

Need Ashuilt Drawings - See Letter dated 4/29/94 *[initials]*

STATE OF OREGON
COUNTY OF Harney

CERTIFICATE OF WATER RIGHT (HB - 2153)

THIS CERTIFICATE ISSUED TO

U.S. BUREAU OF LAND MANAGEMENT; BURNS DISTRICT
HC 74 12533 HWY 20 W
HINES, OR 97738

confirms the right to store the waters of
AN UNNAMED DRAINAGE, A TRIBUTARY OF LONG HOLLOW DRAINAGE IN 5773
EX-HERD RESERVOIR
for LIVESTOCK AND WILDLIFE.

The right to store and use these waters was perfected under Reservoir Application R-73914.
The date of priority is January 1, 1993. The amount of water entitled to be stored and
used each year under this right is not more than 1.9 ACRE-FEET

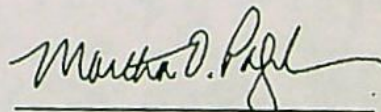
Located as follows:

NW 1/4 NE 1/4 SECTION 35, TOWNSHIP 36 SOUTH, RANGE 32.5 EAST WM.

The storage of water allowed herein is subject to the installation and maintenance of an outlet pipe, with
a minimum diameter of 8", or the provision of other means to evacuate water when determined necessary
for public safety or to satisfy prior downstream rights as determined by the Water Resources Director.

The right to store and use the water for the above purpose is restricted to beneficial use at the place of
use listed above.

WITNESS the signature of the Water Resources Director, affixed FEBRUARY 27, 1996.



Martha O. Pagel

Recorded in State Record of Water Right Certificates numbered 69093

WaterWatch

RECEIVED

JAN 17 1995

Delivered via Regular Mail

WATER RESOURCES DEPT.
SALEM, OREGON

January 12, 1995

Water Rights Section
Water Resources Department
158 12th Street NE
Salem, Oregon 97310

Re: Objection to Technical Reports for Bureau of Land Management Applications:

- ✓ R 66467, Unnamed stream in Seiloff Dike Reservoir
- ✓ R 69321, Dip Spring trib. to Rincon Creek
- ✓ R 69340, Unnamed Spring trib. to Depression Basin
- ✓ R 69366, MNWR East Side Canal
- ✓ R 72286, Unnamed Spring trib. to Trout Creek
- ✓ R 72287, Unnamed Spring trib. to Trout Creek
- ✓ R 72288, Unnamed Spring trib. to Wickiup Creek
- ✓ R 72289, Silves River
- ✓ R 72290, Unnamed stream trib. to Hay Creek
- ✓ R 72291, Chickahominy Creek
- ✓ R 72292, Unnamed Stream trib. to Coyote Creek
- ✓ R 73142, Sand Flat
- ✓ R 73145, Hatte Butte Reservoir
- ✓ R 73146, West End Reservoir
- ✓ R 73155, Squaw Charco Reservoir
- ✓ R 73156, Lone Duck Reservoir
- ✓ R 73157, Lower Brush Lake Reservoir
- ✓ R 73892, Unnamed Drainage, White Sage Flat
- ✓ R 73895, Unnamed Drainage, Over the Hill Reservoir
- ✓ R 73896, Unnamed Drainage, North Cat Track Reservoir
- ✓ R 73897, Unnamed Drainage, Long Section 1 Reservoir 2
- ✓ R 73898, Unnamed Drainage, Long Section 1 Reservoir 1
- ✓ R 73899, Unnamed Drainage trib. to Heath Lake
- ✓ R 73900, Heath Creek
- ✓ R 73901, Heath Creek
- ✓ R 73902, Unnamed Drainage trib. to Heath Lake
- ✓ R 73903, Unnamed Drainage trib. to Heath Lake
- ✓ R 73904, Unnamed Drainage trib. to Tum Tum Lake
- ✓ R 73907, Unnamed Drainage, Winter 2 Reservoir
- ✓ R 73908, Unnamed Drainage, Miranda Flat
- ✓ R 73909, Unnamed Drainage, Rincon Creek
- ✓ R 73910, Unnamed Drainage, Rincon Creek
- ✓ R 73911, Unnamed Drainage trib. to Trout Creek

- ✓ R 73912, Unnamed Drainage trib. to Trout Creek
 - ✓ R 73913, Unnamed Drainage trib. to Trout Creek
 - ✓ R 73914, Unnamed Drainage, Long Hollow Drainage
 - ✓ R 73915, Unnamed Drainage, Long Hollow Drainage
 - ✓ R 73916, Unnamed Drainage, Long Hollow Drainage
 - ✓ R 73917, Unnamed Drainage, Long Hollow Drainage
 - ✓ R 73978, Unnamed Drainage, Long Section One Reservoir
- Bureau of Land Management, Livestock and Wildlife, Malheur Lake

WaterWatch submits the following objections pursuant to OAR 690-11-170:

♦ **The Technical Reports are Defective**

The technical report fails to contain many of the elements and evaluations required in OAR 690-11-160(1). The areas of deficiency are the same as those identified in WaterWatch's April 5 objection to application #69165 which we hereby incorporate into this objection.

♦ **The Water Availability Analyses in the Technical Reports are Defective**

- There is no data in any of the files to support the conclusory reports of the water availability analyses for all of these applications. The files merely contained a report that stated "Department records and field observations indicate that water is available for storage from the source(s) listed in the above referenced application."
- There are instream water right applications pending on some of the effect stream reaches (Trout Creek and Silves River) that were filed prior to these applications. Failure to take the instream water right applications into account when doing the water availability analysis results in an overestimation of actual water availability. And, with regard to the pending applications, it violates the Commission's direction to process water right applications in the order received.
- The analyses failed to take into account existing water rights of record. It is unclear from the technical report to what extent the water availability analysis takes into account upstream water rights. As we understand it, water rights are taken into account either by assuming the streamflow data reflects the amount of use or by using estimates of consumptive use. Both methods fail to give adequate consideration to rights-of-record. Failure to account for future increases in water use pursuant to rights of record results in an over-estimation of water availability and over-allocation of the resource. This is contrary to the statewide Water Allocation Policy. OAR 690-400-010.

- The technical report fails to contain any analysis of water availability, contrary to OAR 690-11.
- There was no analysis of this application in light of other pending applications and existing public uses of the resource. Given the large amount of applications pending, this could lead to overallocation of the resource.

◆ **The Use As Proposed is Not in the Public Interest**

The proposed uses fail to pass the public interest considerations in ORS 537.170. *See also* OAR 690-11-195(3)(d), (4)(a), (4)(c)(A), (4)(d)(A), (4)(f).

