

IWR

Application No. 20487

Permit No.

7/16/90

Name Oregon Dept. of Fish and Wildlife

Address PO Box 59, Portland, OR 97207

Assigned

Address

Beginning construction

Completion of construction

Extended to

Complete application of water

Extended to

STATE OF OREGON
COUNTY OF LAKE
CERTIFICATE OF WATER RIGHT

*Request for
Public
interest
review.*

THIS CERTIFICATE ISSUED TO

STATE OF OREGON
WATER RESOURCES DEPARTMENT
SALEM, OREGON 97310

*Flows
reflect
gauge.*

confirms the right to use the waters of DREWS CREEK, a tributary of the GOOSE LAKE, in the GOOSE LAKE BASIN to maintain an instream flow for the purpose of RESIDENT FISH HABITAT.

¹⁵The right is for flows to be maintained in DREWS CREEK FROM THE OUTLET OF DREWS RESERVOIR AT ~~RIVER MILE 17.6~~ (SW 1/4 SE 1/4, SECTION 5, T 40 S. R 18 E, W.M.); TO THE MOUTH OF DREWS CREEK AT RIVER MILE 0.0 (SE 1/4 SW 1/4, SECTION 26, T 40 S, R 19 E, W.M.).

¹⁵The right is established under Oregon Revised Statutes 537.341.

¹⁵~~The~~ date of priority is JULY 16, 1990.

¹⁵The right is limited to ~~not more than~~ the amounts during the time periods listed below:

<u>Period</u>	<u>Flows (cubic foot per second)</u>
OCTOBER 1 THRU NOVEMBER 30	3
DECEMBER 1 THRU DECEMBER 31	12
JANUARY 1 THRU JANUARY 31	20
FEBRUARY 1 THRU FEBRUARY 28	41
MARCH 1 THRU MARCH 31	94
APRIL 1 THRU APRIL 30	160
MAY 1 THRU MAY 31	114
JUNE 1 THRU JUNE 30	56
JULY 1 THRU JULY 31	51
AUGUST 1 THRU AUGUST 31	40
SEPTEMBER 1 THRU SEPTEMBER 30	21

Witness the signature of the Water Resources Director affixed ~~this 3RD~~
~~day of~~ SEPTEMBER, 1990.

17

Water Resources Director
WHT

Recorded in State Record of Water Right Certificates number XXXXX.

IS 70487.JS

BASIN SUMMARY REPORT

DREWS CR TRIBUTARY OF GOOSE L

SOURCE > TRIBUTARY	TOTAL DIVERTED	AGRIC.	INDUST.	MUNIC.	DOMEST.	RECREAT.	MISC.	UNKNOWN
UNN STR > QUARTZ CR	0.00 CFS 2.89 ACF	0.00 2.89	0.00 0.00	0.00 0.00	0.00 0.00	0.00 0.00	0.00 0.00	0 0

BASIN SUMMARY REPORT
DREWS CR. TRIBUTARY OF GOOSE L

C-47469 for
223 cfs from Drews Res.
200 cfs from Cottonwood
Creek sles.

Return
lost in tail water
See T3885

TOTAL DIVERTED
=====

TOTAL CFS: 244.41
TOTAL ACF: 3,506.00

TOTALS BY USE
=====

	AGRICULTURE -----	INDUSTRIAL -----	MUNICIPAL -----	DOMESTIC -----	RECREATIONAL -----	MISCELLANEOUS -----
(CFS)	240.58	0.23	0.00	0.08	0.10	3.43
(ACF)	1,024.00	6.00	0.00	0.00	0.00	2,476.00

North
South
Drews
Annual
150

C-47468 for Storage in Drews Res.
62,500 A-ft
in Drews Res
Dam
SWSE Sec 5 T40 S R 18 E

Jan 21, 1907

Cottonwood Res. 4400 A-ft
NWSW Sec 29 T385 19E

Spill in reservoir
Drews Res
Next into
South
Drews
Annual

5179 - 24.6A + 257.32 Acres + 183.9/Acres
 = 465.82

BASIN SUMMARY REPORT
 DREWS CREEK, TRIBUTARY TO GOOSE LAKE BASIN 13

CERTIFICATE	PERMIT	DLC	LOT	1/4	1/4	SECTION	TOWNSHIP	RANGE	RATE	UNITS	P.A.S.	USE	PRIORITY	STREAM NAME	STATUS
5178	D	5178							0.0000		P	IR	12/31/1874	DREWS CR	V
5183	D	5183							0.0000		P	IR	12/31/1874	DREWS CR	V
5183	D	5183							0.0000		P	IR	12/31/1874	DREWS CR	V
5183	D	5183							0.0000		P	IR	12/31/1874	DREWS CR	V
5179	D	5179							0.0000		P	I*	12/31/1878	DREWS CR	V
5183	D	5183							0.0000		P	IR	4/ 2/1879	DREWS CR	V
5178	D	5178		SE	SE	28	38S	17E	0.0000		P	IR	12/31/1880	DREWS CR	V
5178	D	5178							0.0000		P	IR	12/31/1887	DREWS CR	V
5181	D	5181							0.0000		P	IR	12/31/1887	DREWS CR	V
5177	D	5177							0.0000		P	I*	12/31/1888	DREWS CR	V
5183	D	5183							0.0000		P	IR	12/31/1900	DREWS CR	V
5183	D	5183							0.0000		P	IR	12/31/1900	DREWS CR	V
47469	D	47469		SE	NW	11	40S	18E	223.0000	CFS	P	IR	1/21/1907	DREWS CR	V
14116	S	12017		SW	NE	34	40S	19E	5.5000	CFS	P	IR	12/26/1935	DREWS CR	V
30974	S	27312		SW	SW	6	40S	19E	0.2800	CFS	P	IR	10/10/1960	UNN DRAIN DITCH	V
36773	R	3518		SE	SE	18	40S	19E	3.6000	AFT	P	LV	2/18/1963	UNN SL	V
38354	S	31538		NE	NE	6	41S	19E	0.0100	CFS	P	IR	4/18/1966	UNN DRAIN/RES	V
38354	S	31538		NE	NE	6	41S	19E	0.5300	CFS	P	IR	6/ 9/1966	UNN DRAIN/RES	V
44742	S	36288		SW	NE	17	40S	19E	0.4200	CFS	P	IR	6/14/1971	UNN DRAINAGEWAY	V
50602	S	39088		NE	NW	19	40S	19E	0.7500	CFS	P	IR	5/21/1974	UNN SL	V
0	S	44110		NE	NW	19	40S	19E	0.6250	CFS	P	IR	10/11/1978	UNN SL	V
0	S	50482		NW	NW	11	40S	18E	0.0000		P	RW	4/11/1980	DREWS CR	V
0	S	47499		SE	NW	16	39S	18E	0.8900	CFS	P	IR	1/ 6/1983	UNN STR/RES	V
0	S	49927		NW	NE	19	40S	19E	1.5000	CFS	P	IR	8/29/1986	DREWS CR	V
0	S	50650		SE	SW	18	40S	19E	2.0500	CFS	P	IR	3/ 3/1988	DREWS CR	V

47468 62,500 AF Draws Res.

235.5550 CFS
 3.6000 AFT

+ 62,500 ACFE-feet Draws Res.

26881	S	25312		SE	SW	29	40S	19E	1.2000	CFS	P	IR	11/18/1957	BARNES SL	V
37430	S	31965		SE	NW	19	40S	19E	0.6600	CFS	P	IR	6/20/1966	BARNES SL	V
41113	S	36023		NW	NW	19	40S	19E	0.0300	CFS	P	IR	3/12/1971	BARNES SL	V

1.8900 CFS

49058	S	41244		NE	NE	18	40S	19E	1.4000	CFS	P	IR	11/15/1976	UNN STR	V
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1.4000 CFS

0	S	50534		NE	NW	29	38S	18E	0.0000		P	RW	4/11/1980	FISH CR	V
---	---	-------	--	----	----	----	-----	-----	--------	--	---	----	-----------	---------	---

1281	S	1959							0.6300	CFS	P	IR	3/28/1914	WILLOW CR	V
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5183 = 128.74
 73.51
 50.4

89.75
 20.00
 56.5
 418.90

2186.72 Acres
 5548
 5178
 5183
 5183
 5183
 5179
 5183
 5178
 5178
 5181
 5177
 5183
 5183

1/90

above res

CERTIFICATE	PERMIT	DLC LOT	1/4	1/4	SECTION	TOWNSHIP	RANGE	RATE	UNITS	P.A.S.	USE	PRIORITY	STREAM NAME	STATUS	
51344	R	2332			0	0	0	18.5000	AFT	P	LV	1/15/1960	WILLOW CR	V	
30973	S	26617	NW	NW	4	40S	18E	0.0300	CFS	P	LV	2/17/1960	WILLOW CR/RS	V	
30973	S	26617	NW	NW	4	40S	18E	0.1000	CFS	P	RC	2/17/1960	WILLOW CR	V	
0	S	47069	NE	NE	5	40S	18E	37.5000	AFT	P	IR	6/20/1975	WILLOW CR RES	V	
0	R	8508			4	40S	18E	37.5000	AFT	P	IR	9/18/1975	WILLOW CR	V	
								=====							
								0.7600	CFS						
								93.5000	AFT						
59213	R	9117	SE	NE	9	40S	18E	0.0060	AFT	P	LV	9/ 4/1981	UNN STR	V	
								=====							
								0.0060	AFT						
0	R	9167	SW	NW	16	40S	18E	0.0300	AFT	P	LV	8/14/1981	UNN STR	V	
								=====							
								0.0300	AFT						
59214	R	9118	NW	NW	17	40S	18E	0.2000	AFT	P	LV	9/ 4/1981	WHISKEY CR	V	
0	S	49887	NW	NW	5	40S	18E	0.0100	CFS	P	DO	6/ 3/1986	SPR AREA	V	
0	S	50016	NW	NW	5	40S	18E	3.0000	GPM	P	DO	6/ 5/1986	WHISKEY CR	V	
								=====							
								0.0167	CFS						
								0.2000	AFT						
0	R	10626	SE	SW	15	40S	17E	6.0000	AFT	P	IM	6/ 3/1981	DOG CR/DOG L RES	V	
0	R	10626	SE	SW	15	40S	17E	2470.0000	AFT	P	FW	6/ 3/1981	DOG CR/DOG L RES	V	
0	S	49677	SE	SW	15	40S	17E	0.0080	CFS	P	RW	6/18/1981	DOG CR	V	
0	S	49677	SE	SW	15	40S	17E	3.4200	CFS	P	FW	6/18/1981	DOG CR	V	
								=====							
								3.4280	CFS						
								2476.0000	AFT						
63364	R	9125	SW	SE	12	40S	17E	0.1200	CFS	P	LV	9/ 4/1981	SAGE HEN CR	V	
								=====							
								0.1200	CFS						
63362	R	9123	SE	NE	4	40S	17E	0.0030	CFS	P	LV	9/ 4/1981	UNN STR	V	
								=====							
								0.0030	CFS						
0	R	9120	SE	NW	13	40S	17E	0.0800	AFT	P	LV	9/ 4/1981	UNN STREAM 1/RES A	V	

