY B. HUNT
251 W. SAVAGE CREEK RD.
GRANTS PASS, OR 97527

Reference: File P-83102

Dear Applicant:

Thank you for your continuing efforts in our program for authorizing exemptions for existing ponds and reservoirs. We know it has been a long and complicated process, and we appreciate your cooperation.

As indicated in our letters to you last November, we had previously received written comments indicating that your reservoir could be detrimental to fish or might cause injury to other water rights. You were provided an opportunity to submit additional information addressing those comments.

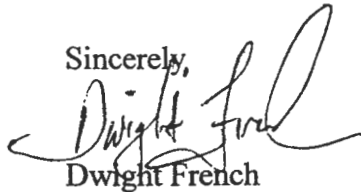
Since then, we have reviewed all the information available to us, and have determined that certain conditions are necessary to mitigate the potential harm to fish or other water rights. The enclosed Mitigation Order spells out the additional conditions we are proposing.

If you agree with these conditions, and comply with the Mitigation Order, the process will be complete.

If you disagree with this order, you may request a contested case hearing, and submit in writing your reasons why the order should be changed or rescinded. You may wish to submit maps or sketches to help us to better understand the particulars of your situation. Once we receive your request for a contested case hearing, we will contact you to discuss the situation and how we might be able to settle disagreements without holding a hearing. If we are unable to agree on a solution, we will schedule a contested case hearing at a time that is agreeable to both you and the Department. The appeal rights are described in more detail in the order enclosed.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Dwight French", written over the word "Sincerely,".

Dwight French
Water Rights Section Manager

Enclosures

cc: Watermaster

Russ Klassen	1-800-624-3199 Ext 266
Laura Snedaker	Ext 331
Dallas Miller	Ext 272

Oregon Water Resources Department
Water Rights Division

Notice of Existing Reservoir
Number P-83102

Reservoir Mitigation Order

Application History

A reservoir was constructed prior to January 1, 1995. As evidence of the right to store water, pursuant to ORS 537.405(2)(a), notice of existing reservoir was submitted.

Pursuant to ORS 537.405(4)(a) the Department has received information from Oregon Department of Fish and Wildlife demonstrating that the reservoir poses a significant detrimental impact to existing fishery resources.

Pursuant to ORS 537.405(4)(b) the Department has received information demonstrating that the reservoir results in injury to an existing water right.

ORS 537.405(7) specifies that "...the director shall require the owner of the reservoir to take appropriate action to mitigate injury to existing water rights or impact to the existing fishery resource."

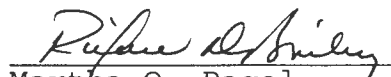
Therefore, the Department has determined that with the following additional mitigation condition(s), the injury to existing water rights and/or detrimental impact to existing fishery resources, described above, will be mitigated.

Order

The reservoir owner is required to by-pass flows from April 1 through October 31.

Therefore, pursuant to ORS 537.405, the use evidenced by notice of existing reservoir number P-83102, shall be allowed to continue if the injury/negative impact of the reservoir is mitigated as described above.

DATED January 16, 1998


Martha O. Pagel
Director

Notice of Right to Contested Case Hearing

The owner of the reservoir that is the subject of this mitigation order may request a contested case hearing if the owner disagrees with the order. Most disagreements are settled through a series of informal discussions before the hearing date arrives.

If the department does not receive a request for hearing within the time stated in this notice you have waived your right to a hearing under ORS Chapter 183, unless your failure to request a hearing was beyond your reasonable control, as provided in OAR 137-03-075.

The record of this proceeding to date, including information in Department files on the subject of this proceeding, is automatically part of the contested case record upon default for the purpose of proving a prima facie case.

In order to process your request for a contested case hearing please include the following in writing:

- The reference number (located near the top right corner of the order.);
- Your name, address, and telephone number;
- A detailed description of why the condition(s) proposed in this order is not necessary to protect existing water rights or fishery resources;
- Any citation of legal authority to support your protest, if known.

Your request for a contested case hearing must be received by the Department no later than 60 days after the date of this order.

Send your request for a contested case hearing to:

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

Rebuttal Y / ~~N~~

Exempt by WM comments Y / ~~N~~

COMMENTOR:

WM and/or WM Dist: _____

ODFW Dist: Jeep 1 VOLT

Water Watch: Y / ~~N~~



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

GARRY B HUNT
251 W SAVAGE CREEK RD
GRANTS PASS, OR 97527

REFERENCE: FILE#: P 83102

Dear Mr. Hunt,

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

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

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

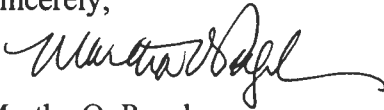
This is why you received a letter from us last week. For more than 16,000 ponds on which notices were filed under HB 2376, about 960 comments were received. From those comments, we determined that about half would appear to require mitigation measures. A total of 450 letters were sent out last week to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

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

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

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Martha O. Pagel', with a long, sweeping horizontal line extending to the right.