1. Measuring and Reporting

In general, we support the proposed measurement and reporting conditions. However, these conditions should allow the Director to require measurement and reporting of both **rate and duty** of water use. The proposed conditions restrict use based upon a specific rate. Measurement and reporting of water use is to be a useful informational and regulatory tool for the Department, it should provide the information needed to ensure these water uses are within the terms of the permits.

2. Screening and Passage

Given the presence of a variety of fish species in the basin, including the redband trout, screening and passage must be mandatory and clearly be required to be in place **before** any storage or diversion of water. In addition, failure to maintain screening and passage facilities must be grounds for shutting off water use. There should be a condition which **clearly** states these requirements.

3. The proposed uses are contrary to Oregon policy

The proposed uses are contrary to Oregon policies including the Statewide Allocation Policy which requires use within the capacity of the resource and requires that instream flow needs be considered when reviewing applications for new uses. OAR 690-410-070. The proposed use is contrary to other statewide policies including those that require protection of native fish, water quality, and other public uses of water and call for conservation of water and water use efficiency. ORS 496.435, OAR 690-410-030, OAR 690-410-070, OAR 690-410-060, ORS 536.220(1), (2) and statutes and rules cited above.

4. Conservation Conditions Inadequate

Oregon statutes and rules also call for the state to "aggressively promote" water conservation and places a high priority on eliminating waste and improving the efficiency of water use. ORS 537.460(2)(a) and OAR 690-410-060(1). The proposed conditions in the technical report does little to further these policies. Given the presence of redband trout, some water quality problems and the fact that the proposed use of livestock is the type of use known to cause these existing problems it is imperative that the proposed water use be held to a high efficiency standard prior to approval of this application. In addition, the applicant should be required to have an approved conservation plan should be in place **prior to** any approval of this proposed used.

5. Livestock

The use of water for iivestock which is contemplated in these application is not in the public interest because they are not sufficiently conditioned to protect the resource. Livestock will enter the riparian areas and stream beds not only to drink from the stream, but also to eat the lush riparian vegetation. Failure to require fencing of the riparian area as a condition of water use results in no assurance that livestock will stay out of the riparian areas. Thus, the use as proposed is not in the public interest.

Sincerely,

Kimberley Priestley
Legal/Policy Analyst

COPY CHECK-OFF SHEET FOR TECHNICAL REVIEWS

✓ CC: FILE # R 73914

✓ WATERWATCH

✓ ODF&W - County: HARNEY

✓ WATERMASTER #: 10

✓ REGIONAL MANAGER: KENT SEARLES

✓ CWRE: CHRIS PALMER

✓ DEQ

✓ OREGON ASSOCIATION OF NURSERYMEN INC.

✓ KEN STAHR

✓ OTHER ADDRESSES: Rev Yolchim PO Box 218 Roseburg OR 97470

CASEWORKER (initials/date) RLK 11/8/94

ORIGINAL TO APPLICANT 6/28/94

November 4, 1994

WATER
RESOURCES
DEPARTMENT

U.S. BUREAU OF LAND MANAGEMENT; BURNS DISTRICT
HC 74 12533 HWY 20 W
HINES, OR 97738

Reference: File R 73914

Dear Applicant:

The Water Resources Department has finished the first step of its analysis of your application. Enclosed is a copy of this first report, which is called the Report of Technical Review.

The technical review is the Department's legal and scientific analysis of the application, including a calculation of the expected availability of water for your proposed use, an analysis of whether the use would conflict with other existing water rights, and if the use is compatible with the Department's river basin programs and local land use plans. Step two, is the 60-day public review period.

In the case of your application, the Technical Review was satisfactory, and it concluded that water would be available for this use for the time period described in the permit conditions of the attached Report. The Report also includes other conditions which may be placed in the water right permit to protect other water users, the public or fish and wildlife resources.

The Report of Technical Review is only the first step of the review process and does not authorize you to construct a water system or to use the public waters. The Report does not represent any commitment by the Department ultimately to approve your application. Before a permit may be granted, the Department must complete a public interest review.

In this second step of the review process, state regulations require that other water users and the general public be given an opportunity to object to your proposed water use. You also may object to any of the Department's findings or proposed permit conditions contained in the technical report. If you wish to object, you must file your objection with the Department in writing by 5 p.m. on or before January 18, 1995. Interested parties must also submit their objections before the same deadline.

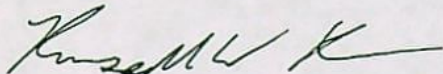
Please review the enclosed informational sheet which describes the appeals process and the steps that must be taken by any party objecting to your Report of Technical Review or by parties wishing to protest issuance of the permit.



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

If you have questions, please feel free to telephone any of the Department's Water Rights Division staff members. The telephone number is 378-3739 in Salem, or you may call toll-free from within the state to 1-800-624-3199.

Sincerely,

A handwritten signature in dark ink, appearing to read "Russell W. Klassen", with a stylized flourish at the end.

Russell W. Klassen
Water Rights Inspector

Enclosures

Report Date: November 4, 1994

OREGON WATER RESOURCES DEPARTMENT

SATISFACTORY REPORT OF TECHNICAL REVIEW
FOR WATER USE PERMIT(S)

OBJECTIONS TO THE PROPOSED WATER USE AS DESCRIBED BELOW MUST BE RECEIVED IN WRITING BY THE OREGON WATER RESOURCES DEPARTMENT, 158 12th ST N.E., SALEM, OREGON 97310, BY 5 P.M. ON OR BEFORE: January 18, 1995

1. APPLICATION FILE NUMBER -R 73914
2. MINIMUM APPLICATION INFORMATION

Applicant name/address/county/phone:

U.S. BUREAU OF LAND MANAGEMENT; BURNS DISTRICT
HC 74 12533 HWY 20 W
HINES, OR 97738
COUNTY OF HARNEY

Date application received for filing and/or tentative date
1/28/1994

SOURCE: AN UNNAMED DRAINAGE, A TRIBUTARY OF LONG HOLLOW
DRAINAGE IN 5773 EX-HERD RESERVOIR

Purpose and/or use: LIVESTOCK AND WILDLIFE.

Flow: 1.9 ACRE-FEET

Point of Diversion Location:

NW 1/4 NE 1/4, SECTION 35, T 36 S, R32.5 E, W.M.;
1220 FEET SOUTH & 2890 FEET EAST FROM NW CORNER, SECTION 35.

Reservoir location:

NW 1/4 NE 1/4
SECTION 35
TOWNSHIP 36 SOUTH, RANGE 32.5 EAST, W.M.