CERTIFICATE	PERMIT	DLC LOT	1/4	1/4	SECTION	TOWNSHIP	RANGE	RATE	UNITS	P.A.S.	USE	PRIORITY	STREAM NAME	STATUS
0 R	9120		NE	NW	13	40S	17E	0.0400	AFT	P	LV	9/ 4/1981	UNN STREAM 2/RES B	V
								=====						
								0.1200	AFT					
59204 R	9108		NE	SW	10	40S	17E	0.0400	AFT	P	LV	9/ 4/1981	UNN STR	V
								=====						
								0.0400	AFT					
0 R	9169		NE	SE	20	40S	18E	0.4700	AFT	P	LV	8/14/1981	HORSESHOE CR	V
59206 R	9110		SE	SE	13	40S	17E	0.0700	AFT	P	LV	9/ 4/1981	HORSESHOE CR	V
								=====						
								0.5400	AFT					
28684 S	23403		SW	SW	23	40S	17E	0.0400	CFS	P	DO	2/ 4/1955	DOG L SPR	V
0 S	50537		NW	SW	22	40S	17E	0.0000		P	RW	4/11/1980	DOG L	V
0 S	49677		SE	SW	15	40S	17E	6.0000	AFT	P	RW	6/18/1981	DOG L RES	V
63363 R	9124		SE	SW	27	40S	17E	0.0100	CFS	P	LV	9/ 4/1981	DOG L	V
63365 R	9126		SE	SW	23	40S	17E	0.0030	CFS	P	LV	9/ 4/1981	DOG L	V
								=====						
								0.0530	CFS					
								6.0000	AFT					
0 S	50542		NW	SE	29	40S	17E	0.0000		P	RW	4/11/1980	GREEN CR	V
59209 R	9113		NW	NW	3	41S	17E	0.0060	AFT	P	LV	9/ 4/1981	GREEN CR	V
63366 R	9127		NW	NW	19	40S	17E	0.1100	CFS	P	LV	9/ 4/1981	GREEN CR	V
								=====						
								0.1100	CFS					
								0.0060	AFT					
5182 D	5182		NW	NW	18	39S	18E	0.0000		P	IR	12/31/1884	LA SERE CR	V
								=====						
5182 D	5182		NW	SW	18	39S	18E	0.0000		P	IR	12/31/1884	FISH CR	V
0 S	48880		NW	NE	8	39S	18E	0.0500	CFS	P	IR	9/ 4/1984	FISH CR	V
								=====						
								0.0500	CFS					
5180 D	5180		SE	NW	30	40S	16E	0.0000		P	IR	12/31/1900	HAY CR	V
0 R	9150		SE	NE	12	40S	15E	0.2100	AFT	P	LV	8/14/1981	HAY CR	V
0 R	9121		NE	NW	8	40S	17E	0.1300	AFT	P	LV	9/ 4/1981	UNN STREAM 2/RES B	V
0 R	9121		NW	SW	8	40S	17E	0.4000	AFT	P	LV	9/ 4/1981	UNN STREAM 3/RES C	V

CERTIFICATE	PERMIT	DLC LOT	1/4 1/4	SECTION	TOWNSHIP	RANGE	RATE	UNITS	P.A.S.	USE	PRIORITY	STREAM NAME	STATUS
59205	R	9109	SE NW	10	40S	16E	0.9700	AFT	P	LV	9/ 4/1981	HAY CR	V
59221	R	9134	SE SE	27	39S	16E	0.1600	AFT	P	LV	9/ 4/1981	UNN STR/RES A	V
59221	R	9134	SW SE	27	39S	16E	0.0500	AFT	P	LV	9/ 4/1981	UNN STR/RES B	V
							=====						
							1.9200	AFT					
59215	R	9128	NE NE	5	40S	17E	0.1200	AFT	P	LV	9/ 4/1981	UNN STR	V
59219	R	9132	NW SW	32	39S	17E	0.1400	AFT	P	LV	9/ 4/1981	UNN STR	V
							=====						
							0.2600	AFT					
59216	R	9129	SW NE	14	39S	16E	0.0100	AFT	P	LV	9/ 4/1981	UNN STR	V
							=====						
							0.0100	AFT					
0	R	9121	SE SE	7	40S	17E	0.1300	AFT	P	LV	9/ 4/1981	UNN STREAM 1/RES A	V
							=====						
							0.1300	AFT					
0	R	9189	SW NE	27	39S	16E	0.1100	AFT	P	LV	8/17/1983	UNN STR	V
							=====						
							0.1100	AFT					
59222	R	9135	SW SW	8	39S	17E	0.0400	AFT	P	LV	9/ 4/1981	UNN STR 1/RES A	V
59222	R	9135	SW NE	8	39S	17E	0.0300	AFT	P	LV	9/ 4/1981	UNN STR 2/RES B	V
							=====						
							0.0700	AFT					
5179	D	5179	SW SE	34	38S	17E	0.0000		P	I*	12/31/1878	CHANDLER CR	V
							=====						
5179	D	5179		0	0	0	0.0000		P	I*	12/31/1878	DENT CR	V
0	S	50535	SE NW	6	39S	17E	0.0000		P	RW	4/11/1980	DENT CR	V
0	S	50536	SE SE	33	38S	17E	0.0000		P	RW	4/11/1980	DENT CR	V
59197	R	9101	NE SW	31	38S	17E	0.1300	AFT	P	LV	9/ 4/1981	UNN STR/RES A	V
59197	R	9101	SE SW	31	38S	17E	0.1000	AFT	P	LV	9/ 4/1981	UNN STR/RES B	V
							=====						
							0.2300	AFT					
59218	R	9131	NW NE	7	39S	17E	0.0200	AFT	P	LV	9/ 4/1981	UNN STR	V
							=====						
							0.0200	AFT					

CERTIFICATE	PERMIT	DLC	LOT	1/4	1/4	SECTION	TOWNSHIP	RANGE	RATE	UNITS	P.A.S.	USE	PRIORITY	STREAM NAME	STATUS	
59217	R	9130		NE	NE	2	39S	16E	0.0200	AFT	P	LV	9/ 4/1981	UNN STR 1/RES A	V	
59217	R	9130		SE	SE	35	38S	16E	0.0300	AFT	P	LV	9/ 4/1981	UNN STR 2/RES B	V	
									=====							
									0.0500	AFT						
0	R	9136		NE	NE	3	39S	16E	0.1400	AFT	P	LV	9/ 4/1981	UNN STR	V	
59220	R	9133		SE	NE	10	39S	16E	0.0300	AFT	P	LV	9/ 4/1981	UNN STR 1/RES A	V	
59220	R	9133		NE	SW	10	39S	16E	0.0600	AFT	P	LV	9/ 4/1981	UNN STR 2/RES B	V	
									=====							
									0.2300	AFT						
5178	D	5178				29	38S	17E	0.0000		P	IR	12/31/1888	STEVENSON CR	V	
5178	D	5178		SE	SE	29	38S	17E	0.0000		P	IR	12/31/1888	STEVENSON CR	V	
1260	E	196				0	0	0	0.7750	CFS	P	I*	10/21/1913	STEVENSON CR	V	
0	R	9190		NE	SE	25	38S	16E	0.0400	AFT	P	LV	8/14/1981	STEVENSON CR	V	
									=====							
									0.7750	CFS						
									0.0400	AFT						
5178	D	5178				20	38S	17E	0.0000		P	IR	12/31/1880	HOWARD CR	V	
0	S	44474		NW	SW	15	38S	17E	0.2300	CFS	P	IM	7/16/1979	HOWARD CR	V	
									=====							
									0.2300	CFS						
5178	D	5178				17	38S	17E	0.0000		P	IR	12/31/1887	UNN STR	V	
									=====							
5178	D	5178		NW	SW	34	37S	16E	0.0000		P	IR	12/31/1892	QUARTZ CR	V	
5178	D	5178				34	37S	16E	0.0000		P	IR	12/31/1892	QUARTZ CR	V	
41112	S	32749		SW	SE	27	37S	16E	0.0200	CFS	P	DI	6/19/1967	A SPR	V	
0	S	50906		SW	NE	12	38S	16E		AFT	P	RW	8/31/1981	QUARTZ CR	V	
									=====							
									0.0200	CFS						
5181	D	5181		SW	NW	20	38S	17E	0.0000		P	IR	12/31/1887	UNN STR	V	
38105	S	25738		SE	NW	10	38S	16E	920.0000	AFT	C	IR	9/ 4/1958	DALLAS LAKE RES	V	
0	S	50905		SW	NW	11	38S	16E		AFT	P	RW	8/31/1981	UNN STR	V	
0	S	50907		SE	NE	14	38S	16E		AFT	P	RW	8/31/1981	UNN STR	V	
									=====							
									920.0000	AFT						

CERTIFICATE	PERMIT	DLC	LOT	1/4	1/4	SECTION	TOWNSHIP	RANGE	RATE	UNITS	P.A.S.	USE	PRIORITY	STREAM NAME	STATUS	
0 R	8944			SE	NE	26	37S	16E	0.3100	AFT	P	LV	9/ 4/1981	UNNAMED STR/RES 1	V	
0 R	8944			NW	NW	25	37S	16E	2.5800	AFT	P	LV	9/ 4/1981	UNNAMED STR/RES 2	V	
									=====							
									2.8900	AFT						

TOTALS
=====

TOTAL CFS: 244.4107

TOTAL AFT: 3506.0020

+62,500 Acre feet

BASIN SUMMARY REPORT

DREWS SL TRIBUTARY OF GOOSE L

SOURCE > TRIBUTARY

TOTAL DIVERTED

AGRIC.

INDUST.

MUNIC.

DOMEST.

RECREAT.

MISC.