Martha O. Pagel
Director

m:955



Oregon

John A. Kitzhaber, M.D., Governor

November 12, 1997

Water Resources Department

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

FILE#: P 83102

GARRY B HUNT
251 W SAVAGE CREEK RD
GRANTS PASS, OR 97527

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- 83102
Date 11-12-1997
LKS

Oregon Department of Fish and Wildlife Conditions

- _____ In accordance with ORS 498.268 and ORS 509.605, install, maintain, and operate bypass devices as required by the Oregon Department of Fish and Wildlife that will provide adequate upstream passage for fish. (SMBS)
- _____ Install, maintain, and operate fish screening devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the diversion. (SMSS)
- ✓ _____ The reservoir owner is required to by-pass flows from April 1 through October 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-83102 Date: July 30, 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 coho and chinook salmon, steelhead and resident trout in the Rogue River. While ODFW has not documented the presence of fish at the POD, this reservoir is above ODFW's instream water right reach on the Rogue River (Certificate 59847, 59848, 59806, 59807). The Rogue River 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 the Rogue River 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.
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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 the Rogue River, 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.

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

Date: July 30, 1997 _____

Application # P-83102

Biologist's Name: Jerry Vogt

Address: 1495 East Gregory Rd., Central Point

Certificate # ----- (If applicable) Phone: (541) 826-8774

**** Attach additional sheets if necessary**

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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.*

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

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

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- ☐ (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.
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- ☐ 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 the Rogue River, 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.

RECEIVED

NOV 24 1997

State Of Oregon
Water Resource Dept.
Salem, OR 97310-0210

WATER RESOURCES DEPT.
SALEM, OREGON

11-20-97

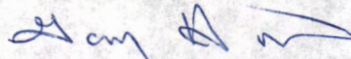
Dear Sirs,

We have received a mitigation condition on our exempt application # P 83102, for our pond. The condition states we are required to by-pass the flow from the reservoir from April 1 through October 31.

Our pond is filled from the run-off from the twenty acres of forested land on the hillside that makes up most of our thirty acres. Our pond was formed from an existing water hole that the cattle and nature had made over the years. We defined the area using the natural flow from the curtain drains installed sometime in the 1950's. All overflow continues to drain into the existing irrigation ditches.

After talking to one of your representatives, we understand that the out-flow must equal the in-flow. We have no problem complying with this request.

Sincerely,
Garry B. Hunt



P 83102
251 W. Savage Ck. Rd.
Grants Pass, OR 97527



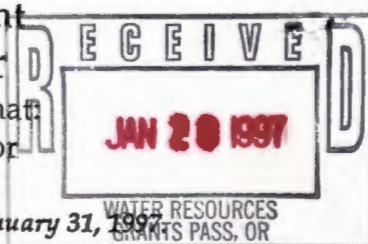
Oregon Water Resources Department

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



Co-Landowner: HUNT, GARRY, B.
Last name First name MI

Authorized Agent: _____
Last name First name MI

Address: 251 W. SAVAGE CRK. RD.

GRANTS PASS OR 97527
City State Zip

Phone: 582-4607 862-0206
Home Work

FAX: 0 E-Mail Address: 0

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

C. Legal description of reservoir location:

Township	Range	Section	Quarter/Quarter	Tax Lot #
<u>36S</u>	<u>4W</u>	<u>30</u>	<u>IN SE1/4 SE1/4</u>	<u>1900B</u>

D. Name, if any, of reservoir: 0 E. Reservoir in existence since: 08/17/91
MM DD YY

F. Source of water: STORM DRAIN AND MOUNTAIN RUNOFF which flows into PASTURE THEN DITCH
Name of river or creek Name of river or creek

G. Maximum height of dam: 4 feet.

H. Quantity of water stored in reservoir at maximum capacity (see reverse): 11,200 ^{30 acre feet} ~~cubic feet~~ feet.

I. Water stored in reservoir is used for (see reverse): WILDLIFE, LIVESTOCK, FIRE

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. N/A

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)

GARRY HUNT
(Printed name and title)

1-28-97
(Date)