SURFACE WATER AVAILABILITY

Department records and field observations indicate that water is available for storage from the source(s) listed in the above referenced application. Water may be appropriated from the

source for the purpose of storage during the period indicated in the proposed permit conditions.

This size reservoir normally fills within a few days during peak flow periods or snow melt run-off conditions.

Appropriation of water from this source during this period will not interfere with other water rights. The storage season for the proposed reservoir will avoid periods of the year when flows are low and seldom exceed the needs of existing water rights and will avoid the period of the year when additional flows are needed to support public use.

REPORT CONCLUSIONS:

Based on the Department's review of water availability and Oregon Administrative Rules, water in the amount of 1.9 ACRE-FEET is likely available for 4 months.

Therefore, the Director finds that water is available in sufficient amount and during periods which will reasonably support the proposed use.

THE PROPOSED WATER USE, AS CONDITIONED, SATISFIES THE REQUIREMENTS OF THIS TECHNICAL REVIEW.

This Report of Technical Review sets out the Director's technical analysis of the application. In addition to this technical analysis, the Director will evaluate this application to determine whether the proposed water use might impair or be detrimental to the public interest under the standards set out in ORS 537.170(5) and OAR 690-11-195. Matters relating to public interest in the proposed water use which are raised in objections will be evaluated following the 60-day objection period.

PROPOSED PERMIT CONDITIONS

Application: R 73914

The following conditions will apply to water use under the permit, and will appear in the permit, if issued.

1. Use of water under this permit is subject to all prior rights.
2. Water may be appropriated for storage during the period: November 1 through March 1.
3. Volume of use: 1.9 ACRE-FEET
4. Water use development requirements:
 - A. Begin construction by (one year from issuance of permit).
 - B. Complete construction by October 1, 1996.
 - C. Completely apply the water to beneficial use by October 1, 1997.
5. 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.

6. Failure to comply with any of the provisions of the permit may result in action including, but not limited to, restrictions on the use, penalties, or cancellation of the permit.
7. The 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.
8. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.
9. The total area proposed to be submerged by the reservoir, when full is 0.9 acre; the proposed maximum depth of water in feet is 7.0; the maximum height of the dam is 10.0 feet.
10. The storage of water allowed herein is subject to the installation and maintenance of an fully functional conduit/gate assembly having a minimum diameter of 8 inches.
11. Use under this permit is limited to the reservoir area. This permit does not provide for the appropriation of water for maintaining the water level or maintaining a suitable fresh water condition.

November 4, 1994

WATER
RESOURCES
DEPARTMENT

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In the case of your application, the Technical Review was satisfactory, and it concluded that water would be available for this use for the time period described in the permit conditions of the attached Report. The Report also includes other conditions which may be placed in the water right permit to protect other water users, the public or fish and wildlife resources.

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Please review the enclosed informational sheet which describes the appeals process and the steps that must be taken by any party objecting to your Report of Technical Review or by parties wishing to protest issuance of the permit.



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Russell W. Klassen
Water Rights Inspector

Enclosures

Report Date: November 4, 1994

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1220 FEET SOUTH & 2890 FEET EAST FROM NW CORNER, SECTION 35.

Reservoir location:

NW 1/4 NE 1/4
SECTION 35
TOWNSHIP 36 SOUTH, RANGE 32.5 EAST, W.M.

SURFACE WATER AVAILABILITY

Department records and field observations indicate that water is available for storage from the source(s) listed in the above referenced application. Water may be appropriated from the

source for the purpose of storage during the period indicated in the proposed permit conditions.

This size reservoir normally fills within a few days during peak flow periods or snow melt run-off conditions.

Appropriation of water from this source during this period will not interfere with other water rights. The storage season for the proposed reservoir will avoid periods of the year when flows are low and seldom exceed the needs of existing water rights and will avoid the period of the year when additional flows are needed to support public use.

REPORT CONCLUSIONS:

Based on the Department's review of water availability and Oregon Administrative Rules, water in the amount of 1.9 ACRE-FEET is likely available for 4 months.

Therefore, the Director finds that water is available in sufficient amount and during periods which will reasonably support the proposed use.

THE PROPOSED WATER USE, AS CONDITIONED, SATISFIES THE REQUIREMENTS OF THIS TECHNICAL REVIEW.

This Report of Technical Review sets out the Director's technical analysis of the application. In addition to this technical analysis, the Director will evaluate this application to determine whether the proposed water use might impair or be detrimental to the public interest under the standards set out in ORS 537.170(5) and OAR 690-11-195. Matters relating to public interest in the proposed water use which are raised in objections will be evaluated following the 60-day objection period.

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Application: R 73914

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 - 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.

6. Failure to comply with any of the provisions of the permit may result in action including, but not limited to, restrictions on the use, penalties, or cancellation of the permit.
7. The 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.
8. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.
9. The total area proposed to be submerged by the reservoir, when full is 0.9 acre; the proposed maximum depth of water in feet is 7.0; the maximum height of the dam is 10.0 feet.
10. The storage of water allowed herein is subject to the installation and maintenance of an fully functional conduit/gate assembly having a minimum diameter of 8 inches.
11. Use under this permit is limited to the reservoir area. This permit does not provide for the appropriation of water for maintaining the water level or maintaining a suitable fresh water condition.

TECHNICAL REVIEW CHECKLIST

11/4/94

1. Application: R 73914
2. Review Date: 11/8/94

S indicates information was completed or adequately addressed.
 U indicates information is needed, or incomplete, or inadequately addressed
 N/A indicates Not Applicable

SUMMARY	
<u>N/A</u>	Land Use
<u>NA/yes/no</u>	Substantial SW interference w/GW (if yes, see results of surface water availability analysis)
<u>NA</u>	Conflicts
<u>S</u>	Water Availability (<u>see attached</u>) (Water Availability Sub-basin#)
<u>S</u> U	The application, map and supporting data are complete and free of defects.
<u>yes/NA</u>	A TMDL letter has been received for this source or tributary. If yes, the period of use has been adjusted.

3. S The applicant has certified that the information provided in the application is an accurate representation of the proposed use and is true and correct to the best of their knowledge. An oath is required before a permit is issued regardless of the application's priority date.

5. S Application fees:

Examination fee:	\$ <u>40</u>
Recording fee:	\$ <u>10</u>
TOTAL REQUIRED	\$ <u>50</u>
TOTAL SUBMITTED	\$ <u>50</u>
AMOUNT DUE prior to issuance of permit	\$ _____
AMOUNT OVERPAID	\$ _____
refund due applicant	\$ _____

6. S Proposed dates of beginning and completion of construction, and complete application of water.

7. S A satisfactory map of the proposed place of water use prepared by a certified water right examiner, unless exempt under OAR 690-14-150(3). (A CWRE map is not required for applications filed before November 9, 1987.)