UNKNOWN

DREWS CR > GOOSE L

0.00 CFS
62,500.00 ACF

0.00
0.00

0.00
0.00

0.00
0.00

0.00
0.00

0.00
0.0062,500.00

0

DREWS SL > GOOSE L

2.87 CFS
43.00 ACF

2.86
43.00

0.00
0.00

0.00
0.00

0.01
0.00

0.00
0.00

0.00
0.00

0

BASIN SUMMARY REPORT

DREWS SL TRIBUTARY OF GOOSE L

TOTAL DIVERTED
=====

TOTAL CFS: 2.87
TOTAL ACF: 62,543.00

TOTALS BY USE
=====

	<u>AGRICULTURE</u>	<u>INDUSTRIAL</u>	<u>MUNICIPAL</u>	<u>DOMESTIC</u>	<u>RECREATIONAL</u>	<u>MISCELLANEOUS</u>
(CFS)	2.86	0.00	0.00	0.01	0.00	0.00
(ACF)	43.00	0.00	0.00	0.00	0.00	62,500.00

BASIN SUMMARY REPORT

DREWS SL TRIBUTARY OF GOOSE L

SOURCE > TRIBUTARY	TOTAL DIVERTED	AGRIC.	INDUST.	MUNIC.	DOMEST.	RECREAT.	MISC.	UNKNOWN
DREWS CR > GOOSE L	0.00 CFS 62,500.00 ACF	0.00	0.00	0.00	0.00	0.00	0.00	0
DREWS SL > GOOSE L	2.87 CFS 43.00 ACF	2.86	0.00	0.00	0.01	0.00	0.00	0

BASIN SUMMARY REPORT

DREWS SL TRIBUTARY OF GOOSE L

TOTAL DIVERTED

TOTAL CFS: 2.87
TOTAL ACF: 62,543.00

TOTALS BY USE

	<u>AGRICULTURE</u>	<u>INDUSTRIAL</u>	<u>MUNICIPAL</u>	<u>DOMESTIC</u>	<u>RECREATIONAL</u>	<u>MISCELLANEOUS</u>
(CFS)	2.86	0.00	0.00	0.01	0.00	0.00
(ACF)	43.00	0.00	0.00	0.00	0.00	62,500.00

ACRES SUMMARY REPORT
DREWS CR TRIBUTARY OF GOOSE L

SOURCE > TRIBUTARY	ACRES IRRIGATED (PRIMARY)	(SUPPLEMENTAL)
DREWS CR > GOOSE L	44.04	7.13
GRAND TOTAL =====		
TOTAL ACRES IRR. (PRIMARY) :	44.04	
TOTAL ACRES IRR. (SUPPLEMENTAL):	7.13	

BEFORE THE WATER RESOURCES DEPARTMENT OF OREGON
WATER RIGHTS DIVISION

In the Matter of Surface Water Application)
IS 70487 in the Name of OREGON DEPARTMENT)
OF FISH AND WILDLIFE for Water Use, Lake)
County, Oregon.)

PROTEST TO PROPOSED
FINAL ORDER

Protestants LAKEVIEW WATER USERS, INC., CLYDE FENIMORE, and SPARROWK LIVESTOCK in accordance with ORS 537.153 (6) and OAR 690-77-043, submit the following Protest to Proposed Final Order for Application IS 70487.

I. INTRODUCTION.

Protestants' address is c/o James C. Lynch, Attorney at Law, P.O. Box 351, Lakeview, Oregon 97630; phone number (541)947-2196. Protestants are the owners and users of irrigation water rights from Drews Creek, a tributary of Goose Lake.

Protestants assert that the Proposed Final Order by the Water Resources Department ("WRD" or "Department") is defective and in error and that there are elements of the water right as approved that will impair or be detrimental to the public interest, based on the facts and issues set forth below.

II. PROPOSED FLOW RATES ARE IN EXCESS OF MINIMUM QUANTITY NECESSARY

The instream water right flow rates proposed are excessive and unnecessary for the use applied for. The flow rates proposed are higher than the minimum quantity necessary for the public use of the instream water right, and are, therefore, contrary to the definition of "In-stream flow" of ORS 537.332 (2) and OAR 690-77-010 (14). Water use of the instream right, if approved, would adversely affect the Protestants and other potential water users from the stream by appropriating excess quantities of water and preventing any other new appropriations of water.

III. INADEQUATE TECHNICAL DATA OR INFORMATION SUBMITTED BY ODFW

Application IS 70487, as submitted by the Oregon Department of Fish & Wildlife to the Water Resources Department, failed to include sufficient technical data or information to support the flow rates requested by said agency, as required by OAR 690-77-020 and ORS 537.336 in that the data is 25 years old and were not measured at the lower end of the stream reach even though the Proposed Final Order purports to establish such instream flows at that location.

IV. WRD FAILED TO ANALYZE FLOW NEEDS

The flow levels approved by the Proposed Final Order are not based on any analysis of the need for the flows requested. ORS 537.332 (2) sets out

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the definition of "In-stream flow" which the Department is supposed to follow when determining instream water rights: the "minimum quantity of water necessary to support the public use requested by an agency". The Proposed Final Order does not address the minimum quantity of water or flow levels necessary to support the uses applied for. The only review undertaken by the WRD was a check to see if the requested flows are less than the average estimate natural flow ("EANF"; OAR 690-77-015 (4)).

ODFW applied for the "optimum" flow whereas the statutory standard for instream water rights is the minimum quantity necessary for the public use of the instream water right (ORS 537.332).

V. OREGON METHOD IS INHERENTLY FLAWED - WRD SHOULD REJECT APPLICATION

The methodology used for this application, the "Oregon Method", is inherently flawed in that it is based on a methodology that has been superseded and is not reliable, and is based on outdated or insufficient information (note testimony by Al Mirati of the Oregon Department of Fish and wildlife regarding the "Oregon Method", to the Oregon Water Resources Commission, on December 6, 1990). The determinations made from the Oregon Method are not reliable and should therefore be rejected by the WRD or the Commission as the final authority in determining the level of instream flows necessary to protect the public use (ORS 537.343 (2)).

VI. "EANF" CALCULATIONS ARE DEFECTIVE or INCOMPLETE

There are no calculations for information in the WRD file to show what "ratios" were used or how adjustments were made to any gauged flows to determine the 50% exceedance flows, and there is also no information in the technical review to show the type of statistics used (see "Methods for Determining Streamflows and Water Availability in Oregon", Robison, P. 22 and 23). The EANF calculations are defective resulting in high EANF levels and thus allowing excessive recommended flows by the WRD.

CONCLUSION

This protest is filed in accordance with OAR 690-77-043. The issues raised should be considered as part of a contested case hearing. The WRD's Proposed Final Order is inadequate and defective and has failed to follow applicable rules. A thorough review of the Application is necessary to determine the minimum quantity of water necessary to support the public uses applied for.

For the reasons set forth above, the Protestants assert that the application is defective and should be returned to the applicants. The flow levels requested are excessive and are not necessary to support the public uses proposed. Flow levels set at the rates proposed will interfere with future maximum economic development of the waters of the State of Oregon. Excessive flow rates for instream water rights represent a wasteful and unreasonable use of the water involved. (ORS 537.170 (8)(e)).

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Based on the point discussed above, the Proposed Final Order should deny the application for a permit or modify the Proposed Final Order accordingly.

Respectfully submitted this 8th day of October, 1996.

By: James C. Lynch
James C. Lynch, Attorney for Protestants

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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of October, 1996, I served a true and accurate copy of the foregoing Protest to the Proposed Final Order on the applicant by mailing said copy by first class mail, postage prepaid, by depositing said copy in the United States Post Office in Lakeview, Oregon, addressed as set forth below:

Oregon Department of Fish & Wildlife
2501 SW First Avenue
P.O. Box 59
Portland, Oregon 97207

By: James C. Lynch
James C. Lynch
OSB No. 61053
Attorney for Protestants

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WATER RESOURCES DEPT.
SALEM, OREGON

**Oregon Water Resources Department
Water Rights/Adjudication Section**

Water Right Application Number: IS 70487

Proposed Final Order

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

Application History

On 7/16/90, the Oregon Department of Fish and Wildlife submitted an application to the Department for the following instream water right certificate.

Source: DREWS CREEK tributary to GOOSE LAKE

County: Lake

Purpose: Migration, spawning, egg incubation, fry emergence, and juvenile rearing.

The amount of water (in cubic feet per second) requested by month:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
20.0	41.0	94.0	160.0	114.0	56.0	51.0	40.0	21.0	3.0	3.0	12.0

To be maintained in:

IN DREWS CREEK FROM OUTLET OF DREWS RESERVOIR (SWSE, SECTION 5 T40S, R18E); TO GOOSE LAKE, RIVER MILE 0.0 (SECTIONS 26 AND 27, T40S, R9E)

The Department mailed the applicant notice of its Initial Review on December 11, 1995. Public notice of the application was provide in the Department's weekly public notice on December 26, 1995. Comments were received for 30 days.

The following supporting data was submitted by the applicant:

- (a) Fish and Wildlife Resources of the Goose and Summer Lake Basin, Oregon, and Their Water Requirements; November, 1971.
- (b) Determining Minimum Flow Requirements for Fish, ODFW Report January 20, 1984.
- (c) Developing and Application of Spawning Velocity and Depth Criteria for Oregon Salmonids, Alan K. Smith, Transactions of the American Fisheries Society, April 1973.
- (d) Determining Stream Flows for Fish Life, Oregon State Game Commission Report, March 1972.
- (e) A letter dated April 5, 1996, stating that the flows requested

in this application are the minimum amount necessary to restore, protect and enhance populations and habitats of native wildlife species at self-sustaining levels

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

- comments by or consultation with another state agency
- any applicable basin program
- any applicable comprehensive plan or zoning ordinance
- the amount of water available
- the proposed rate of use
- pending senior applications and existing water rights of record
- the Scenic Waterway requirements of ORS 390.835
- applicable statutes, administrative rules, and case law
- any comments received

An assessment with respect to conditions previously imposed on other instream water rights granted for the same source has been completed.

An evaluation of the information received from the local government(s) regarding the compatibility of the proposed instream water use with land use plans and regulations has been completed.

The level of instream flow requested is based on the methods of determining instream flow needs that have been approved by administrative rule of the agency submitting this application.

Findings of Fact

The basin Basin Program allows the proposed use.

Senior water rights exist on this source or on downstream waters.

The source of water is not above a State Scenic Waterway.

The source of water is not withdrawn from appropriation by order of the State Engineer or legislatively withdrawn by ORS 538.

The estimated average natural flow for the lower end of the requested reach is as follows (in cubic feet per second):

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
39.4	52.1	207.0	238.0	181.0	35.3	6.42	4.80	10.3	15.1	23.9	34.2

Conclusions of Law

Under the provisions of ORS 537.153, the Department must

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

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

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

The proposed use will not injure other water rights.

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

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

The proposed instream flows do not fully appropriate this source of water year round. Water is available for additional storage.

Water is not available for the proposed use at the amount requested year round because the unappropriated water available is less than the amounts requested during some months.

For these reasons, the presumption set forth in ORS 537.153, as discussed above, has not been established. The application therefore has been processed without the statutory presumption.

"When instream water rights are set at levels which exceed current unappropriated water available the water right not only protects remaining supplies from future appropriation but establishes a management objective for achieving the amounts of instream flows necessary to support the identified public uses." OAR 690-77-015(2).

"The amount of appropriation for out-of-stream purposes shall not be a factor in determining the amount of an instream water right." "The amount allowed during any time period for the water right shall not exceed the estimated average natural flow ..." (excerpted from OAR 690-77-015 (3) and (4)).