For Department Use

File #

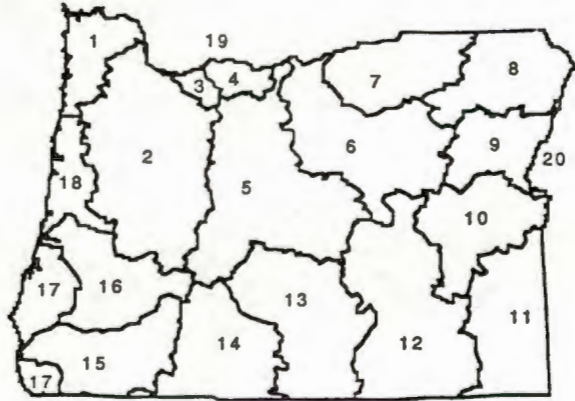
Date received

10-95

Oregon's major river basins:

TOP 10 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 $43,560 \times 9.2$.

N/A

Rate and Area of Use

cfs—cubic feet per second

gpm—gallons per minute

Agriculture, Land Management

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

Industrial/Commercial Uses

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

Drinking Water Supply

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

Community Water Supply

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

Environmental Benefits

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

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 1/28/97

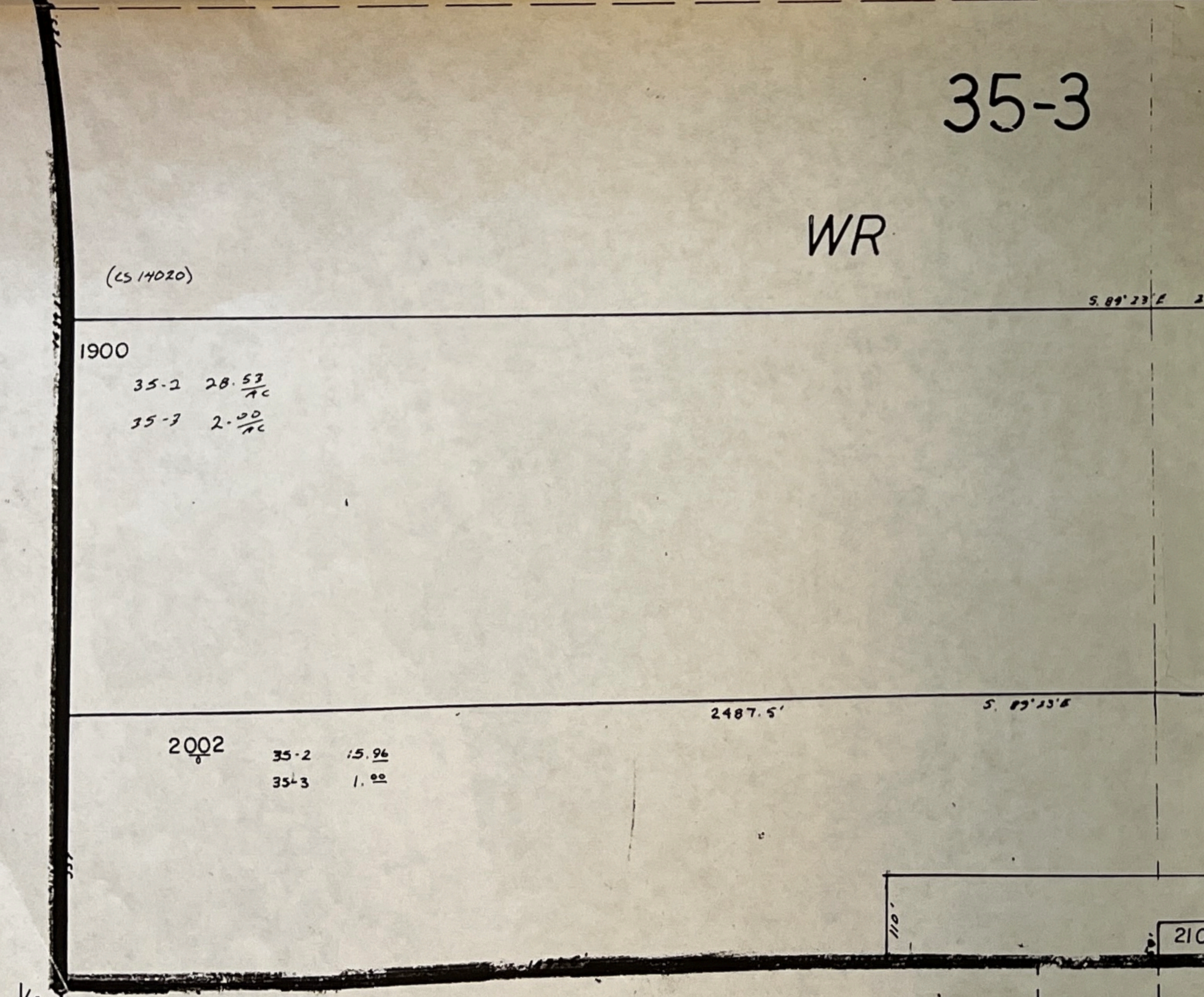
Received By Wm J. Klock

* MINIMUM REQUIREMENT TO FILE

C:\wp51\pondchk

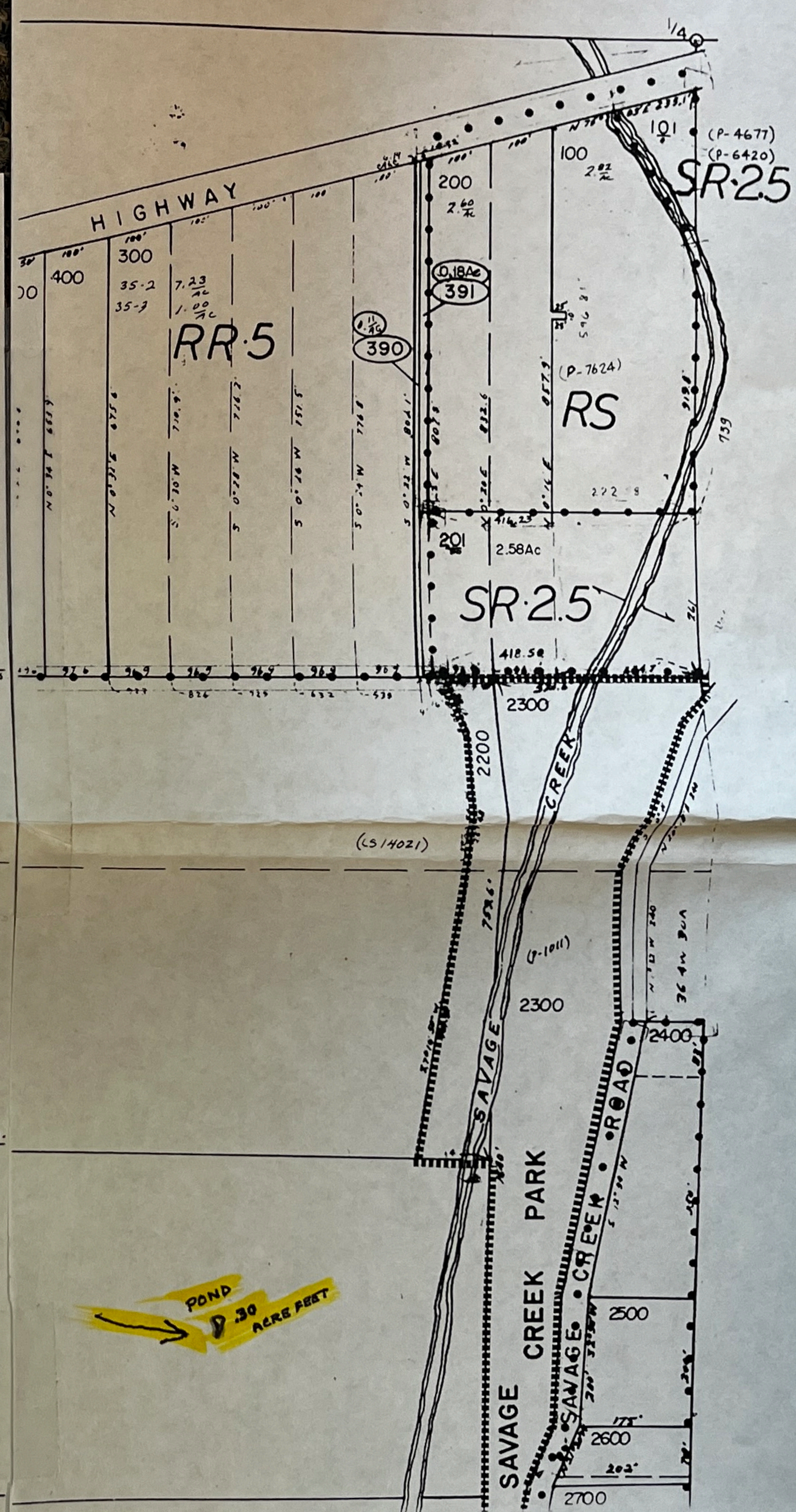
Application No. P-83102
Permit No.

SCALE 1" =
36 4W 19



W. W. M.

36 4W 30B



POND
P. 30
ACRE FEET

36 4W 30A