8. S A written copy of the legal description of the property on which the water is to be used.

Property owned by US Government - B.L.M.

9. N/A * All land owned by U.S. Government
A copy of written authorization, contract or easement permitting access to the land or reservoir not owned by the applicant.
10. N/A No statement of ownership was required for applications filed before August, 1990.
11. S The proposed use is not restricted or prohibited by statute.
12. S The source of water is not withdrawn from appropriation by order of the State Engineer or Water Resources Commission, or legislatively withdrawn under ORS Chapter 538.
13. S One or more of the use(s) are allowed under the basin program; OAR 690 - 510-001.
Uses applied for: Wildlife and Livestock ^{Initials}
Discussion: _____

Water Quality Check

14. N/A DEQ has provided notice to the WRD concerning limitations of appropriation from surface water sources designated as TMDL streams. This application does not propose to appropriate water from a source that has been identified by the DEQ as a TMDL stream.
15. N/A This application proposes to appropriate water from a source that has been identified by the DEQ as a TMDL stream and has been limited to months when water quality will not be impaired.

Land Use Compatibility: As expressed by the Planning Department of _____.

- * 15. N/A The land uses to be served by proposed water uses (including proposed construction) are allowed or are not regulated by the local comprehensive plan (ordinance section _____).
16. N/A The land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals which have been obtained.
17. N/A The local government was notified, and sent no comment pursuant to the rules at the time; land use was presumed in compliance per such statement printed on the application.

For reservoir applications:

18. ES ^{OVER 10'} Plans, specifications and supporting information for the dam and impoundment area must be approved by dam safety before a technical review is issued. Plans and specifications are not required for dams less than 10 feet in height and store less than 9.2 acre-feet. (OAR 690, Div 20) t:\chk6 11/4/94

WATER AVAILABILITY ANALYSIS*

APPLICATION: R - 73914

Department records and field observations indicate that water is available for storage from the source(s) listed in the above referenced application.

Water may be appropriated from the source for the purpose of storage during the period

NOVEMBER 1 through MARCH 1.

This size of reservoir normally fills during peak flow, rain or snow melt conditions within a few days.

Appropriation of water from this source during this period will not interfere with other water rights. The storage season for the proposed reservoir will avoid periods of the year when flows are low and seldom exceed the needs of existing water rights and will avoid the period of the year when additional flows are needed to support public use.

Date: 11/03/1994

Bill Beal

Bill Beal
Watermaster, District 10.

* Reservoirs are not subject to the %80 water availability standards.

RECEIVED

APR 27 1994

COMMENT FORM

WATER RESOURCES DEPT.
SALEM, OREGON

Please list below the Application Number of the water use application(s) that are of interest to you. When the technical evaluation is completed a report of the technical review of these applications will be delivered to you.

Application #s R-73892, R-73895, R-73896, R-73897, R-73898,
R-73899, R73900, R73901, R-73902, R73903,
R-73904

Send to:

Ron Yochim

P.O. Box 218

Roseburg, OR 97470

R-73904
R-73906
R-73907
R-73908
R-73909
R-73910
R-73911
R-73912
R-73913
R-73914
R-73915

Please include specific comments or concerns. Use additional sheets if necessary.

R-73915
R-73916
R-73917

Return to:

Oregon Water Resources Department
3850 Portland Road N.E.
Salem, Oregon 97310

This Comment corresponds to the FEB/16/1994 Public Notice.

April 29, 1994

WATER
RESOURCES
DEPARTMENT

Michael T. Green, District Manager
U.S. Bureau Of Land Management
Burns District
HC 74-12533 Highway 20 West
Hines, OR 97738

RE: Applications for Existing Reservoirs

Dear Mr. Green,

The following applications were recently forwarded to the Dam Safety section for our review:

R-73895	5786 Over The Hill	T31S R36E Sec 13
R-73896	5785 North Cat Track	T31S R36E Sec 12
R-73897	5783 Long Section One #1	T31S R36E Sec 01
R-73898	5784 Long Section One #2	T31S R36E Sec 01
R-73902	5777 Heath Lake Pass	T30S R36E Sec 22
R-73909	5794 North Rincon	T39S R33E Sec 12
R-73910	5795 Many Seeps	T39S R33E Sec 13
R-73911	5769 Mossy Back	T39S R37E Sec 33
R-73912	5771 Badger Pocket	T39S R37E Sec 30
R-73913	5772 Crump	T39S R37E Sec 29
R-73914	5773 Ex-Herd	T36S R32.5E Sec 35
R-73915	5774 Pack Trail	T37S R32.5E Sec 02
R-73916	5776 Five Draws	T36S R32.5E Sec 34
R-73917	5775 Goose Gap	T36S R32.5E Sec 27

Oregon law stipulates all dams and reservoirs exceeding the statutory limits of 9.9 feet height and/or 9.2 acre-feet storage capacity be designed by a professional engineer licensed to practice in Oregon. Normally, the plans and specifications must be approved by the Department of Water Resources prior to construction or before issuance of any permits to store water.

However, since these dams have already been constructed, a working agreement has been established between our agencies (specifically the Vale District). This agreement allows us to accept a set of asbuilt drawings sealed by an Oregon Licensed engineer or a qualified engineering representative of the Federal Government in lieu of a set of approved plans and specifications. Please note that this permitting procedure is valid only for pre-existing structures located on public land of Federal jurisdiction....new construction still requires design approval from the Water Resources Dam Safety Engineer.



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

Assuming the above conditions (pre-existing status and Federal ownership) are valid for each of the applications listed above, the drawings should include the following items as minimum requirements for our acceptance:

- An area-capacity curve, or a table indicating reservoir storage capacity vs surface area at normal pool and maximum pool elevations;
- A plan view location map superimposed on a quality topographic drawing using a preferred 2-ft contour interval (maximum 5-ft interval),
- A list of structural dimensions for the dam and spillway, i.e. height, length, crest width, embankment slopes, conduit diameter, etc.

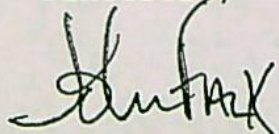
In addition, the asbuilt drawings must include a statement addressing threat to life and property in the event of sudden failure. For those dams that do not have a functional drainage outlet, a statement should also be included on the drawing acknowledging BLM's agreement to install such an outlet conduit should future water distribution circumstances warrant. An example of these two statements is described below:

- 1) "Failure of this structure would not pose a threat to human life or property."
- 2) "Installation of an outlet conduit would threaten the integrity of the existing structure. Should an outlet conduit be required at some later date to satisfy priority water distribution needs, one shall be installed using appropriate safeguards and construction techniques, or the structure may be breached or reconstructed."