Because the proposed use exceeds the available water, it can not be presumed to be in the public interest. However, under the direction of OAR 690-77-015 (2)(3) and(4), the proposed use is in the public interest up to the limits of the estimated average natural flow.

Oregon law allows certain uses of water to take precedence over other uses in certain circumstances. When proposed uses of water are insufficient for all who desire to use them, preference shall be given to human consumption purposes over all other uses and for livestock consumption over any other use (excerpted from ORS 536.310 (12)).

The Department therefore concludes that

- the proposed use, as limited in the draft certificate, will not result in injury to other water rights,
- the proposed use, as limited in the draft certificate, will not impair or be detrimental to the public interest as provided in ORS 537.170.
- the proposed use, as limited in the draft certificate, will include the following conditions: for purposes of water distribution, this instream right shall not have priority over human or livestock consumption.

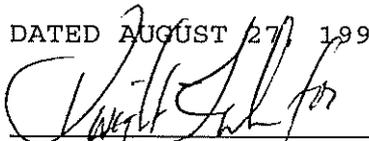
- the flows are to be measured at the lower end of the stream reach to protect necessary flows throughout the reach.
- the stream flows listed below represent the minimum flows necessary to support the public use.

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
20.0	41.0	94.0	160.0	114.0	35.3	6.42	4.80	10.3	3.0	3.0	12.0

Recommendation

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

DATED AUGUST 27, 1996



Steven P. Applegate
Administrator

Water Rights and Adjudications Division

Protest Rights

Under the provisions of ORS 537.153(6) or 537.621(7), you have the right to submit a protest against this proposed final order. Your protest *must* be in writing, and must include the following:

- Your name, address, and telephone number;
- A description of your interest in the proposed final order, and, if you claim to represent the public interest, a precise statement of the public interest represented;
- A detailed description of how the action proposed in this proposed final order would impair or be detrimental to your interest;
- A detailed description of how the proposed final order is in error or deficient, and how to correct the alleged error or deficiency;
- Any citation of legal authority to support your protest, if known; and
- If you are not the applicant, the \$200 protest fee required by ORS 536.050.
- Proof of service of the protest upon the applicant.

Your protest must be received in the Water Resources Department no later than October 11, 1996.

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

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

DRAFT
STATE OF OREGON

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

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

The specific limits for the use are listed below along with conditions of use.

Source: DREWS CREEK tributary to GOOSE LAKE

County: Lake

Purpose: Migration, spawning, egg incubation, fry emergence, and juvenile rearing.

To be maintained in:

IN DREWS CREEK FROM OUTLET OF DREWS RESERVOIR (SWSE, SECTION 5 T40S, R18E); TO GOOSE LAKE, RIVER MILE 0.0 (SECTIONS 26 AND 27, T40S, R9E)

The right is established under Oregon Revised Statutes 537.341.

The date of priority is 7/16/90.

The following conditions apply to the use of water under this certificate:

1. The right is limited to not more than the amounts, in cubic feet per second, during the time periods listed below:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
20.0	41.0	94.0	160.0	114.0	35.3	6.42	4.80	10.3	3.0	3.0	12.0

2. The water right holder shall measure and report the in-stream flow along the reach of the stream or river described in the certificate as may be required by the standards for in-stream water right reporting of the Water Resources Commission.
3. For purposes of water distribution, this instream right shall not have priority over human or livestock consumption.
4. The instream flow allocated pursuant to this water right is not in addition to other instream flows created by a prior water right or designated minimum perennial stream flow.
5. The flows are to be measured at the lower end of the stream reach to protect necessary flows throughout the reach.

Witness the signature of the Water Resources Director affixed this ___ day of _____, 19__.

Water Resources Director

Recorded in State Record of Water Right Certificate number _____.

IS 70487

STATE OF OREGON
WATER RESOURCES DEPARTMENT

RECEIPT # **7395**

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

INVOICE # _____

RECEIVED FROM: Lynche Vandenberg
BY: _____

APPLICATION	70487
PERMIT	
TRANSFER	

CASH: CHECK: # 24-12 OTHER: (IDENTIFY)

TOTAL REC'D \$ 200.

0417 WRD MISC CASH ACCT

ADJUDICATIONS	\$
PUBLICATIONS / MAPS	\$
OTHER: (IDENTIFY)	\$
OTHER: (IDENTIFY)	\$

REDUCTION OF EXPENSE

CASH ACCT. \$

PCA AND OBJECT CLASS VOUCHER #

0427 WRD OPERATING ACCT

PCA 77235

0407 MISCELLANEOUS	\$
0410 COPY & TAPE FEES	\$
0408 RESEARCH FEES	\$
TC165 MISC REVENUE: (IDENTIFY)	\$
DEPOSIT LIAB. (IDENTIFY)	\$

WATER RIGHTS:		EXAM FEE	RECORD FEE
0201 SURFACE WATER	\$	0202	\$
0203 GROUND WATER	\$	0204	\$
0205 TRANSFER	\$	0206	\$
WELL CONSTRUCTION		EXAM FEE	LICENSE FEE
0218 WELL DRILL CONSTRUCTOR	\$	0219	\$
LANDOWNER'S PERMIT		0220	\$

0223 OTHER (IDENTIFY) *Protest \$200.*

0437 WELL CONST. START FEE

0211 WELL CONST START FEE	\$	CARD #	
0210 MONITORING WELLS	\$	CARD #	
OTHER (IDENTIFY)			

0539 LOTTERY PROCEEDS

1302 LOTTERY PROCEEDS	\$
-----------------------	----

0467 HYDRO ACTIVITY

0233 POWER LICENSE FEE (FW/WRD)	LIC NUMBER	\$
0231 HYDRO LICENSE FEE (FW/WRD)		\$
HRDRO APPLICATION		\$

RECEIPT # **7395**

DATED: 10-10-95 BY: D. Binkhoff

Distribution-White Copy-Customer, Yellow Copy-Fiscal, Blue Copy-File, Buff Copy-Fiscal

JAMES C. LYNCH

ATTORNEYS AT LAW

DAVID M. VANDENBERG

620 NORTH FIRST STREET
P.O. Box 351
LAKEVIEW, OREGON 97630

PHONE (541) 947-2196

FAX (541) 947-5234

October 9, 1996

CERTIFIED MAIL
Return Receipt Requested

Oregon Water Resources Dept.
158 12th Street NE
Salem, OR 97310

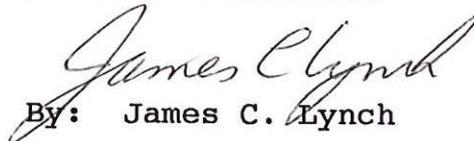
Re: Water Right Application No. IS 70487

Please find enclosed a Protest to Proposed Final Order in connection with the above-numbered water right application for an instream water right. I also enclose my firm's check in the amount of \$200.00 representing the protest fee.

All future correspondence in regards to this protest should be directed to the undersigned.

Sincerely yours,

LYNCH & VANDENBERG


By: James C. Lynch

JCL/jr
Enclosures

cc: Lakeview Water Users, Inc. (w/encl.)
Clyde Fenimore (w/encl.)
Sparrowk Livestock, Attn: Tom Azevedo (w/encl.)

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WATER RESOURCES DEPT.
SALEM, OREGON

BY

IS 70487

8-22-11

Lakeview Water Users has been a non-profit since 1938,
ISWR 70487 Drew's Creek - discussion w/ Brian Mayer -
recommends F+W withdrawal

Lakeview is a ditch - ^{has} Shareholders
company

District Manager - Jorge Cobian

Bob Warner

Board of Directors

Shareholders meeting

Lakeview Water Users - 25 cfs dam leak, repaired 2010-11.
ODFW wrote letter saying they didn't need fish passage
on the dam. Local bio "Shannon" - no longer w/ ODFW Lakeview

Water passes in old creek channel into south channel -
They have rights to dry up creek

Warner sucker - the surveys & listings turned Lakeview area farmers
against ODFW.

Dave Barks - one of local ODFW - ^{current} fish bio in Lakeview office

INTEROFFICE MEMORANDUM
Water Rights Section

TO: ~~Frank Bentley~~

FROM: Dwight French, x268 *DF*

DATE: March 26, 1997

RE: Water Availability for ISWR applications/files

You asked about the file copies of Estimated Average Natural Flow (EANF) for ISWR applications.

There is not a printout in each file similar to what you would generally see in an out of stream application file. The EANF information is in either the Technical Review (TR) or Initial Review (IR) as well as the Proposed Final Order (PFO).

During the processing of the ISWR applications, Rick Cooper and/or Ken Stahr would provide us with a electronic copy of the water availability information for a particular group of ISWR applications. We would then cut and paste that information directly into the TR or IR. When preparing the PFO, we would cut and paste from the TR or IR directly into the PFO.

In summary, our EANF numbers are in the TR or IR and the PFO for each particular ISWR application file.

cc: Mike Mattick

All Protested ISWR Files

Stream Applications with Protests
2/97

Basin App Num

2

OK 71556 A

OREGON DEPARTMENT OF FISH & WILDLIFE

8

9

18

74

2

1

3

9

19

2

12

12

Total for Basin 2 : 1

4

OK 71793 W

OREGON DEPARTMENT OF FISH & WILDLIFE

OK 71798 W

OREGON DEPARTMENT OF FISH & WILDLIFE

72076 W

OREGON DEPARTMENT OF FISH & WILDLIFE

72077 W

OREGON DEPARTMENT OF FISH & WILDLIFE

72078 W

OREGON DEPARTMENT OF FISH & WILDLIFE

72079 W

OREGON DEPARTMENT OF FISH & WILDLIFE

72080 W

OREGON DEPARTMENT OF FISH & WILDLIFE

72081 W

OREGON DEPARTMENT OF FISH & WILDLIFE

Total for Basin 4 : 8

5

OK 70353 A

OREGON DEPARTMENT OF FISH & WILDLIFE

70354 A

OREGON DEPARTMENT OF FISH & WILDLIFE

OK 70357 A

OREGON DEPARTMENT OF FISH & WILDLIFE

70358 S

OREGON DEPARTMENT OF FISH & WILDLIFE

70358 S

OREGON DEPARTMENT OF FISH & WILDLIFE

70358 A

OREGON DEPARTMENT OF FISH & WILDLIFE

OK 70605 A

OREGON DEPARTMENT OF FISH & WILDLIFE

70606 S

OREGON DEPARTMENT OF FISH & WILDLIFE

70606 A

OREGON DEPARTMENT OF FISH & WILDLIFE

70612 A

OREGON DEPARTMENT OF FISH & WILDLIFE

70695 A

OREGON DEPARTMENT OF FISH & WILDLIFE

70695 A

OREGON DEPARTMENT OF FISH & WILDLIFE

73199 A

OREGON DEPARTMENT OF FISH & WILDLIFE

Total for Basin 5 : 13

6

Checked out to Dwight

69949 A

69949 S

69951 S

69951 A

69958 S

69958 A

69958 S

69959 S

OREGON DEPARTMENT OF FISH & WILDLIFE & PARKS

Basin App Num

6

	69959	S	OREGON DEPARTMENT OF FISH & WILDLIFE & PARKS
	69959	A	OREGON DEPARTMENT OF FISH & WILDLIFE & PARKS
	69961	A	OREGON DEPARTMENT OF FISH & WILDLIFE & PARKS
	69961	S	OREGON DEPARTMENT OF FISH & WILDLIFE & PARKS
	69961	S	OREGON DEPARTMENT OF FISH & WILDLIFE & PARKS
	69963	A	OREGON DEPARTMENT OF FISH & WILDLIFE & PARKS
	69963	S	OREGON DEPARTMENT OF FISH & WILDLIFE & PARKS
	69963	A	OREGON DEPARTMENT OF FISH & WILDLIFE & PARKS
OK	70251	A	OREGON DEPARTMENT OF FISH & WILDLIFE
OK	70589	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70640	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70640	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70641	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70641	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70642	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70642	S	OREGON DEPARTMENT OF FISH & WILDLIFE
OK	70645	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70645	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70646	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70646	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70651	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70651	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70652	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70652	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70653	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70653	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70654	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70654	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70655	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70655	A	OREGON DEPARTMENT OF FISH & WILDLIFE

Total for Basin 6 : 38

9

	70863	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70864	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70870	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	72163	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	72168	S	OREGON DEPARTMENT OF FISH & WILDLIFE

Stream Applications with Protests

12/97

Basin	App Num		
9			
	72168	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	72169	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	72169	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	72170	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	72173	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	72181	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	72186	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	72187	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	72188	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	72191	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	72194	A	OREGON DEPARTMENT OF FISH & WILDLIFE
Total for Basin	9 :	16	
10			
	71450	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	71455	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	71455	A	OREGON DEPARTMENT OF FISH & WILDLIFE
Total for Basin	10 :	3	
11			
	<i>Dwight Done Right!</i> 70020	A	OREGON DEPARTMENT OF FISH & WILDLIFE & PARKS
Total for Basin	11 :	1	
12			
	71467	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	71468	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	71472	A	OREGON DEPARTMENT OF FISH & WILDLIFE
Total for Basin	12 :	3	
13			
	70486	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70487	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70656	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70657	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70658	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70659	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70662	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70663	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70664	A	OREGON DEPARTMENT OF FISH & WILDLIFE
Total for Basin	13 :	9	

Basin	App Num
-------	---------

14

DWF	70094	A	OREGON DEPARTMENT OF FISH & WILDLIFE & PARKS
	70094	A	OREGON DEPARTMENT OF FISH & WILDLIFE & PARKS
	70094	A	OREGON DEPARTMENT OF FISH & WILDLIFE & PARKS
	70798	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70798	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70799	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70799	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70800	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70800	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70801	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70801	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70802	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70802	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70804	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70804	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70807	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70807	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70807	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70808	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70808	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70809	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70809	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70809	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70812	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70812	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70812	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70812	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70813	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70813	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70813	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70813	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70813	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70815	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70815	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70816	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70816	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70821	A	OREGON DEPARTMENT OF FISH & WILDLIFE

Stream Applications with Protests
2/97

Basin	App Num		
14			
	70824	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70826	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70829	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70829	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70829	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70829	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70830	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70830	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70830	S	OREGON DEPARTMENT OF FISH & WILDLIFE

Total for Basin 14 : 46

15

70982	A	OREGON DEPARTMENT OF FISH & WILDLIFE
70993	A	OREGON DEPARTMENT OF FISH & WILDLIFE
70998	W	OREGON DEPARTMENT OF FISH & WILDLIFE
71008	A	OREGON DEPARTMENT OF FISH & WILDLIFE
71201	A	OREGON DEPARTMENT OF FISH & WILDLIFE
71614	A	OREGON DEPARTMENT OF FISH & WILDLIFE
71622	A	OREGON DEPARTMENT OF FISH & WILDLIFE
72843	A	OREGON DEPARTMENT OF FISH & WILDLIFE

Total for Basin 15 : 8

16

71172	A	OREGON DEPARTMENT OF FISH & WILDLIFE
71173	A	OREGON DEPARTMENT OF FISH & WILDLIFE
71174	A	OREGON DEPARTMENT OF FISH & WILDLIFE
71181	A	OREGON DEPARTMENT OF FISH & WILDLIFE
71182	A	OREGON DEPARTMENT OF FISH & WILDLIFE
71183	A	OREGON DEPARTMENT OF FISH & WILDLIFE
71184	A	OREGON DEPARTMENT OF FISH & WILDLIFE
71185	A	OREGON DEPARTMENT OF FISH & WILDLIFE
71190	A	OREGON DEPARTMENT OF FISH & WILDLIFE
71192	A	OREGON DEPARTMENT OF FISH & WILDLIFE
71193	A	OREGON DEPARTMENT OF FISH & WILDLIFE
73350	A	OREGON DEPARTMENT OF FISH & WILDLIFE

Total for Basin 16 : 12

17

70228	A	OREGON DEPARTMENT OF FISH & WILDLIFE
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Instream Applications with Protests

4/2/97

Basin	App Num		
17			
	70229	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70230	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70348	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70348	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70448	S	OREGON DEPARTMENT OF FISH & WILDLIFE
	70448	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70574	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70877	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70891	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70895	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70895	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	70915	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	71697	A	OREGON DEPARTMENT OF FISH & WILDLIFE
	80446	A	OREGON DEPARTMENT OF FISH & WILDLIFE
Total for Basin 17 :	15		
173			

COPY CHECK-OFF SHEET FOR PROPOSED FINAL ORDERS

CC: FILE # IS 70487

WATERMASTER # DENNIS GLENDER

REGIONAL MANAGER: BOB MAIN

ODF&W - County: LAKE

DEO

PARKS

OTHER STATE AGENCY IF NECESSARY:

DIVISION 33 LIST: _____ COLUMBIA RIVER INTERTRIBAL FISH COMMISSION; U.S. FISH & WILDLIFE;
(CHECK ONLY IF APPLICABLE) NORTHWEST POWER PLANNING COUNCIL & NATIONAL MARINE FISHERIES

POWER BUILDER UPDATER;

WATER FOR LIFE (TODD HEIDGERKEN)

OTHER ADDRESSES OF PEOPLE WHO PAID THE \$10 FEE:

PEOPLE WITH OBJECTIONS, COMMENTS OR REQUESTED COPY W/O \$10 (SEND THE \$10 LETTER):

CASEWORKER : CINDY SMITH

STATE OF OREGON
WATER RESOURCES DEPARTMENT

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

INVOICE # **000524**

RECEIPT #

RECEIVED FROM: Lynch + Vandenberg
 BY: _____

APPLICATION	
PERMIT	
TRANSFER	

CASH: CHECK: # 24-12 OTHER: (IDENTIFY)

TOTAL REC'D \$ 10.00

0417 WRD MISC CASH ACCT

ADJUDICATIONS	\$
PUBLICATIONS / MAPS	\$
OTHER: (IDENTIFY)	\$
OTHER: (IDENTIFY)	\$

REDUCTION OF EXPENSE

CASH ACCT. \$
 VOUCHER #

PCA AND OBJECT CLASS

0427 WRD OPERATING ACCT

0407 MISCELLANEOUS COPY FEES	\$
0410 RESEARCH FEES	\$
0408 MISC REVENUE: (IDENTIFY) <u>PFO PCA66111</u>	\$ <u>10.00</u>
TC165 DEPOSIT LIAB. (IDENTIFY)	\$

WATER RIGHTS:		EXAM FEE	RECORD FEE
0201 SURFACE WATER	\$	0202	\$
0203 GROUND WATER	\$	0204	\$
0205 TRANSFER	\$	0206	\$
WELL CONSTRUCTION		EXAM FEE	LICENSE FEE
0218 WELL DRILL CONSTRUCTOR	\$	0219	\$
LANDOWNER'S PERMIT		0220	\$
OTHER (IDENTIFY)			

0437 WELL CONST. START FEE

0211 WELL CONST START FEE	\$	CARD #	
0210 MONITORING WELLS	\$	CARD #	
OTHER (IDENTIFY)			

0539 LOTTERY PROCEEDS

1302 LOTTERY PROCEEDS	\$
-----------------------	----

0467 HYDRO ACTIVITY

0233 POWER LICENSE FEE (FW/WRD)	LIC NUMBER	\$
0231 HYDRO LICENSE FEE (FW/WRD)		\$
HRDRO APPLICATION		\$

RECEIPT # **000524** DATED: 3-15-96 BY: JLD PJ

Distribution-White Copy-Customer, Yellow Copy-Fiscal, Blue Copy-File, Buff Copy-Fiscal

JAMES C. LYNCH

ATTORNEYS AT LAW

DAVID M. VANDENBERG

620 NORTH FIRST STREET
P.O. BOX 351
LAKEVIEW, OREGON 97630

PHONE (541) 947-2196

FAX (541) 947-5234

March 13, 1996

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

Re: Application No. IS-70487
Oregon Department of Fish & Wildlife

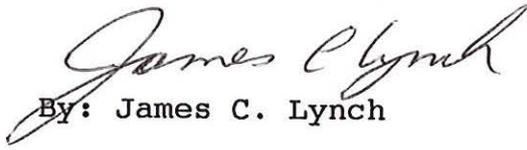
Please find enclosed a Public Notice Comment Form, along with a check for \$10.00 for a copy of any proposed final order or final order issued in connection with the above numbered application.

As it was not clear from your notice of December 26, 1995, as to which stage this permit is at, I realize this request may be premature. In any case, I would request that a copy of any proposed final order or final order be sent to me or, in lieu thereof, a notice as to the status of the application.

Thank you for your continued assistance in connection with this matter.

Sincerely yours,

LYNCH & VANDENBERG


By: James C. Lynch

JCL:ag
encs.

cc: Lakeview Water Users, Inc.
ATTN: Keith Pardue

RECEIVED
MAR 15 1996
WATER RESOURCES DEPT.
SALEM, OREGON

OREGON WATER RESOURCES DEPARTMENT



Commerce Building
158 12th Street NE
Salem OR 97310-0210

December 26, 1995

PUBLIC NOTICE COMMENT FORM

Use the back of this form to offer comments on water use requests or other items in this notice or to order copies of proposed final and final orders. You are welcome to submit comments on a separate sheet, but please be sure to include your name and address and reference the specific request or document that concerns you. Please mail your comments to the address listed above.