The asbuilt drawings as described above must be submitted to the Water Resources Department in order to continue processing the applications. No permits will be issued until such time as they are received. I have enclosed a typical example of asbuilt drawings we have accepted for permitting purposes.

Should you have any questions, or if I can be of assistance in any way, please do not hesitate to let me know. You may also wish to contact Mr. Brent Grasty or Mr. Vern Pritchard of the Vale District Office for additional information regarding this particular permitting agreement.

Sincerely,



John A. Falk, P.E.
Dam Safety Engineer

cc: Steve Brown - Water Rights

WaterWatch

O F O R E G O N

91f
RECEIVED

MAR 7 1994

WATER RESOURCES DEPT.
SALEM, OREGON

Water Resources Department
3850 Portland Rd. N. E.
Salem, OR 97310

March 5, 1994

RE: Application for Permit #R73890 through #R73917
U. S. BLM, Harney & Malhuer Co., Stock & Wildlife

WaterWatch has reviewed the limited amount of information contained in the public notice of these water right applications. Based upon that information, WaterWatch raises the following issues, questions, and concerns:

Is there unappropriated water available for these proposed uses? Does the Department have adequate data to accurately determine the 50% exceedence level?

What effect will these uses have on instream flows necessary to protect the public's interest in fish, wildlife, recreation, and a healthy aquatic system?

These water sources may suffer from water quality problems. Has the Department consulted with the Department of Environmental Quality to determine the effect these withdrawals will have on water quality?

Do these water sources provide habitat to native fish during any phase of their life cycle, WaterWatch requests that the Department include conditions requiring the installation and maintenance of fish screening and bypass devices prior to any diversion of water. We also request that the applicant be required to install water control devices so that water is stored only during the legal storage season.

Will these proposed diversions require a dredge & fill permit from the U. S. Army Corps. of Engineers, a fill and removal permit from the Division of State Lands, or a 401 certificate from the Department of Environmental Quality?

Will these proposed uses be compatible with Goal 5 elements of the local comprehensive plan?

It is a high priority of the state to eliminate waste and improve the efficiency of water use. Statewide policy also calls upon water users to use and maintain their water systems in a manner consistent with the state's priority. What conditions are proposed for these permits that will carry out and encourage compliance with state policy?

It's likely that these are existing illegal uses of water? If so, will the continued use without a permit cause harm to existing water rights and the public interest? Has the Department of Fish and Wildlife been provided with adequate maps in order for them to make a determination of possible harm to public resources?

Please send WaterWatch copies of the Department's technical reviews of these applications.

Are any of these proposed uses subject to the Malhuer Lake Basin Plan program provision on water availability? If so, has the applicant filed the necessary water availability information?

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **110475**

158 12TH ST. N.E.
SALEM, OR 97310-0210
378-8455 / 378-8130 (FAX)

RECEIVED FROM: A.S. Treasurers
BY: _____

APPLICATION	<u>73914</u>
PERMIT	
TRANSFER	

CASH: ☐ CHECK: # 15-51 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 1,400.

01-00-0 WRD MISC CASH ACCT

842.010	ADJUDICATIONS	\$
831.087	PUBLICATIONS / MAPS	\$
830.650	PARKING FEES Name / month	\$
_____	OTHER: (IDENTIFY)	\$

REDUCTION OF EXPENSE

CASH ACCT. \$

COST CENTER AND OBJECT CLASS

VOUCHER #

03-00-0 WRD OPERATING ACCT

MISCELLANEOUS:

840.001	COPY FEES	\$
850.200	RESEARCH FEEDS	\$
880.109	MISC REVENUE: (IDENTIFY)	\$
520.000	OTHER (P-6) (IDENTIFY)	\$

WATER RIGHTS:

842.001	SURFACE WATER	\$
842.003	GROUND WATER	\$
842.005	TRANSFER	\$

WELL CONSTRUCTION

842.022	WELL DRILL CONSTRUCTOR	\$
_____	LANDOWNER'S PERMIT	\$

OTHER (IDENTIFY) _____

EXAM FEE
\$ <u>40.-</u>
\$
\$
EXAM FEE
\$

842.002
842.004
842.006
842.023
842.024

RECORD FEE
\$ <u>10.-</u>
\$
\$
LICENSE FEE
\$
\$

06-00-0 WELL CONST START FEE

842.013	WELL CONST START FEE	\$	CARD #	
_____	MONITORING WELLS	\$	CARD #	

45-00-0 LOTTERY PROCEEDS

864.000	LOTTERY PROCEEDS	\$
---------	------------------	----

07-00-0 HYDRO ACTIVITY

LIC NUMBER

842.011	POWER LICENSE FEE (FW/WRD)	\$
842.115	HYDRO LICENSE FEE (FW/WRD)	\$

HYDRO APPLICATION

\$

RECEIPT # **110475**

DATED: 3-25-94 BY: D. Bushnell

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **110475**

158 12TH ST. N.E.
SALEM, OR 97310-0210
378-8455 / 378-8130 (FAX)

RECEIVED FROM: U.S. Treasury
BY: _____

APPLICATION	<u>73914</u>
PERMIT	
TRANSFER	

CASH: ☐ CHECK: # 15-51 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 1,400.-

01-00-0 WRD MISC CASH ACCT

842.010	ADJUDICATIONS	\$
831.087	PUBLICATIONS / MAPS	\$
830.650	PARKING FEES Name / month	\$
_____	OTHER: (IDENTIFY)	\$

REDUCTION OF EXPENSE

CASH ACCT. \$

COST CENTER AND OBJECT CLASS

VOUCHER #

03-00-0 WRD OPERATING ACCT

MISCELLANEOUS:

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850.200	RESEARCH FEEDS	\$
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842.001	SURFACE WATER	\$
842.003	GROUND WATER	\$
842.005	TRANSFER	\$