Water Use Request Type & File Number

(e.g. "Permit Application G-12345" or "Transfer T-1234"):

Permit Application IS-70487

Mail me a

Copy of the Order (payment enclosed)*



Your Name, Address, and Phone Number:

James C. Lynch

Attorney at Law

P.O. Box 351

Lakeview, OR 97630

Phone: 541-947-2196

* We are required by law to charge a fee of \$10 to mail a copy of a proposed final or final order for a permit application to any interested person. Please include a check made out to the Oregon Water Resources Department in the amount of \$10 for each proposed final order you would like mailed to you. This fee entitles you to also receive a copy of the final order, when issued. (Copies of proposed final and final orders are also available for viewing—at no charge—at our Salem office or at the local watermaster office.)

RECEIVED

MAR 15 1996

WATER RESOURCES DEPT.
SALEM, OREGON

Comments (please type or print):

December 11, 1995

Rick Kruger
Oregon Department of Fish and Wildlife
2501 SW First Ave
PO Box 59
Portland OR 97207

Reference: Instream water rights in the Hood Basin,
Files 70487, 71793, 71798 and 72080

Dear Oregon Department of Fish and Wildlife:

This document, called and "Initial Review", is to inform you of the potential limitations to your proposed instream water right and to describe some of your options. Based on the information you have supplied, the Water Resources Department has made several determinations:

The referenced applications are complete and not defective.

The proposed use is not prohibited by law;

The instream use is allowed under OAR 504, the Hood River Basin Program;

1. **Application 70487**

DREWS CREEK tributary to GOOSE LAKE

IN DREWS CREEK FROM OUTLET OF DREWS RESERVOIR (SWSE, SECTION 5 T40S, R18E); TO GOOSE LAKE, RIVER MILE 0.0 (SECTIONS 26 AND 27, T40S, R9E)

a. The amount of water requested for instream use:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
20.0	41.0	94.0	160.0	114.0	56.0	51.0	40.0	21.0	3.0	3.0	12.0

b. The amount of water available in the appropriate reach is at a %50 exceedence level is:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
39.4	52.1	207.0	238.0	181.0	35.3	6.42	4.80	10.3	15.1	23.9	34.0

c. Allowable water use

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
20.0	41.0	94.0	160.0	114.0	35.3	6.42	4.80	10.3	3.0	3.0	12.0



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

Rick Kruger
 Oregon Department of Fish and Wildlife
 December 11, 1995
 page two

2. Application 71793

MIDDLE FORK HOOD R trib to HOOD R

MIDDLE FORK HOOD RIVER FROM ELIOT BRANCH AT RIVER MILE 9.1
 (NESW, SECTION 23, TOWNSHIP 1S, RANGE 9E WM); TO THE MOUTH
 AT RIVER MILE 0.0 (NWNW, SECTION 18, TOWNSHIP 1N, RANGE 10E WM)

a. The amount of water requested for instream use:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
150.0	150.0	150.0	255.0	255.0	255.0	150.0	150.0	100.0	255.0	255.0	150.0

b. The amount of water available in the appropriate reach is:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
221.0	233.0	211.0	221.0	246.0	233.0	185.0	140.0	124.0	116.0	145.0	196.0

c. Allowable water use

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
150.0	150.0	150.0	221.0	246.0	233.0	150.0	140.0	100.0	116.0	145.0	150.0

3. Application 71798

EIGHTMILE CR tributary to FIFTEENMILE CR

EIGHTMILE CREEK FROM THE HIGHWAY 197 CROSSING AT RIVER MILE
 7.8 (SWNE, SECTION 32, TOWNSHIP 1N, RANGE 14E WM); TO THE
 MOUTH AT RIVER MILE 0.0 (SESE, SECTION 32, TOWNSHIP 2N,
 RANGE 14E WM)

a. The amount of water requested for instream use:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
10.0	10.0	15.0	26.0	26.0	26.0	15.0	15.0	10.0	10.0	10.0	10.0

b. The amount of water available in the appropriate reach is:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
20.1	48.9	71.7	52.6	41.3	40.9	10.8	5.12	7.68	8.37	12.6	12.0

c. Allowable water use

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
10.0	10.0	15.0	26.0	26.0	26.0	10.8	5.12	7.68	8.37	10.0	10.0

Rick Kruger
 Oregon Department of Fish and Wildlife
 December 11, 1995
 page three

4. Application 72080

DOG R tributary to E FK HOOD R

DOG RIVER FROM THE HEADWATERS AT RIVER MILE 10.7 (SESE, SECTION 34, TOWNSHIP 2S, RANGE 10E WM); TO THE MOUTH AT RIVER MILE 0.0 (NESE, SECTION 20, TOWNSHIP 1S, RANGE 10E WM)

a. The amount of water requested for instream use:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
12.0	12.0	12.0	20.0	20.0	20.0	12.0	12.0	8.0	20.0	20.0	12.0

b. The amount of water available in the appropriate reach is:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
21.9	27.6	26.0	28.6	35.9	27.3	12.6	7.01	6.05	7.79	14.7	19.0

c. Allowable water use

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
12.0	12.0	12.0	20.0	20.0	20.0	12.0	7.01	6.05	7.79	14.7	12.0

NOTE: Exceptions to the instream water right flows are likely to appear on the certificate if one is issued. The Department is working on the exact wording of the conditions. The conditions are likely to allow some amount of additional appropriations for human and livestock consumption.

Your applications can be moved to the next phase of the water rights application review process.

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

At this time, you must decide whether to proceed or to withdraw your applications as described below.

Withdrawal:

If you choose not to proceed, you may withdraw your application. To accomplish this you must notify the Department in writing by **December 26, 1995**. For your convenience you may use the enclosed "STOP PROCESSING" form.

Rick Kruger
Oregon Department of Fish and Wildlife
December 11, 1995
page four

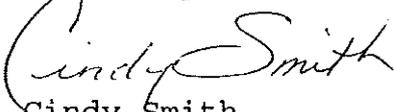
To Proceed With Your Application:

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

If you have any questions:

Feel free to call Michael Mattick at (503) 378-8455 ext. 276 or 1 (800) 624-3199 if you have any questions. Please have your application number(s) available if you call.

Sincerely,



Cindy Smith
Initial Review Team

cc: Regional Manager, Watermaster, Water Availability
Section
enclosures: Stop Processing Form

70487

MAR - 4 1994

WATER RESOURCES DEPT
SALEM, OREGON

Box 16
Plush, OR 97637
March 1, 1994

Steve Brown
Water Resources Department
3850 Portland Rd. NE
Salem, OR 97310

Dear Mr. Brown:

I would like a copy of the technical review on instream water rights in Lake County. My address is:

P. O. Box 16
Plush, OR 97637

Thank you for your assistance and attention to this matter.

Sincerely,

Eleanor Fitzgerald

Eleanor Fitzgerald

Board of Commissioners
Lake County
STATE OF OREGON
LAKEVIEW, OREGON 97630

December 26, 1990

RECEIVED
DEC 28 1990
WATER RESOURCES DEPT.
SALEM, OREGON

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

Mr. Director:

The Oregon Department of Fish and Wildlife has recently filed applications for Instream Water Rights within Lake County with your department. The applications are #70656 through #70665 and #70486 and #70487. The Lake County Board of Commissioners has become aware of these requests and protests the applications.

Our objections are several. First, any instream right which may be granted downstream from private property with irrigation rights could become injurious to the owners of the out of stream right. We are aware of proposed legislation and possible initiative action which would establish priority status for IWRs. We, as an affected local government, are responsible for protecting the economy and rights of our citizens. Therefore, assuring the continued priority right to irrigate for our agriculture community is of critical importance to Lake County.

Secondly, we foresee a scenario in which an IWR may be injurious to those livestock operations that depend on federal grazing rights. If, in the future, riparian areas are excluded from grazing, it will become necessary to divert water for stock water. We feel an instream right could prevent this diversion, rendering large areas of federal grazing allotments unusable to permittees. Again our agricultural industry will be severely damaged.

Third, granting IWRs would prevent water storage projects. Because of the demand for water instream below proposed storage sites, it would not be possible to retain enough flow to fill the storage. The result would be lost potential for recreation, water for irrigation and the ability to enhance normal low stream flow periods with additional stored water for fish habitat.

William Young, Director
Water Resources Department
December 26, 1990
Page 2

Fourth, nearly all streams in Lake County are fully appropriated now. Granting a right for additional use when there is no water available is not wise. You should be encouraging water storage, water savings and reduced waste. Then providing for additional demand with REAL water, instead of some imaginary resource.

Fifth, when Basin Plans were created, Lake County resisted minimum stream flows and was successful. The Goose and Summer Lake Basin Plan should be followed as adopted. The water which originates in Lake County stays in Lake County within the Closed Basin. Water required to stay instream would find its way to alkaline lakes where it becomes a waste. Local input was responsible for the Basin Plan, therefore, changes to the Basin Plan should be reviewed at the local level.

Sixth, there are errors or inconsistencies in every application we have reviewed. In application #70487 the amount of water requested is based on measurements at USGS gauge 11339500. That gauge is on a portion of Drews Creek that is the delivery system for the Lakeview Water Users. It is measuring water delivered from Drews Reservoir to the lower canal by way of Drews Creek. This application must have new information on average stream flow outside the irrigation system. Measurements need to be recorded below the Lakeview Water Users diversion.

In application #70661, the legal description given is not within Lake County and is not the beginning of Dairy Creek.

In application #70660 there is no request for water during the months of August, September and October. Do fish not require water in this portion of the river during this period of time? We realize that within the strategies adopted for the Chewaucan River, this time frame can be accounted for. However, the logic of the strategies as well as the applications should be questioned.

For the reasons set out above, the Lake County Board of Commissioners object to and hereby PROTEST the Instream Water Rights applied for by Oregon Department of Fish and Wildlife in Lake County. We also request any new applications be exposed to the State Agency Coordination Program whereby land use compatibility can be reviewed at the local level before the applications are deemed complete.

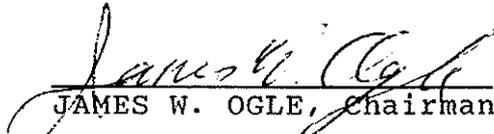
William Young, Director
Water Resources Department
December 26, 1990
Page 3

We further request that before the Instream Water Rights program continues in Lake County, there be public hearings at the county level by the Water Resources Department. Lake County opposed Minimum Stream Flows in the past and feel an IWR is the same concept under a new name.

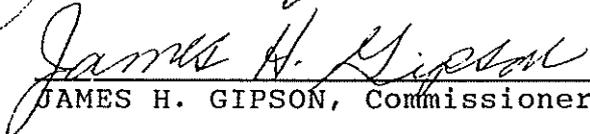
Thank you for considering our requests and concerns.

Sincerely yours,

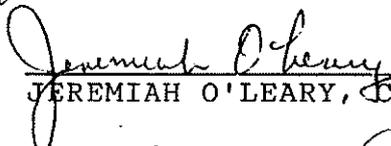
LAKE COUNTY BOARD OF COMMISSIONERS



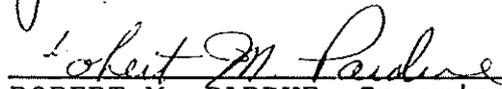
JAMES W. OGLE, Chairman



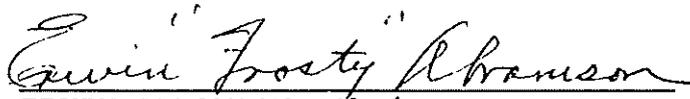
JAMES H. GIPSON, Commissioner



JEREMIAH O'LEARY, Commissioner



ROBERT M. PARDUE, Incoming
Commissioner



ERWIN ABRAMSON, Chairman
Lake County Water Advisory Board

bc

JAMES C. LYNCH
ATTORNEY AT LAW

620 NORTH FIRST STREET
P.O. BOX 351
LAKEVIEW, OREGON 97630

PHONE (503) 947-2196

November 19, 1992

RECEIVED

NOV 23 1992

WATER RESOURCES DEPT
SALEM, OREGON

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

Re: Technical Reviews

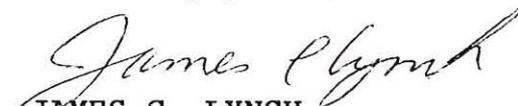
Please provide me with a "Technical Review" statement for the pending applications #70486, #70487, and #70665.

If anything else is necessary to obtain the Technical Reviews, please advise.

Would you also inform me of the status of these applications, including whether or not any objections or protests have been filed to them.

Thank you for your assistance in this matter.

Sincerely yours,


JAMES C. LYNCH

JCL:ag

BEFORE THE WATER RESOURCES COMMISSION OF THE STATE OF OREGON

In The Matter of Instream)
Water Rights Applications)
Filed by the Oregon Department)
of Fish and Wildlife on Drews)
Creek.)

Application No. 70487

Petition for Review

RECEIVED

AUG 23 1990

WATER RESOURCES DEPT.
SALEM, OREGON

Petitioner, OREGON WATER RESOURCES CONGRESS, petitions the Water Resources Commission pursuant to OAR 690-77-030 for a review and public hearing on the application of the Oregon Department of Fish and Wildlife for instream water rights on Drews Creek, a tributary of Goose Lake, represented by the above application number, and represents as follows:

(1) The OREGON WATER RESOURCES CONGRESS is an Oregon non-profit corporation representing irrigation districts, drainage districts and other water purveying districts for irrigation purposes as well as individual agricultural irrigators, and represents a substantial public interest in the irrigated agriculture community and industry in the state of Oregon.

(2) The proposed instream water right may take away from or impair vested water rights and may alter the availability and timing of water to downstream water users, downstream of the Drews Reservoir Dam, in that the waters for which claim is made are for the most part stored water subject to prior claims which seep through the Drews Reservoir Dam.

(3) Given the opportunity of a public hearing, Petitioner would propose to present evidence as to the sources of the waters claimed and as to the prior claims on such waters as well as how the granting of the instream water rights without conditions or modifications may impair existing vested water rights on Drews

Creek.

DATED: August 21, 1990

Respectfully submitted,

OREGON WATER RESOURCES CONGRESS

BY: *Ben Lombard, Jr.*
Ben Lombard, Jr., Attorney

8/23

al

BEN LOMBARD, JR.

ATTORNEY AT LAW
622 BISKIYOU BLVD
POST OFFICE BOX 1060
ASHLAND, OREGON 97520
(503) 482-0401

FAX TRANSMISSION COVER SHEET

PLEASE DELIVER THE FOLLOWING TO:

NAME & TITLE Water Resources Dept. 378-8130
COMPANY/DEPARTMENT Applications & Permits Section
FROM: DWRC - Kip Lombard
RE: Applications for Instream Water Rights
DATE: 8-21-90 TIME: 5pm
NUMBER OF PAGES (Including Cover Sheet) 5

We are transmitting from a CANON FAX 225.

If you do not receive all of the described material, please telephone immediately to:

Business Phone: (503)482-8491

FAX Phone: (503)488-3239

Sender's Name : Kip Lombard

COMMENTS:

BEFORE THE WATER RESOURCES COMMISSION OF THE STATE OF OREGON

In The Matter of Instream)	
Water Rights Applications)	Application Nos. 70488,
Filed by the Oregon Department)	70489 and 70490
of Fish and Wildlife on)	Petition for Review
Meacham Creek and North Fork)	
<u>Meacham Creek.</u>)	

Petitioner, OREGON WATER RESOURCES CONGRESS, petitions the Water Resources Commission pursuant to OAR 690-77-030 for a review and public hearing on the applications of the Oregon Department of Fish and Wildlife for instream water rights on the North Fork Meacham Creek and on Meacham Creek, represented by the above application numbers, and represents as follows:

(1) The OREGON WATER RESOURCES CONGRESS is an Oregon non-profit corporation representing irrigation districts, drainage districts and other water purveying districts for irrigation purposes as well as individual agricultural irrigators, and represents a substantial public interest in the irrigated agriculture community and industry in the state of Oregon.

(2) The proposed instream water rights may preclude planned uses with a reasonable chance of being developed that would provide a greater benefit to the public from the use of the unappropriated water available. (OAR 690-77-045(2)(B)). The North Fork of the Meacham has one of the few practical dam sites available in the area which could provide multipurpose storage and thus provide a greater public benefit in the long run as well as the maximum economic development of the waters involved. (ORS 537.170 (5)(a) & (b)). Evidence will suggest that the highest flows requested approximate the highest average winter flows and if allowed would

not allow for the filling of a reservoir.

(3) The proposed instream water rights should be conditioned or modified to conserve water for a higher public purpose (OAR 690-77-045(2)(d)), namely the later development of a multipurpose storage facility which will serve a broader range of public purposes as enumerated in ORS 537.170(5)(a).

(4) Given the opportunity of a public hearing, Petitioner would present evidence as to discussions and provisions for the construction of a multipurpose storage facility on the North Fork Meacham Creek, as to the greater public benefits of such a facility, and of the necessity to subordinate all or some of the requested instream water rights on the North Fork Meacham Creek and Meacham Creek to such future development.

DATED: August 21, 1990

Respectfully submitted,

OREGON WATER RESOURCES CONGRESS

BY: 
Ben Lombard, Jr., Attorney

BEFORE THE WATER RESOURCES COMMISSION OF THE STATE OF OREGON

In The Matter of Instream)	
Water Rights Applications)	Application No. 70487
Filed by the Oregon Department)	Petition for Review
of Fish and Wildlife on Drews)	
Creek, _____)	

Petitioner, OREGON WATER RESOURCES CONGRESS, petitions the Water Resources Commission pursuant to OAR 690-77-030 for a review and public hearing on the application of the Oregon Department of Fish and Wildlife for instream water rights on Drews Creek, a tributary of Goose Lake, represented by the above application number, and represents as follows:

(1) The OREGON WATER RESOURCES CONGRESS is an Oregon non-profit corporation representing irrigation districts, drainage districts and other water purveying districts for irrigation purposes as well as individual agricultural irrigators, and represents a substantial public interest in the irrigated agriculture community and industry in the state of Oregon.

(2) The proposed instream water right may take away from or impair vested water rights and may alter the availability and timing of water to downstream water users, downstream of the Drews Reservoir Dam, in that the waters for which claim is made are for the most part stored water subject to prior claims which seep through the Drews Reservoir Dam.

(3) Given the opportunity of a public hearing, Petitioner would propose to present evidence as to the sources of the waters claimed and as to the prior claims on such waters as well as how the granting of the instream water rights without conditions or modifications may impair existing vested water rights on Drews

creek,

DATED: August 21, 1990

Respectfully submitted,

OREGON WATER RESOURCES CONGRESS

BY: *Ben Lombard, Jr.*
Ben Lombard, Jr., Attorney

GOOSE LAKE BASIN

11339500 DREWS CREEK NEAR LAKEVIEW, OR

70487

LOCATION.--Lat 42°07'10", long 120°34'45", in NW¼NE¼ sec.10, T.40 S., R.18 E., Lake county, Hydrologic Unit 18020001, on left bank 10 ft upstream from bridge, 2.0 mi downstream from Willow Creek, 2.7 mi downstream from Drews Dam, and 13 mi southwest of Lakeview.

DRAINAGE AREA.--212 mi².

PERIOD OF RECORD.--January 1909 to September 1930 (yearly estimate only for water year 1920), March 1931 to September 1936 (irrigation seasons only), April 1937 to September 1938, March 1939 to October 1941, February 1942, April 1942 to September 1952, February 1953 to September 1981. Monthly discharge only October 1921 to September 1925, published in WSP 1315-A. Published as "Drew Creek near Lakeview" October 1918 to September 1959.

GAGE.--Water-stage recorder. Datum of gage is 4,827.0 ft National Geodetic Vertical Datum of 1929 (levels by Bureau of Reclamation). See WSP 1931 for history of changes prior to July 4, 1953.

REMARKS.--Record herein, except average discharge, not adjusted for diversion by North Drews Canal. Since 1912, flow regulated by Drews Reservoir, capacity, 62,550 acre-ft. Diversion for irrigation above station, and since March 1914, North Drews Canal has diverted above station for irrigation of lands west of Lakeview. Records in files of Oregon Water Resources Department.

AVERAGE DISCHARGE.--50 years (water years 1913-30, 1938, 1940-41, 1947, 1954-81), 70.6 ft³/s, 51,150 acre-ft/yr, including diversion by North Drews Canal.

EXTREMES FOR PERIOD OF RECORD.--Maximum discharge, about 3,000 ft³/s Mar. 1, 2, 1910, from rating curve extended above 1,200 ft³/s; no flow at times.