WELL CONSTRUCTION

842.022	WELL DRILL CONSTRUCTOR	\$
_____	LANDOWNER'S PERMIT	\$
_____	OTHER (IDENTIFY)	\$

EXAM FEE

\$ 40.-

\$

\$

EXAM FEE

\$

RECORD FEE

\$ 10.-

\$

\$

LICENSE FEE

\$

\$

06-00-0 WELL CONST START FEE

842.013	WELL CONST START FEE	\$	CARD #	
_____	MONITORING WELLS	\$	CARD #	

45-00-0 LOTTERY PROCEEDS

864.000	LOTTERY PROCEEDS	\$
---------	------------------	----

07-00-0 HYDRO ACTIVITY

LIC NUMBER

842.011	POWER LICENSE FEE (FW/WRD)	\$
842.115	HYDRO LICENSE FEE (FW/WRD)	\$

HYDRO APPLICATION

\$

RECEIPT # **110475**

DATED: 3-25-94

BY: D. Bunknell

February 14, 1994

U.S. BUREAU OF LAND MANAGEMENT; BURNS DISTRICT
HC 74 12533 HWY 20 W
HINES, OR 97738

REFERENCE: File(s) R-73890, R-73891, R-73892, R-73893, R-73894, R-73895, R-73896, R-73897, R-73898, R-73899, R-73900, R-73901, R-73902, R-73903, R-73904, R-73905, R-73906, R-73907, R-73908, R-73909, R-73910, R-73911, R-73912, R-73913, R-73914, R-73915, R-73916, R-73917

We have received your application(s) for a water use permit along with your supporting data, documentation, and fees. A receipt is enclosed here unless you were previously issued one. Your application has been assigned the above referenced file number. Please refer to this number whenever you contact us about your application.

Even though your application has been received, filed and assigned an application reference number, no authorization has been granted to develop your water use. The filing of an application does not create a water right. Water may not be used without a water right permit.

After an application has been accepted for filing, public notification of the application is made, followed by the mandatory 30-day comment period. Thereafter, applications can be considered for processing as time allows.

At present the Water Resources Department has a backlog of several thousand applications for water use permits which has delayed our application processing time. Applications are processed in the order in which they are received.

The processing of an application does not guarantee that a water right permit will be issued. Each application must undergo a specialized analysis called a technical review and a public interest review. There is no way to determine at this time whether your particular proposed water use will be recommended for a permit.



REFERENCE: File(s) - R-73890, R-73891, R-73892, R-73893, R-73894, R-73895, R-73896, R-73897, R-73898, R-73899, R-73900, R-73901, R-73902, R-73903, R-73904, R-73905, R-73906, R-73907, R-73908, R-73909, R-73910, R-73911, R-73912, R-73913, R-73914, R-73915, R-73916, R-73917

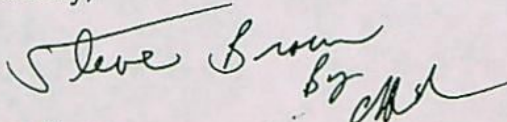
When the report on the technical review is completed and sent to you, a 60-day objection period begins during which you, the applicant, or anyone who has expressed an interest in your proposed water use may communicate to us their disagreement with what we have said in our report on your application. After the 60-day objection period, the Department conducts the public interest review and considers any objections which have been made.

After any objections have been considered, there may follow time to allow parties to resolve conflicts over the proposed water use. In addition, a 30-day protest period may be required. Lastly, it may be necessary to schedule a hearing or send the application to the Water Resources Commission for their review. In most cases no objections are received and the application processing can proceed without further conflict resolution, protest, or hearing.

If your application is recommended for approval and a permit is issued, the use allowed by the permit will be subject to the Basin Program Rules of the Water Resources Commission, instream flow requirements, and the demands of prior right holders, and other conditions to conform the water use to particular standards.

Please contact the Water Rights Section of the Water Resources Department if you have any questions. You may write to us at 3850 Portland Road, Northeast, Salem, Oregon 97310 or you may call 378-3739 in Salem or toll free from within the state 1-800-624-3199.

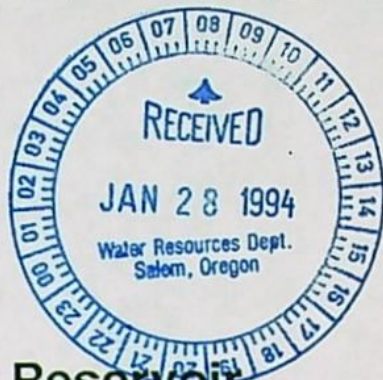
Sincerely,

A handwritten signature in cursive script that reads "Steve Brown". Below the name, there is a smaller, less legible signature that appears to be "by [illegible]".

Steve Brown
Manager
Water Rights Division

Application No.

R73914



State of Oregon
WATER RESOURCES DEPARTMENT

Application for a Permit to Construct a Reservoir

Applicant(s) BUREAU OF LAND MANAGEMENT
BURNS DISTRICT OFFICE
(Please print or type - use dark ink)
Mailing Address: HC 74-12533 Hwy. 10 West
Hines, OR 97738
City State Zip Daytime Phone No.

I (We) make application for a permit to construct 5773 Ex-Herd Res. reservoir and store the following described waters of the State of Oregon:

1. SOURCE OF WATER for the proposed use: Un-Named Drainage,
a tributary of Long Hollow Drainage.
If not in channel of a stream, state how it is to be filled: _____
2. THE DAM: The maximum height of the structure will be 10.0' feet above stream bed or ground surface at the centerline.
The dam will be (check one) ☒ earthfill, ☐ concrete, ☐ flashboard; ☐ other.
If "other" give description: _____

Give the location, description, and dimensions of the outlet conduit: None

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: Livestock & Wildlife

4. THE AMOUNT OF WATER to be stored is: 1.9 acre-feet.
The area submerged by the reservoir, when filled, will be 0.9 acres,
and the maximum depth of water will be 7.0 feet.

5. SPILLWAY DESCRIPTION (location and dimensions). State whether over or around the dam. L = 175', Bottom Width = 10', Top Width = 20',
Depth = 3.0'

Around North side of Dam

6. PROJECT SCHEDULE: (List month and year)

Proposed date construction work will begin Aug 1988

Proposed date construction work will be completed Nov 1988

Proposed date water use will be completed May 1989

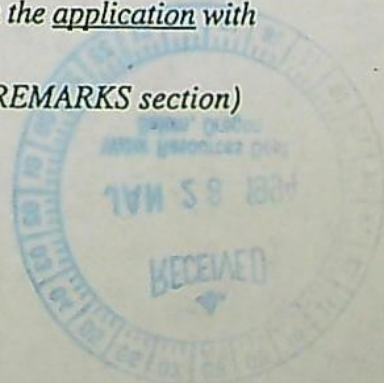
NOTE: A map prepared by a Certified Water Right Examiner (CWRE) and a complete legal description of the subject property are required under ORS 537.140 and OAR 690 as a part of your application. The legal description may be copied from your deed, title insurance policy, or land sales contract.

7. a) In the event any deficiencies are noted involving the application map 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)



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: _____

RECEIVED

JAN 28 1994

WATER RESOURCES DEPT.
SALEM, OREGON

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:

Joe Pelzold
Signature

1-13-94
Date

Signature

Date

NOTE: The permit, when issued, is for the beneficial use of water without waste. 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. It is possible the land use you propose may not be allowed if it is not in keeping with the goals and acknowledged plan. Your city or county planning agency can advise you about the land-use plan in your area.

Michael J. Jean
Signature of Applicant

1-18-94
Date

Signature of Co-Applicant, if any

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 28 day of Jan, 1994, at 8 o'clock, A M.

APPLICATION NO: R73914

FILE#: R 73914

U.S. BUREAU OF LAND MANAGEMENT; BURNS
HC 74 12533 HWY 20 W
HINES, OR 97738

FILE#: R 73914

U.S. BUREAU OF LAND MANAGEMENT; BURNS
HC 74 12533 HWY 20 W
HINES, OR 97738

FILE#: R 73914

U.S. BUREAU OF LAND MANAGEMENT; BURNS
HC 74 12533 HWY 20 W
HINES, OR 97738

Application No.

R73914

Permit No.

U.S. BUREAU OF LAND MANAGEMENT; BURNS

Name

HC 74 12533 HWY 20 W

Addre

HINES, OR

97738

Assigned

Address

Beginning construction

Completion of construction

Extended to

Complete application of water

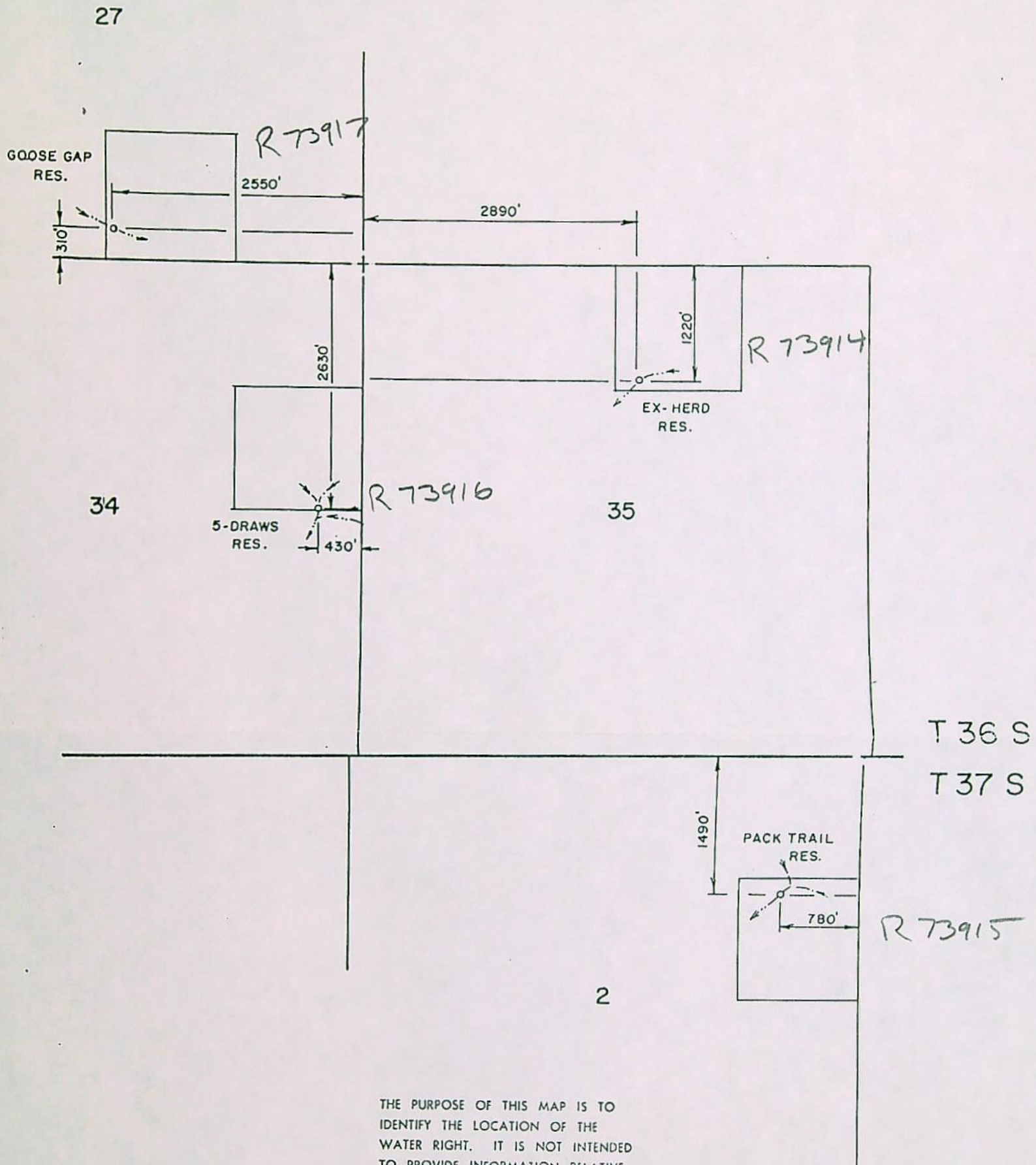
Extended to

SECTION 35[illegible]

Application No. R-73914
Permit No.

T 36 S,
T 37 S, R. 32 1/2 E, W.M.

"CERTIFICATE NO. 69093"



THE PURPOSE OF THIS MAP IS TO
IDENTIFY THE LOCATION OF THE
WATER RIGHT. IT IS NOT INTENDED
TO PROVIDE INFORMATION RELATIVE
TO THE LOCATION OF PROPERTY
OWNERSHIP.