STATISTICAL SUMMARIES (RIVER DISCHARGE ONLY)

MONTHLY AND ANNUAL MEAN DISCHARGES 1913-81

MONTH	MINIMUM (CFS)	MAXIMUM (CFS)	MEAN (CFS)	STANDARD DEVIATION (CFS)	COEFFICIENT OF VARIATION	PERCENT OF ANNUAL RUNOFF
NOVEMBER	0.0	43	3.4	6.4	1.87	.6
DECEMBER	0.0	209	12	39	3.26	1.9
JANUARY	0.0	361	20	59	2.99	3.2
FEBRUARY	.5	395	41	85	2.05	6.7
MARCH	.7	589	94	128	1.37	15.2
APRIL	.6	922	160	210	1.31	26.0
MAY	6.9	531	114	117	1.03	18.5
JUNE	1.8	201	56	33	.60	9.1
JULY	.5	80	51	22	.44	8.2
AUGUST	0.0	84	40	22	.55	6.6
SEPTEMBER	0.0	63	21	15	.72	3.4
ANNUAL	3.9	172	52	42	.82	100

MAGNITUDE AND PROBABILITY OF ANNUAL LOW FLOW BASED ON PERIOD OF RECORD 1914-81

PERIOD (CONSECUTIVE DAYS)	DISCHARGE, IN CFS, FOR INDICATED RECURRENCE INTERVAL, IN YEARS, AND ANNUAL NON-EXCEEDANCE PROBABILITY, IN PERCENT					
	2	5	10	20	50	100
	50%	20%	10%	5%	2%	1%
1	.9	.4	.3	.2	.1	.1
3	.9	.4	.3	.2	.1	.1
7	1.0	.4	.3	.2	.1	.1
14	1.1	.5	.3	.2	.1	.1
30	1.3	.5	.3	.2	.1	.1
60	1.3	.7	.5	.4	.3	.3
90	1.8	.8	.5	.4	.3	.2
120	2.5	1.1	.7	.5	.3	.2
183	5.0	2.2	1.5	1.0	.7	.5

MAGNITUDE AND PROBABILITY OF INSTANTANEOUS PEAK FLOW BASED ON PERIOD OF RECORD

DISCHARGE, IN CFS, FOR INDICATED RECURRENCE INTERVAL, IN YEARS, AND ANNUAL EXCEEDANCE PROBABILITY, IN PERCENT						
1.25	2	5	10	25	50	100
80%	50%	20%	10%	4%	2%	1%
--	--	--	--	--	--	--
WEIGHTED SKEW = --						

MAGNITUDE AND PROBABILITY OF ANNUAL HIGH FLOW BASED ON PERIOD OF RECORD 1913-81

PERIOD (CONSECUTIVE DAYS)	DISCHARGE, IN CFS, FOR INDICATED RECURRENCE INTERVAL, IN YEARS, AND ANNUAL EXCEEDANCE PROBABILITY, IN PERCENT					
	2	5	10	25	50	100
	50%	20%	10%	4%	2%	1%
1	255	636	993	1560	2060	2620
3	250	616	951	1470	1920	2410
7	240	582	885	1340	1720	2140
15	215	509	767	1150	1470	1810
30	176	404	602	898	1150	1420
60	133	299	423	620	784	963
90	111	231	329	469	582	702

DURATION TABLE OF DAILY MEAN FLOW FOR PERIOD OF RECORD 1913-81

DISCHARGE, IN CFS, WHICH WAS EQUALED OR EXCEEDED FOR INDICATED PERCENT OF TIME															
5%	10%	15%	20%	25%	30%	40%	50%	60%	70%	75%	80%	85%	90%	95%	
266	106	78	67	56	45	25	12	5.3	3.3	2.2	1.6	1.2	1.0	.6	

IWR Application # 70487 Certificate # _____

STATE OF OREGON

WATER RESOURCES DEPARTMENT

RECEIVED

Application for Instream Water Right
by a State Agency

JUL 16 1990

WATER RESOURCES DEPT.
SALEM, OREGON

There is no fee required for this application.

Applicant: Randy Fisher for Oregon Department of Fish and Wildlife, PO Box 59, Portland, OR 97207

1. The name of the stream of the proposed instream water right is Drews Creek, a tributary of Goose Lake.
2. The public uses this instream water right is based upon include providing average stream flows for Goose Lake redband trout for migration, spawning, and juvenile rearing.
3. The amount of water needed by month for each category of public use is as follows:

USE(S): Migration, spawning, and juvenile rearing.

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
<u>20</u>	<u>41</u>	<u>94</u>	<u>160</u>	<u>114</u>	<u>56</u>	<u>51</u>	<u>40</u>	<u>21</u>	<u>3</u>	<u>3</u>	<u>12</u>

4. The reach of the stream identified for an instream water right is from (upstream end) the outlet of Drews Reservoir, river mile ?, within the SW quarter of the SE quarter of Section 5, Township 40S, Range 18E W.M., in Lake County...

Downstream to Goose Lake, river mile 0, within the ? quarter of the ? quarter of Sections 26 and 27, Township 40S, Range 19E W.M., in Lake County.

5. The method used to determine the requested amounts was average stream flow measured at USGS gage # 11339500 near Lakeview, OR (1913 - 1981).

6. When were the following state agencies notified of the intent to file for the instream water right?

Dept. of Environmental Quality	Date: <u>June 26, 1990</u>
ODFW (Fish, Wldlf, and Habitat Div's)	Date: <u>June 26, 1990</u>
Parks and Recreation Division	Date: <u>June 26, 1990</u>

7. If possible, include recommendations for measuring locations or methods:

CENTRAL VALLEY IN OREGON-CALIFORNIA

GOOSE LAKE BASIN

11339500 DREWS CREEK NEAR LAKEVIEW, OR

LOCATION.--Lat 42°07'10", long 120°34'45", in NW¼NE¼ sec.10, T.40 S., R.18 E., Lake county, Hydrologic Unit 18020001, on left bank 10 ft upstream from bridge, 2.0 mi downstream from Willow Creek, 2.7 mi downstream from Drews Dam, and 13 mi southwest of Lakeview.

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IWR Application # 70487

Certificate # _____

STATE OF OREGON

WATER RESOURCES DEPARTMENT

Application for Instream Water Right
by a State Agency

RECEIVED

JUL 16 1990

WATER RESOURCES DEPT.
SALEM, OREGON

There is no fee required for this application.

Applicant: Randy Fisher for Oregon Department of Fish and Wildlife, PO Box 59, Portland, OR 97207

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- The reach of the stream identified for an instream water right is from (upstream end) the outlet of Drews Reservoir, river mile ?, within the SW quarter of the SE quarter of Section 5, Township 40S, Range 18E W.M., in Lake County...

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Parks and Recreation Division	Date: <u>June 26, 1990</u>

- If possible, include recommendations for measuring locations or methods:

IWR Application # 70487 Certificate # _____

Establish a gaging structure at or near the lower limit of the reach.

8. If possible, include recommendations for assisting the Water Resources Department (WRD) in measuring and monitoring procedures:

Local ODFW personnel will assist the watermaster in establishing and implementing a monitoring program.

9. If possible, include other recommendations for methods or conditions necessary for managing the water right to protect the public uses [see OAR 690-77-020 (5)(c)]: Requested flows to be maintained throughout the subject reach.

10. Remarks: Goose Lake redband trout are listed as "sensitive" (indicating that populations have declined to a critical level) by the state of Oregon.

THIS APPLICATION MUST BE ACCOMPANIED BY A BASIN MAP WITH THE APPLICABLE LAKE OR STREAM REACH IDENTIFIED.

An instream water right may be allowed for an instream beneficial use of water subject to existing water rights with an effective date prior to the filing date of this application.

This type of beneficial use is for the benefit of the public and a certificate issued confirming an instream water right shall be held in trust by the Water Resources Department for the people of the State of Oregon, pursuant to ORS 537.341.

Date: 7/12/90

Signed: Nancy M. MacHugh

Oregon Department of Fish and Wildlife

Assistant Director
Habitat Conservation Div.

File: DREWS2.APP

RECEIVED

JUL 16 1990

WATER RESOURCES DEPT.
SALEM, OREGON

IWR Application # 70487 Certificate # _____

This is to certify that I have examined the foregoing application, together with the accompanying maps and data, and return them for:

In order to retain its priority, this application must be returned to the Water Resources Department with corrections on or before

_____, 19____.

Date: _____, 19____.

This document was first received at the Water Resources Department in Salem, Oregon, on the 16th day of July, 1990, at 8:00 o'clock A.M.

Water Resources Department
3850 Portland Rd. NE
Salem, OR 97310

RECEIVED
JUL 16 1990
WATER RESOURCES DEPT.
SALEM, OREGON



RECEIVED

JUL 16 1990

WATER RESOURCES DEPT
SALEM, OREGON

T 46 N

T 45 N

Application No. 20487
Permit No.

APPLICATION PROCESSING OUTLINE

Basin: _____
 Sub-basin: _____
 Fees paid: Examination fee: _____
 Recording fees: _____
 Totals: _____

Application No.
 Permit No. 70487

RATE AND DUTY _____ for irrigation

1. Check for minimum information (OAR 690-11-020)

yes	no	
_____	_____	Name and mailing address of the applicant.
_____	_____	Source of the water.
_____	_____	Quantity of water to be appropriated.
_____	_____	Location of point of diversion to 1/4 1/4 Section.
_____	_____	Nature and place of use.
_____	_____	Name and mailing address of all legal owners of the properties involved.
_____	_____	Signature of the applicant
_____	_____	Examination fees.

If minimum information not supplied, excepting legal owner information, then return to applicant with letter explaining deficiencies.

yes	no	
_____	_____	Water Resources Commission classification limits or restrictions -- If yes, note: _____
_____	_____	State Engineer's withdrawals -- If yes, note: _____
_____	_____	Legislative withdrawals -- If yes, note: _____
_____	_____	If policy statement is unclear check with Resources Management Division.
_____	_____	Scenic Waterway: _____
_____	_____	_____ on _____ up-stream _____ w/in 1/4 mile
_____	_____	Notify Parks and Recreation Department
_____	_____	Out-of-basin diversion
_____	_____	Need to route to Geology Section due to:
_____	_____	well within one mile of a stream
_____	_____	well within restricted surface water area
_____	_____	wells with request for greater than 5 cfs
_____	_____	well is for heating &/or cooling
_____	_____	well constructed by land owner
_____	_____	well is artesian
_____	_____	artificial ground water recharge project
_____	_____	ground water area under study
_____	_____	Within Irrigation District: _____
_____	_____	Notify _____ Need excerpt from District
_____	_____	Legal description of property
_____	_____	Ownership statement
_____	_____	Other parties to Notify: _____
_____	_____	Water Resources Commission review if:
_____	_____	Request for greater than 5 cfs
_____	_____	Dam height greater than 10 feet
_____	_____	Storage of more than 9.2 acre-feet
_____	_____	Out-of-basin diversion
_____	_____	within or above a scenic waterway
_____	_____	conditional uses under basin program
_____	_____	requests for larger rate or duty than allowed
_____	_____	ground water recharge project
_____	_____	other substantial public interest issues
_____	_____	requests for review by an agency or person
X	_____	Watermaster consent forms sent with copy of draft permit
_____	_____	application and map _____
_____	_____	Watermaster comments received _____
_____	_____	Hydrographic section comments requested _____
_____	_____	Hydrographic section comments received _____
X	_____	O.D.F.W. sent copy of application and map (except groundwater) requesting comment _____
_____	_____	O.D.F.W. comments received _____
X	_____	Report from D.E.G. received _____
_____	_____	Publish application information in weekly public notice.
_____	_____	Notify other owners of development
_____	_____	PROTESTED
_____	_____	filed _____
_____	_____	resolved _____