RECEIVED

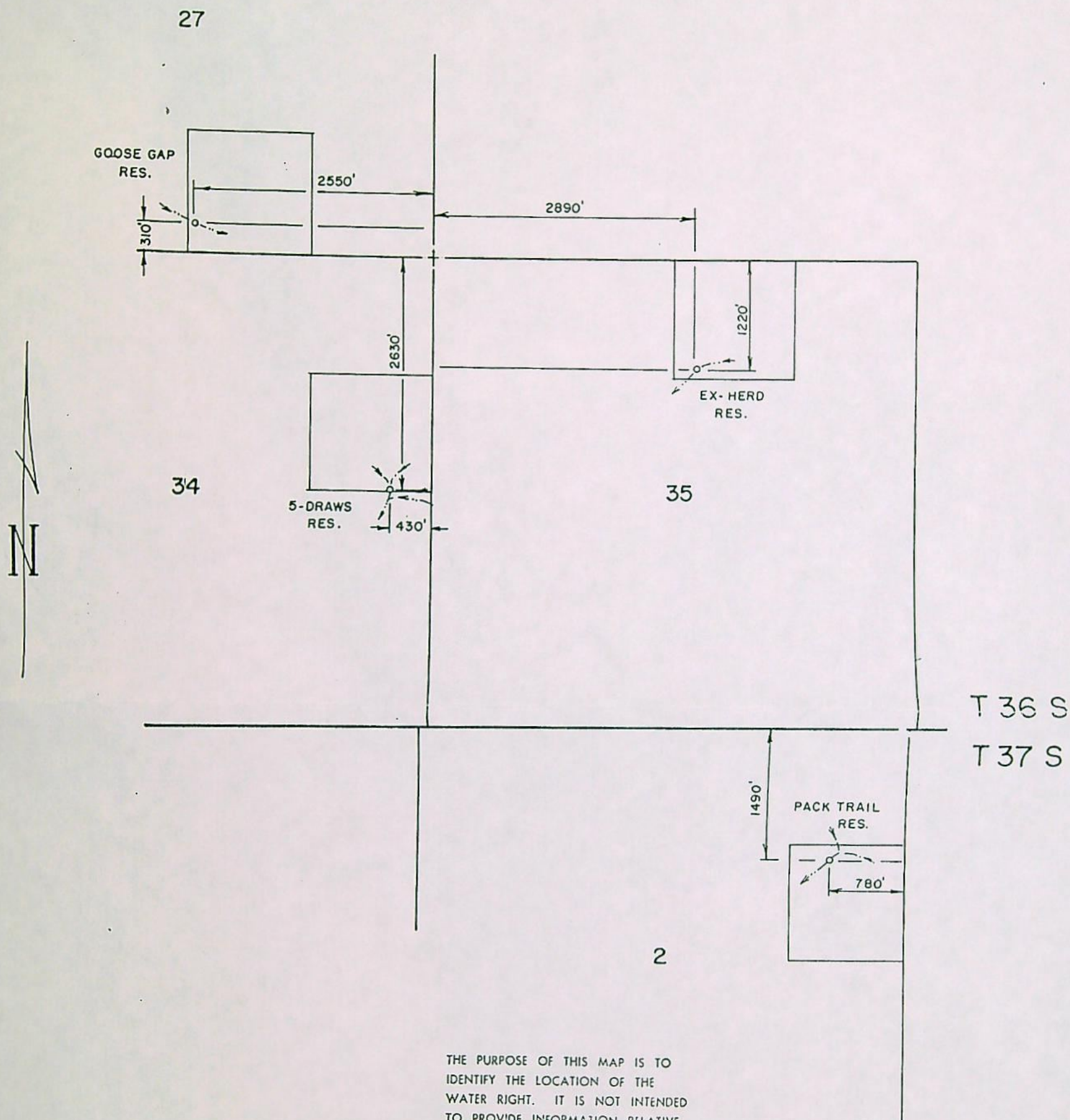
JAN 28 1994

WATER RESOURCES DEPT.
SALEM, OREGON

	B.L.M.		
	WATER RIGHT APPLICATION MAP		
	Scale: 4" = 1 MILE	Date: NOV 1993	Job: 1287-93
	Dsn:	 M. A. PALMER & SONS, INC. ENGINEERING & SURVEYING 254 N. Alder - Box 61 Burns, Oregon 97720	Sht. No.
	Drn: CTP		of 1
Ckd:			

Application No. R-73914
Permit No.

T 36 S,
T 37 S, R. 32 1/2 E, W.M.

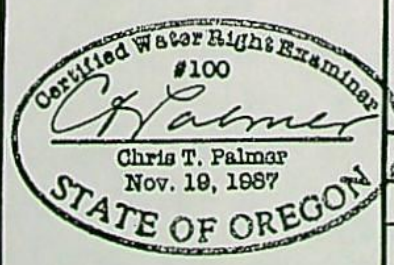


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RECEIVED

JAN 28 1994

WATER RESOURCES DEPT.
SALEM, OREGON

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	Scale: 4" = 1 MILE	Date: NOV 1993	Job: 1287-93
	Dsn:	 M. A. PALMER & SONS, INC. ENGINEERING & SURVEYING 254 N. Alder - Box 61 Burns, Oregon 97720	Sht. No.
Drn: CTP	of 1		
Ckd:			

PRIORITY DATE: _____

R 73914

DATE	INITIALS
1/28	KC

MINIMUM REQUIREMENTS TO FILE

Name and mailing address
 Source of water
 Quantity of water
 Location of project
 Use of water
 Signature of applicant
 Allowable use by policy
 State Engineer withdrawal
 Legislative withdrawal
 Land use approved _____ pending _____

FIELD OPERATIONS

Application date stamped per money receipt date
 Stream Indexed
 Stream Code _____
 Scenic Waterway _____

Findings:-

- 1) Concluded - Scenic-Reg Ack letter
- 2) Under Study - Scenic-Ack letter
- 3) Basin 2 - Willamette-Ack letter

Plat Carded and copy made YES NO
 Conflicts (well _____ surface _____)
 Prior ISWR # _____
 Within Irrigation District _____ (name)
 Notified _____
 District excerpt received _____
 Entered in Paradox _____
 Prepare six copies of Draft Permit _____
 Send one copy to Data Center _____

SUPPORT SERVICES

Stamp contents with application number
 Mail/Provide copies of draft permits to DEQ, ODFW, PARKS, AND WATERMASTER
 Mail ack letter (provided by Data Center) with receipt to applicant, cc to CWRE and file
 Place label on file and card
 If dam is over 10 feet or storage exceeds 9.2 AC-FT, route file to Dam Safety Section
 Notify Irrigation District

FIELD OPERATIONS

	YES	NO
Ownership Statement		
Name and address of all owners		
Other landowners notified		
Legal Description		
Need Commission review		
Requests greater than 5.0 cfs		
Dam height greater than 20 feet		
Storage greater than 100 acre-feet		
Out of Basin diversion		
Groundwater recharge project		
Other substantial public interest		
GW comments received	resolved	
ODFW comments received	resolved	
DEQ comments received	resolved	
Interest Groups		
Water availability received		
Objections received	resolved	
Protest received	resolved	
Management Codes		

EXAMINATION FEE: _____
 RECORDING FEE: _____

REMARKS: _____

TOTAL: _____
 REFUND: _____
 DEFICIENT: _____